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THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

FIRST SESSION OF THE THIRTY-SIXTH CONGRESS:

ALSO, OF THE

SPECIAL SESSION OF THE SENATE.

BY JOHN C. RIVES.

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ERRATA.

Page 1616, column one, eighteenth line from top, for "2773,202,080," read "1815,603,498."

Page 3008, column one, third line from the top, for "civil appropriation bill," read "legislative appropriation bill."

Page 3167, column two, in the vote on suspending the rules for the purpose of taking up Mr. GILMER's land bill, Messrs. VALLANDIGHAM and UNDERWOOD are recorded as voting in the affirmative. They voted in the negative.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

SATURDAY, MARCH 3, 1860.

NEW SERIES.....NO. 60.

Academy; and that resolution, so far as I know, or am informed, has never been rescinded and never withdrawn. It met the approval of my judgment then, and it meets it now; and in voting against any further appropriations, I not only vote in accordance with these instructions, which are some eighteen years old, but I vote also in accordance with the settled convictions of my understanding.

As I said, nobody is responsible for this. I am not a candidate for the Presidency, and take this occasion to avow it distinctly, so that nobody may think that when I speak he hears the programme of any political party anywhere, but simply the convictions of my own understanding. I am against the bill, and I am against the amendment. At the same time, I assure the Senator from Texas that if ten million were necessary for an honest defense of that State, I would give it. I would vote to spend the last dollar in the Treasury, and to raise the last man we could raise, to defend the integrity, and the honor, and the interest of any and every State in the Union; and I do not believe this is necessary for either, and I shall vote against the amendment, and against the bill, whether they are put together or kept apart.

Mr. SAULSBURY. I move a reconsideration of the vote taken on the motion to refer the bill and amendment to the Committee on Military Affairs. I am not satisfied with the vote I gave. That dissatisfaction has not been produced, however, by any remarks which have been made on the other side. Their reflections on the Administration, or its failure to discharge its duty, have not influenced this action on my part. Nobody expected, I presume, or supposed that those gentlemen would support, especially at the present time, the action of the present Government; but I think the motion simply because I am not satisfied with the vote I gave. I think, on reflection, that it is proper that the question should go to the Committee on Military Affairs.

Mr. GWIN. I suggest that subsequent proceedings have taken place, and it is now in order to make the motion without reconsidering that.

Mr. FESSENDEN. The Senator can move a reconsideration, if he pleases. He voted with the majority.

Mr. SAULSBURY. Well, if it is in order, I now make the motion to refer the bill and amendment to the Committee on Military Affairs and Militia.

The motion to refer was agreed to.

Mr. GWIN subsequently said: The bill making appropriations for the Military Academy at West Point was, a short time ago, referred to the Committee on Military Affairs. I am now known to the Senate that the general appropriation bills are never referred to any committee in this body, except the Committee on Finance. This is the first instance that an appropriation bill has been referred to any other committee of the Senate. I would like to rescind the vote by which that bill was referred to the Committee on Military Affairs, with the object of letting it go over, so that that committee may propose amendments to it when the bill comes up for consideration again.

The VICE PRESIDENT. Does the Senator desire the question to be put on the motion to reconsider?

Mr. GWIN, and others. Let the motion be entered.

Mr. GWIN. I simply make the motion now; it can be called up hereafter.

ADJOURNMENT TO MONDAY.

Mr. HALE. I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. EVERSON. The question is debatable. Several Senators. Let us vote it down.

Mr. EVERSON. I propose to debate it. I hope the motion will not prevail; and I do not understand really any object to be accomplished by it, except that the Senate shall have nothing to do from now until Monday next. It will be remem-

bered that, by an order of the Senate taken last week, to-morrow is set apart for the consideration of bills on the Private Calendar, and there are one hundred and fifty bills at least on that Calendar to be considered and disposed of. Many of them I know are of pressing necessity. Besides that, there is the whole batch of adverse reports from the Court of Claims, not one of which is yet on the Calendar, and every one of which ought to be considered by the Senate during the session, for they come up every year, and at every Congress, from session to session; and Congress to Congress, until they shall be finally disposed of by the two Houses; and it is wrong, it is unfair, it is unjust, and hard, that the Committee on Claims should be saddled every year with the consideration of these cases, when Congress will never dispose of them. Independent of the strong claims which private individuals have on the justice of Congress to consider their cases, there is this large batch of cases, comprising one hundred and fifty at least, where the Court of Claims have adjudicated adversely to the claimants, not a military case of which has ever been finally settled by Congress, and they have all to come before Congress, from session to session, until finally disposed of. I hope the present Congress will dispose, in some way or other, of the adverse reports of the Court of Claims; either reject them, and pass bills in favor of the claimants, or confirm them.

But there are a great number of cases on your Calendar—I think amounting to at least one hundred or one hundred and fifty cases—reported favorably by the committee, and a number of them referred favorably by the Court of Claims. Now, air, look at the injustice of your action. These parties have been compelled to go to the Court of Claims and file their petitions for relief; they have employed counsel; they have had their cases investigated at great pecuniary expense to them, and they have lost time. The Senate, before Congress with their claims thus sustained by the action of the court, and Congress will not consider them. Men are this day starving because Congress does not attend to their claims; some of the very poorest and most just claims that can ever be presented—claims which, if they were against individual members of this body, they would feel themselves disgraced and dishonored if they did not pay promptly; and yet we are frittering away this time, postponing the consideration of these cases, and causing individuals to come here session after session and Congress after Congress, to ask mere justice at the hands of Congress; and gentlemen, merely to be idle and do nothing, will say, let us adjourn until Monday.

Mr. SUMBULL. We are all convinced over here, if the Senator from Georgia will just allow us to vote.

Mr. EVERSON. Very well.

Mr. GREEN. It is important to have a short executive session. I move that the Senate proceed to the consideration of executive business.

The VICE PRESIDENT. There is a motion now pending, that when the Senate adjourns, it be to meet on Monday next.

Mr. GREEN. I think mine is a privileged motion.

The VICE PRESIDENT. So is the other.

Mr. EVERSON. I call for the yeas and nays. Several Senators. Oh, no; let us vote it down.

Mr. EVERSON. Very well.

The motion was not agreed to.

DISBURSING OFFICERS.

Mr. CRITTENDEN. I now ask the Senate to take up the joint resolution which I was on the eve of having considered yesterday, and to which my friend from Alabama will attend.

The Senate was agreed to; and the joint resolution (S. No. 4) allowing a credit to certain disbursing officers therein mentioned was considered as in Committee of the Whole.

Mr. CLAY. I wish merely to say, that this resolution passed the Senate during the last session of Congress; it does not make any additional

appropriation of money whatever, but only diverts an appropriation heretofore made. When the appropriation referred to in this resolution was made, several years ago, Congress undertook to appropriate it for different kinds of work, and showed its incompetency for works of internal improvement by the result of this appropriation. It was found that it was too little for one kind, and too much for another. Now they come back and ask that we shall divert the fund, and pay men for what they have honestly done for the Government, but which the original bill did not warrant. I understand as it creates no additional appropriation of money, does not propose to expend one cent from the Treasury, and as the committee were fully persuaded that it was just and proper that these men should be paid for their labor, they unanimously reported the measure; and I should have asked the Senate to vote it through some time ago if I had had an opportunity.

Mr. JOHNSON, of Arkansas. I hope this resolution will be permitted to lie over until to-morrow. This is the first time my attention has been called to it. I know that, in the disposition of the moneys that were set apart for the improvement of the western rivers, that portion which was to have gone to the credit of the Arkansas river was diverted, largely out of proportion, for the navigation of boats and boatsmen, with regard to the residue of the money, during the greater part of the period when it could be used for the purpose, the conduct of the persons in charge of that business was scandalous in the extreme. I will not say now the extent to which it was so; it was not very great. I think, however, that, in looking into this matter, I may find some of the reaching those parties that were concerned in it. If I do, I shall certainly call it to the attention of this body.

Mr. CRITTENDEN. I am very sure that my friend from Arkansas will not permit a motion for delay, which can accomplish nothing whatever. This business was chiefly under the control of Colonel Long, who directed it; he was the chief director. John Russell, well known to me, was the agent through whom the disbursements were paid; under the control of Colonel Long, as I understand. The money was appropriated, as has been stated, to the improvement of the river, and to the making of the necessary boats and apparatus for that improvement. It was found, when they came to apply this money, that the appropriation had not been very accurately made, and a portion of the money intended for the improvement of the river was applied to the construction of boats, which were necessary instruments in doing it. When they came to settle their accounts with the Treasury, they found they had used the money for an object for which it was not specifically appropriated, they could not be adjusted. My friend and neighbor, Russell, is growing to be an old man now, and he wants the accounts settled. The vouchers are all in his office; the Government does not want to pay the expenditures; they were necessarily and properly made, but not directly according to law, for the reason I have stated. I hope my friend from Arkansas will allow this resolution to pass at once. It was examined at the last session, and passed without opposition.

Mr. CLAY. Perhaps I should have said, in relation to what is stated by the Senator from Kentucky, that the measure now proposed is approved by the proper Executive Department of the Government. The way it is all just; they only want the authority of Congress to make the payment. I will say, in reply to the Senator from Arkansas, that the only cost here arises from the fact that they expended more money in snags, boats and in preparation for the improvement of two rivers than the original appropriation warranted, and hence I do not think he will find that there is any ground whatever for complaining that injustice was done to his State in regard to the improvement of the Arkansas, and I do not think he will find that it is necessary for the resolution to lie over. If he does, I would suggest

to him to allow it to pass, and then if, after examination, he shall conclude to move a reconsideration to-morrow, I will join with him in having it reconsidered.

Mr. DAVIS. The Senator from Kentucky, I think, states the case with great clearness and exactness. I had occasion to look somewhat into these disbursements. The whole difficulty arose from the fact of one appropriation having been made for the boats, and another appropriation for the clearing out of the rivers, and they drew on the appropriation for clearing out the rivers for the construction of boats; and therefore it was found that there was a small balance, as I recollect, of the appropriation for clearing out the rivers that was mixed in with the appropriation for constructing the boats; and it is in such confusion that, without amendment, the accounts cannot be settled. Then there is the fact the Senator from Alabama speaks of—the want of authority to draw from the appropriation for clearing out the rivers for the construction of boats, which, as my memory serves me, rendered it quite impossible for the accounting officers to settle these accounts under the existing law.

Mr. JOHNSON, of Arkansas. If it be true that there are confusions in these accounts, with whom did those confusions originate? I do not know. It is said that money was taken from the regular appropriation for the clearing out of the rivers, to be used for the construction of boats. This, as I question not, is one great source of confusion and difficulty in settling the accounts. In doing so, I have every reason to believe that they went unequally and unfairly to work against the appropriation that there was apart for specific rivers, in favor of the appropriations for the lakes or for other rivers, and it operated hard on the river upon which I reside, and the people living upon which I represent here. I refer to this as a source of confusion and injustice for which I think the superintendent of these internal improvements, Colonel Long, or whoever had charge of this, is responsible; or, if he is not, it may be the accounting officer.

Mr. DAVIS. He was not continuously superintendent, and I think this great source of the irregularities occurred when he was not.

Mr. JOHNSON, of Arkansas. Then it falls also on the other. Thus it is that officers who are appointed here under the Executive to disburse moneys appropriated by law, go forward absolutely to the law, and without regard to what we must come in afterwards and pass a special act to enable them to settle their accounts; and that, too, after they have perpetrated severe injustice upon some sections and people. I do not like it; I feel disposed to oppose it; and if it were possible, I would be for fixing the responsibility for the acts which were committed, and which threw those accounts into confusion, upon the parties really guilty.

I presume that this resolution will be passed, whether I oppose it or not, because I can offer no strong hope that I shall be able to expose the parties herein in such a way as to do any ultimate good; but I will call the attention of this body, that it may go before the public, to the fact that the subordinates under these superintendents went to the Western rivers, particularly to the Mississippi, where they anchored their vessels at the mouth of the river; and there they spent weeks at a time, and adjourned off and went down to party at Natchez; came back again, and went off to Memphis on another frolic; turned around then, and ran up the Arkansas river forty or fifty miles, took a snag, and tried for a little while to remove it. In a short time they would run down again to the mouth of the river, and there lay up until they would have a chance to buy more supplies; and so they would go on. No service was done to the river; none could be expected, and the character of men who were put in charge of the improvement. The men were not those who lived on the river; and it was against the protest of the representatives of that State here that that class of men were in charge of the work; and the superintendent ought to have expelled and turned them off. This is the first opportunity I have seen coming up, when I could advert to it with propriety before this body. It was in this way that the money was wasted; and it was by irresponsible and unauthorized actions that the accounts were thrown into confusion. I do not

know that relief should be given here by a special act; that these parties should be permitted to come in and settle their accounts in this way. To be sure, it takes nothing more from the Treasury; but they have expended what was appropriated in a manner inconsistent with, and actually contrary to, the provisions of the law.

Under the earliest representations that are made by the chairman of the Committee on Commerce, and also by the Senator from Mississippi, who has much knowledge of these matters, and by the Senator from Kentucky, I shall offer to the proposition of this resolution, but it affords me the opportunity to call attention to the manner in which these things are done, that some man who may occupy my seat hereafter may at least refer to the fact, and may call those who have charge of these things to a proper responsibility in proper time. I admit that I have not done so, and it is my fault that I have not done so; but it was in consequence of the want of knowledge or means to do it, until the whole appropriation that had been made had been wasted and expended, and it became useless to ask the question in the manner in which the appropriations for that river, in the first place, were trespassed upon by these officers and exhausted, and then the little remnant that there was wasted, as I know it to have been wasted, was entirely improper.

Mr. GREEN. I desire to ask the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SALE OF ARMS.

Mr. DAVIS. I wish to call up a bill which has been under discussion several times and remained as the unfinished business—to authorize the sale of public arms to the different States and Territories, and to regulate the appointment of superintendents of the national armories.

Mr. GREEN. I desire to move in an executive session on a matter which is very important, but I cannot state it in open Senate. It will take but very few minutes.

Mr. DAVIS. Why not into executive session? I will close this bill, and then I will call up the bill.

Mr. GREEN. The matter I refer to must be acted on before the 4th.

The motion of Mr. DAVIS was agreed to; and the Senate resumed the consideration of the bill (S. No. 45) to authorize the sale of public arms to the different States and Territories, and to regulate the appointment of superintendents of the national armories; the pending question being on the motion of Mr. HALE to strike out the second section, as follows:

“Sec. 2. And he is further enacted, That so much of the act approved August 5, 1854, as authorizes the appointment of a civilian as superintendent of each of the national armories, be, and the same is hereby, repealed, and that the superintendents of these armories shall hereafter be selected from officers of the Ordnance Corps.”

Mr. HALE. Mr. President, I will say for the benefit of the chairman of the Committee on Military Affairs, that I do not propose to make an extended speech. I do not want to submit a short argument, and I will state to the Senate that the argument I shall submit, every word of it, is extracted from a report made in the House of Representatives and signed by the gentlemen whose names are on the report, to-wit: R. H. Stanton, W. R. Rapp, Charles James Faulkner, and Joshua Vannant—a report made to the House on this very subject in 1854. That report says:

“From the period of their establishment to the early part of the year 1854, and through the vicissitudes of more than half a century, the national armories have been the seat of experienced and well-qualified civilians, appointed in the manner provided for by law of 1794. It may be safely said, that their management, in their organization, in the selection and extent of their products, they fully realized the highest expectations which had been formed of their capacity to meet the public necessities. It was not until 1847, when the Government was first called upon to supply the arms of forty-seven years from their first establishment, that any serious effort was made to supersede the civilians in charge, by the appointment of military officers, and the result was the appointment of military officers to the Ordnance Corps. The history of that transition from civil to military control affords strong reason to believe that success was owing more to the prevailing efforts and extraneous influences of the day, than to any merit or special advantages of that class of men for the management of such manufacturing establishments, or to any public necessity for a change of system.”

“The removal of the civil superintendents was made by the Secretary of War three days before the death of President Fremont, and it was a mere matter of convenience, and to have had no agency in it. The law having invested the President with the sole power of appointing the superintendents and other officers of the armories, the designations

of military men for that purpose by the Secretary of War was a usurpation of power, and it became necessary to legalize it by an act of Congress; and accordingly, in 1854, such an act was passed, and the proposition, which first presented to the House, was rejected. It shared the same fate in the Senate; but subsequently, in the direct interference of the President, it was again introduced, and was passed by the Army bill as an amendment. When it came back to the House in this shape, it was again rejected, and only received a second reading, and then the House adjourned. A committee of conference, the House submitting to the wrong rather than jeopard the fate of the bill upon which it had been passed.

This report then goes on and contains reports made from time to time from various officers of the Army, who were never sent to examine it, and they report that they manufactured better arms under the supervision of the civilians than were manufactured in any place in the world, and also that every part of an arm manufactured at Harper's Ferry, interchanged, if that was the phrase of the chairman of the Committee on Military Affairs, with those made at Springfield; that the prominent parts of an arm, the barrel, the part from Harper's Ferry and that from Springfield, and thrown into a basket, promiscuously could be taken out together and made a perfect arm.

Mr. DAVIS. What date was that?

Mr. HALE. Prior to 1842; prior to the change from civil to military superintendence. A report made to the House in 1839, by Mr. W. C. Johnson, which is embodied in this report, says:

“The most experienced transatlantic officers and artisans admit that the muskets and rifles now made in the United States are superior in point of finish and accuracy, to the best made in Europe. No perfect and improved has been the system adopted in our factories, that we have accounted for what a board of French officers pronounced a declaration that was impossible. They thought that it was impossible to make a musket that a part of the work made in one mould, and out of it the residuary part made in another shop or factory, and by different hands; that the springs and screws made to suit a given class could be made with the same precision and accuracy as the corresponding parts of a different lock. They thought that a part of the work made in one mould, and out of it the residuary part made in another shop or factory, and by different hands, could be taken a similar part of another, and make it interchangeable with all its uses, but that the aid of a mechanic must be employed to make the interchange, and that, in fact, it had been, the fact with the arms made in France, because the flings of the various parts are regulated chiefly by the eye. They thought that the precision and accuracy of machinery is reduced to such perfection that every part of a musket and rifle is made with such precision and accuracy, that every part of a musket and rifle is made for a purpose, with its every screw and nut that is made in each of the public factories. Take any part of a musket made in one mould, and out of it the residuary part made in another shop or factory, and by different hands, and every particular, like those parts made at Harper's Ferry. All the parts of two muskets may be taken asunder, though the barrels be made in one mould, and out of it the residuary part made in another shop or factory, and by different hands, and thrown into an indiscriminate mass, and there may be taken from the heap thus hindered, at random, the component parts of a musket and rifle, and these parts, if the musket thus formed will be as perfect as precision can be, although half the musket be made at one factory and the other half at the other.”

The comparison between the expense, they being much more economical under the civil than military superintendence, is also fully demonstrated by figures in this report, which I will not read. It is sufficient to say, that the cost is increased in this measure; but I will not read an extract on any other point, and with that I shall leave this subject.

“The very numerous complaints which have been made in many of our arms factories, and the oppressive conduct of the military commanders toward the workmen under their charge, are not wholly without foundation. Although the Government has not been able to produce arms for the last twelve years have not manifested this disposition to tyrannize over the workmen, it is, nevertheless, hardhearted to deny that the military officers in charge of the armories who have been in command, whose temper and learning, united with their professional habits of exacting instant submission to all the whims and caprices of the military authorities, and administrations especially offensive to the mechanics and others under them. The conduct of which complaint is not made in any of our arms factories, is the state of wrong and oppression, which may be seen and felt and described, but by many little acts of tyranny, which show themselves in the treatment of the workmen, in the orders, peremptory threats, and a thousand annoyances, which can only be realized and understood by those who are unfortunately subjected to them.”

Then there was another report, which I will not trouble the Senate with reading. This was in 1854.

Mr. CRITTENDEN. Who signed that?

Mr. HALE. It is signed by the committee of the House in 1854, and the names are R. H. Stanton, W. R. Rapp, Charles James Faulkner, and Joshua Vannant. It is signed by R. H. Stanton, W. R. Rapp, Charles James Faulkner, and Joshua Vannant. That was the report made in 1854, and it was the result of very thorough examination, made upon complaints that were made by the manufacturers themselves.

I appeal to the Senate, and ask where is the propriety of putting a set of workmen engaged in the manufacture of arms under military superintendence? If a military guard is necessary to protect your property, put it there; but do not subject the men to military rule in doing their work. The argument that would put the manufacture of arms under military superintendence, and the necessity which is said to exist for doing it, to protect the public property from violence, is vastly greater in the case of the Mint. Why do you not put the Mint under the Army? There is more property there than there is in any of your armories, and it requires an exact work in mechanics; but it strikes me that it is entirely unnecessary.

Again, I sympathize with the objection made by the Senator from Ohio, [Mr. Pien.] the other day. I do not see what the Army has to do with all these pursuits in life. As was said, we cannot make an argument that we must get the Army to do it; we cannot build a Capitol but we must get the Army to do it; we cannot have a Senate Chamber, and shut out the air of heaven, and pump it up from the cellar beneath, but we get some of the Army to do it. I know some of the best practical experience of this Army work. You undertook to build a bridge over the Potomac river, within a very few years, and sent an officer of the Army to do it. I do not remember whether he built a bridge or not. Brodhead is now the chief engineer of the Committee on Military Affairs will remember; for I think he was Secretary of War at the time, and he can tell whether that bridge fell before the last stroke of work was put to it.

Mr. DAVIS. What bridge was it?

Mr. HALE. The bridge over the Potomac river, up at the Little Falls—Thom's bridge.

Mr. DAVIS. I will state to the Senator there was an officer of topographical engineers put in charge of the bridge, and he committed the great error of employing a third-rate engineer, one of whom the Senator speaks, and who had a peculiar construction of iron bridge, and that bridge fell down. Then Lieutenant Timm took care to build the next one himself. That is standing.

Mr. HALE. I am glad he did. He had to build a bridge that would hold a place, and he had to learn how to build one that would stand.

Mr. DAVIS. No; he let one of your practical men build it.

Mr. HALE. I think this is a thing that we should keep out of the Army. I believe that some officer of the Army to superintend the manufacture of our muskets, who knows them but that you will next make a great national workshop to manufacture uniforms, and, my word for it, you will then have an officer of the Army to superintend it. So, with all the tricks you want for the Army, there must be an Army officer to superintend their manufacture.

I know there is a repugnance in the minds of these mechanics against being put under military rule and military discipline in their work, and there is no sort of necessity for it. I believe they are all-powerful and always has been. I know it. I think the Army has influence enough. It has given us our Presidents again and again. It is omnipotent. I will let it have all the influence that nationally belongs to it. I believe we may have the great workshops, give the mechanics to their appropriate business without compelling them to work under military supervision. I have no prejudice against the Army, none at all, if they will keep within their proper place; but I say, in my humble judgment, that to put them under military rule is not necessary; and the experience of the Government from 1794 to 1831, according to the report of this committee, shows that they were getting along and progressing and making better arms than were ever made before in any part of the world. The most successful superintendent of the Army was the superintendent of a military officer in 1842. The military officer kept it about a dozen years, until his rule became so obnoxious, and this system to which you subjected these workmen was so oppressive to them, that they came forward here in no numbers from all parts of the country, sachemets, and laid their complaints before Congress; Congress did not proceed in a hurry, but they ordered a deliberate investigation into the facts; they were all brought before them; and by a very decisive vote, as the Journals will show, Con-

gress reversed the action that was taken in the first instance by the order of the Secretary of War without any law, and went back to the practice that was established at the beginning of the Government. I think they did so wisely, and I think the Congress will do wisely, by standing here and reversing the action that has operated so well for the purpose of giving these works to the superintendence of Army officers.

Now, let me say to the Senator from Mississippi that I have said all I have to say; and I have not said it because I wanted to hear myself asleep, but I have said it because I think that the nation knows who do this business would feel that it was an impeachment of their capacity, and it was a subjection to discipline odious to them, if they are put under it.

Mr. DAVIS. Mr. President, the Senator from New Hampshire has presented, as an argument, portions of a report made in 1854, the facts of which I shall proceed at once to comment upon. Before I do so, however, I wish to notice some of the closing remarks of the Senator. He speaks of the Army as being all-powerful. He speaks of the Senate as possessing no discipline. These are not belonging to them. If the Army had power, if they had votes and representatives on this floor and in the other Chamber, I hardly suppose their rights would be invaded in the manner in which the Senator has put the New Hampshire process. If it be not the legitimate function of a military man to make the arms he is to use, I would ask of what can he properly take the charge?

But the Senator presents it, I think very unfairly, as a proposition to remove the workmen and their tools by military control. There is no such proposition in the mind of any one. Has there been a workman who was superintended in all the years the Senator has enumerated? No, sir; they are politicians; and it is because they are politicians that they have advocates. In the Senate, the then Secretary of War presented to his mind satisfactory, appointed a military officer superintendent. The Senator, relying on that report which he has read from, supposes no military man had had charge of the armory before. It is true, that to soldier before that had charge of the armory was understood, but the improvement in the arms up to 1830, to which he refers, was made by Lieutenant Colonel Talcott, residing at the armory and controlling all its operations. Without the appointment, he had charge of the armory, and he was understood to superintend the improvements were made.

Then, sir, in 1842 was adopted the new model musket, and now the Senator supposes the arms, anterior to that, were superior, let him go into the market and buy them, when, as condemned muskets, they were thrown aside and taken by George Law for trade in South America. It was subsequent to 1842 that the muskets were made which have fought the battles of the country, and which have since been remodeled and modified so as to make them percussion muskets, and are useful for the most part. It is understood that the defective weapons that we thought it improper to put them in the hands of the soldiers. They went on improving from that time; and under the military superintendence they attained that perfection which the report that the Senator read from claims at an earlier date, and which did not then exist.

Then, sir, for political considerations, as I believed then and believe now, a movement was made to displace these military superintendents. The clamor was not from the workmen, as has been asserted time and again without foundation. I chance to know something of the principal workmen who were then at Springfield, and I believe there was not one of them that desired the change to be made, so far as I have been informed, and I do not think it is probable that they would. With the change of superintendents they desire to see an officer of the ordnance corps sent back to take charge; not that they desire a military superintendent, but that they desire some man who has been trained so as to give him administrative capacity, that he may be released from the confusions which exist on an incompetent man taking charge of a great establishment.

No just conclusion is to be drawn from the operation of those establishments which are conducted by the capital owning them. There, mind and interest conspire to do the work. Here, you

rely on the President and the Secretary of War to select some favorite politician, and put him in charge of the work, without the capacity that would ever acquire the capital that would establish a factory of his own; without the capacity that would enable him to administer it, if by chance he inherited it.

But I suppose I am to be pointed to the success which has attended the civil administration of the armory at Springfield. But a word is necessary to state the reason for that. Mr. Whitney was a man of common sense and practical judgment. When he was put in charge of the work, he knew that those men who had made it the study of their lives understood better what they were about than he could. He therefore changed nothing; he trod sedulously in the footsteps of his predecessor; and from that has resulted the administration of that armory which I admit has been successful. But he has left it. You may get another such man. The chances are greatly against it; and in proof of my position, turn to the other armory. We have but two. They have tried man after man at the other armory, and confusion has existed at it; and the same confusion has occurred here. I have been informed by an ordnance officer, whose position gave him the opportunity to know, that boasted excellence which once existed in our arms that all the parts would interchange, of any given model, was now so far gone in relation to the arms manufactured there that you had deteriorated, from the time you changed from a military to a civil superintendence, in the character of your arm. Are we never to recover this? It was found in a state of perfect administration; it was found in a state where the arms were better constructed, a condition that gave them that excellence over all the small arms of the world, and they have gone down from the day the system of superintendence was changed. That is sufficient evidence to me that we are to get worse and not better.

I know it is a great deal of military men as tyrants; but that man who is not by military education taught to control himself, taught to be kind to those who are under him, has some radical defect in his nature. A man of elevated soul, from the very fact that he commands those who cannot read, and who are ignorant of the increasing year, additional kindness to them.

But the Senator, the other day, repeated it as though graduates from the Military Academy were to be sent at once to take charge of the armories. We have but one Military Academy, and the officers, men whose heads are whitened in the service. I noticed the fling which the Senator made at the color of the military glove. We heard that before the Mexican war; but whose hands were deeper dyed in blood than those who came from the Military Academy? Whose hands were more besmeared with the smoke of battle than those who had been trained to the profession of arms? I had hoped their services in the field might have silenced the denigratory slant about white gloves forever. But the Senator argued, the other day, that the men who were sent to take charge of the armories, as he had examined the programme of studies, and as far as he could understand it, which fitted them to take charge of the manufacture of arms. Quoted conclusion—the study of mechanics not fit a man to take charge of the armory; the study of mathematics, the branch on which it improves, is not a state that goes beyond the mere senses; the study of natural philosophy, chemistry, and metallurgy—these not fit a man to take charge of an armory! What sort of an education, I would ask the Senator, then, would fit him for it? Does he intend to say that he must have learned the use of the file, the chisel, and the hammer? If he was to be put to work upon the parts of the musket, that would be true; but administrative capacity is what you require in a superintendent, and if he were the man to take charge of the armory, you would put him in charge of a great work like that, he could no longer use his own hands. It is heard, eyes, which he would require—the administrative capacity of the man; and that is independent of whether he has been a trained mechanic or not.

But, in fact, the Christian character of the superintendent determining the character of the workman in the armory which is nearest the residence of the Senator, he might find the master-workman, not by title and by place, but by employment—the old man Buckland, who has been there through all systems. It is his great genius

that half the improvements made are due. It required a knowledge of arms to tell what was needed by the troops. It required buckskin to tell how modifications could be made in the application of mechanical contrivances to arms. They have acted in unison; and if the Senator can point me to an officer who has been on duty there since civil superintendents were there before, who will not bear testimony to the merit of that man, and who has ever failed to treat him with the respect due to his genius and worth, I would admit that half my argument is wrong. But I do not intend to consume the time of the Senate. I hope the subject is sufficiently understood.

Mr. HALE. I am not going to pursue this argument, but simply to vindicate myself against one remark the Senator made. I made no fling at West Point cadets—at the color of their gloves; not at all.

Mr. DAVIS. The other day—

Mr. HALE. I know what I said. It was only in answer to a suggestion made by the honorable Senator from Maine, [Mr. FESSENDEN], that the education of these gentlemen peculiarly fitted them for discharging the duties of superintendents of these workshops.

Mr. FESSENDEN. I did not say they were fitted by the fact of wearing white gloves.

Mr. HALE. Of course, you did not say that; but what I said was in answer to the Senator from Maine. It struck me, I must say, with all my respect for the Senator from Maine, that the Senator from Mississippi, as a little absurd that an education at West Point peculiarly fitted them to take charge of these workshops; and I said that I thought these gentlemen would be employed in a work much more agreeable to the taste that they had acquired by the education at West Point, by having their hands in gloves and doing the duties of a ball-room rather than assisting grubby mechanics in making arms. That was all, I think. If there was not great wit in it, it was certainly harmless, and hardly deserved to be designated as a demagogical fling.

Mr. DAVIS. I'll use that expression towards the Senator. I assured him it was in no unkindness to him; and, as he says I did, probably it is so. I had heard it so often before that probably, when I reflected on it, the bitterness of former days came before me.

The question being taken, by yeas and nays, resulted—yeas 16, nays 32, as follows:

YEAS—Messrs. Bingham, Candler, Dixon, Doolittle, Hendricks, Hale, Hoar, Hooper, Keim, McKim, Sumner, Treadwell, White, Wilson, and Withers.

NAYS—Messrs. Brady, Gray, Cleggman, Conger, Crittenden, Davis, Fessenden, Fish, Folger, Foster, Green, Grimes, Gurney, Hammond, Han, Humphreys, Towner, Johnson of Arkansas, Kennedy, Lane, Mallory, Mason, Nicholson, Poth, Powell, Rice, Salisbury, Sebastian, Sargent, Ten Eyck, and Wigfall—32.

So the Senate refused to strike out the second section of the bill.

Mr. SIMMONS. I now move to strike out the first section of the bill, relative to the sale of arms. It is in these words:

"Be it enacted, &c., That the Secretary of War, and he is hereby authorized to issue any State or Territory of the United States, or any person or persons, arms made at the United States armories, such arms as may be spared from the public supplies without prior appropriation of money, and to sell the same, upon payment therefor, in each case, of an order of the President to the Secretary of War, by fabrication at the national armories, the arms so issued."

Mr. TRUMBULL. I believe it is in order to amend the section before taking the vote to strike it out.

The PRESIDING OFFICER. (Mr. Foote in the chair.) It is in order.

Mr. TRUMBULL. I move to amend it in the ninth line, by inserting, after the word "therefor," the words "in cash, at the time of delivery;" so that it will read:

"Upon the payment therefor in cash, at the time of delivery, in each case of an order of the President."

Mr. DAVIS. I am willing to accept that amendment. There can be no objection to it. It was what was originally intended.

The amendment was agreed to.

Mr. TRUMBULL. I desire to suggest another amendment, after the word "amount." It now reads, "an amount sufficient to replace, by fabrication at the national armories, the arms so issued." I move to strike out the words "sufficient to replace, by fabrication at the national armories, the arms so issued," and insert, "equal to the cost of

the same," so that the Government shall not dispose of its arms at less than their cost.

Mr. DAVIS. I think I can satisfy the Senator from Illinois that his amendment, if adopted, will be injurious and can have no beneficial effect. If the improvement of machinery should reduce the price of the manufacture of a given arm this year, it would be justice to the two parties holding the exclusive relation they bear to each other, to allow the State to take the arms at an amount which would replace it next year. Then, again, the Senator will perceive that in every change of model, there is a change of machinery consequent on the change of model; and thus you have arms which, upon an estimate made according to the scale of prices, would have a very different valuation in the armory, and exactly the same value out of it. There would be an amount of confusion resulting from it; whereas the bill is simple and direct, and gives exactly what is the value to the Government of the arm the State receives, as the language now stands.

Mr. TRUMBULL. My object in suggesting the amendment was to make it definite. It seems to me that now it leaves a very great discretion to the Secretary of War. He may say, "I will estimate what sum will be sufficient 'to replace, by fabrication at the national armories, the arms so issued.'" Here is authority given to him, on the application of the executive of one of the States, to issue such amount of arms as may not be for the public service, to the State, on condition that a sum is paid "to replace, by fabrication at the national armories, the arms so issued." How is that to be ascertained? It seems to me that leaves it very vague and uncertain; whereas the amendment I have proposed would leave a fixed sum; there would be no confusion about it; we could ascertain what the arms to be disposed of had cost, and that would fix the amount. I am not particular about it, however.

The amendment was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Rhode Island to strike out the first section of the bill, as amended.

Mr. SIMMONS. There seems to be very little attention paid to the bill; but I should like to ask the Secretary of War, if he has any objection in entering into this new branch of business at the armories? I have not heard any reason for this. This proposition to go into the manufacture of arms for sale on the part of the Government, it strikes me, is a new idea.

Mr. DAVIS. I will give the answer that was given to the proposition to amend this section so as to fix some certain price. If anybody ever carried on the business of manufacturing any kind of machinery, of all things in the world he would never agree to fix it on any paper calculation of its cost. I never knew even a man who was thoroughly acquainted with business, who would make an estimate within twenty per cent. of what it would cost the next year. I recollect a rule which, when I was a farmer, a neighbor of mine thought it ought to prove for me to make the best calculation I could about managing my farm, what it would cost, and then set down the crop and what it would bring; and he said if I doubled the estimated cost, and took off half of what I thought the crop would bring, I should generally come out about right; and it is pretty much so with this machine making. If a man makes as close an estimate as he can of the cost of these arms, you might add twenty-five per cent. to it, and you would hardly ever cover the real cost. That is the case with all business. I never knew a business that cost any money that was a profit on paper when very little was actually realized; and of all things, if I were going to make these arms, I would rather set it down that we would take ten dollars for them if they cost twenty dollars, than let them go on an estimate of what they would cost others for.

But I am against the whole matter of the Government manufacturing arms for sale. If we are not dealing liberally enough with the different States, in furnishing them with arms, I am willing to give more money, and let us go on we now furnish them. We now give \$300,000 a year for arms to the States. If that is not enough, I am willing to give more; but I would never enter into a competition with private enterprise by the Government. It is a most unheard of usurpation of

power on the part of the Government. I am willing to manufacture for ourselves, but not to set up a business on the part of the Government, with its capital and funds, to run down private establishments that are competing with it. We have plenty of armories in this country, ready to make arms for anybody who will pay cash for them, as cheap as they can be manufactured; and if this Government, with its capital and funds, would establish to break down private enterprise, I think it is time we looked about it. It is a most unheard of competition. You want this Government to set up a competition with mechanics in making cheap arms, and to be sold on a paper calculation of their cost. I am sure that it would be a Senator from Mississippi. I know his notions are generally pretty rigid about this Government. He surely does not want this Government to compete with individuals in the ordinary transaction of business. You talk about monopolies. There never was a monopoly in England that would so mischievous in its consequences as to undertake to manufacture arms against private armories, and sell them on a paper calculation of their cost. I do not want to enlarge on this topic. I believe the subject is sufficiently understood.

Mr. DAVIS. I will endeavor to answer the inquiries put to me by the Senator from Rhode Island, and be brief. He asks me why we should take a paper calculation. I thought I had partly answered that before. I will merely say to him, however, that he has his own machine price, and the price of iron varies, and the cost of the arm will vary with the price of iron, the price of coal, the price of labor. That is known at the time you sell the arm, and your purpose is to replace the arm of exactly the same model and character as the one that you sell. I am sure that it would be by any means a difficult thing to come within no small a difference that it would hardly be appreciable.

Then, as to the other branch of the Senator's objection, which he seemed to press with the most force, that it was to put the Government into competition with private establishments, I will merely say that the Government has properly a monopoly in the manufacture of these arms, and that if you go to private establishments to buy arms, you are buying arms made by the machinery of the manufacture of. In this age of machinery we manufacture no arms by hand, save here and there, in some backwoods country, where a blacksmith makes a rifle. The machinery is applied to the arm which can be manufactured in any kind of a machine price, and individuals apply their machinery to such arms as have a general sale, not merely arms required for military use. No man establishes a factory in these days to make muskets and rifles such as are required in war. There is one establishment in Connecticut which has the machinery erected for the purpose of filling contracts with the Government, and it could fill an order from a State now for arms; but it is fair to the militia that you should put into their hands arms that had not the exact inspection and all the value which your public arms have. One makes arms for the militia.

Then, am I asked, why require the armories to sell them? The answer is twofold. We have gone on increasing in population, increasing in the organization of military companies, and we require more arms now than when the sum stated by the Senator, \$300,000, was fixed. Consequently, appropriations are made from almost every State for arms, beyond the quota which the Department is authorized to issue. Volunteer companies are formed and desire arms. They call on the Governor, and he calls on the Secretary of War, and has but the stereotyped answer to make; the quota due to the State has been issued, and we can give you no more until another year's supply falls due. The Secretary of War this year has asked that the annual appropriation be increased to meet the increased demand for arms. It is a question, not an economic question whether you will allow the States to make appropriations for the arms they require themselves, or whether you will increase the appropriation beyond \$300,000, which has heretofore been made. But, in this connection, would you give me 10 cents for the difference between the Government and the people, that on account of the negligence with which arms issued by the Federal Government to the States have been heretofore treated, I hope that more care will

be exercised; that the arms will be better preserved when they are purchased by State appropriation, or by money raised by volunteer companies for the purpose; that we shall thus gain a care in the keeping of the arms, which will never be shown if the arms are issued by the United States in such quantities as may be required.

It would be an easy matter for the State to commit itself to engaging in general manufacture to compete with private establishments; but the manufacture of military arms is a peculiar one. No private establishment can afford to manufacture military arms, unless they have an order from the Government to justify them in erecting and keeping up the machinery. A large order from a State might warrant a manufacturer in establishing an armory, and making arms for sale to the State; but, as it is, we have the buildings, the power, the machinery in our public armories for the manufacture of more than double the number of arms which the present appropriation for that purpose would enable them to make. We now manufacture about eighteen thousand stand of arms per annum. The full plan of our armories would be about forty thousand. The difference between the number of that which the armories could make and the States and volunteer companies if they will pay for them. To increase the manufacture at the armories by direct appropriation, would be to add the Government with increased expense. I am opposed to that; I do not know what the Senator may take of the branch of the subject, but this is a mode by which we shall employ the whole machinery we have, the power and the buildings we have, without increasing the appropriations by the Government.

In the event of an emergency as the prospect of war or the existence of war, we should enlarge our appropriations, and then the Secretary of War, under the language of this bill, could sell spare. Then he would be bound under this language not to sell any, because there would be none to sell. Then your armories would be working to the full extent of their power under appropriations made by the Government. Such is not our ordinary and habitual custom. Such I do not believe to be desirable. We do not know how often we may change our models; and therefore it is not desirable to accumulate ready-made arms on any given model in our establishments. We have done well to increase their power to their present, or even it would be well to increase them to a greater capacity, to meet the exigency of war in the respect of arms. In the respect of peace it is not necessary. I do not know that I have answered the Senator fully. If I have failed in anything which is suggested to me, I will endeavor to answer.

Mr. SIMMONS. I did not call for an argument in reply to me. I only asked for the fact whether we do not now distribute \$200,000 worth of arms gratuitously every year?

Mr. DAVIS. I answer affirmatively to that; but the Senator must permit me, when he asks a question, to do something more than give a categorical answer.

Mr. SIMMONS. I think the Senator has made a very able argument in a very bad cause. I understand him to say that we have a monopoly in the manufacture of arms.

Mr. DAVIS. Not all arms.

Mr. SIMMONS. Well, of the muskets used by the United States troops. I do not propose to disturb that monopoly. I am willing that the Government should manufacture for its own troops, or for the troops of the States, just as much as they would be paid for. I should like to know if we have got a monopoly as against private individuals in the manufacture of arms for sale? The Senator says there is one establishment that can manufacture precisely as well as we can.

Mr. DAVIS. I said there was one establishment that had the machinery which the rifle used in the United States service, and they have made very good rifles, and under inspectors of the United States they can make again. That is so.

Mr. SIMMONS. I suppose they could make them if they did not have an inspector of arms.

Mr. DAVIS. I am not so sure that they would.

Mr. SIMMONS. Then the inspector makes the rifle, and does not merely inspect it after it is made!

Mr. DAVIS. I am not sure that they would

make as good rifles; but the difference is this; that, in the private establishment, the object is to make as much money as possible of the arm; in the public establishment the object is to make the arm as perfect as possible.

Mr. SIMMONS. I have no sort of doubt that the theory of manufacturing by the Government is a great deal better than the theory of manufacturing by the private enterprise; but the result is that Government manufacture costs double. If there is even one establishment in this country that has machinery perfectly adjusted to manufacturing an arm equal to that made at the national armory, and there is a demand for it, there will soon be another one as good. There is no danger of their wanting competition, if there is a market for anything of that kind. I say if there is but one such establishment, we have no right to understate to interfere with its business by any monopoly of ours.

Mr. DAVIS. Will the Senator say that it is now at work on this character of arms?

Mr. SIMMONS. No; for I do not know anything about it; but I say, if there is any one able to make it, and willing to make it, we should let it alone.

Mr. COLLAMER. I will say, with the Senator's permission, that there is a private establishment for the manufacture of arms in my country, which has worked for the gentlemen from Mississippi, for the army of the Confederacy; and, as they have, since then, to the amount of several hundred thousand dollars, for the British Government; and is ready to make arms of any pattern, and to compete with any establishment in the world.

Mr. SIMMONS. I have no doubt of it but if there was none, I would undertake to set up one within a year.

Mr. FOSTER. If the Senator will pardon me, I will say the same in regard to Connecticut; that there are various manufacturing establishments in that State, which have the same character of work as the Senator from Rhode Island.

Mr. HALE. We have one in New Hampshire that makes better than either.

Mr. DAVIS. There is one in Connecticut which has the machinery, and the establishment for the manufacture of arms, and the others have the same, but they are not prepared to make special arms. Now, once for all, I would say that, if the object be to make the States pay as much as possible, then I can understand the argument of the Senator; but if the object be to let the States do the thing which they are not doing as well as possible, then, as the Government has paid for its establishment, and has the power and machinery, it is right to let the people have the advantage of them.

Mr. SIMMONS. I have no objection to their getting them as cheaply as possible. That is not my objection.

Mr. DAVIS. But they must cost more at private establishments.

Mr. SIMMONS. That is a matter that is very much in dispute. I do not believe Government establishments are cheaper than private ones, and as much as it could have been bought for a private establishment. That is my experience; and I do not believe Government ever made a musket that they could not have bought for half what it cost them, if they had bids for it, and inspected it as closely as they now do.

Mr. DAVIS. I will merely state to the Senator that the record is against him, and that common sense is against him; because a man who has an establishment must have interest on his capital, whereas the Government has no charge.

Mr. SIMMONS. I have heard a great deal about the investments of the Government in building ships and making great improvements; but I say they cannot do anything as well as an individual can do it. Private enterprise has made more progress in the armory which the Government encourage it, instead of putting it under epaulets, and it will improve them still further. That is my opinion. I do not profess to have any common sense; I have not got up to that.

Mr. DAVIS. I hope the Senator did not understand me as claiming his common sense.

Mr. SIMMONS. I supposed he did. I do not know anybody else to whom his remark could apply, for I do not know anybody that happens to use quite as much of it as I do in the debates. [Laughter.]

Mr. DAVIS. I happened to make an argument; and if the Senator's common sense does not exceed that of all other persons, I think his argument ought to change with what I have clearly shown common sense requires.

Mr. SIMMONS. I happen to think quite differently from the Senator. I think it is not common sense to suppose that this mode of conducting the public business, under public officers, is equal to private enterprise.

Mr. DAVIS. That is not my position; but that common sense requires everybody to understand that a private capitalist, who invests his money in anything, must have interest on it. If that is not common sense, what is it?

Mr. SIMMONS. I will tell you. Common sense is, that when private capitalists have invested their capital, the Government should not interfere to take away their business from them. That is what I am objecting to. There are a number of these gentlemen that can make arms as well as this Government, and make them cheaper; and we propose to set up our capital, throwing away its interest, in order to break down their capital, and make them do it without interest; we go to compete in competition with them in the market.

Now, the Senator says that there is recently a great advance in the military career of the country; that the country wants more arms than are currently doing; that the Government has a demand on our establishments for the sale of arms. If we do not supply them, it will make a demand on the manufacturers who have establishments to make them. Now, I should like to know if it is the object of this Government, the intention of the Government, to underbid private capitalists in private enterprise, and undertake to supply the market with a manufactured article against private enterprise, because we have investments and can do without interest on them? That is what I object to. I say, when this Government undertakes to strike down the enterprise of the country, to work without interest, when individuals have to pay at least six per cent., it is time they should begin to think who is their competitor. I will not enlarge on this matter, because it is too plain a case to need argument.

Mr. MASON. Mr. President, the Government of the United States has been manufacturing its own arms for a long period. As far as I understand the organization, besides manufacturing its own arms, it has heretofore appropriated, and expended, \$500,000 of the State's money, to buy arms from private manufacturers; but it is obliged, for the safety of the country, to keep on hand a very large supply of arms that are not in immediate use. Now, the proposition of this bill is, if there are any of the States that want to make additions to the arms of the State, that they shall be allowed to obtain them from the Government by replacing in the Treasury the cost of those arms to the Government; and how is it met by the Senator from Rhode Island? That you will thereby require the Government to interfere with private competition in the State of Virginia, a proportion, within the last few days, \$500,000, a portion of which is to be applied to the purchase of arms, and the residue to the manufacture of arms. I am sorry to say that the relation in which that \$500,000 of the State's money stands to this Union has put them upon the necessity of arming themselves; and the appropriation will be continued from year to year, until they are fully armed and capable of meeting all resistance. I say that Virginia, within the last few days, has appropriated \$500,000 of the State's money, a portion of which is to be used for the purchase of arms, and the residue for the manufacture of arms; and the authorities of the State of Virginia are required right off to erect manufactures on State account in Virginia, for the manufacture of arms. I do not know what the bill will be very costly. The State of Virginia will purchase any arms under it. I do know, as far as I am informed as one of her representatives, that she has had no part or lot in it of any kind. I do know that she is sending to Europe, to see at what rate she can purchase arms there. I believe she will be very cautious in purchasing arms from the quarter of the country from which that Senator comes. But if it should result that this bill passes, and the State of Virginia finds she can purchase from the United States better arms, or as good arms, as she can

get in private competition in Europe or at home, she will be induced to take them from the United States instead of elsewhere.

But when the honorable Senator avers, as he has very roundly avowed, that private manufacturers can make better arms and cheaper arms than the Government of the United States can make, if he is right, the Government of the United States cannot come into competition with them in the market; because those who want to buy, unless they are deterred from doing so by the distance of the country to buy, will buy from those private manufacturers. Sir, if she could buy arms as good and as cheap as she can make them, the State of Virginia would not be, as she is now, creating a manufactory of arms within her own limits. She would not manufacture them, clearly, if she could buy them as good and as cheap as she could get them elsewhere.

The proposition, as I understand it, is that the Government of the United States, from the surplus of arms that it must of necessity keep on hand, shall distribute them more at large among the people of the States, than it can do under the present legislation, on terms that they shall be replaced at cost. And what reply is given by the Senator from Rhode Island? Why, that you are bringing the Government into competition with private manufacturers; and at the same time, he asserts that these private manufacturers manufacture better arms and cheaper than the Government. If that is true, there is no competition. If it is not true, then he would compel the States to go and buy from these manufacturers all inferior or a worse arm at a higher rate. At the very time that it is certainly the policy of the United States to arm the country, at the very time that the United States has large surplus of arms on hand intended to arm the country, either through its own armories or through the militia, and which the proposition is to replace to the Government the cost of those arms, I cannot understand that argument in any way whatever.

I know nothing about it, for I never had occasion to inquire into the subject; but it would not be very much whether you can trust private manufacturers as you can trust the Government manufacturer. I know that in the competition which results among the private manufacturers, not of arms only but of everything else, there is imposition in material, imposition in weight, imposition in fabric, which is never tested until it is used, and then it manifests itself too late. I was struck with that the other day, in the Senator's own country, in the fall of that mill in Lawrence, in Massachusetts—an immense building, in the hands of private manufacturers, that fell to the ground and crushed some two hundred or two hundred and fifty people, men and women. An inquiry was made into the cause, and I looked into it, not to a great extent, and it was said there that the cause of it was owing to the defect in the castings of the pillars of the structure. I do not say that might not have happened if it had been a Government work, constructed on Government account, but I say only what belongs to that human nature and to that good sense which no honorable Senator can ignore, and which would justify that the honorable Senator from Rhode Island, when I say it is manifested everywhere that private individuals, freed from public responsibility in manufacture, will manufacture in the cheapest manner they can, obtaining the same price, and in matters of so great importance as the arms of a country, there will be flaws, there will be defects that might be avoided but for the cupidity of the manufacturer, which never manifest themselves until it is too late. I do not mean to show any reflection on any professor of any kind, or by the constituents of that gentleman who would manufacture them, but I speak of that only as one necessary result in all private manufactures.

Now, I am not one of those who believe that because arms are manufactured under epaulettes they are not to be trusted. Mr. Pugh, in his experience of this Government, (and I have had some,) I know of no security which, for private honor, public responsibility, or pecuniary trust, is to be compared to the security that an officer gives by his epaulettes—better than any bond, better than any profession of any kind. I have seen it tested over and over again, and questioned over and over again, and I have not yet seen it wanting. I say, the security that is given

by the epaulettes, by the commission which he bears from his country, and his responsibility under that commission, is the best I have ever known in this Government. I trust to that, in the manufacture of arms, for more than I would to the cupidity of private enterprise; and in doing that, I do not mean still to question the honesty of those men who are engaged in it in the slightest degree. I do not know the character of their souls; but if I were buying arms for the use of my State, I would rather trust the honesty of the security of the public responsibility of the Government in the manufacture of them than to the cupidity of the private manufacturer.

Now, sir, what is the proposition of this bill? What is the object of the Government in manufacturing arms? They must have very large supplies. I am informed by the honorable Senator who is chairman of the Committee on Military Affairs, that there are some five hundred thousand arms at the United States armories, and they are manufactured there every year at the rate of four or five hundred thousand dollars' worth annually. Why? Our army is only eighteen thousand strong; they cannot use them. They are put by for future use, when the country wants them. In the meantime they are redundant. They are intended to supply the regular army, and through the States, to be given to the people of the States when they are in arms for the protection of their country. The proposition now is to distribute them on terms most advantageous to the Government, by replacing the cost of the arms. The honorable Senator would for instance, expose to the competition of private manufacturers. I cannot see the propriety of it, I am free to admit.

Mr. PUGH. Mr. President, if it were alleged that the establishments of the Government were to manufacture and supply the regular army, or the militia of the States, with the suitable number of arms, and a proper estimate were made of the expense of increasing that department, I should be ready to vote for it. If, on the other hand, it were alleged that the Senator from Virginia, on the authority of the chairman of the Committee on Military Affairs, that there are more arms now in the armories and the arsenals than are required for the public service, and it is deemed expedient to distribute them to the States proportionately, as an armory or arsenal, and not ready to entertain that proposition. But this bill is for neither purpose. The bill is precisely what the Senator from Rhode Island has characterized it. It is not to carry into effect the duty of the Federal Government to provide for the arming of the militia of the States. It is not for the purpose of distributing to the States public arms which are not necessary or not required by the Federal Government. It is to engage the Federal Government in the manufacture of arms, not with a view to its public duty, but to interfere with private manufacturing, or to create an opening for introduction to the second section; it is to find employment for the Army of the United States.

We first established the Academy at West Point, because, it is said, we must educate these gentlemen, who are the leaders and the chiefs, so as to find business for them after they are educated. They are not sent, the greater portion of them, as other armies in other countries are, to be soldiers. They are to be congregated in fortifications, and in cities, and in arsenals, and in arsenals, to be soldiers in name and not soldiers in fact. Now, sir, instead of allowing the manufacture of arms whenever unusual demands beyond the ordinary requirements of the militia exist, in order to answer these extraordinary demands, we need to bring the Government of the United States into competition with private individuals in a private business; and what is the argument for that? The Senator from Virginia says that if private individuals can make these arms cheaper and better than the Government, there will be no competition, or no dangerous competition, between the Government and private individuals. The Senator overlooks the fact stated by the Senator from Rhode Island, that private individuals must have an income or an interest upon their capital, while the Federal Government pays its money there without the idea of having any return, or any interest, or any income. You bring the power of this Government, as a capitalist requiring no return upon its investment, to compete with indi-

viduals who are compelled to receive a return upon their capital.

But the Senator from Virginia thinks that competition will ruin the manufacture of arms, and that men arriving with each other to command the market, to make the best article at the least price, will be sure to give us the worst possible article. Why, sir, the experience of the world is the other way. It is the experience of the world that monopoly gives us the worst article at the least price. I do not care whether it is a monopoly granted by a charter, or whether it is a monopoly of the Government of the United States, after she has driven out private individuals, and set up her own factories, under the control of her own military officers.

But the Senator from Virginia says the best security we can have that these arms will be the best and the cheapest, is the fact that they are to be manufactured under the administration of gentlemen who wear epaulettes. That is a better security than a bond. I believe I use the strongest possible expression. Then, sir, in God's name, why not give them every office in the Government of the United States? If it is good for one thing, it is good for all. I do not mean to deprecate the honor of military officers; but I say it is no higher than the honor of the man who wears a cap and a sword, and security at all. I can see no purpose in committing the matter to these gentlemen. They are not educated for any such business. They have no practical acquaintance with the manufacture of arms. They have no practical acquaintance with the management of the business of a factory. They will have to learn every bit of it after you have put them there. They have no qualifications, except that, perhaps, of inspectors, to form a judgment derived from their experience or observation in the Army as to the parity of pattern or quality of arms, or for superintending the manufacture of them, the pretense that they are educated for any such business, or that they know any such thing, unless it be an exceptional case, is preposterous.

It is, therefore, that this whole bill, whether you regard the first section or the second section, is equally objectionable. Each section is indispensable to the other. If you do not have the first section you will very soon find that the second section will be in little demand, for it will only be a means to the first section, and it will be but if you can set all the armories of the United States to the maximum of their capacity to manufacture arms, there will be more places for more officers. If you strike out the second section, the first section, unless it be to distribute the arms already made, would soon be of the least possible consequence. I look upon it, sir, without meaning any disrespect to the Committee on Military Affairs, as a part of that plan which seems to have been persisted in continuously, that to employ the Army of the United States in the Territories, or in any other department of civil service; and while this is being done on the pretense of finding them employment, the President thunders to us from the other end of the avenue that he must have three, four, or five more regiments added to the army for the Territories, and for the Territories. Let these officers go there. That is where they ought to be; and if they were sent there instead of being put over the Treasury extension, the Capitol extension, and the harbor improvement, and river improvements, and the armories, and the arsenals—if they were sent to the Territories, as the French troops are sent to Algeria, we should not have thence by Texas to give her regiments of rangers, and from all the Territories to give them either new regiments in the regular Army or new regiments of volunteers.

It is a very singular thing, that Army officers have less idea of being soldiers than of being everything else. They attempt, in every way, to get into employments that are not intended for them by the laws regulating, or originating, or organizing the Army itself—for one, since this matter was taken to attention in the States two years ago, I have recalled the solemn resolution that I will record no vote to increase, in any direction, the control of the Army of the United States in the civil departments of this Government. I shall vote for the only bill for the second section.

Mr. FESSENDEN. I move that the Senate adjourn. I am satisfied that we cannot get through with this bill to-night.

mitted, if he asked for delay. If the Senator from Maine desires to offer an amendment, I shall not press the bill to a vote until he has done so.

Mr. FESSENDEN. I desire to offer an amendment.

Mr. BINGHAM. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 1, 1860.

The House met at twelve o'clock, m. Prayer by Rev. R. P. CUTLER.

The Journal of yesterday was read and approved.

Mr. ADRIN. I rise to a question of privilege.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Commissioner of Patents, transmitting, agreeably to the design of Congress as indicated in the clause of the act of March 3, 1859, "for collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procuring of cuttings and seeds," the annual agricultural report of his office; which was laid upon the table, and ordered to be printed.

CLERK'S ANNUAL REPORT.

The SPEAKER also, by unanimous consent, presented to the House the annual report of the Clerk of the House of Representatives, in relation to the disbursement of the contingent fund of the House; which was laid on the table, and ordered to be printed.

REPORT FROM THE COURT OF CLAIMS.

The SPEAKER also, by unanimous consent, presented to the House the report of the Court of Claims, adverse, in the case of Sarah B. Weber, administratrix of John A. Weber, ex. The United States; J. Eddy's heirs vs. The United States; Charles A. Dubois De Loebe vs. The United States; and John H. Merrill vs. The United States; which were, under the rules, placed upon the Private Calendar, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. CARTER. I rise to a question of privilege. The SPEAKER. Does the Chair understand that the gentleman from New Jersey rose to a question of privilege?

Mr. ADRIN. I did.

The SPEAKER. Then the gentleman from New Jersey is entitled to be heard first.

Mr. DAVIS, of Indiana. I ask the gentleman from New Jersey to yield to me a moment.

Mr. ADRIN. Certainly.

Mr. DAVIS, of Indiana. I move that the Committee on Public Lands be discharged from the further consideration of the papers relating to the claim of the Methodist Episcopal Missionary Society of Oregon; and that the same be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. ADRIN. I rise to make a personal explanation.

Mr. CARTER. I rise to a question of privilege.

The SPEAKER. The Speaker has recognized the gentleman from New Jersey.

Mr. ADRIN. I rise, as one of the committee appointed by this House to make arrangements for the inauguration of the equestrian statue of General Washington, to reply to a resolution of the other body by the gentleman from New York, [Mr. CARTER], casting a censure upon the committee appointed for that purpose.

Mr. CRAWFORD. I rise to a question of order upon the gentleman from New Jersey. It is, that this is not a question of privilege.

The SPEAKER. The gentleman from New Jersey rises to a question of privilege, and he will state it as briefly as possible.

Mr. ADRIN. My point is, that the official character of a committee of this House has been censured; and it is laid down in the Manual that, whenever that is the case, the committee, or member of the committee, may rise to a personal explanation.

Mr. CRAWFORD. I hope the gentleman will have the resolution to which he referred read, so

that we may see whether this is a case which comes under the rule. If it does, I shall have no objection.

Mr. ADRIN. I have no objection to the reading of the resolution for the information of the gentleman from Georgia.

The SPEAKER. The gentleman from New Jersey will understand that the resolution to which he refers is in the possession of the House. It was offered, but, objection being made, it was not received.

Mr. CRAWFORD. I have no objection to having this matter settled, if it is in order.

The SPEAKER. If there be no objection, the gentleman from New Jersey will be allowed to proceed.

Mr. LOVEJOY and Mr. FARNSWORTH objected.

Mr. ADRIN. I think it most unjust to the character of that committee, and unjust to the character of this House.

Mr. LOVEJOY. I rise to a question of order.

Mr. ADRIN. That no explanation should be permitted where an unjust censure has been cast upon that committee.

The SPEAKER. The Chair is compelled to decide, if objection is insisted on, that, as there is no resolution before the House, no question of privilege, such as that to which the gentleman from New Jersey refers, can be raised, and therefore he is not in order.

Mr. CRAWFORD. The gentleman from New Jersey complains of injustice, and therefore I will state the reason why I object. It is, that the gentleman from New Jersey may go on and make his explanation, and as soon as the gentleman from South Carolina, [Mr. KEITT], another member of that committee, returns, he may rise to a question of privilege on the same subject, and address the House also. I think the subject had better be postponed until both gentlemen are in their seats.

Mr. ADRIN. I do not know that the gentleman from South Carolina, in his deep affliction, will desire to address this House. There is no evidence of that fact.

The SPEAKER. If there be no objection, the gentleman from New Jersey will be heard.

Mr. FARNSWORTH. I object.

Mr. LOVEJOY. How many times is it necessary to object before the Speaker understands that a thing is objected to?

Mr. ADRIN. I desire to say that the gentleman from South Carolina [Mr. Keitt] is desirous that this matter should be brought up, and that I should be heard upon it.

The SPEAKER. The regular order of business is called for, which is the call of committees for reports. Reports are in order from the Committee of Ways and Means.

Mr. CARTER. I rise to a question of privilege. Certain remarks have been made in this House reflecting upon me, and I desire now to be heard.

Mr. PHELPS. I call the gentleman from New York to order.

Mr. ADRIN. I hope the gentleman from New York will be heard.

Objection was made.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASHLEY DICKIN, their Secretary, informing the House that the Senate had passed an act (H. R. No. 3) making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1861.

Also, that the Senate did, on the 29th of February, 1860, at twenty-three minutes of two o'clock, order the publication of the resolutions of the Legislative Assembly of the Territory of Kansas, in favor of a speedy admission of Kansas into the Union as a State, under the constitution formed at Wyandotte.

ORDER OF BUSINESS.

Mr. ADRIN. Am I entitled to the floor, Mr. Speaker?

The SPEAKER. If there be no objection, the gentleman from New Jersey may be heard.

Mr. SHERMAN. Why, Mr. Speaker, the Committee on Ways and Means has been called for reports. That is the regular order of business.

The SPEAKER. The regular order of business has been called for, which is the reception of reports from the Committee of Ways and Means.

Mr. PHELPS. I am instructed by the Committee of Ways and Means to report back a bill with an amendment.

Mr. CARTER. Is there any objection to my stating my question of privilege?

Mr. ADRIN. The gentleman from New York [Mr. CARTER] has risen to a privileged question for the purpose of enabling me to speak.

Mr. PHELPS. I object to all these proceedings.

The SPEAKER. Reports are in order from the Committee of Ways and Means.

ASSAY OFFICE IN ST. LOUIS.

Mr. PHELPS, from the Committee of Ways and Means, reported back, with an amendment, a bill (H. R. No. 135) to establish an assay office in the city of St. Louis, in the State of Missouri; which was referred to the Committee of the Whole on the state of the Union and ordered to be printed.

ABOLITION OF LAND OFFICES.

Mr. WASHBURN, of Maine, from the Committee of Ways and Means, reported the following resolution: That which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be requested to inquire into the expediency of abolishing a portion of the land offices of the United States, or whether the expenses of said offices may be reduced, with leave to report by bill or otherwise.

OVERFLOWED LANDS ON THE MISSISSIPPI.

Mr. ETHERIDGE. I desire to ask leave of the House to allow me to offer a resolution for the appointment of a select committee to which may be referred the memorial of a number of citizens of Tennessee and Kentucky, in regard to the inundation of their lands on the Mississippi river.

Mr. HOUSTON. Send up the resolution, and let us hear what it is.

Mr. ETHERIDGE. I would state that the memorial asks such action on the part of Congress as may be deemed proper; and, as the subject is not, perhaps, appropriate to any one of the standing committees, I desire that it may be referred to a select committee. The memorial has reference to the fact that the lands on the left bank of that river, in the States of Tennessee and Kentucky, have been overflooded, and great damages done by the building of levees on the Missouri and Arkansas sides, in consequence of the direct action of the Federal Government. This is the memorial of the citizens that have been affected thereby. I ask that it be referred to a select committee of five members.

Mr. COBB. I object to the introduction of that resolution, if the subject is to be referred to an apical committee. I have no objection to its going to one of the standing committees of the House.

Mr. ETHERIDGE. Very well; the objection comes from the right side of the House. This is just what I expected. [Laughter.]

Mr. AVERY. I hope the gentleman from Alabama will withdraw his objection.

Mr. COBB. I have heard the remark of the gentleman from Tennessee, [Mr. Eganston,] and I repeat that if the subject be referred to one of the standing committees I have no objection. If the gentleman can make political capital out of that, he is welcome to it.

Mr. ETHERIDGE. Well, I ask that the memorial may be referred to the Committee on Public Lands.

Mr. COBB. I have no objection.

It was so referred.

TENNESSEE RIVER IMPROVEMENT.

Mr. ELY, from the Committee of Claims, reported back, without amendment, a bill (H. R. No. 89) to liquidate the unjust contracts of the Tennessee river improvement; which was referred to the Committee of the Whole House, and ordered to be printed.

WILLIAM BROWN.

Mr. WALTON, from the same committee, reported a bill for the relief of William Brown; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

BENJAMIN GREGG.

Mr. WALTON, from the same committee, presented an adverse report on the petition of Benjamin Gregg; which was laid on the table, and ordered to be printed.

LYDIA FRASER.

Mr. HUTCHINS, from the same committee, reported a bill for the relief of Lydia Fraser, administratrix of John Frazer; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

ADVISEE REPORTS.

Mr. HUTCHINS also, from the same committee, presented adverse reports on the petitions of Chauncey Smith and Jennima Christian; which were laid on the table, and ordered to be printed.

MARIAM G. VALLERO.

Mr. HALE, from the same committee, reported back a bill (C. C. No. 22) for the relief of Mariam G. Valero; which was referred to a Committee of the Whole House, and ordered to be printed.

CLERKS TO COMMITTEES.

Mr. GILMER. I am directed by the Committee of Elections to offer the following resolution:

Resolved, That the Committee of Elections be allowed to employ a clerk at a compensation not exceeding four dollars per day for the time actually employed.

Mr. BURNETT. I do not understand that to be a privileged resolution.

The SPEAKER. It is there objection to the resolution?

Mr. BURNETT. I object to it.

Mr. CAMPBELL. It is a privileged question. Mr. GILMER. I understand it to be a privileged question. Such a resolution has always been so considered. It certainly is a privileged question.

The SPEAKER. The Chair does not suppose it is a privileged question.

Mr. GILMER. But it is a report from the Committee of Elections.

The SPEAKER. That committee has not been called to-day, and the Chair supposes that it is not, therefore, a privileged question.

Mr. CAMPBELL. I wish to say that the resolution offered by the honorable gentleman from North Carolina is a privileged resolution. It is a report from the Committee of Elections.

Mr. BURNETT. I object to the gentleman's argument. The question, I understand the Chair has decided that it is not a privileged question.

The SPEAKER. The Chair has so decided.

STEAMBOAT PASSENGER BILL.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported back, with the recommendation that it do pass, House bill (No. 114) further to provide for the safety of passengers on vessels propelled in whole or in part by steam.

On motion of Mr. WASHBURN, of Illinois, the further consideration of said bill was postponed till three weeks from Tuesday next; and the bill and accompanying report were ordered to be printed.

RHADS CALLAWAY.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported back a bill for the relief of Rhads Callaway; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. TAYLOR. Mr. Speaker, I wish to make an inquiry of the chairman of the Committee on Commerce. In this the bill which was before the last Congress?

Mr. WASHBURN, of Illinois, was understood to answer.

Mr. TAYLOR. It will be remembered that I presented a bill which was also before the last Congress, and which is intended as an amendment or substitute for this bill. If that bill of mine is not included in this report, I wish to ask permission of the House that the bill referred by me to the committee may be printed, in order that it may be in a condition to be brought up at the same time as the bill now referred to the Committee of the Whole House shall be brought up.

Mr. WASHBURN, of Illinois. I hope that course will be pursued.

It was so ordered.

STEAMBOAT PASSENGER BILL—AGAIN.

Mr. HOUSTON. I rise to a privileged question. I understand that the first report made by the chairman of the Committee on Commerce was postponed. To what time was it postponed?

The SPEAKER. It was postponed for three weeks.

Mr. HOUSTON. I move to reconsider the vote by which it was postponed, with a view of saying a word to the gentleman from Ohio [Mr. SHERMAN] who is at the head of the Committee of Ways and Means. If the gentleman will look at the effect of this class of postponements, he will see that they are really special orders; and if the way is blocked up by bills being postponed, so as to give them an advantage over every other bill that may be reported from every other committee in the House, why the gentleman will find his appropriations bill stuck down to the very last day of the session, if they are passed at all.

I only make that suggestion. If he prefers to let it go so, I have indicated my disinclination to it; and I will be content with his course. I will assent him, however, if he desires to take the course I suggest—to keep the way clear, so that his appropriations bills may be passed at any time, without being sunk to the bottom by special orders and postponed bills. I, therefore, move to reconsider the vote by which the bill was postponed, and to have it referred to the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I move to lay the motion to reconsider upon the table.

Mr. SHERMAN. I hope my friend from Illinois will not carry this motion to reconsider over for an hour or two, until I can see what the measure is. I was called out, and did not bear it reported.

Mr. WASHBURN, of Illinois. I withdraw the motion to lay upon the table, for the purpose of a brief remark. This is a bill which is considered of great importance to the country, and that should be speedily passed. The gentleman from Alabama understands very well what will be the effect of referring the bill to the Committee of the Whole on the state of the Union, and so doing will justify its being made a special order, will be disposed of with very little debate or discussion. It is a bill that has been most thoroughly considered.

Mr. MILLSON. Will the gentleman allow me a moment?

Mr. WASHBURN, of Illinois. Does the gentleman from Virginia desire to ask me a question?

Mr. MILLSON. I desire to make a suggestion. My friend from Illinois knows that, from my first report, I have some familiarity with the bill which he has just reported. If the bill now reported by him resembles the bills formerly acted upon by the Committee on Commerce, I do not think that it will be practicable to discuss the bill in the House, restricted as the House will be to the consideration of a single amendment, or an amendment to that amendment, which will either involve the House in the predicament of allowing a senseless and tedious discussion to go on on those two amendments, or of cutting off all other amendments by a demand for the previous question.

One word more. I agree with the gentleman from Illinois in thinking that the bill is one of very great importance and that ought to be speedily and thoroughly considered by the House, and I think it would well justify its being made a special order; but I suggest to the gentleman that he allow it to go to the Committee of the Whole on the state of the Union, where it can be discussed with more advantage and profit than it can possibly be acted on within the House.

Mr. WASHBURN, of Illinois. If by the consent of the House it can be made a special order in the Committee of the Whole on the state of the Union, I am certainly very well agreed to that. All I desire is, that the bill may be in a position to be brought up by the House, if they desire to pass it, can act upon it.

Mr. BURNETT. I desire to suggest to the chairman of the Committee on Commerce, that I hope he will stand by his motion, and let the bill be made a special order. It is a bill of importance, and one that ought to be considered by the House, and at an early day. That, in my judgment, is the only mode in which we can get action on it. I hope, therefore, that the gentleman will insist on his motion to lay the motion to reconsider upon the table.

Mr. WASHBURN, of Illinois. I will now let the sense of the House, without further debate, by renewing the motion to lay the motion to reconsider upon the table.

Mr. HOUSTON. Will the gentleman from Illinois withdraw that motion for a minute? I desire to put myself right in relation to this bill.

Mr. WASHBURN, of Illinois. The gentleman can make his suggestion without my withdrawing the motion.

Mr. HOUSTON. Well, it is this: the gentleman seems to have taken my motion—as did also the gentleman from Kentucky [Mr. SHERMAN]—as being evidence of hostility to the bill. It is not so. I am willing to take up this bill, and set upon it. I desire to do so. I know that it is an important bill, and that, in one shape or other, it ought to pass. I am not endeavoring to snuff the bill or to defeat it. I do not wish to see it in the Committee of the Whole on the state of the Union to be obstructed.

Mr. WASHBURN, of Illinois. Let me make a suggestion. The gentleman from Alabama knows very well that this is making no special order of the bill, and that the delay will come up at the time to which it is postponed; and that, at that time, a motion to lay upon the table or refer to the Committee of the Whole on the state of the Union will be in order.

Mr. HOUSTON. I desire to say one word in reply to the gentleman from Illinois, and to the gentleman from Kentucky.

Mr. WASHBURN, of Illinois. If a majority of the House want to send the bill to that tomb of all the Capulets, the Committee of the Whole on the state of the Union, very well; but it can be done as well on the day to which it is proposed to postpone its further consideration, as it can be upon this day. I hope, therefore, that the House will permit the disposition of the bill to be made that I have suggested.

Mr. HOUSTON. One word more, and I will detain the House no longer. I desire to reply in brief to the gentleman from Illinois, the chairman of the Committee on Commerce, and the gentleman from Kentucky. They say that, unless this bill is kept before the House, and not referred to the Committee of the Whole on the state of the Union, it will cease to command the attention and the action of the House; that otherwise, it will not be reached and disposed of this session.

If that be so, and it is to bury a measure forever to refer it to the Committee of the Whole on the state of the Union, why, in the name of common sense, is not that committee abolished? Why do we have that committee, if it is of no avail? Why should it be recognized by our rules, unless it has some good purpose to subserve? Abolish it, if it is no good, and let all the bills of the session take their chance equally, be made special orders, and have their only consideration in the House. We are told gravely, in reference to the bill, that to refer it to the Committee of the Whole on the state of the Union is to send it to the tomb of all the Capulets, and that the bill will never reach it; and I insist, if that be so, the Committee of the Whole on the state of the Union is an incubus instead of a help, and ought to be abolished.

Mr. WASHBURN, of Illinois. I yielded only for an explanation, and not for a speech; and I insist on my motion.

The SPEAKER. The question is on the motion that the motion to reconsider be laid upon the table.

The question was taken; and the motion was agreed to.

Mr. WASHBURN, of Illinois. Mr. Speaker, in connection with the bill, I desire to introduce a resolution, under the direction of the Committee on Commerce, and which goes, under the rules, to the Committee of the Whole on the state of the Union, and report be printed.

Mr. STANTON. Does that resolution come before the House as a report from the Committee on Commerce?

Mr. WASHBURN, of Illinois. It does; and it was adopted by the House. I state my rights I have here. The reason for the resolution is this: this, sir, is a very important bill, and the ordinary number of copies has not heretofore been found adequate to answer the demands made from every section of the country. It is a bill the pro-

Mr. LEACH, of North Carolina, objected.

Mr. ALLEN stated that he would have voted in the negative, had he been within the bar when his name was called.

Mr. SHIMORE said: I desire to cast my vote in favor of clerks to two or three of these committees; but I cannot vote for the batch of clerks proposed by the amendment; and therefore I vote "no."

Mr. McKNIGHT, I was called out of the House just before my name was called, and therefore missed my vote. As the gentleman from North Carolina [Mr. WINSLOW] said the other day if I had been here I should have voted correctly upon this question.

The result of the vote was announced, as above recorded.

The resolution, as amended, was then agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PROVINCETOWN HARBOR.

Mr. ELIOT, I am instructed by the Committee on Commerce to make a report concerning the violation of Provinctown harbor, and to move that it be laid upon the table and printed.

The motion was agreed to.

CHARLES KNAPP.

Mr. MOORHEAD, from the Committee on Commerce, reported a bill for the relief of Charles Knapp; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and the bill and report ordered to be printed.

ISAAC S. SMITH.

Mr. NIXON, from the Committee on Commerce, reported a bill for the relief of Isaac S. Smith, of Syracuse, New York; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and the bill and report ordered to be printed.

GEORGE R. JACKSON & CO.

Mr. CLEMENS, from the Committee on Commerce, made an adverse report in the case of George R. Jackson & Co.; which was laid on the table, and ordered to be printed.

ISSUING OF REGISTERS.

Mr. JOHN COCHRANE. I am directed by the Committee on Commerce to report back a bill (S. No. 146) authorizing the Secretary of the Treasury to issue registers to the schooners Helen Blood and Sarah Bond, of Oswego, New York, and ask that it be put upon its passage. I make that motion.

The bill has been submitted to the Treasury Department, and has the approbation of the Secretary of the Treasury. The hulls of these vessels were constructed in Canada, but the repairs and additions made to them in this country exceed double the value of the hulls. I move the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the bill was ordered to be read a third time.

The bill was subsequently read the third time, and passed.

Mr. JOHN COCHRANE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PROTECTION OF FEMALE PASSENGERS.

Mr. JOHN COCHRANE. I am instructed by the Committee on Commerce to report back a bill, (H. R. No. 19,) and ask that it be put on its passage. This bill, sir, is a bill to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855; and it is designed for the better protection of female passengers, and for other purposes. I say briefly to the House on this occasion, that this bill is based upon these facts: that in the course of the passage from the continent of Europe to this continent, female passengers are very frequently subjected to violation, by reason of the position of captains and other officers commanding on board of passenger ships. In

order that the facts upon which the bill stands and is proposed may be known to this House, I send to the Clerk's desk, that it may be read, a representation of the Commissioners of Emigration of the State of New York. It is very brief, and presents the facts which were true at the time the representation was made, and equally true now. The memorial is signed by our first men in the city of New York.

The memorial was read, as follows:

To the House of the Senate and the House of Representatives of the United States:

Your petitioners, the Commissioners of Emigration of the State of New York, respectfully lay before you, That, by the law of the said State of New York, the care and protection of the emigrants arriving at the port of New York is committed to your petitioners; that, during the last two or three years, the frequent complaints made to your petitioners, by female emigrants arriving at the above port, of ill treatment and abuse from the captains and other officers of some of the vessels engaged in the passenger business, caused your petitioners to investigate the subject; and from such investigation your petitioners regret to be obliged to say, that, where the distinction in the number of cabin passengers in sailing ships, produced by the rapid stream competition between this and the eastern globe, and continental, property and decent observance on the part of the officers of many ships have very frequently been departed from; that, in relation to the high class of European ports, the captain frequently seizes some unprotected female from among his passengers, induces her to visit his cabin, and there, abusing his authority, and under the penalty by threats, and partly by promises of marriage, commits her to ruin, and retains her in his quarters for the rest of the voyage; the indifference of his fellow passengers, and the purposes of prostitution; that the other officers of the ship, having no apprehension for the commission of a common breach of duty with him, often intimate the example of their superior, and when the poor friendless women, thus seduced at this port, are thrown from the ship upon shore and abandoned to their fate, without any remedy for the past wrong which has been done upon them; that such occurrences as above described have become so frequent that your petitioners feel it their duty to ask for legislative interposition to put an end to these heinous offenses on the part of the officers of vessels; and for that purpose the acts being done on the high seas, out of the jurisdiction of the States, appeal to your honorable bodies, and respect-fully ask that your honorable bodies, by the enactment of laws as may prevent, by severe punishment for the act, the recurrence of this increasing evil and wrong.

Your petitioners will ever pray,
 G. C. Verplanck, Wilson G. Hunt,
 Andrew Curran, John C. Curtis,
 D. Mearns, John C. Canning,
 William Jennings, Elijah F. Purdy,
 Samuel S. Powell,
 Isaac Brodway,
 Daniel F. Tienman,
 Mayor New York.

Commissioners of Emigration.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported, as truly enrolled, an act (H. R. No. 3) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th June, 1861; when the Speaker signed the same.

SAFETY OF EMIGRANT PASSENGERS—AGAIN.

Mr. JOHN COCHRANE. I should say that this memorial has the signatures of the first and most reliable men of the city and State of New York.

It is signed by the Mayors of New York and Brooklyn. The bill that has been prepared, and which I am instructed by the Committee on Commerce to report back, has been very carefully considered. The subject was before the last Congress, and was brought before the Senate and another before the Senate; but on consultation, the two bills were abandoned, and that which constitutes the present bill was accepted in their place. It therefore has the sanction of the committee of the Senate and of the committees of the House. Under these circumstances, I send the bill to the Clerk's desk, and ask to have it read and put upon its passage; and upon that I demand the previous question.

Mr. LOVEJOY. I would like to inquire of the gentleman from New York what is intended by the words, "for other purposes." Or whether the bill is confined to this one object?

Mr. JOHN COCHRANE. That is all. There is no other.

The Clerk proceeded to read the bill.

Mr. SHERMAN. (interrupting.) Has the morning hour expired?

Mr. SHERMAN. Then I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JOHN COCHRANE. Let this bill be disposed of first.

Mr. SHERMAN. I am afraid that it may lead

to debate; but I am willing to give way, so that the previous question may be seconded.

Mr. HOUSTON. We cannot have the previous question until after the bill shall have been read. If the gentleman from New York wants to keep his bill in condition to let it come to the morning, he can withdraw the previous question, and move to recommit the bill; and that motion, under the practice of the House, will bring it up.

Mr. JOHN COCHRANE. I think this is a subject of much importance, and that the House will give at least five minutes to hearing the bill read.

Mr. HOUSTON. I think the bill is too long to attempt to pass it in this way. If the gentleman will move to recommit, it will come up in the morning; and we will have the morning hour in which to pass it.

Mr. JOHN COCHRANE. I propose, for the benefit of the House and of the Committee of Ways and Means, that the bill be read and the previous question seconded; and then, the morning hour having expired, it may go over until tomorrow.

The bill was read. It enacts that every master, or other officer, seaman or other person, employed on board of any ship or vessel in the United States, who shall, during the voyage of such ship or vessel, or on board of such ship or vessel, or on the exercise of authority, or by solicitation or the making of gifts or presents, seduce and have illicit connection with any female passenger, shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by imprisonment for a term not exceeding twelve months, or by a fine not exceeding \$1,000; provided that the subsequent intermarriage of the parties, seducing and seduced, may be pleaded in bar of a conviction.

The second section enacts that neither officer, seaman, nor other person employed on board of a ship or vessel bringing emigrants to the United States, shall visit or frequent any part of such ship or vessel that is assigned to emigrant passengers, except by the direction or permission of the master or commander; and that every officer, seaman, or other person employed on board of such, who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, forfeit to the said ship or vessel his wages for the voyage; and that any master or commander who directs or permits any officer, seaman, or other person employed on board of such, to visit or frequent any part of said ship or vessel assigned to emigrant passengers, except for the purpose of doing or performing some necessary act or duty as an officer, seaman, or person employed, shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine of fifty dollars for every occasion on which he shall so direct or permit the provisions of this section to be violated.

The third section makes it the duty of the master or commander of every ship or vessel bringing emigrant passengers to the United States to post a written or printed notice containing the provisions of the second section of this act in a conspicuous place on the fore-cabin, and in the several parts of said ship or vessel assigned to emigrant passengers, and on or near the mainmast, during the voyage; and on neglect so to do, he shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding \$500.

The fourth section enacts that in case of the conviction of any person under the provisions of the first section, and of the imposition of a fine, the court sentencing the person so convicted may, in its discretion, by an order to be entered on its minutes, direct the amount of the fine, when collected, to be paid for the use of the female seduced, or her child or children.

The fifth section enacts that no conviction shall be had under the provisions of this act, unless an indictment shall be found within one year after the commission of the offense.

Mr. JOHN COCHRANE. I think the House is prepared to pass this bill now.

Mr. HOUSTON. Let me suggest to the gentleman from New York that I think twelve months' imprisonment is probably not punishment enough; and I think, also, that the period of twelve months, the statute of limitation established in that bill, is too short.

Mr. SHERMAN. I must renew my motion. Mr. JOHN COCHRANE. Then I withdraw the demand for the previous question, and enter a

motion to recommend the bill to the Committee on Commerce.

Mr. SHERMAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. I will state that it is my purpose to call up the Indian appropriation bill for the purpose of passing it.

EMPLOYEES OF THE HOUSE.

Mr. SPINNER. I hope the gentleman will allow me to offer resolutions which are of consequence to every one.

Mr. SHERMAN. I will hear them read.

The Clerk read the resolutions, as follows:

Resolved, That so much of the resolution of the House of Representatives, passed May 17, 1856, relative to the compensation of the Doorkeeper of this House and his employees is hereby rescinded, so far as the same conflicts with the joint resolution of the two Houses of Congress passed 26th July, 1854.

Resolved, That so much of said resolution as limits the number of pages to twelve be, and the same is hereby, repeated; and that the Doorkeeper be authorized from time to time to employ, under the direction of the Committee of Accounts, not exceeding twenty pages, between the ages of ten and sixteen years, at a compensation of two dollars per day for each during the session of Congress; and that the Committee of Accounts be authorized to allow pay to the pages acting during the pending of the election of Speaker of this House.

Mr. CLEMENS. I object to the resolutions.

Mr. SPINNER. I desire to say to the House that there are a large number of persons here who cannot go home for want of their pay.

Mr. SMITH, of Virginia. Well, let them stay.

Mr. RUFFIN. We got along well enough last session with twelve pages; better than we did when we had more.

Mr. SPINNER. Were they twenty last year, and it is those persons we want to pay.

DIFFICULTIES ON THE FRONTIER.

Mr. CURTIS. I again ask leave to offer the resolution which I send to the desk.

The SPEAKER. Does the gentleman from Ohio consent?

Mr. SHERMAN. I have no objection, if no one else has.

The resolution was then read, and by unanimous consent agreed to, as follows:

Resolved, That the President be requested, if not incompatible with the public service, to transmit to the House copies of any official correspondence which the Department has recently had with Governor Houston and others, concerning difficulties in the southwestern frontier; and also that he inform the House what measures, if any, have been taken to protect our citizens and preserve the peace of the country; that he be informed whether orders have been issued authorizing his troops to enter any of the States of Mexico; and if so, what copies of such orders be transmitted to us, with all official communication relating to the matter, in possession of the Department.

Mr. SHERMAN. I renew my motion.

NAVY-YARDS.

Mr. MORSE. I would ask the gentleman from Ohio to withdraw that motion for a moment, while I can offer a resolution.

Mr. SHERMAN. There will be no need to this thing; but I will not be standing objection. If no one else objects, I will not.

Mr. MORSE. I ask leave to offer the following resolution:

Resolved, That the Secretary of the Navy be requested to transmit to this House the evidence taken by the board of Navy officers for investigating the condition of navy-yards, as well as the report based thereon, and which was recently called for by resolution of this House.

Mr. THOMAS. I object.

Mr. MORSE. Let me say to the gentleman who objects, that last fall the Secretary of the Navy appointed a board of Navy officers to visit the several navy-yards and look into their condition. They reported. We want to know whether this House will come to the same conclusion on a bill for the correction of abuses as the board of Navy officers did, and we want the evidence upon which they based their report. That is all.

Mr. WINSLOW. I would ask the chairman of the Committee on Naval Affairs if a resolution has not already passed the House asking for this information?

Mr. MORSE. I offered a resolution calling for the report, but that resolution did not embrace the evidence upon which that report of the Navy officers was based. This resolution calls for that evidence.

The resolution was again read.

Mr. WINSLOW. I think that is right.

The resolution was agreed to.

Mr. SHERMAN. I now insist on my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and then the House resolved itself into the Committee of the Whole on the state of the Union. (Mr. WASHINGTON, of Illinois, in the chair.)

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. I move to take up House bill No. 216, making appropriations for fulfilling treaty stipulations with the Ponca Indians, and with certain bands of Indians in the State of Oregon and Territory of Washington, for the year ending June 30, 1860.

The motion was agreed to.

Mr. ASHMORE. I believe I am entitled to the floor.

Mr. SHERMAN. This bill will take very little time.

Mr. ASHMORE. Well, then, I will make no objection.

The CHAIRMAN. The gentleman from South Carolina will retain his right to the floor after this bill is disposed of.

Mr. ASHMORE. Very well, sir.

By unanimous consent, the first reading of the bill was dispensed with, and the Clerk proceeded to read the bill by clauses for amendment.

Mr. MAYNARD. Do I understand that the bill is now being read by clauses for amendment?

The CHAIRMAN. It is.

Mr. MAYNARD. No amendments will be in order unless it is proposed before a section is passed from.

The CHAIRMAN. No amendment will be in order unless it is proposed before a section is passed from.

Mr. MAYNARD. I understood the Chair to request the gentleman from South Carolina to suspend his remarks until the bill was read. If we offer amendments to the bill, and debate it, the gentleman from Ohio kept off the floor for hours.

Mr. SHERMAN. The gentleman from South Carolina has the floor upon the President's message. This bill, I think, will pass without objection. It is simply to carry into effect existing treaties with Indians, which were ratified in March last by the Senate by a two-thirds vote. The appropriations are required immediately.

Mr. BARKSDALE. I desire to ask the gentleman from Ohio whether the bill conform to the estimates of the Department?

Mr. SHERMAN. Precisely.

Mr. MAYNARD. I would like to ask the chairman of the Committee of Ways and Means upon what basis these several sums are reported?

Mr. SHERMAN. They are based upon existing treaties all of which I have in my hand, and which the gentleman can find by reference to his book of estimates.

Mr. MAYNARD. Are there no appropriations interpolated into the bill excepting these?

Mr. SHERMAN. There are not. On the contrary, the Committee of Ways and Means refused to insert any of \$10,000 on account of what they regarded as an erroneous construction of one of the treaties. I believe that is the only variation in the bill from the estimates sent in by the Department. These are appropriations for this fiscal year, and not for the next fiscal year. They are to carry into execution treaty stipulations with the Indian tribes ratified on the 9th March last. These appropriations would have been made at the last session of Congress; but the treaties were not ratified until after the adjournment of the House.

The Clerk proceeded to read the bill until the following paragraph was reached:

For the erection at suitable points on the reservation of one saw mill, one flouring mill, a building suitable for a hospital, two school houses, one blacksmith's shop, one harness and plow makers, and one dwelling for each, per four articles treaty 9th June, 1855, \$100,000.

Mr. SHERMAN. I move to amend that paragraph by inserting after the words "plow maker" the words, "one carpenter and joiner shop." The words were accidentally left out of the bill.

The question was taken; and the amendment was agreed to.

The Clerk proceeded with the reading of the bill.

Mr. COBB. Mr. Chairman, I desire right here

to put myself in the position I desire to occupy on this and the other appropriation bills that may be presented for the action of this body. I am aware that at two o'clock, the special order for the election of Printer will be taken up, and that I shall have but a very brief space in which to say what I wish to.

While it seems to be the fixed and inexorable policy of the House of Representatives to adhere to and prefer members of the Republican party and a good many of the members of the Democratic party, to exclude the entire population of the southern section of this Union from the right they have, by all reason and common justice, to carry their property with them into any and every State, of, not the North or the South, but of the United States, Territories acquired by our common blood and treasure—a fact which I am satisfied by the clear indications of the times—I am determined upon all these measures of appropriation, to make opposition to their passage, until that rule and unfair policy has been abandoned. This Government has expended over seven million dollars for territory, from every foot of which the South and southern institutions will be excluded, if that rule is adhered to. Hereafter, no territorial acquisitions for other property to be acquired, and I shall insist that the question of our rights shall be decided, and those rights admitted; and not only admitted, sir, but enforced. I will not vote to appropriate one more dollar until the right of citizens of our Southern section to carry their property with them into the Territories of the United States their slave property.

Mr. ASHMORE. I am entitled to the floor; and I yielded to the chairman of the Committee of Ways and Means, in order that this Indian appropriation bill might be taken up and pass upon its passage. I yielded, sir, for no such purpose as a general debate on this bill; for if there is to be debate, then I claim the floor, and shall proceed to make the remarks I design submitting to the House, that my position may be understood.

Mr. SHERMAN. If there is to be no debate, I consider that I am bound to move that the committee rise. I make that motion.

Mr. COBB. I will vote against this bill in all its stages.

Mr. BRANCH. I hope that the gentleman from Ohio will not insist on his motion that the committee rise; but that he will move that this Indian appropriation bill be laid aside, and that the President's message be taken up, in order that my friend from South Carolina (Mr. Ashmore) may proceed with his remarks to-day, and at this time, as it is his desire to do.

Mr. SHERMAN. The House has made it the special order that to-day, at two o'clock, it would proceed to vote for a Printer, and that order must be executed. After the House has voted once or twice, and the House has been satisfied that no election can take place to-day, I will then move that the House resolve itself into the Committee of the Whole on the state of the Union, in order to take up the President's message; may be taken up and the general debate proceed with it. I think that now the committee will rise in order that we may go to the special order.

Mr. ASHMORE. I hope not; for, sir, if I am to have the floor, I would like to have it now.

The CHAIRMAN. The question is upon the motion of the gentleman from Ohio.

Mr. SHERMAN. The gentleman from South Carolina will have an opportunity to make his speech after we have voted for Printer.

Mr. ASHMORE. If we go to the election of the Printer, we must be called the House, and we cannot get a vote for Printer until late in the day.

The question was taken; and Mr. SHERMAN's motion was agreed to.

The committee accordingly rose; and the Speaker resumed the chair.

Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill H. R. 216, making appropriations for fulfilling treaty stipulations with the Ponca Indians, and with certain bands of Indians in the State of Oregon and Territory of Washington, for the year ending June 30, 1860; and had come to no resolution thereon.

ELECTION OF PRINTER.

Mr. SHERMAN. I call for the regular order of business.

The SPEAKER. The regular order of business is the execution of the special order for the election of a Printer.

Mr. BRANCH. I move that there be a call of the House.

The question was taken; and the motion was agreed to.

Mr. WINSLOW. I move that the further consideration of the special order be postponed until to-morrow at one o'clock.

Mr. SHERMAN. Let us first have one vote.

Mr. WINSLOW. I withdraw my motion for the present.

The roll was then called, and the following members failed to answer to their names:

Meena, Ashley, Beale, Brayton, Brown, Burch, Burroughs, Horne, F. Clark, Clark B. Cochrane, Cooper, Deane, Wagner Davis, Delano, Duffell, Fenton, Feltz, Foulke, Frank, Harnden, Haskin, Hutchins, Kett, Kew, Kunkel, Lamar, McClelland, Montgomery, Lohan T. Moore, Isaac N. Morris, Palmer, Pettit, Potter, Pryor, Rust, Searson, Spaulding, Janow A. Stewart, Strout, Thayer, Wade, Webster, Whittier, Wood, and Woodard.

Pending the call,

Mr. ROBINSON, of Rhode Island, stated that his colleague, Mr. BRAYTON, had paired with Mr. McCLELLAND.

Mr. NIXON stated that his colleague, Mr. STRATTON, had paired to-day with Mr. SPOFFORD.

Mr. NIBLACK stated that he was paired with Mr. ASHLEY.

Mr. REYNOLDS stated that Mr. BEACH was paired with Mr. HASKIN.

Mr. WILSON stated that Mr. BRADDOCK was paired with Mr. HARRIS.

Mr. ALLEY stated that his colleague, Mr. DELANO, had paired with Mr. FORKE.

Mr. FLORENCE stated that Mr. FENTON was paired with his colleague, Mr. MACLART, Mr. FENTON having been called home by the severe illness of his mother.

Mr. TOMPKINS stated that Mr. FERRY was paired with Mr. COOPER.

Mr. KILGORE stated that Mr. FRANK was paired with Mr. GARNETT.

Mr. MILES stated that his colleague, Mr. KAY, was paired with Mr. DRELL.

Mr. KILGORE stated that Mr. READMAN was paired with Mr. HORACE F. CLARK.

Mr. BARKSDALE stated that his colleague, Mr. LAMAR, was paired with Mr. POTTER.

Mr. JUNKIN stated that he was paired with his colleague, Mr. MONTGOMERY.

Mr. McKNIGHT stated that his colleague, Mr. WOOD, was paired with Mr. MOORE, of Kentucky.

Mr. CASE stated that his colleague, Mr. PERRY, was paired with Mr. GEARLES, until both are returned to the city.

Mr. WINSLOW stated that Mr. RYAN was paired with Mr. PALMER; Mr. PAVOR was paired with Mr. SCRANTON; and that Mr. STEWART, of Maryland, was paired with Mr. WADE.

Mr. CLARK stated that his colleague, Mr. THEAKER, was confined to his room by illness, and that he was paired with Mr. PENDLETON.

Mr. BRANCH. Mr. Speaker, it is apparent that gentlemen have absented themselves from the Hall, under the impression that no vote would be taken for Printer to-day. I hope, therefore, that a motion will be entertained for the postponement of the further consideration of the subject until to-morrow at one o'clock. We can go into committee, and hear the speech of the gentleman from South Carolina. [Cries of "No!" "No!" from the Republican benches.]

Mr. FLORENCE. I trust that there will now be an effort made to elect a Printer. If we cannot elect on the first vote, I then will be willing to agree to a postponement of the subject until to-morrow.

Mr. WASHBURN, of Illinois. I believe that this interruption of the public business ought to be put a stop to at the earliest moment practicable. I think it is our duty to take a vote to-day for Printer.

Mr. BRANCH. I will remind the gentleman that hardly two thirds of the members of the House are present. Further proceedings under the call of the House have not been dispensed with. I ask that the absentees not paired be called.

The SPEAKER stated that no pairs had been stated for Messrs. CLARK B. COCHRANE, CRAW, KUNKEL, ISAAC N. MORRIS, SPAULDING, WESTER, and WHITTIER.

Mr. BRANCH. There are five members of this side absent without pairs. The gentleman from South Carolina was entitled to the floor in the Committee of the Whole on the state of the Union; but he yielded it to the chairman of the Committee of Ways and Means in order that the Indian appropriations might be taken up. Under the circumstances, therefore, I think this subject of the election of a Printer ought to be postponed until to-morrow, at one o'clock, and that we ought to resolve ourselves into the Committee of the Whole on the state of the Union, that the gentleman from South Carolina may have an opportunity to be heard.

Mr. McKNIGHT. If we adjourn the question until to-morrow it may then be as it is now.

The SPEAKER. If there be no objection, all further proceedings under the call of the House will be dispensed with.

There was no objection; and it was ordered accordingly.

Mr. BRANCH. I am confident that the gentleman who is absent did not know that there would be a vote to-day for Printer. I was not aware of it until recently myself. The belief was, when we resolved ourselves into the Committee of the Whole on the state of the Union, that we would remain there all day; and under that belief, I have no doubt, members are not here.

Mr. MAYNARD. I left under that impression, and am now in the Hall only by accident.

Mr. BRANCH. I hope that my proposition for a postponement will be agreed to.

Mr. KILGORE. I hope this motion will be withdrawn. Gentlemen may not be tired of having this matter hanging upon our hands, and intentionally absented themselves.

Mr. BRANCH. I am quite sure that such is not the fact, in reference to the members absent on the other side. I have no doubt, under the impression that the day would be consumed in debate in the Committee of the Whole on the state of the Union.

Mr. KILGORE. The hour of two, to which this election was postponed, is now passed; and if gentlemen are here here, it is their own fault.

Mr. FLORENCE. We can send for absent members.

Mr. HOUSTON. I presume it was not generally known that the subject of the election of a Printer was postponed to one o'clock to-day. I do not believe my colleague [Mr. CRAW] was aware a vote was to be taken to-day. I did not know myself, until a few moments ago, that two o'clock was fixed as the hour when the vote was to be taken. Under the circumstances, I think that the further consideration of this subject ought to be postponed until to-morrow. I take it for granted that the other side will hardly press a vote this evening.

Mr. KILGORE. Members ought to have known that there was to be a vote.

Mr. HOUSTON. That is not true; and the gentleman from Indiana and myself ought to know a thousand and one things which neither of us knows anything about.

Mr. KILGORE. We ought to know what our duty is.

Mr. HOUSTON. The gentleman ought to know his duty; and if he does know it, he ought to be striped with many stripes, for he is constantly violating his duty.

Mr. KILGORE. I do not violate it a hundredth part so much as the gentleman from Alabama does.

Mr. HOUSTON. The gentleman is living in open violation of the rights of his country, by making encroachments upon another part of the country.

Mr. KILGORE. I commit no violation of the laws of my country.

Mr. HOUSTON made some reply, which was entirely drowned by cries of "Order!" "Order!"

Mr. BRANCH. I call the yeas and nays upon my motion to postpone.

Mr. HOUSTON. I would like to make a very brief statement, with the consent of the House. On yesterday afternoon, I yielded my right to the floor to the gentleman from Pennsylvania, [Mr. GAWW.] with the distinct understanding that I

should occupy the floor to-day. Again, sir, this morning, at the instance of the gentleman from Ohio, the chairman of the Committee of Ways and Means, [Mr. SURAMAN.] I yielded my right to the floor to enable him to take up an appropriation bill for the payment of money due to Indian tribes under treaty stipulations—some of which was due under treaty stipulations ratified by the Senate on the 9th of March last. I yielded it with the hope of expediting the business of the country, and placing myself right upon the record before the country, but with the understanding that I was to have the floor immediately after to deliver the few remarks I desired to submit to the House. I supposed that the consideration of this bill would not consume more than ten or fifteen minutes. More than half an hour was consumed, and then I appealed to the gentleman to allow me to proceed. But by some means, I do not know how, I was deprived of the floor. I would like to speak this morning, and, if the House will do me the kindness to go into the Committee of the Whole on the state of the Union, and permit me to deliver my remarks, I shall be much gratified; but if they will not, I shall not attempt to speak to-day.

Mr. SHERMAN. I am glad to see the gentleman from South Carolina, stating that I desired to take up an appropriation bill and pass it; but I told him at the same time—and he will bear witness to the truth of my remark—that at two o'clock the special order, the election of Public Printer, would come up, and I should not urge more than one vote to-day, if no election was made; that then it would be three o'clock; that after one vote, I had no doubt we would go into committee, and he would have the floor to proceed with his remarks.

Mr. ASHMORE. I stated to the gentleman, in reply, that I had objection to it; but that I would waive it all, and—

Mr. WASHBURN, of Illinois. It was the understanding that the gentleman from South Carolina should have the floor, and as some members on the other side are absent, and they are not ready to vote to-day, I suggest that, by unanimous consent, we go into the Committee of the Whole on the state of the Union, and afterwards come into the House and proceed with the election.

Mr. BRANCH. I am quite confident that the gentleman understands that that course shall be pursued. I am willing to withdraw my call for the yeas and nays, and let my motion to postpone to one o'clock to-morrow pass.

Mr. HOUSTON. Do I understand, then, that gentlemen upon the other side of the House will forgo all filibustering, and go into an election an hour hence?

Mr. HOUSTON. I will say to gentlemen upon the other side of the House, that Mr. CRAW, of Alabama, is not in the House, and I believe the gentleman from Delaware, Mr. WHITELEY, is also absent from the city. They will not probably be here to take their seats to-day, and therefore I shall oppose any arrangement of the sort. If gentlemen on the other side are determined to press a vote upon the House, they will consume an hour, must take the responsibility. I make no agreement to go into an election in an hour.

Mr. BRANCH. Then I insist upon my call for the yeas and nays.

Mr. MORRIS, of Pennsylvania. I would like to ask if there is any objection upon the Democratic side of the House to this proposition to go into the Committee of the Whole on the state of the Union for an hour, and then come out of committee and vote for Printer? I wish to know, so that we may be satisfied whether we are to have a vote to-day.

Mr. BRANCH. In reply to the gentleman from Pennsylvania, I will say that some few members of the House upon this side are absent, unpaired, and we cannot do justice to ourselves and the country by attempting to go to committee but an hour to-day. We have no assurance that those gentlemen will be here.

Mr. CLEMENS. It must be apparent to this side of the House that nothing can be accomplished by pressing a vote to-day. It is now three o'clock; the yeas and nays will consume but an hour; a call of the House will consume another half hour; then it will be four o'clock; and by the filibustering motions which will be resorted to upon this side of the House, an election can be

prevented, and will be prevented. Now, I submit to the other side of the House this consideration; whether they will not expedite public business by yielding to the request of the gentleman from South Carolina, [Mr. ASHMORE], who certainly has not been wanting in courtesy to the chairman of the Committee of Ways and Means, who is the acknowledged leader upon this side of the House? I suggest, as a matter of course and good feeling, that nothing can be gained by pressing a vote to-night. We can allow the gentleman from South Carolina to occupy the floor; and, by general consent, I am willing, so far as I am concerned, to discontinue this matter at a time to-morrow.

Mr. KILGORE. Is this debate in order?

The SPEAKER. It is not.

Mr. KILLINGER. Then I object to it.

Mr. BURNETT. The yeas and nays have been ordered upon this motion to postpone; and all of this discussion is out of order.

The SPEAKER. The Chair has decided that this whole discussion is out of order. Nothing is in order but the motion to postpone; upon which the yeas and nays have been ordered.

The Clerk proceeded with the call of the roll; but was interrupted by

Mr. BRANCH. With the consent of the House I will say that I have been assured that perhaps an agreement may be effected by which the election may be postponed until to-morrow, at one o'clock, with the understanding that, at that time, no dilatory motions shall be made further than a call of the House, to see if members are present. If that can be done, and the House will give its consent, I will withdraw my demand for the yeas and nays, and let the vote go upon the motion to postpone to one o'clock to-morrow.

Mr. FLORENCE. I should have no objection to that, but to-morrow is the first private bill day of the session, and we ought to go to work upon the Private Calendar immediately. If we could elect upon a single day, I think I should object. I will not, however, object at this time, as gentlemen around me seem desirous that some arrangement should be made.

Mr. BRANCH. With the understanding I have stated, I propose that the yeas and nays be dispensed with upon the motion to postpone.

Mr. FARNSWORTH. I object to the postponement until to-morrow. If it is to be postponed at all, let it be postponed until next week.

The SPEAKER. The Clerk will continue the call.

The Clerk then resumed the call of the yeas and nays.

During the vote,
Mr. QUARLES stated that he was paired off with Mr. PEXTER, on the question of the election of Printer.

Mr. NIBLACK stated that he was paired off, on the question of Printer only, with Mr. ASHLEY.

Mr. WILSON stated that Mr. BOYCE having business to transact out of the House, he had paired with him for the remainder of the day.

Mr. PENDLETON stated that his colleague, Mr. THACKER, was confined to his house by indisposition, and, at the request of his friends, he (Mr. P.) had paired off with him for to-day on all questions connected with the election of Printer.

Mr. KILGORE. I rise for the purpose of moving to dispense with the reading of the roll, and to renew the proposition made by the gentleman from North Carolina, to agree upon a day for proceeding to an election. Gentlemen assure me—and I know the facility with which they do so—that they will not have any other vote on this question to-day; and I, for one, am now ready, and hope it may be assented to on this side, to agree to postpone the election of Printer until to-morrow, at one o'clock, with the understanding that it is to be taken up at that hour and disposed of.

I do not want gentlemen on the other side to sit still while this proposition is being made, and to say to-morrow that they do not feel themselves bound by it—that it was a mere agreement between the gentleman from North Carolina (Mr. BAXTER) and myself, and one or two others. I want them to take notice now that I shall hold them bound by their silence, unless they make objection.

Mr. BRANCH. I hope the proposition will be assented to on this side of the House.

Mr. FLORENCE. I sincerely trust it will be.

Mr. NIBLACK. I desire to know from my colleague whether he speaks by authority, and whether he is the actual leader of that side of the House. For the first few weeks of the session I was induced to think that my colleague was the leader of the opposition ranks, and that what he spoke was spoken by authority; but some six weeks since a severe cold, under which led me to believe that he was dropped from his leadership. We have not heard of him as a leader since then; but to-day again he seems to loom up as a leader. Now, I want to be informed what relation this colleague bears to the party on the opposite side of the House, so that we may know whether that side of the House will be bound by his arrangements.

Mr. KILGORE. The gentleman from North Carolina and myself act as leaders on this particular occasion. I am very sorry to find that my colleague has become jealous. I believe he has never had the honor of being recognized as a leader in any place. There is another remark which I desire to make here. It is, that since I quit leading on this side of the House, I am inclined to think that it has been very badly led. [Laughter.]

Mr. NIBLACK. Not at all jealous; for I never aspired to lead here or anywhere else, and especially here. I am only trying to take my colleague's part, for I felt that he had been heretofore neglected.

Mr. BRANCH. I say in response to the gentleman from Indiana, that I have conferred with a number of gentlemen on this side of the House, and it is the general opinion that if the election be postponed until to-morrow at one o'clock, we will first go to the vote without any further delay than that which is necessary to have one single call of the House. I hope that will be the understanding on all sides of the House.

Mr. FLORENCE. I trust sincerely that it will be.

Mr. BRANCH. And if to-morrow any members on this side should strive to prevent a vote, we will be strong enough to vote them down, and to bring on the election to-morrow.

Mr. KILGORE. That is satisfactory.

The SPEAKER. Does the gentleman from North Carolina withdraw his motion to postpone?

Mr. BRANCH. The motion to postpone must stand in order to bring up the question to-morrow; but, by the unanimous consent of the House, I will withdraw the call for the yeas and nays, and the question on the record of the vote.

The SPEAKER. If there be no objection, the yeas and nays will be withdrawn, the vote canceled, and the election of Printer postponed, with the understanding that it will be taken up to-morrow at one o'clock.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act (S. No. 66) authorizing the Secretary of the Treasury to receive and register to schoolmaster Hebert Blood and Sarah Blood, of Oswego, in the State of New York; when the Speaker signed the same.

PRESIDENT'S MESSAGE.

Mr. SHERMAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The yeas were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and resumed the consideration of the President's annual message, and of the resolutions to refer the same; on which Mr. KILGORE, of North Carolina (Mr. ASHMORE) was entitled to the floor.

Mr. ASHMORE. Mr. Chairman, I have neither been my wish nor my purpose to engage in elaborate discussion. My experience has taught me that it is not those who engage most frequently in discussion, or who are most apt to indulge in philosophical or abstract principles, nice-apron theories, and philanthropic sentimentalities, that are always found most useful in deliberative assemblies. It is rather the practical man, who, with quick perception, ready ingenuity, and salient wit, sizes up the strong points of a case, and makes them

subserve the practical purposes of life by molding measures and policies based upon living, practical, correct principles, to the necessities of the times and of the age in which he lives. I do not wish it to be understood, however, that I am one of those who ignore correct theories. The one is as necessary to the other as the sun is to the day. I only mean to say that, in being questioned upon living practical philanthropy, and theories, to others, mine is, and has ever been, the sphere of practicality. I have regretted, sir, for many years past, that the all-absorbing and exciting subject of slavery could not be, and had not been, extended from discussion in the Halls of the Federal Congress. These reports are none of so avail. The question is upon us, and is absorbing all others. We have got to grapple with it, and to reduce it to a practical and satisfactory settlement in the Union, or it is to prove the breaker upon which the ship of State will be shattered into a thousand fragments.

Can such a settlement of so momentous a question be effected in the Union, and the rights and equities of all the States be preserved under the existing Constitution? I confess, Mr. Chairman, that I have lived in constant anxiety, and in the history of our country, when I see but little hopes of that. The radical differences of opinion that exist between the northern and southern people on this exciting subject have reached a point that has brought out and developed the angry passions of both sides, and the result has been a series of harsh opinions and sentiments of the other as mere exaggerations, in which there is little sincerity and less honesty.

Designing politicians, hypocritical philanthropists, crafty statesmen, and corrupt politicians, with their hosts of unscrupulous partisans, on all sides, have succeeded in exacerbating parties and sections until there is no longer a particle of confidence or harmony between them. As a southern man, I have looked upon this growing distrust, and also the feeling of antagonism and acrimony, with the darkest forebodings for the future of this country. For years past I have indulged the hope that some combination of fortuitous circumstances would arrest this condition of things. But, sir, I have been most sadly and seriously disappointed. I have seen the country, and the people, in the pregnant question arises, whose fault is it? I must confess that my intellect is too obtuse to perceive that the people of the South have ever demanded, or do now demand, anything more than their constitutional rights on the subject of slavery. I do not desire the extinction of any country, and I find in its premise that it was created "to establish justice and secure domestic tranquility."

In section two, article one, of that instrument, I find slavery recognized, and a representation provided for on this very floor, by allowing five slaves to be enumerated and counted, for the purpose of representation, as equal to three white persons.

In section nine, article one, I find the importation of African slaves to be prohibited after the year 1808, and that the Congress shall have the power to impose upon them up to that period of time. On this subject I shall have more to say hereafter.

But, stronger still, in the shape of a constitutional recognition of slavery, I find in section second, article four, the provision requiring the Congress to make laws "not inconsistent with" the claim of the party to whom such service or labor may be due—"to the citizen or citizens of another State."

Mr. Chairman, I need not ask any one, here or elsewhere, who is not familiar with the course of events during the last twenty-five years, but more particularly with those of the last ten years, whether any one of these provisions of the Constitution has been complied with and carried out in good faith by the people of the North? On the contrary, they have been violated in every respect almost daily by the action of the States of the North, in their legislative bodies and in their conventions, and by the people, in their primary meetings, in their schools and colleges, in their pulpits, and by their nobles, until at last their violation of the rights of the South has resulted in the establishment by a body of bandits on the people of a sovereign State, and in the commission of the three highest crimes known to the laws of the land—the perpetration of murder, insurrection, and treason.

That this extraordinary attempt to subvert the institutions of the South and free the slaves of the

Carolina this day in favor of reopening the African slave trade; and had I time, I would, at some length, discuss this question and relate its history. I have, however, before me the resolutions on this subject offered in the Legislature of South Carolina in 1857, when the subject was first mooted under the recommendation of his excellency Governor Adams; and those resolutions, sustaining the negative position, were, by consent of all parties, laid upon the table, where they sleep the sleep of death, and where they will never know a waking. True, a few individuals within the borders of my State have been concerned in a violation of the laws upon this subject. That, however, is not a reflection of the tone and sentiment of South Carolina, but more particularly of my own constituents; and I announce it here, that, out of fourteen thousand votes in my congressional district, I have never heard of but two men who are advocates of the measure.

I have but one other fact to refer to, to show the sentiment of South Carolina, and I will then dismiss this theme. In the early part of last November I was in the city of Charleston, when a meeting came off at Mr. Haddrell's Point, on the bay, across the bay and in sight of that city. Though it had been paraded in the newspapers of the State that the meeting was to take place, and that distinguished gentlemen had been invited to attend and participate in the proceedings, I had it from the lips of gentlemen who addressed the meeting that day, and who was one of the prime movers of the measure in the South Carolina Legislature, that at the meeting, within sight of a city of fifty or sixty thousand inhabitants, and only a few miles from the city of Charleston, and within twenty minutes sail, the party in favor of reopening the African slave trade could gather together at Haddrell's Point only one hundred and seventy-five men. There it also from the lips of those present, that a portion of that body was opposed to it, and would not support it, and that, in their power, the reopening of the African slave trade.

A gentleman from Illinois, whom I do not now see in his seat, [Mr. FLEMING], some weeks since, asked the members from South Carolina a question upon the subject of reopening the trade. The answers of two or three of my colleagues, he refused to yield the floor further, though I tendered two or three ineffectual efforts to get the floor to state these facts. Therefore, I give him my opinion now, and I repeat it, that not one thousand men in South Carolina would be found who would deposit their votes in favor of reopening the African slave trade. We regard it, in point of economy, as one of the greatest dangers that could possibly befall the institution of slavery. But I have not time to discuss this matter further.

I proceed and ask, gentlemen, if you render up your fugitive slaves when they escape from us? You dare not say you do. Have you kept in good faith a solitary compromise we have made with you? You have not. If we complain, you scoff. If I threaten consequences, you retort by threats of coercion.

And now, gentlemen, let me tell you once for all, you are rousing the quiet and conservative men of the South into a determined spirit of resistance. The gentleman from Ohio [Mr. COSGROVE] told this side of the House, some weeks ago, about the character of the men who prayed and fought, and I retort it upon him, and tell him that this is the class of men in my section most to be feared; that they are well wight that point; that, in the face of the constant agitation and assaults made upon them and their institutions, they are led to say, "Let us settle this question at once, and, if need be, draw the sword and throw away the scabbard." I repeat, sir, that I, for one, do not see to this struggle come. I know the people of the South are brave. I believe the people of the North to be equally so. The American citizen is alike brave, wherever you find him, amidst the eternal snows of the polar regions, along the more temperate zones, and within the circle of the tropics, amidst the evergreen of that life-giving climate. I am not of the school that believe that this Union will ever be dissolved, but by a class of arms preceding or immediately following it.

If the sentiment of sympathy we see daily expressed with the fate of John Brown, after his invasion of Virginia; if the sentiments contained in the Helper book; if the programme marked

out by SEWARD and his satellites; if the numerous Republican and Abolition meetings, of which I see an account in the newspaper press, be a fair index of public opinion at the North, then I announce it here, as my deliberate opinion, that nineteen out of every twenty of my constituents are in favor of the reopening of the African slave trade; and if you continue to pursue this course of insult and aggression, I, though I claim to be a constitutional, union-loving man, will return to my constituents and sound the alarm, and with my own hands kindle the beacon-fire, and kindle the torch of civil war, and will then to the defense of their rights. My voice shall not be silent; but, like Rodrick Dhu, with "flaming dagger and blazing torch," my cry shall be, "to arms! to arms! to arms!"

It was the hope of the South, but a few short weeks ago, that Virginia would take the lead in some measure or measures that would adjust all the difficulties existing between the sections on this momentous and all-important subject. From present indications I see no prospect of her recommending or inaugurating any new policy; and, therefore, I am constrained to continue to consider once more to the people of the North the issue at the ballot-box. I, as one of the Representatives of the South, accept that issue, and my people will accept it. We are neither the custodian of Virginia's rights nor the guardian of her honor. Rights we have, but the Old Dominion taken care of both. True to her ancient position, she has meted out to the invaders of her soil the just reward and punishment due their crimes and conduct. The calm dignity of her position now remains the admiration of the South. My sympathies are and have been with her in all the trying scenes through which she has recently passed; and had the feeble support of this right arm been required in her behalf, it should have been rendered as readily as ever it was extended to her by my own constituents in the Senate. But Virginia needed it not. She has given one of the best practical illustrations of the sovereignty of the States and genuine State-rights doctrines that has yet been presented to the people of this Confederacy since the foundation of the Republic.

As I have already said, Virginia has once more tendered the issue, as I understand her, at the ballot-box on the election of a President of these United States, for the four years succeeding the 4th of March, 1861; and I, for one, accept it, and I will not flinch from it.

Planting ourselves under the standard of the great Democratic party of the South, we will make one more effort to bear into the presidential chair a fair exponent of the Constitution in the person of the man, whoever he may be, whom the delegates in convention from the South and from the true Democracy of the North shall present to us. I shall stand by Virginia and the great States of the South in support of the nominee they may offer me; and if we go down in the struggle, I will stand by the Democratic Union, and will support the exigencies of our situation and the necessities of our position may demand.

And now, sir, I have a word or two to say on the subject of a vote which I cast here some time since for the distinguished gentleman from Illinois [Mr. McCLEARN] as Speaker of this House. My vote has been characterized by a journal in my own State as an "anti-slavery, Douglas, squatter sovereignty vote," and for which I have been set aside, by the *ipso facto* of said paper, "forever in the State of South Carolina." I will read one or two brief extracts from that paper.

"MR. ASHMOKE AND THE DEMOCRATIC BANNER.—When the vote was about to be taken on the election of Speaker in the House of Representatives, Mr. McCLEARN being the Democratic candidate, the accounts, as they were published yesterday in our columns, states as follows:

"MR. ASHMOKE, of South Carolina, made an earnest appeal to the Democrats from all sections to rally to the Democratic side. If they stricken down, that banner will cover them."

The Democratic banner on this occasion was borne by a free-soil squatter sovereignty internal improvement Democrat. (Of such a man can be called a Democrat at all.) Those were the principles which were in his mind. We know very little of Mr. ASHMOKE's political principles. He comes from the old Whig Federal district of the State—represented by Mr. THOMPSON, now a Congressman, and a Colonel out to Congress—running in favor of Gerry Taylor's election to the Presidency, against Mr. Perry. Regarding the Democratic candidate in favor of General Cass, we have always understood, however, that he was a State-rights, anti-tariff, anti-internal improvement, anti-free-soil

man. In his canvass for the seat in Congress he occupies, he professes, he recovers, the strongest State rights and southern rights views. Now such a man, we would suppose, would not only refuse to rally under a banner inscribed with squatter sovereignty internal improvement by the Federal Government, but do all he could to strike it down. He seemed very jealous, at a short time since, of the House of Representatives, and its members were harshly assailed by a public press. The honor of the South and of South Carolina, we would suppose, might have been somewhat involved in elevating a man to the Speakership, flagrantly representing principles hostile to the South, and to the rights and interests of its people. Yes, for some time since, we have seen in a banner which has inscribed upon it: "Extension of the South (with squatter sovereignty internal improvement, no more slave States); and the plan of the Federal Treasury for internal improvements." He says that "if stricken down," it will "cover them." It was a fine thing, it was a fine thing, it will cover him, politically, as effectively as his feet of earth. Can't Mr. ASHMOKE be persuaded to come into the Charleston convention, and bring his Democratic banner with him? It may cover more people than himself."—*Charleston Mercury*, February 4.

Acknowledging no allegiance to, or affinity with, the sentiments that control that paper, I yet deem it due to those whom I represent to put myself right in regard to the matter. Having no disposition, Mr. Chairman, to enter into a long paper controversy whilst is the discharge of my public duties here, I shall, nevertheless, proceed to show the gross injustice that has been done, not only to me, but to my honorable and distinguished colleagues. I have no objection to allude to has also indulged in a sneer at the whole people of my congressional district. In answer to it, I have only to say that I am proud of the distinction they have conferred upon me, and that they are the equals, in every respect, of any constituency in my State or elsewhere. I am, sir, in saying that the people whom I have the honor to represent will not suffer by comparison, either on the score of intelligence, or patriotism, or in their fidelity to the Constitution fairly administered, with any other constituency throughout the length and breadth of this land. They are true and loyal sons of the South, of the institutions of the South, and of the Constitution of the country. They are the sole judges of the qualifications and conduct of their Representative, and to them an account of my stewardship shall be rendered, respectfully, at the next election.

It will be bold, fearless, and true. The assaults upon me and upon my vote for Mr. McCLEARN were gratuitous, uncalled-for, and unprovoked; and I shall now proceed to vindicate that vote, and to show, however profane as I have to say on that point, my recollection to the recollection of the House the fact that I distinctly disavowed and repudiated all squatter-sovereignty doctrines and sympathies when I cast that vote. The first gentleman who was nominated and voted for here, as the Democratic candidate for the Speakership, [Mr. BOCK], having withdrawn himself from the contest, and Mr. MILLON having been substituted in his place, I voted, with every Representative of the South, not only for those gentlemen, but I voted also with the Representatives of the North, for Mr. McCLEARN, the same State, who was an old-line Whig. I voted then for Mr. SCOTT, of California; for Mr. MAYNARD, of Tennessee, who was another old-line Whig; for Mr. HAMILTON, of Texas, a former Know Nothing; but who, having repudiated that party, had become a Democrat; for Mr. BELL, of the Democracy of the Union; for Mr. SMITH, of North Carolina, and for others. Throughout the contest I cast my vote in company with all the Democracy of the South. In voting for these gentlemen I did not commit myself, any of the doctrine of Whig or Know Nothingism. After the failure to elect Mr. SMITH, of North Carolina, there was a caucus of Democrats called and held in this Hall the night before the gentleman from Illinois was placed in nomination. When Mr. McCLEARN was nominated, I voted for him, and was joined by his colleagues, [Mr. ROBINSON], who distinctly announced that Mr. McCLEARN would not suffer his name to come in conflict with that of any other Democrat on this floor. Mr. McCLEARN had never failed to vote with the great majority of the South, and I voted for him, the State-rights men of the South, in every ballot for every Democrat presented. A committee of three was appointed that night—there being no nomination—to confer with the friends of Mr. McCLEARN, and see whether he could not be elected; and he was proposed next day by Mr.

the President of the United States, transmitting a report from the Secretary of War communicating, in compliance with a resolution of the Senate of the 1st of February, the information called for in that resolution, relative to the payments, agreements, arrangements, &c., in connection with the purchase and ventilation of the Caspio and Post Office extensions; which was referred to the Committee on Public Buildings and Grounds; and a motion of Mr. DAVIS to print the report was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Interior, submitting additional estimates of appropriations for the Indian service in Oregon and Washington for the current and ensuing fiscal years; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. GWIN presented a joint resolution of the Legislature of California, in favor of appropriations for the following mail routes, &c., in the northern portion of that State: weekly mail from Cloverdale, Sonoma county, to Eureka, in Humboldt county; a daily mail from Eureka to Uniontown, Humboldt county; a weekly mail from Uniontown, Humboldt county, to Orleans Bar, Klamath county, via Hooper Valley; a weekly mail from Eureka to Matole Valley, via Bear River, Plumas county; a daily mail from Uniontown to Crescent City, via Trinidad and Gold Bluffs, Klamath county; a weekly mail from Crescent City to Happy Camp, Del Norte county, via Saylor's Diggs and Indian Creek; a weekly mail from Weaverville, Trinity county, via the forks of Salmon river, Klamath county, via Battle-sake, Grizzly Gulch, and Buellville, Klamath county; an appropriation for a fog-gun and light-house on Panna de los Reyes; an appropriation for a first-class light on Cape Mendocino, which is the most easterly point in the United States; an appropriation for a lighthouse at Crescent City, Del Norte county, and Trinidad, Klamath county; an appropriation to place buoys in Humboldt bay and bar, and for movable beacon ranges by which to cross the bar; in favor of creating a colliery, to be commenced by the State, in the forks of Salmon river, Klamath county, and an appropriation for the purpose of blowing up Blossom Rock, in the harbor of San Francisco; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented a joint resolution of the Legislature of California, requesting its Representatives and instructing its Senators to use their influence to have all future contracts for the transmission of the ocean mails made with such parties, and over such routes, as will secure the greatest dispatch in the transmission of the mails to and from that State; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. MALLORY presented the petition of Augustus Smith, praying payment of the amount due him for salary and expenses, while inspector of customs at Tampa Bay, Florida; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the petition of Joseph H. Walker, praying to be indemnified for services rendered in the transmission of mails, which was referred to the Committee on the Post Office and Post Roads.

Mr. CAMERON presented six petitions of manufacturers, coal operators, merchants, farmers, mechanics, miners, and laborers, of Schuylkill county, Pennsylvania, praying such a modification of the tariff as will afford protection to the industrial and productive interests of the country, the abolition of, or a change in, the warehouse system, and the substitution of specific for ad valorem duties; which were referred to the Committee on Finance.

Mr. HAUN presented a joint resolution of the Legislature of California, in favor of the establishment of a Sunday mail from San Francisco to Sacramento, on occasions when the mail shall be delayed at San Francisco for the former city, which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. CLINGMAN presented the petition of J. Heubert, praying to be allowed salary as United States consul at Lyons, in France, during the time he held that office, which was referred to the Committee on Foreign Relations.

Mr. IVERSON presented the petition of the surviving children of Ann Jackson, praying for the arrears of pension due their mother; which was referred to the Committee on Pensions.

He also presented the petition of the surviving children of Elizabeth Rowan, praying for the arrears of pension due their mother; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. TRUMBULL, it was Ordered, That the memorial of W. C. Grizner, praying compensation for damages obtained by the non fulfillment of a contract made by the Commissioner of Patents with the inventor of the development of their machine, on the basis of patents, on the files of the Senate, be referred to the Committee on Patents and the Patent Office.

On motion of Mr. MALLORY, it was Ordered, That the memorial of Captain John B. Montgomerie, of the United States Navy, praying to be released from his liability for an unpaid balance of public money interest to him for recruiting purposes, and lost by the death of his son, which is on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of J. W. Dyer, A. L. Dyer, and W. W. Dyer, praying that an amount of tonnage duty exacted from the ship Corinthia may be refunded, submitted a report, directed by a bill (S. No. 32) for the relief of J. W. Dyer, A. L. Dyer, and W. W. Dyer. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the memorial of L. W. Rogers, praying an appropriation for his salary on a scale and judge of the first instance under the military government of California, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims, which was agreed to.

He also, from the same committee, to whom was referred the memorial of Horace E. Dimick, praying remuneration for improvements made by him in artillery, submitted an adverse report; which was ordered to be printed.

Mr. BAYNE, from the Committee on the Judiciary, to whom was referred the petition of McFarland & Downey, praying that the amount due them for rent of their house in Los Angeles, California, occupied by the United States court, from the 27th of October, 1854, to the 5th of August, 1855, be collected, submitted a report, directed by a bill (S. No. 241) for the relief of McFarland & Downey. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred a paper in favor of a law to extend the jurisdiction of the district courts of the United States in the State of North Carolina, and to compensate the clerks, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims, which was agreed to.

He also, from the same committee, to whom was referred the petition of George G. Barnard, assignee of Hon. David C. Broderick, deceased, praying the enactment of a law authorizing the payment to him of the amount due said Broderick for salary in mileage at the time of his death, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 179) for the connection of a court-house in Appalachicola, in the State of Florida, reported it without amendment, and adversely.

He also, from the same committee, to whom was referred the bill (S. No. 54) to increase the salaries of the judges of the United States for the eastern and southern districts of Texas, and to regulate the compensation of the attorneys and marshals of the United States for said districts, asked to be discharged from its further consideration, believing this to be an inappropriate time for such action; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 173) concerning the courts of the United States in the State of Arkansas, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 153) relating to marriage in the District of Columbia, reported it without amendment, and adversely.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 42) for the relief of the heirs and legal representatives of Mark Elsha, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom were referred the papers relating to the claim of B. E. Edwards to land in New Mexico, submitted a report, accompanied by a bill (S. No. 240) to confirm the title of Benjamin E. Edwards to a certain tract of land in the Territory of New Mexico. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of Samuel V. Niles, praying compensation for services performed as a temporary clerk in the General Land Office, and the bill (S. No. 84) for the relief of Samuel V. Niles, reported the bill without amendment; and submitted a report, which was ordered to be printed.

Mr. HAMMOND, from the Committee on Naval Affairs and Marine, to whom was referred the memorial of Lieutenant T. A. M. Craven, praying additional compensation during the time he was in command of the expedition to make an exploration and verification of the surveys made for a ship canal near the Isthmus of Darien, to connect the waters of the Atlantic and Pacific, by the Attrato and Trunado rivers, submitted a report, accompanied by a bill (S. No. 244) for the relief of T. A. M. Craven. The bill was read, and passed to a second reading; and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 243) to amend the act to provide for executing the public printing, and establishing the prices thereof, and for other purposes, approved August 26, 1852; which was read twice by its title, referred to the Committee on Printing, and ordered to be printed.

Mr. TRUMBULL, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 238) for the relief of M. C. Grizner; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

CHARLES PEARSON.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 239) for the relief of the legal representative of Charles Pearson, deceased; which was read twice by its title.

Mr. HALE. If the Senate will give me their attention for two minutes, I shall ask them to put this bill on its passage; and I think they will do it. It is a bill to refund \$140 to the legal representative of an insane man, who died in the insane asylum at Concord, in March, last year. In his insanity he paid what money he had to the treasurer at Boston, under the idea that he had great inventions that he was making. The Commissioner of Patents became satisfied that he was insane, and was willing to refund the money, but had no power to do so. A petition was sent to Congress, which was referred to the Committee on Patents and the Patent Office, last year, and they unanimously reported in favor of refunding the money; and the bill passed the Senate unanimously. The estate is poor, and the settlement of it is delayed simply by the refusal to pass this bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which directed the respondent, to a legal representative of Charles Pearson, late of Concord, New Hampshire, deceased, of \$140, being the amount of money paid into the United States Patent Office by him whilst he was laboring under a state of insanity.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS BROWN.

Mr. SIMMONS. I am instructed by the Committee on Claims, to whom was referred the petition of Thomas Brown, of Florida, to report a bill for his relief. It is to pay him for his services as clerk of the Florida Legislature of Florida. The old gentleman is about eighty years

of age. The bill is to pay him for work done about fifteen years ago. He is now lame and in bad health. I beg the Senate to take it up and pass it.

There being no objection, the bill (S. No. 242) for the relief of Thomas Brown, of Florida, was read twice, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to cause to be paid to Thomas Brown, of Florida, \$257, being the balance due him for services as secretary and clerk of the Senate of the Legislature of the Territory of Florida, as allowed by that Legislature in 1845.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRIVATE CALENDAR.

Mr. IVERSON. I am instructed by the Committee on Claims, in reference to the Private Calendar, to move the Senate that we proceed first to the consideration of the bills which have been reported by the Court of Claims, and consider those to which there shall be no objection, and then go back and go on regularly.

Mr. GWIN. I hope you will trust we shall take up the Calendar regularly. It is private bill day, and let us give all a chance.

Mr. IVERSON. I have been instructed by the committee to make this motion.

The VICE PRESIDENT. The Senator from Georgia, on behalf of the Committee on Claims, moves that the Senate first take up the cases which have been reported from the Court of Claims.

Mr. IVERSON. I will state the reason which operated on the committee in making this motion. The act which established the Court of Claims directs that:

"said court shall prepare a bill or bills in those cases which shall have received the favorable decision thereof, in such form as, if enacted, will carry the same into effect."

And then:

"Sec. 8. And be it further enacted, That said reports, and the bills reported as aforesaid, shall, if not finally acted upon during the session of Congress, which said reports are made, be continued from session to session, and from Congress to Congress, until the same shall be finally acted upon; and the consideration of said bills, when introduced at the subsequent session of Congress, be resumed, and the said reports and bills be proceeded with in the same manner as though finally acted upon at the session of Congress last past."

It will be perceived, then, that when the Court of Claims makes a report in favor of a claimant, and submits a bill, under the provisions of this act it goes on the Calendar at that session, and is to remain upon the Calendar from session to session, and from Congress to Congress, until it shall be finally disposed of. Many of the bills which are on the Calendar to-day were reported by the Court of Claims three or four sessions ago; and they lost their priority by the action of the two Houses, when, in truth and in fact, they ought to have been considered at the last session and the session before. In justice to them, under the act of Congress, they ought to have been considered long ago; and, if the act be pursued, they will be considered and acted upon by the Senate long before any other case which has been reported at this session, and is now on the Calendar. It is a matter of justice, and strict justice, that they should have priority. Therefore, I ask that that may be the order pursued.

Mr. YULEE. I hope that order will not be adopted. If the bills reported from the Court of Claims have lost their place, and have remained upon the Calendar during one or two sessions, I must charge it to the fault of the Committee on Claims.

Mr. IVERSON. The Committee on Claims have no more control over it than any other committee.

Mr. YULEE. I am going to show how it is so. I charge it to the fault of the Committee on Claims, because it is upon the motion of the Committee on Claims that the Senate has been induced from session to session to adopt what seemed to me to be the erroneous and unjust policy of acting only upon those private bills which were not objected to; thus placing it in the power of an individual member to postpone upon the Calendar, and to postpone eternally, any bill to which there might be only a single objection. If the Committee on Claims will adopt the proper course of taking up upon the Calendar the bills as they stand and disposing of them at the time, whether they be objected to or not, there is no

danger that any bill reported by the Court of Claims will lose its place, or will fail of attention in the Senate at the appropriate session.

But, sir, the very action which has been read by the chairman of the Committee on Claims presents to the Senate a very obvious reason why his motion should not be adopted. Bills reported from the Court of Claims have the advantage of being taken up at the first opportunity, and with no delay or postponement. They lose no place and no advantage. They require no repetition of action by the committee. It is not so with bills which have not had that advantage, and which do not come before this body with the prestige of a report from the Court of Claims in favor of the claimant.

Mr. IVERSON. Will the Senator allow me a moment? In order to obviate any further discussion, I withdraw the motion.

Mr. YULEE. I am satisfied.

JOHN SCOTT AND OTHERS.

The VICE PRESIDENT. The first bill on the Private Calendar is the bill (S. No. 22) for the relief of John Scott, Hill W. House, and Samuel O. House.

It was read a second time, and considered as in Committee of the Whole. It proposes to release John Scott, principal, and Hill W. House and Samuel O. House, sureties, from a judgment recovered against them by the United States, on the 4th day of April, 1855, in the district court for the Eastern district of Florida, on a contract awarded to John Scott for carrying the mail upon the route No. 3503, from New Orleans to Key West, from January 15, 1853, to June 30, 1855.

Mr. YULEE. I will state that that bill has been passed by the Senate, in the same words, at four different sessions, I think, but has failed of action in the House of Representatives on account of its reaching there too late.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SURETIES OF W. G. KENDALL.

The next bill on the Private Calendar was the bill (S. No. 23) for the relief of Arnold Harris and Samuel F. Butterworth, sureties of William G. Kendall, late deputy postmaster at New Orleans, Louisiana, from all claim which the United States may have against them or either of them, on account; and it also directs the Secretary of the Treasury to cause any judgment which may have been rendered against Arnold Harris and Samuel F. Butterworth, or either of them, as sureties of Kendall, to be canceled, and satisfied of record.

Mr. YULEE. The same bill was passed last year in the Senate after discussion; passed, I believe, nearly unanimously.

Mr. IVERSON. Is there a report in the case?

Mr. YULEE. Yes, sir. The same bill was passed at the last session.

Mr. IVERSON. I do not know anything about that; I want to hear the report.

The Secretary proceeded to read the following report:

The Committee on the Post Office and Post Roads, to whom was referred the memorial of Arnold Harris and Samuel F. Butterworth, respectfully report:

That the petitioners seek relief from a penalty they have incurred as sureties of William G. Kendall, a deputy postmaster at New Orleans. The memorial is as follows:

To the Senate and House of Representatives of the United States in Congress assembled:

The memorial of Arnold Harris and Samuel F. Butterworth respectfully sheweth:

That on the 14th of April, A. D. 1855, they signed the official bond of William G. Kendall, late postmaster of New Orleans, as his sureties in the penal sum of \$60,000. On the 7th May, 1855, Kendall was dismissed from the office of postmaster at New Orleans, and was charged with having received the mails; was indicted, tried, and acquitted. After his arrest, and before his trial, his account was audited by the Post Office Department, and a balance against him, as postmaster at New Orleans, of \$10,832.19. This account was presented to Kendall; he failed to pay it. Early in June, 1855, the United States marshals were called upon by the Post Office Department to pay up the sum of \$10,832.19, as sureties for Kendall; on the 7th day of June, 1855, your memorialists, S. F. Butterworth and William G. Kendall, late deputy postmaster at New Orleans, the sum of \$5,000 on the credit of this account; on the 10th day of June, 1855, he deposited, in like manner, the further sum of \$1,500. And on the 31st January, 1856, your

memorialist, Arnold Harris, deposited with the Auditor of the Post Office Department at Washington, the sum of \$1,680.15, being the balance claimed by and account to due from Kendall, as postmaster at New Orleans, to the United States Government, and was paid by him, as surety at New Orleans, and acquitted. He immediately left the United States and went to Mexico, where he now resides. After he had left the United States, your memorialist, Samuel F. Butterworth, received a letter from the Auditor of the Post Office Department, informing him that the account against him, for making out the account against Kendall an error had been made, and that there was still due the Department, from him, the sum of \$10,832.19.

When the account was first stated by the Department, showing a balance against Kendall of \$10,832.19, he (Kendall) was called on to settle with the Government, and that the claim was made merely to prevent him as a defaulter, and thus prejudice his case before the jury. Your memorialists, not doubting the statement, and certain of his innocence, paid the claim without investigation as soon as it was presented to them, and they did this to insure Kendall a fair trial, and because they knew that all of his available means were required by him to prepare for his defense; but your memorialists distinctly state that if the Department had at first claimed a balance of \$10,358.04 due from Kendall, they certainly would not have paid that large sum without investigation and legal research, unless first indemnified by Kendall or his relatives.

By direction of the Government, suit was instituted against your memorialists, for the purpose of placing them (in Missouri) and your memorialists in the United States circuit court of Missouri, in reversion this last claimed balance of \$10,358.04; process was served at the late residence of Kendall; your memorialists appeared by attorney, and suffered judgment to be obtained against them by default. The Government then moved for judgment by the United States circuit court for the "grave error" of \$10,358.04 the first account against Kendall for a sum of \$2,765.47 less than the sum actually due, and your memorialists, who the clerk who made out the account was intemperate.

Your memorialists ask the Congress of the United States to release them from the said judgment, and to order judgment against them as above stated, and they assign as a sufficient reason for such request the fact that, by the action of an intemperate clerk in the Post Office Department (since dismissed), they have been deprived of all remedy against Kendall, who had departed from the country before the last claim was made known to either of your memorialists.

A further fact your memorialists present: Kendall, charged with a high crime, was vigorously prosecuted; extraordinary means were used to procure his conviction in the United States district court, at New Orleans, was sentenced to imprisonment for life, and a writ of habeas corpus was employed, which heated that he was to receive a free pardon from the Government in the event of his conviction. To meet this unjust persecution and monstrous proceeding, on the part of the United States, Kendall was constrained to employ a great sum of money to retain the services of Senator Bates and other eminent lawyers; to procure the attendance of important witnesses; and to conduct his defense in such manner as to secure the acquittal of his honor and his liberty were involved in the contest, and a particle of proof of guilt was produced, and he was acquitted.

The money thus expended by Kendall, but for the action of the Government, would have constituted a means of paying and relieving the said sureties from the consequences of the oppressive action of the Government he was deprived of three means. Under these circumstances, your memorialists submit that his suffering ought not to be added to make good the money thus expended.

The above facts considered, your memorialists ask such relief as the Congress of the United States may deem just and proper.

S. F. BUTTERWORTH.
ARNOLD HARRIS.

Mr. IVERSON. (before the reading of the report was concluded.) The Clerk is being impudently toward me. I withdraw the call for the reading.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

RICHARD W. MEADE.

The bill (S. No. 56) for the relief of Richard W. Meade was read a second time, and considered as in Committee of the Whole. It was a petition to the proper accounting officers of the Treasury to pay to Richard W. Meade, late a lieutenant in the United States Navy, the sum of \$566.90, being the amount of expenses incurred by him and his clerk for subsistence, while under orders of the Navy Department, and detained at New Orleans, from July 15 to September 30, 1849, less the amount already received by them for commutation of their rations during the same period.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DAVID D. PORTER.

The bill (S. No. 57) for the relief of David D. Porter was read a second time, and considered as in Committee of the Whole. It was a petition to the proper accounting officers of the Treasury to pay to David D. Porter, a lieutenant in the Navy of the United States, the sum of \$743, for certain extraordinary expenses incurred by him

mentaries, reported a comprehensive and clear, and a just and politic system, under which we have administered the rights of parties for about a quarter of a century. If it were proper upon a subject of this kind, I would go into a vindication of the policy of that law; but, for the reasons I have just stated, that is unnecessary. This case comes clearly within its provisions.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE STERLEY.

The bill (S. No. 70) for the relief of George Sterley was read a second time, and considered as in Committee of the Whole. It proposes to refer to the Third Auditor of the Treasury the account furnished by George Sterley, for services rendered and expenses incurred by him as agent, appointed by the Indian commissioners of the United States for the State of California, to visit the northern tribes of Indians in that State, with authority to the Auditor to cause it to be settled upon principles of equity and justice, and to pay the amount. The settlement is to be made upon certified vouchers, showing that the expenses were actually incurred, and that the services paid were just and proper under the peculiar circumstances of the case.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

EDWARD N. KENT.

The bill (S. No. 74) for the relief of Edward N. Kent was read a second time, and considered as in Committee of the Whole. Its purpose is to require the Secretary of the Treasury to pay to Edward N. Kent, of New York, \$20,000, in full compensation for the perpetual use, in all the present and future minting establishments of the United States, of the apparatus for testing the gold and other precious metals from foreign substances, of which he is the inventor and patentee; but he is first to secure to the United States the perpetual use of the apparatus, to the satisfaction of the Secretary of the Treasury.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

RICHARD CHENEY.

The bill (S. No. 77) for the relief of Richard Cheney was read a second time, and considered as in Committee of the Whole. It proposes to direct the Commissioner of Customs to settle the account of Richard Cheney, assignee of Horace F. Russ, for the construction by the latter of the granite pavement on Battery street, in front of the United States custom-house, at San Francisco, and to pay him such sum as may be shown to be legally and equitably due, with interest at six per cent. per annum, from the completion of the work, with a proviso that the sum shall not exceed \$3,500.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

RIMON DE VISSER AND JOSE VILLARUBIA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 39) for the relief of Simon De Visser and Jose Villarubia, of New Orleans. It provides for restoring Simon De Visser and Jose Villarubia, jr., merchants of New Orleans, from the payment of all claims, penalties, and forfeitures which may legally exist against them, in favor of the United States, arising out of frauds committed in the custom-house of New Orleans by one Charles Meteye, the latter having been judicially declared to be entirely innocent of those frauds; and especially from the penalties and forfeitures claimed by reason of those frauds, in two suits now pending in the district court of the United States for the eastern district of Louisiana, in which the United States are plaintiffs and De Visser and Villarubia are defendants. The defendants, however, are to pay all costs incurred in those suits, and the rights of the United States against Charles Meteye are expressly reserved.

Mr. FESSENDEN. I should like to hear the report in that case.

The PRESIDING OFFICER. The Clerk informs the Chair that there is a printed statement of the case, consisting of the petition and accom-

panying documents, but no report. Does the Senator call for the reading of that?

Mr. FESSENDEN. I should like to know something about the case.

Mr. CLAY. I will state to the Senator that the proof was so clear that these men were entirely innocent of any fraud or intention of fraud on the Government, that the prosecuting attorney at the time of the trial acquitted them before the court of any sort of course whatever. It appears that it was the fault rather of the custom-house officers than of the agent or clerk of those parties that these frauds were committed. There was, to my mind, a clear delinquency of duty or carelessness on their part that enabled this clerk to commit these frauds. They did not incur to the benefit of the house, for they really paid the duties, but this clerk took advantage of them, and appropriated the money which he affected to pay as duties. The officers of customs were, or at least one of them was, advised of the fact that these frauds had been committed and failed to have the man arrested, suffered him to get off, and therefore involved these innocent persons in the payment of the duties and in being subjected to the penalties which were attached to the fraud. That is about the substance of it. The committee were unanimous. The bill passed the Senate at the last session.

Mr. FESSENDEN. I have nothing to say about it, after that statement.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

FRANCIS HUTTMAN.

The bill (S. No. 78) for the relief of Francis Huttman was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to adjust the claim of Francis Huttman, for return of tonnage and light duties illegally exacted and paid by him on Peruvian, Danish, and German vessels at San Francisco, California, and to pay him the amount due, with interest, at the rate of six per cent. per annum, from the date of the exaction of those duties.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

TENCH TILGHMAN.

The bill (S. No. 79) for the relief of Tench Tilghman was read a second time, and considered as in Committee of the Whole. It is a direction to the Secretary of the Treasury to pay to Tench Tilghman \$1,000, for losses sustained by him in consequence of his appointment to a consulate, which was abolished by the Spanish Government while he was on his way to take charge of it.

Mr. GRIMES. I would inquire of the chairman of the Committee on Commerce when Mr. Tilghman was subjected to this very great disappointment.

Mr. CLAY. I will say to the Senator that he was appointed by General Taylor to a consulate; I do not remember the place—some small place, though, in the West India islands—perhaps it was on one of the islands; and he started to perform the duties of the office and got as far as Savannah, when he there learned the fact that the office had been abolished, and he came back. In the meantime he had incurred a good deal of expense in the removal of his family there on the route, and in bringing them back; and in addition to that, he claims that he sunk a good deal of money by the neglect of his business and by preparing himself for this mission. The committee, however, only propose to pay him the expenses that were incurred in the way of travel—his actual traveling expenses.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN A. FROST.

The joint resolution (S. R. No. 7) for the relief of the legal representatives of John A. Frost, deceased, was read a second time, and considered as in Committee of the Whole. It declares that the committee of the first session of the act entitled "An act for the relief of the forward officers of the late exploring expedition," approved February 1, 1849, shall be construed to embrace the

claim of John A. Frost, who was acting boatswain of the United States brig Porpoise in that expedition, from January 1, 1839, to July 7, 1842.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. HUGHMAN, his Secretary, announced that the President had approved and signed a bill (S. No. 146) to authorize the Secretary of the Treasury to issue registers to the owners of the schooners Helen Blood and Sarah Bond, of Oswego, New York.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had ordered the printing of a letter from the Secretary of State, communicating certain correspondence relative to the claim of Messrs. Rogers and Son, of Newfoundland, on March 1, 1860, at one o'clock, p. m.

Also, that the House had ordered this day the printing of the following documents:

Letter from the Secretary of the Treasury, communicating a statement of miscellaneous claims paid at the Treasury for the year ending June 30, 1859—ordered at twelve o'clock and seventeen minutes.

Letter of the Secretary of the Navy, communicating reports of the board of naval officers ordered to examine into the condition of the navy-yards—ordered at twelve o'clock and eighteen minutes; and

Letter of the Secretary of War, communicating a transcript of the official Army Register for the year ending June 30, 1859—ordered at twelve o'clock and twenty minutes.

WILLIAM D. MOSELEY.

The bill (S. No. 89) for the relief of William D. Moseley was read a second time, and considered as in Committee of the Whole. Its purpose is to release William D. Moseley from the penalties and liabilities incurred by him as surty of Harrison R. Blanchard, on his contract with the United States, dated September 25, 1855, for the supply of live-oak timber.

Mr. HAMLIN. I want the attention of the chairman of the committee that reported this bill, for a single moment. If I understand the case, it is this: Mr. Blanchard made a contract to deliver a certain quantity of oak timber at the navy-yard.

Mr. MALLORY. There is a printed report in the case.

Mr. HAMLIN. Yes, sir; and I have read it. Mr. Blanchard contracted to deliver a certain quantity of live oak at a specified sum. He, or his assignee, Mr. Moseley, delivered a portion of it at the rate stipulated. He alleges that he was prevented from delivering the rest by an intimation that there were Indian hostilities. The balance was supplied by the next bidder above him, and the difference between the bid next above him and his own, amounted to some two or three thousand dollars. He therefore suffered a loss between that sum and the sum which he would have received if he had himself furnished the timber.

Now, if I can understand the matter, there is no allegation here that Mr. Moseley ever lost one farthing. He delivered the greater quantity of this oak timber at \$175 a cubic foot. I think, before he is entitled to relief here, he should show us that he actually sustained a loss in the whole transaction. When he does that, I shall be willing that he should be relieved of the two parts of the timber at \$175; the other man came in, and delivered the balance at \$2, and now he claims to be relieved from that difference. I would relieve him if he showed me that in the whole thing taken together, he sustained a loss. How do I know that he did not make \$10,000 or two parts of the contract which he performed himself? If I could be satisfied as to that, I shall be satisfied to relieve him.

Mr. MALLORY. The Senator from Maine speaks from a fresh reading of the report. The instructions of the first session of the act entitled "An act for the relief of the forward officers of the late exploring expedition," approved February 1, 1849, shall be construed to embrace the

place the name of Mrs. Anne M. Smith, widow of the late Brigadier General Penifer F. Smith, on the pension roll, at the rate of fifty dollars per month from the 6th of May, 1858, for and during her natural life.

Mr. IVERSON. This is one of those pension cases that I have always been opposed to, and I must say my position is not a novel one. It proposes to allow fifty dollars a month—much more than half the pay of a lieutenant colonel, which has usually been the maximum of pensions. I observe that the Committee on Pensions have reported this bill in favor of Mrs. Smith, the widow of General Penifer F. Smith, and they have reported against the application of Mrs. Macomb, the widow of General Macomb. I move to amend the bill by adding Mrs. Macomb for the same pay; giving notice, however, that I shall vote against the bill if it is amended, because I am opposed to it on principle. I think that Mrs. Macomb's case is quite as meritorious as that of Mrs. Smith.

Mr. CAMERON. I hope the amendment will not be adopted, if the gentleman gives notice that he is going to vote against the bill.

Mr. IVERSON. I want to be just, and to have both put on an equality. I want Mrs. Macomb to be treated with the same liberality and generosity as Mrs. Smith.

Mr. CAMERON. Well, I shall not object to the amendment. Perhaps it will save time to let it go without opposition.

Mr. GRIMES. The chairman of the Committee on Pensions is not present, and there seems to be no one disposed to explain the difference which occurred to the Committee on Pensions on a point between these two cases. The evidence before the Committee on Pensions showed very conclusively that the disease of which General Penifer F. Smith died was contracted while in service in the Mexican war. Such were not the facts, as appeared by evidence, in regard to General Macomb. General Macomb, I recollect the number of years ago, was stationed for thirteen years, immediately prior to his decease, in this city as General-in-Chief of the Army. He was a favorite officer. He drew the largest salary the Government paid any retired general in the service; and died of a natural disease. General Penifer F. Smith, on the contrary, entered the Army at the commencement of the Mexican war, and commanded a division of the Army during the entire campaign; was one of the most distinguished officers of the Army; died of a disease contracted while in the service; and was actually on his way to command the army in Utah at the time of his death. That is the difference between the two cases.

The Committee on Pensions were not disposed to establish the rule that a pension should be granted to the widow of an officer who died of natural decay, or of a natural disease; but saw fit to adhere to the principle that has heretofore been established by Congress, that no pension should be granted to the widow of an officer who died of a disease contracted while in the line of the service, or of wounds received in actual conflict in defense of the country. I will say, however, that the committee came to the conclusion that they would report a general bill, and I do not know that the voters of any other State but this that officer died of disease contracted in the line of the service, or of wounds received in actual conflict in defense of the country. I will say, however, that the committee came to the conclusion that they would report a general bill, and I do not know that the voters of any other State but this that officer died of disease contracted in the line of the service, or of wounds received in actual conflict in defense of the country. I will say, however, that the committee came to the conclusion that they would report a general bill, and I do not know that the voters of any other State but this that officer died of disease contracted in the line of the service, or of wounds received in actual conflict in defense of the country.

Mr. MALLORY. I will ask the Senator, before he sits down, whether there was any evidence before the committee at all tending to show that General Macomb did not die from disease contracted in the service?

Mr. GRIMES. There was evidence that General Smith died of disease contracted while in the service; but no evidence that General Macomb was not.

Mr. MALLORY. Was there any evidence on that subject at all with regard to General Macomb?

Mr. GRIMES. I think none on the subject, but I am not certain about it. Certainly, there was no evidence which showed that he died of disease contracted in the line of the service.

Mr. SEWARD. I wish to offer an amendment to the amendment. I received this morning a petition from Mrs. Arabella Riley, the widow of General Riley, who died some two or three years ago in the service, which I ought to have presented. His history, I suppose, is known to every member of the Senate. We all know him, and we all know his services. He was a body in the country knows that; and I move to amend the amendment by adding the name of Mrs. Riley, widow of General Riley, who died of disease contracted in the Mexican war.

Mr. GRIMES. General Riley died of cancer, if I recollect aright.

Mr. SEWARD. He died of a disease of the bowels, attended with cancer, which consumed and wasted him away.

Mr. IVERSON. So far as regards the discrimination between the two cases, I do not think it has much merit. General Smith was in the Army, and he died in his bed. He died from natural causes. He did not die from any wounds received in battle. If he had died from disease contracted in the line of the service, there would be no necessity for his coming to Congress for a pension.

General Smith would only have to apply to the Pension Office, and under the general law, she would receive a pension. But I apprehend it is not one of those cases in which, under the law, the widow is entitled to a pension.

General Smith is not a case in which the officer died from disease contracted in the service; but from such a disease as he would have contracted, probably, if he had never been in the service.

General Macomb died here, it is true, while in the service of the United States. He was stationed where the law made it necessary for him to live. He could not go out into active service, because the law made this the headquarters of the Major General-in-Chief of the Army, and he lived here under the requirements of the law. He was one of the most gallant men that ever belonged to our Army; and he has reflected as much honor, credit, and glory on the American arms, probably, as any man who has ever fought for us. He was commander at Plattsburg—one of the most important battles of the war with Great Britain; and he was selected, after the war, to be general-in-chief, in preference to General Scott and other generals, I believe, by Mr. Adams, who was then President of the United States. He died, and left his widow poor. I understand she is wholly destitute of means, and she is very old. She needs the bounty of this Government, she needs it as much as Mrs. Smith, and I declare, considering her circumstances, that she needs it more. It is said she keeps house here. I know a woman may be very poor, and yet a good housekeeper, and all that. I do not speak from personal knowledge of Mrs. Macomb, because my acquaintance with her is very limited; but I understand from good authority that she is in embarrassed circumstances. What may be the case of Mrs. Smith, I know nothing about; but this is more applicable to the bounty and generosity of the Government in both cases, and I think one stands on as high a footing as the other. The case of Mrs. Riley I know nothing about. I am willing to vote to put that on also, though I have no objection to the bill in any and every shape in which it can be presented.

There seems to me to be a very great injustice and favoritism, if I may so express myself, in giving these bounties to the widows of officers, and excluding them entirely from the widows of soldiers. You never give the widow of a soldier a pension, unless she brings herself within the provisions of the law. You never give pensions, as a mere act of bounty, where the soldier dies in the ordinary discharge of his duties, and from disease contracted while he is in the discharge of those duties. You never give the widow of a soldier a pension, unless she brings herself within the provisions of the law. You never give pensions, as a mere act of bounty, where the soldier dies in the ordinary discharge of his duties, and from disease contracted while he is in the discharge of those duties.

Here is a case that is taken out of the ordinary rule. Therefore, these pensions have been allowed at the rate of the half pay of a lieutenant colonel, and nothing beyond that, and that is only thirty dollars a month; but you propose to give Mrs. Smith fifty dollars a month. On what prin-

ciple is that predicated? I know there are one or two exceptions to the general rule. You made an exception at the last Congress, in favor of Mrs. Gaines. There was no reason on the face of the earth why her case should have been taken out of the ordinary rule. The rule heretofore has been, in all cases—until, I believe, Mrs. Gaines's case at the last Congress, to give to the widow the half pay of a lieutenant colonel, and nothing beyond that. You went beyond that in Mrs. Gaines's case, and you are now opening the door again, and pursuing the same bad precedent, to give Mrs. Smith fifty dollars a month; and then the next widow will come, and the next, and the next, and on, and on. So you are breaking down the rule which Congress has established in all such cases heretofore. I shall move to reduce the amount from fifty to thirty dollars a month, so as to conform to the rule heretofore established, when the proper time comes. I have no objection now to putting on Mrs. Riley's case. It is quite as good as Mrs. Smith's or Mrs. Macomb's. I have no doubt of that, though it has not met the recommendation of the committee; but it is not in order, I suppose, until the amendment I have offered is adopted.

Mr. SEWARD. I move it as an amendment to the amendment.

Mr. IVERSON. Then I have no objection to it.

Mr. SEWARD. I beg to ask the Senator from Mississippi if he will be so kind as to appoint with General Riley and his wife, how far I am correct in what I stated in regard to him?

Mr. DAVIS. Entirely correct. It only fell short of what was due to that gallant officer. General Riley served the service about the period of the increase of the Army under Mr. Jefferson, and was a subaltern in Forsyth's regiment on the Canadian frontier, distinguished at an early period for his gallantry, and marked by the most haughty defiance of death whenever he was seen in battle; and so it continued to extreme age. It was said of him at the battle of Chancellorsville, that he walked between his own line and that of the enemy under the cross-fire of both. I knew him well; I served under his command. A braver man, a kinder-hearted man, or a truer-hearted man, never lived. After the close of the war, he was appointed, in which he figured conspicuously on both of the great lines of operation, he went to California; and there civil duties devolved upon him, vexations to which he had been unaccustomed. He returned broken in health; and if his death was not the result of his military career, it was the result of his civil duties. He was not allowed to recover from the fatigues and exposure of that, before he was submitted to new and still more embarrassing trials to him.

I think, Mr. President, these are all meritorious cases. I concur with the Senator from Georgia in all he said in favor of General Macomb, and no one has yet detracted anything from General Smith. He is worthy of the praise which the Senator from Iowa has bestowed upon him. They are three highly meritorious cases. The widows are left in a state of destitution, and I think struck with astonishment at the argument of the Senator from Georgia, claiming that an invidious distinction was made in treating the widow of the officer differently from that of the enlisted man.

The widow of the enlisted man suffers usually little by his death. He would be an extraordinary case if he were to be gone for years in weeds as the widows of these gallant men still are. There is no parallelism in the cases. There is no just application in the argument. It is not merely that one is commissioned and the other is enlisted, but it is that the wife of one is left destitute by his death, and the other scarcely affected.

The Senator from Georgia is mistaken, too, in the argument he makes as to the amount which may be allowed—quite mistaken. The pay of a lieutenant colonel of engineers, topographical engineers, or dragoons, or of the cavalry, or of the mounted dragoons, cavalry, rifleman, or light infantry, is ninety-five dollars a month.

Mr. CLAY. What is that?

Mr. DAVIS. The last act; the present pay of the Army.

Mr. CLAY. The Senator knows the former pay of the lieutenant colonel was sixty dollars a month. The Senator from Georgia was right about that, and I feel bound to sustain him. These pensions were all, until within the last Congress or two, regulated by the former pay law, and the

highest pension allowed to the widow of any officer or to any invalid soldier was the half pay of a lieutenant colonel of infantry, according to the previous law. That half pay was thirty dollars a month, according to my recollection. I am very positive the highest pension was thirty dollars; and, under the law, without a special enactment, General Scott had received it. I am coming to that; and I am, in there anything more absurd than to say that you will go back to the old pay in fixing the pension of the widow, though circumstances have shown you that the pay of the officers should be increased? What reason is there in it? If the cost of living has increased, or in other words the value of money has declined, and you have found it necessary to increase the amount to be paid per month, why should you adhere to the old measure in giving pensions? The two things follow together. They are coming to each other. It is a rule of a forum error.

Mr. IVERSON. Fifty dollars is more than half the pay of a lieutenant colonel.

Mr. DAVIS. A lieutenant colonel gets ninety-five dollars.

Mr. IVERSON. Or infantry?

Mr. DAVIS. No; in the cavalry, and in the mounted riflemen. It so happens that General Smith had command of mounted riflemen, and was entitled to the pay of a mounted rifleman until promoted to the grade of brigadier general. I have had occasion at a former time, and I will not weary the Senate, particularly as there are so many empty benches, by going over the argument now, further than to say it is due to ourselves, and it is due to justice that we should either give the Army officers additional pay, or, as a compensation, provide for their families in the event of their death; or, if we keep them down to a pay so low that they can barely subsist on it, we should provide for their families in the event of their death. It is a question of policy—an economical question. When you raise the pay of an officer, you must provide for his family in the event of his death; or will you provide for the exceptional cases that come before you in this form, widows asking relief, after the death of their husbands? I have always been willing—my friend from Alabama and myself differ in opinion—to make the law general, to extend it to every one so circumstanced; but I do feel that the three cases which are now presented, are cases of extraordinary merit. Those who differ from me as to the propriety of the general rule, may still concur with me as to the propriety of allowing it in these three cases.

Mr. COLLAMER. I am not a military man; nor do I suppose that what little I might personally say could help any one of these parties to aid even here; but I cannot permit the case of General Macomb's widow to pass without saying a word in accordance with my own State. General Macomb and the command at Plattsburg when our frontier was invaded by a powerful enemy, when the people of the State of Vermont were in great peril, and we went to his assistance—I say we, because I was among the individuals who went to him and served with him on that occasion. He did a great service, not only to the nation, but particularly and peculiarly to the State to which I belong. That State has had an opportunity to express its gratitude for his services on that occasion. The State manifested its gratitude to him, not merely by empty resolutions, but by giving him the title to a very valuable farm in sight of the battle-ground on which he encountered the enemy. They bear grateful recollections still of his memory, and his family, and I think it my privilege on this occasion to add my tribute to the desire which is expressed that his widow may not be neglected in our ministrations. She is, I believe, now in need; and at least her case is a strong one to my mind; very much stronger than the case of Mrs. Gaines, who was allowed the same amount last year. Her husband did not die of wounds contracted in the service. Both those men served out their lives in the service of their country to their days' end. Their widows were left in necessity. I am not personally acquainted with the condition of the widow of General Macomb;

she resides in this city; but I am informed, and from the best information I have, I believe, she is needing aid. I have had this statement, placed in my hands a letter from her to the Senator from Mississippi, in which she says:

"I tell you, it will not be more than I paid for my late husband's wife."

She was the wife, I believe, of the latter part of the life of General Macomb; and, as she says, the amount she has paid of her husband's debts out of her own means would be as much as would be granted to her by this bill, if her name be inserted in it, as I think it should be. I hope there will be some further distinct notice taken of the case of Mrs. Gaines at the last Congress, and that of Mrs. Macomb at this session.

Mr. MALLORY. Mr. President, I know somewhat of the widow of General Macomb, and am very glad to see a movement made here to make her claim an amendment to this bill. As to the question whether she stands in need of this pension or not, I am not able to say, nor would it govern my vote. I would not inquire into that at all, though I believe she stands in need of it. I apprehend that she is giving a pension to all those who are like soldiers, are engaged, in the execution of their duty, to face death almost daily, is to remove from their minds—and thus make them more serviceable to the country—than anxiety which every honest man must feel for the fate of those who are dependent upon him. It is one of the moral power of the country thus to relieve the soldier's mind of all anxiety in an hour of fear for those who come behind him. But the policy of the law seems to be that he shall die either of wounds received in battle, or by disease contracted in the service. He may have passed through an entire military career at the head of his corps; he may have been the Bayard of the Army, without fear and without reproach, treading every path of duty fearlessly and honorably; he may be struck through a long and arduous career at the very head of his corps; and yet, if he should be struck down by disease, calamity, pestilence, famine, accident, his widow would receive nothing whatever. Her husband die of a disease received in the Army, or of wounds. It is a case that would tempt me to say, "What right have their widows to impose upon the committees of Congress their diseases as contracted in the Army; and thus we hear, session after session, assertions that certain individuals have died of diseases contracted in the service, when it is well known—and I am sure any one who has been in the service knows, and yet not brought down to a mathematical demonstration—that they die of those calamities and diseases by which men are ordinarily carried off."

Nor was the case put here by my friend from Georgia, the leading case on this point. We passed, some years ago, a pension for Mrs. Worth, the wife of a very distinguished officer, who did not die of a disease contracted in the service, or of wounds received in the Army, and we gave her half pay for the remainder of her life, and yet, for six months. If there be no general law (and I know there is none) under which this case can come, I am in favor, in cases of this kind, where the whole country is satisfied of the deserving merits of the parties whose widows come here, of making provision for them. Fortunately for me, nothing need be said of the career of General Macomb. His whole career is part of the military history of the country, and his services, reaching far through the light of time, confer more moral power on this Government than do a thousand common officers; and this Government cannot afford very cheaply, indeed, with a small pitance to the widow for such an officer. If we could possibly be guaranteed the possession of such officers as General Macomb, I should never rise here to question the wisdom of Congress in maintaining their widows throughout their natural life.

Mr. SEWARD. Mr. President, if it is at all necessary, in regard to the case of Mrs. Macomb, that it should be known that she is in need of this pension, I beg leave to state that she is now or two has been a resident of the city of New Orleans, and I know, more painfully than I would desire to express, that there is a necessity on her part for this provision.

Mr. GRIMES. I regret exceedingly that the chairman of the committee is not here to defend it—

Mr. SEWARD. He would not defend it if he was here. Let us pass.

Mr. GRIMES. Or some other gentleman who is on that committee, for I understood that these reports were nearly unanimous—one in favor of Mrs. Smith, and one against Mrs. Macomb. I am not the special advocate of the reports in either case; but I am sure that the neighbors who have established in prior Congresses that pensions should be granted only to the widows of those who had died from wounds contracted in actual service or through disease contracted in actual service; and in undertaking to set on this general principle, as an organ of the Committee on Pensions, I understand a report adverse to the bill in relation to Mrs. Macomb. If the Senate see fit to change the general rule, I shall acquiesce in the decision, and if that is to be the decision I wish to submit another amendment. Residing in the neighborhood in which I do, is the widow of two officers of the Army.

Mr. MALLORY. Is that in order?

Mr. GRIMES. I have not submitted any amendment yet; but I wish to state what I intend to do. I am one of the neighbors who live in the widow of two officers of the Army. Those officers were lieutenants of infantry. She is the widow of each of them. She is in quite a abject poverty as either of the ladies whose names have been mentioned in this connection. She has not the same means as Mrs. Smith, and I think that some other ladies have; she is not able to bring so many influences, perhaps, to bear on members of Congress as other ladies are able to bring, but she is quite as deserving as any, and if this amendment is to be adopted, I shall propose to add the name of that lady.

Mr. WIGFALL. I trust that amendment will not be pressed.

Mr. GRIMES. I do not submit it now.

Mr. PUGH. I agree with the Senator from Louisiana, in a this Session, it is certainly not advisable to invade the general law on the subject of pensions. We know these cases have all been debated before; and if there is a demand for them now, if this bill is to have put on it first the case of one lady, and then another, I think the Senator from Louisiana is right. We have them all bundled together, and then lay the bill over until we can have a full Senate to vote upon it, and not vote on it now. If the bill is to be passed to a vote at present, I shall ask for the yeas and nays.

THE PRESIDING OFFICER. Does the Senator call for yeas and nays on the amendment to the amendment?

Mr. PUGH. No, sir; I do not object to any one of the cases more than another. I presume they are all alike.

Mr. BENJAMIN. I have hitherto been opposed to the granting of special pensions in opposition to the general provision of the law; but I desire to express my thanks to the Senator from Mississippi, the chairman of the Committee on Military Affairs, for his remarks to-day, which have led me to change my position. I stand, up to the present time, regarding these pensions as somewhat anomalous in a Government like ours. I did not look at the subject in the light in which it was presented to-day by the Senator from Mississippi; that is to say, that according to our republican form of Government, it is my duty as an officer to pay a bare subsistence for themselves and their families during their lives; that they are utterly unable to accumulate anything for the support of those they leave behind them; and when gallant and distinguished officers, who have rendered services to the country, and who have been rewarded by these three great men, General Smith, General Riley, and General Macomb; when I see officers like these leave widows who make application to their country for the moderate pitance of fifty dollars a month as a pension for the support of their families, I am very glad that the Senator from Mississippi has given me a basis on which I can give a vote for it. I will vote for the bill with the greatest pleasure.

Mr. HALE. I shall vote for these cases, every one of them; but I desire to enter my protest against a remark which has fallen from the honorable Senator from Louisiana, and that is, that we pay our officers a mere pittance. We are paying them, sir, a very high salary. We are paying our lieutenant general \$18,000 a year; we are paying very many gentlemen in this city—I have not the

Register before me, but I think we are paying pensioners who do no duty, except to go to their offices and spend from three to five hours a day there, four, five, and six thousand dollars a year, and I think in some instances higher than that. I wish to know where the book that was published last year showing these allowances. We are paying them altogether too much; and if the pensions for these widows rested upon that consideration, I should vote against them. But I shall vote for them, because I think it is due to them, in accordance with the policy that the Government has adopted in similar cases heretofore. You have paid to the widow of General Worth, and to the widow of General Gaines, this sum, and I believe these widows are entitled to it. While I vote for these pensions, I hope that the session will not pass away before we shall pass a bill cutting down some very extraordinary and extravagant allowances that are made to our Army officers, in accordance with the principle of the bill that was reported by the Committee on Military Affairs at the last Congress, and which received the sanction of this body, and failed to become a law through the action of the other House, principally, I believe, for the reason that it reduced the lieutenant general from \$10,000 down to the pitance of ten or twelve thousand a year. I hope to see these abuses corrected; and I am willing that the Government should be able to support, should be based on an appeal founded on such a ground.

Mr. PUGH. I do not wish to say anything against any of these bills; but I object to this logging of bills. Let each case come up in its moment. I am moved to vote for the case of the widow of General Smith, and I do not know but that I shall vote for the others. I voted for the bill for Mrs. Gaines and for Mrs. Jones. I am willing to vote for any proper case that can be fairly stated; but this getting of three or four or five cases together, and then passing them, is in favor of one shall vote for all, seems to me to be a very creditable system of legislation; and, the Committee on Pensions having reported against one of these very cases that is now offered as an amendment, and there being no report from the committee on the others, and no report from a committee, it seems to me we are departing from all prudence. Let us take the original bill, put it out its passage, and then, if it can be shown that the Committee on Pensions have erred in regard to the case of Mrs. Jones, it is a matter for me to bring in a bill for her; but I think this connecting of all these cases together is wrong, and if it be adhered to, I shall certainly vote in the suggestion of the Senator from Iowa, to add every case of every widow that can be suggested, because there certainly is as much propriety in adding all as there is in adding two.

Mr. BENJAMIN. I merely desire to say one word in reference to the remarks of the Senator from New Hampshire. I do not mean to answer what he has said, but I increase my anger. I will support the passage of the bill by so much, but I desire to enter my protest against what he said, and to say that I shall answer him heretofore.

Mr. HALE. There is protest against protest. Mr. IVERSON. I think this whole session is one of mere hours, in which we are passing a pile of justice. The Senator from Mississippi, and the Senator from Louisiana, say they are ready to vote for this bill, because our officers get a mere subsistence, and when they die they leave their widows poor, and therefore they are entitled to the generosity of the Government. Now, I assert the fact, that the officers of the American Army are better paid than the officers of any army in the world. The French officers are not paid as well, the British officers are not paid as well. What is the pay of a brigadier general in your country? General Taylor, General Wool, about eight thousand dollars a year.

Mr. DAVIS. Is the Senator able to tell us what the Duke of Wellington received as a military officer up to the time of his death?

Mr. IVERSON. The Duke of Wellington was an extraordinary and exceptional case, and we have made the case of General Scott exceptional. We gave him \$33,000 to start with, giving him a lieutenant general's pay back I do not know how long. The Duke of Wellington fought the battle of Waterloo, he had a vast amount of property conferred upon him by the British Parliament. But it is literally true that the officers

of the American Army are better paid than the officers in any foreign service.

Mr. DAVIS. How would the Duke of Magenta's pay compare with that of some of our generals?

Mr. PRIMES. I ask the Senator from Georgia if the legislators of America are not paid higher than those of Great Britain?

Mr. IVERSON. I apprehend not near as well as the legislators of some Governments. Some one familiar with the matter, behind me, says we are paid anything like the legislators of France. In Great Britain they do not get any pay regularly from the Government, but get much greater pay in some other way. But to come back to the original proposition, I say that the officers of our Army are better paid than any army in the world, and they are better paid than any other officers in the American Government. They are much better paid than our naval officers, and you propose now to increase the pay of naval officers to bring it up to that of the Army officers.

A brigadier general in the American service has from seven to eight thousand dollars a year,—more than twice as much as any Governor of any State of this Union, except California; and there is not a colonel of your Army that does not get from thirty-five to forty-five hundred dollars a year. It is increased every five years in his life. He gets an additional ration at thirty cents a day per ration, for every five years' service. So it goes on; and the second and first lieutenants of your Army get from eighteen hundred to two thousand dollars a year. Men who are just out of their academy, who are uneducated, and who have nobody to support but themselves, are paid from fifteen hundred to eighteen hundred dollars a year. Where in the world are there men who receive better salaries? Nowhere. Here is an officer of the Army who comes to you, and begs for only a vacancy for a vacancy occurs there are five hundred applicants for it. They press the Government for these offices; they urge their appointment; they demand it at the hands of every friend they have. They are constantly boring members of Congress, and everybody who has any influence, to get them these appointments; and when they get them they go on and spend their money and then come to the Government to support their families. That is the long and the short of it. There is no justice in it, in my opinion; it is a monstrous thing, it is taking money out of the pockets of the honest yeomanry of the country to pander to the extravagance of your officers and their families.

What right have you to take my money, or anybody else's money, to give away to these individuals? There is no justice in it; there is no right in it. You levy taxes upon the poor classes in the country, put them into your Treasury, and then take out their money to feed and fatten the Army officers and their families, to whom you pay much higher salaries than you pay to any officer of the Government. We get it, it is true; but I apprehend that our services, under all the circumstances, will compare favorably with the services of the officers of your Army; because, although sometimes they are engaged in the service of the country, perhaps three months out of every four they are carping "nimbly in a lady's chamber to the lascivious pleasing of a lute." [Laughter.] They are at any rate idle the greater portion of their time.

I do not intend to detract from the merits of the officers of the American Army. They are a gallant set of men, and perform service to the country, and are ready at all times to perform it, perhaps as gloriously as any men on the face of the earth; but I say the Government pays them well, pays them high, pays them quite as much as the Government of France. I voted for the increase of the pay of the Army officers; I then thought it was too low, but now I think it is high enough; and I am not disposed to put my hand into the Treasury, where the people's money has been deposited, to take out of it the money, and to sweat of the honest laborer and turn it over to the payment of the widows of officers of the Army, who, if they had been ordinarily economical and prudent, ought to have laid up enough for the support of their families. I think it is unjust; but I apprehend the case of Mr. Macdonald is just as good as that of Mrs. Smith. In the case of Mrs. Gaines, you gave her fifty dollars a month.

Did General Gaines contract a disease in the line of his duty? By no means. You gave fifty dollars a month to the widow of Adjutant General Jones, who died here, not of disease necessarily contracted in battle. Neither did General Smith. He died in his bed from ordinary disease, as I understand, and from no disease which he might not otherwise have contracted. The cases are not as strong, one as the other. I am against the whole system; but I hope the Senate will add on these amendments in this case, and then I shall vote against the whole system.

Mr. WIGFALL. Mr. President, I did not propose to join in this debate; I came into the Hall not knowing that any of these claims would be brought up for consideration, and I must confess that, like my friend from Louisiana, I have received some light on this question; and some impressions which I had, have been removed. I, unlike him, though, have been swayed in different directions. The eloquence and the arguments of my friend from Mississippi first induced me to look favorably upon these claims; but then rose the Senator from New Hampshire, and my friend from Georgia, and I am somewhat torn by conflicting emotions. If the two Senators last named be right, and I presume they are, I would suggest to them that they introduce a resolution, not a bill, that the Government should not pay out liberally to the lowest bidder. As a matter of course, it requires no education; it requires no ability; it is a matter of dollars and cents, and to the lowest bidder it should be given, as other Government contracts! Let us see how that would operate.

We are told that Army officers are paid too much; that they are paid \$1,800 a year actually when they first come into the Army. Why, sir, there is scarcely a clerk in one of the Departments here that does not get \$1,800, and he is required only to be able to make a receipt, and to be able to write a good hand; but a young man of capacity, one who would be an ornament to any position in life, who goes to the Military Academy, stays there for five years, has the capacity to comprehend all the sciences existing in the United States, and then he is ordered to make a soldier, who, when he leaves that academy, is almost ready to take the command of an army, (and we have seen during the last war with Mexico that this is true,) actually receives \$1,800 a year! During the Mexican war we were without a single man of letters, without a command of brigades and divisions, but they called about them the education and genius of the Army, and traded on the capital that the Government supplied them, though that capital is paid \$1,800 a year; and they won victories in a foreign land and added glory to the flag of our country. That is the truth, and there is no Senator in this Chamber who does not know that it is so; and that the compliments which have been paid to the militia and to the volunteers are a tribute to the West Point Academy.

Under these circumstances the question arises whether these things should be made on an occasion of this sort, first at the whole Army and then at the widows of these distinguished officers? I am as much opposed as any one to a squandering of public money, but I think it is not a very good economy, and sometimes it results in actual extravagance. You had much better pay a sufficient salary to officers in the Army and according to their grade, to induce men of capacity, men who can support themselves in other vocations of life, to remain there. It is economy to pay such salaries as would secure ability in the Army; but to reduce the pay to such an extent that no man who could support himself in any other avocation would go into the Army, is actually extravagance and a waste of money. You had much better have the Army.

When you consider that these are exceptional cases of giving pensions only to the widows of distinguished officers, it shows it cannot lead to any very great abuse, or to any great expenditure of money. It is a small sum, and it is easily guarded. There are but few. It is not every officer who occupies such a position, and before we have now three isolated cases I would be opposed to taking in the rank and file. I would be utterly opposed to extending this thing any further, and I am sure the widows of distinguished men, as I am told, in indigent circumstances, and asking this poor boon from their

country. In compliance to the dead, and justice to the living, I shall vote for the appropriation.

Mr. GREEN. It is very important to have a certain number attended to in executive session.

Several Senators. Let us take a vote.

Mr. CAMERON. I hope we shall finish this bill.

The PRESIDING OFFICER. [Mr. BAILEY in the chair.] The question is on the amendment proposed by the Senator from New York to the amendment of the Senator from Georgia.

The amendment to the amendment was agreed to.

Mr. TOOMBS. Mr. President, my colleague frequently tells us, no doubt very properly and justly, in his opinion, that we do not attend to the claims of citizens on this Government; but, in my judgment, the complaint is not well founded, for the very reason that occurs to-day. You may take up the Calendar, and you will find that probably ninety-nine out of a hundred of the cases on it are appeals, and wrong appeals, to the gratuity of the Government; and those are the large meritorious class of people from whom pensions are not withheld. I have seen, I know, take this original bill. The officer for whose widow it provides, had a brief but very brilliant career. He was a man who did the country much service. I knew him well; and he was one of the very best models of an officer. I had the highest respect for him. He entered the service probably at not a less compensation than three or four thousand dollars a year. Very soon it was carried from four thousand to five thousand dollars. He was in the Army probably not more than eight years of his life, and certainly not more than ten; and his pension averaged him more than five thousand dollars a year; which, I say, considering the claims on him, is higher than the compensation of the President of the United States. I say considering the claims; because there are certain social considerations that are on the President that are as unyielding as law.

This officer entered your service when he was perhaps sixty years of age, averaged \$5,000 a year while he was in it, and now the American Senate is asked to pension his widow for life. It was wrong in principle, and I do not think it right, and I make the point with no desire to say anything against this officer, or the recipient of the bill. Perhaps no one sympathizes with them more than I do. Nobody would go further to relieve them, or would feel more keenly their destitution, their poverty, their grief. But, sir, we ought to base our legislation on principle. These special pensions are wrong and unjust to the country. You have laws by which, when a person who enters your service dies in the discharge of his duty, that is, if he is killed in battle or dies from wounds contracted in battle, his widow receives an allowance for so many years. That is a contract, not a gratuity, and that is right.

This, however, does not come within that rule. When a man enters the service as a lieutenant, as a captain, or as a general, he goes to a large country. His military colleague is perfectly correct in saying that, in the lower ranks in our Army, we pay higher than any Government in the world; and in that respect I think our system is the worst of all. The system in foreign countries, I think, is a good one—greatly better than ours. They put the compensation of their public servants on the value of that kind of talent which the Government demands, and when you depart from that rule you depart from all principle, and open wide the door to corruption. Now, you take a young man, probably at sixteen years of age, and educate him, and at twenty he comes out, and, if he graduates well, receives fifteen or sixteen hundred dollars a year at once. You keep him for forty years, until you want him, because in time of peace you have very little use for him, and even when you have war, for it seems, notwithstanding the large number of men we keep in service, that when there is a little Indian war you must have volunteers, and pay a million or two for them. You keep your Army to pay, not to fight, because, when the fighting is to be done, you go among the people and call on them to do it. That is your practice.

If it be proper and right that every person who serves the country in the Army ought to be pensioned, I put it to the senator, to the justice of every Senator here, is it just to the soldier, in

just to the subaltern, who spends his days and nights in the public service, that he shall be allowed to die and leave his widow penniless, and his orphans without a farthing, if he has not been a distinguished man, if he has not been the friend of Senators and Representatives; if his wife is too poor, or if unable, from the misfortune of education, or other reasons, to come here and plead her cause before Senators, and get their promise to vote for a pension for her? If the pension be necessary, give it to all, fix it, make a rule. It is unjust and inequitable to give it to those who press you the most, or to the widows of the best and most influential men. Do justice to all the people; give to the poor and humble widow of the lieutenant or captain, who cannot come here to ask her petition. For like service, for a like term of service, for a like kind of service, for the like circumstances of death, if you intend to be just, give them all the same compensation. But when you act in the way now proposed, you violate a principle of justice; you do nothing but evil in the public service; you demoralize it; you are unjust to the country, unjust to the Army, and unjust to the public service.

There might be a case within the principle of the pension laws, within their equity, but not within the strict letter. That is a fair case for legislation, and the only case for legislation. This is not of that character; nor is it extraordinary in the circumstances. In the cases referred to by my colleague, the cases of Mrs. Gaines and of Mrs. Jones, they had friends here; they were most excellent people; they could wield an influence from their very virtues, well known to all of the public service, and they could plead equity or justice, nobody pretends it. Why does not the Military Committee bring in a bill that persons under the circumstances of these people—why does not my friend from Mississippi, if it is a just principle, bring in from his committee a bill to pension all persons under like circumstances? How many votes would it get here? It would not get him, I presume.

Mr. DAVIS. It is not the duty of the Committee on Military Affairs, or I should have long since brought in a bill expressing my own views on the subject. The Committee on Pensions think it belongs to the Committee on Military Affairs, I may do so yet.

Mr. TOOMBS. My friend and I both understand this business very well. Whenever we want a pension for a man, it is easy to get it. Any gentleman here is to do it, or I offer a resolution for his committee to inquire into it; and if he thinks the public interests demand it, if he supposes such a law would be necessary and proper for the country and the Army, it is very easy for him to get it before his committee.

Mr. DAVIS. I will ask the Senator from Georgia, whether, if he were to introduce such a resolution, he would send it to the Committee on Military Affairs, or the Committee on Pensions? Mr. TOOMBS. If it was for the Army, I think I would send it to the Committee on Military Affairs.

Mr. DAVIS. I mean just as you speak of. Mr. TOOMBS. If it is for military pensions, I would send it to the Committee on Military Affairs. I think it is in the most appropriate way. I do not think the Committee on Pensions ought to have anything to do with pensions, except to look into the cases I have named—cases within the equity of the law, but which, on account of the rules of the Department, or from some defect in proof, require an exception to the law. They may properly supply that defect, when a case is within the principle and the equity of the rule; but as for going out and taking up independent cases, I do not think they have any such right. Formerly, if you look at the reports of the Committee on Pensions, twenty years ago, when we had time to legislate, you will find that all pension cases were put upon principle; and I suppose it has been since I have been a member of Congress that the first one of these cases was passed that was ever put outside of principle.

I was a younger man, I had something to do with these matters in the other House, and I looked into them a good deal, and it was always necessary in your report to show the principle, and that the principle had been sanctioned by previous legislation. That was the ordinary tenor of the reports made to justify the action of Con-

gress. Now, however, it seems that even when the proper committee report against granting a pension, any Senator feels at liberty to propose a bill for that purpose, upon the idea that it is only giving away the public money—giving it away to the widows of excellent people and meritorious officers, I admit; but it is against public policy; it is contrary to the interest of the public, or of the Army; it is unjust to the officers who do not get it, to the subaltern officer, and to the soldier himself. Why not extend this bounty to soldiers and their widows? They leave widows, and they leave widows destitute. In such cases, in ninety-nine instances out of a hundred, they are cases of total destitution. Take the mass of the fifteen thousand men you have got in your Army, and they would never be there, but for destitution. They are driven by want into the service; and of course, when they die, if they have families, they leave nothing for them but to be the inmates of poor-houses.

Mr. LANE. Will the Senator from Georgia yield?

Mr. TOOMBS. I have done.

Mr. LANE. I will ask the Senate now to go into executive session. There is a case which is very important. I believe. We shall hardly get through with this matter this evening. It is important that there should be prompt action in executive session, before the mail goes out.

Mr. CLAY. I think it is well to call not quit this subject just now. The original bill is one for which everybody was willing to vote. Everybody was willing to allow the pension justly due to the widow of General Smith. I regret very much that three amendments have been moved which have occupied time. I think there will be nothing more said, and we can take the question now.

Mr. LANE. I think this bill will have a better chance at another meeting than this evening. We do not meet again until Monday, and it is important to have an executive session before the mail goes out to-day.

Mr. CAMERON. If the gentleman will promise me to help get up the original bill some day next week, I shall not persist.

Mr. GREEN. I will do so.

The PRESIDING OFFICER. (Mr. BAILEY.) The first question will be on postponing the further consideration of this subject until to-morrow.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. CLAY, it was

Ordered, That when the Senate adjourns to-day, it be not met on Monday next.

INDIAN TREATY APPROPRIATIONS.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had passed a bill (H. R. No. 216) making appropriations for fulfilling the stipulations with the Ponca Indians, and with certain bands of Indians in the State of Oregon and Territory of Washington, for the year ending June 30, 1860; which was read twice by its title, and, on motion of Mr. FITZPATRICK, referred to the Committee on Finance.

EXECUTIVE SESSION.

On motion of Mr. GREEN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 2, 1860.

The House met at twelve o'clock, m. Prayer by Rev. T. McKITT TALLMAGE, of SYRACUSE, New York.

The Journal of yesterday was read and approved.

EXECUTIVE DOCUMENTS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting a statement prepared by the Register of the Treasury, of the expenditures of money appropriated for the discharge of miscellaneous claims not otherwise provided for, and paid out of the Treasury during the fiscal year ending June 30, 1859, as required by the act of March 3, 1859; which was laid upon the table, and ordered to be printed.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

TUESDAY, MARCH 6, 1860.

NEW SERIES.....NO. 62.

Mr. MORRIS, of Illinois. That does not apply to me; for, sir, I am not a member of any other committee. I only ask the same privilege that was extended to the gentleman from Texas on a similar occasion. He stated that he might be useful to his constituents on the Committee on Indian Affairs, and I—

Mr. OLIN. I protest against this proceeding. If the gentleman is dissatisfied with the decision of the Chair, he can take an appeal. Debate is not in order.

Mr. MORRIS, of Illinois. I have expressed no dissatisfaction, I have indulged in no reflection, but merely stated what was the action of the Speaker in constituting the Committee on the Post Office and Post Roads. If the House refuses to permit me to give the statistical information I have on the subject, shewing the injustice that has been done to my State, I will, by general consent, print it with my remarks.

Mr. CASE. The gentleman is not stating any reasons why he should be excused from serving on the Committee on Roads and Canals, but why he ought to be put upon the Committee on the Post Office and Post Roads.

Mr. MORRIS, of Illinois. I ask leave to publish the statistics I have referred to.

Many MEMBERS. Object.
The question was taken; and Mr. MORRIS was excused from further service on the Committee on Roads and Canals.

GEORGE F. BROTT.

Mr. WINDOM, from the committee on Public Lands, reported a bill for the relief of George F. Brott; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EBEN S. HANSCOMB.

Mr. WINDOM, from the same committee, also reported back a bill (H. R. No. 225) for the relief of Eben S. Hanscomb; which was referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CASSIUS M. CLAY.

Mr. HOARD. I wish the unanimous consent of the House to submit a report from the Committee of Claims. I was not in the House when that committee was called in its turn.

There was no objection.
Mr. HOARD, from the Committee of Claims, reported a bill for the relief of Cassius M. Clay; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES T. SCALFE.

Mr. HOARD, from the same committee, also reported back a bill (H. R. C. No. 89) for the relief of Charles T. Scalfé, administrator of Gilbert Stalker; which was referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MORRIS NOBLE.

Mr. HOARD, from the same committee, also reported back a bill (H. R. C. No. 12) for the relief of Morris Noble; which was referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

BILL AND PETITIONS WRONGLY REFERRED.

Mr. BRIGGS. I ask the unanimous consent of the House, that the Committee on Revolutionary Claims be discharged from the further consideration of the following bill, petitions, and memorials, which were wrongly referred to that committee:

The petition of Susannah A. Sawyer;
The petition of George Austin and others, soldiers of the war of 1812;
The petition of Captain Samuel Dennison and others, soldiers of the war of 1812;

The memorial of William Crossman, praying for a pension;

The petition of the children of Henry Briggs, deceased, praying for arrears of pension due to their father previous to his death; and

A bill for the relief of Samuel Winn, the only surviving child of General Richard Winn, a revolutionary officer.

There was no objection; and it was ordered accordingly.

NEWSPAPERS SENT THROUGH THE MAILS.

Mr. COLFAX. I am authorized by the Committee on the Post Office and Post Roads to report a bill which, in its nature, is partly public and partly private. The Postmaster General is of the opinion that it ought to be passed at once. It is to correct a verbal omission in the Post Office law. That law authorizes publishers to insert notices and advertisements in their newspapers without extra charge, but it does not allow them to print anything upon newspapers except the address of the person to whom it is sent. A practice has grown up to print the address of the subscriber, and also the time at which his subscription expires. The Postmaster General says that ought to be the law, but that it is not; and it is to make it the law that I ask to report a bill. I send the Postmaster General's letter to the Clerk to be read.

The Clerk read, as follows:

POST OFFICE DEPARTMENT, February 21, 1860.
SIR: I take the liberty to inclose a section having in view a slight modification of the act of 20th August, 1854, and to advise its immediate enactment. This will authorize publishers to send to their subscribers, upon each number of their publications, a "ledger account" of the amount due from them, the date when their subscription expires, &c.; an account which has been earnestly pressed upon the attention of the Department.

I have the honor to be, very respectfully, your obedient servant,
J. HOLT.

Hon. SCHUYLER COLFAX, Chairman of the Committee on the Post Office and Post Roads, House of Representatives.

Mr. BRANCH. I have no doubts it is a very good bill, but I do not see in what sense it is even a private bill.

Mr. CURTIS. I hope the gentleman will make no objection.

Mr. BRANCH. I will not.

The bill was read a first and second time, as follows:

A bill authorizing publishers to print on their papers the date when subscriptions expire.

The bill provides that the second clause of section three of the act of the 30th of August, 1855, establishing the rate of postage on printed matter, shall be so modified as to read as follows:

Second. There shall be no word or communication printed on the same after its publication, or upon the cover or wrapper thereof, nor any writing or mark upon it, nor upon the cover or wrapper thereof, except the name, the ledger account, showing the date when the subscription expires, the wrapper number, and address of the person to whom it is sent.

Mr. COLFAX. I will state that this bill was drawn at the Post Office Department. It meets their sanction and the sanction of the entire newspaper press. [Cries of "All right!"]

The bill was ordered to be engrossed and read a third time; and being engrossed, it was subsequently read the third time, and passed.

Mr. COLFAX moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ROBERT H. MORRIS.

Mr. WOODRUFF, from the Committee on the Post Office and Post Roads, reported a bill for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

CHARLES PORTERFIELD.

Mr. JACKSON, from the Committee on Revolutionary Claims, reported a bill for the relief of the legal representatives of Charles Porterfield; which was read a first and second time, referred to

a Committee of the Whole House, and ordered to be printed.

GEORGE YATES.

Mr. JACKSON, from the same committee, also reported a bill for the relief of the heirs of Dr. George Yates; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

MARYETT VAN BUREKIRK.

Mr. BRIGGS, from the same committee, reported a bill for the relief of Maryett Van Burekirk; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

MAJOR JOHN RIPLEY.

Mr. BRIGGS, from the same committee, also reported a bill for the relief of the heirs of Major John Ripley; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

FRANCIS CHANDONET.

Mr. FERRY, from the same committee, reported a bill for the relief of the legal representatives of Francis Chandonet; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

WILLIAM THOMPSON.

Mr. FERRY, from the same committee, also reported a bill for the relief of the legal representatives of Brigadier General William Thompson; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

WILLIAM JOHNSTON.

Mr. FERRY, from the same committee, also reported a bill for the relief of the orphan children of Colonel William Johnston; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

LOUIS MARNAY.

Mr. FERRY, from the same committee, also reported a bill for the relief of the legal representatives of Captain Louis Marnay; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

CLEMENT GOSSELIN.

Mr. FERRY, from the same committee, also reported a bill for the relief of the heirs of Clement Gosselein; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

BAEL MYNAULT.

Mr. FERRY, from the same committee, also reported a bill for the relief of the surviving children of Basil Mynault; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

SAMUEL MILLER.

Mr. FERRY, from the same committee, also reported a bill for the relief of the heirs of Captain Samuel Miller; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

JAMES BAPTISTE LABOUT.

Mr. FERRY, from the same committee, also reported a bill for the relief of the heirs and descendants of James Baptiste Labout; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

THOMAS WILLIAMS.

Mr. FERRY, from the same committee, also reported a bill for the relief of the legal representatives of

atives of Lieutenant Thomas Williams; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

CAPTAIN PIERRE AYOT'S REPRESENTATIVES.

Mr. FERRY, from the same committee, also reported a bill for the relief of the legal representatives of Captain Pierre Ayot; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

NEHEMIAH STOKELY'S HEIRS.

Mr. FERRY, from the same committee, also reported a bill for the relief of the heirs of Nehemiah Stokely, a revolutionary officer; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOSEPH TRAVERSIE'S HEIRS.

Mr. FERRY, from the same committee, also reported a bill for the relief of the heirs of Joseph Traversie, a captain in the revolutionary war; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOSEPH JEWETT'S CHILDREN.

Mr. FERRY, from the same committee, also reported a bill for the relief of the orphan children of Joseph Jewett, a revolutionary officer who was slain in battle; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CHARLES OLIVER DUCLOEL.

Mr. NOELL, from the Committee on Private Land Claims, reported a bill for the relief of Charles Oliver Ducloel, of the parish of St. Martin's, Louisiana; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

N. K. DOEBLER.

Mr. AVERY, from the same committee, reported back a bill (H. R. No. 85) for the relief of N. K. Doebler; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

VALLEY LANDRY.

Mr. AVERY, from the same committee, also reported a bill for the relief of Valley Landry; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

FRANÇOIS GUILLOIR'S REPRESENTATIVE.

Mr. BOULIGNY, from the same committee, reported a bill for the relief of the legal representative of François Guilloir; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

BRADFORD & COMPANY.

Mr. ETHERIDGE. I am instructed by the Committee on Indian Affairs to report back to the House the memorial of Bradford & Co. I ask that the committee be discharged from all further consideration of the memorial, and that it be referred to the Committee on Military Affairs, to which it is believed it appropriately belongs. It was so ordered.

INDIAN SUPERINTENDENTS AND AGENTS.

Mr. ETHERIDGE. I am also instructed by the Committee on Indian Affairs to report back to the House a bill (H. R. No. 161) to provide for a superintendent of Indian affairs for Washington Territory, and additional Indian agents.

Mr. STANTON. That is not a private bill.

Mr. ETHERIDGE. I know it is not; but I only want to let the bill be referred to the Committee of the Whole on the state of the Union.

Mr. STANTON. Very well.

The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

W. Y. HANSELL AND OTHERS.

Mr. ETHERIDGE, from the Committee on Indian Affairs, reported back a bill (H. R. No. 284) for the relief of W. Y. Hansell, the heirs of

W. H. Underwood, and the representatives of Samuel Rockwell; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN JOHNSTON.

Mr. ETHERIDGE, from the same committee, also reported a bill for the relief of John Johnston, of Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

INDIANS ON THE RESERVATIONS.

Mr. ETHERIDGE. I am also directed to report back a memorial relative to appropriating money for the transport and settling of the Indian tribes on the reservation east of the Cascade mountains; and I ask that it be referred to the Committee of Ways and Means, which has the subject under consideration, as I am informed. It was so ordered.

CLERK TO COMMITTEE ON INDIAN AFFAIRS.

Mr. SCOTT. I am instructed by the Committee on Indian Affairs to offer the following resolution:

Resolved, That the Committee on Indian Affairs be allowed a clerk, to be authorized to employ the same, at a compensation of four dollars per day, while actually employed.

Mr. CRAIGE, of North Carolina. I object to the introductory part of the resolution.

The SPEAKER. The Chair thinks that the resolution is in order.

The question was taken; and the resolution was adopted.

Mr. SCOTT moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

CHARLES STILLMAN.

Mr. STANTON, from the Committee on Military Affairs, reported a bill for the relief of Charles Stillman; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

PETER D. ANCONY.

Mr. STANTON. I am directed by the Committee on Military Affairs to report back the petition of Peter D. Ancony, and to ask that it be referred to the Committee on Invalid Pensions, where it properly belongs. It was so ordered.

REPELLING INVASION OF OSAGE INDIANS.

Mr. BUFFINTON, from the Committee on Military Affairs, reported a bill to pay to the State of Missouri the amount expended by said State in repelling the invasion of the Osage Indians; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

FREDERICK STEPHENS.

Mr. BUFFINTON, from the same committee, also reported a bill for the relief of Frederick Stephens; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CENTRAL PACIFIC RAILROAD.

Mr. CURTIS. I am directed by the Committee on Military Affairs to report back a bill (H. R. No. 14) to secure the construction of a central Pacific railroad; and to ask that it be printed, and referred back to the committee.

Mr. HOUSTON. I understand that the call of committees now is for private business.

THE SPEAKER. That is so.

Mr. HOUSTON. That is no objection to any other but private business being reported.

Mr. CURTIS. I merely ask that the bill be printed, and referred back to the Committee on Military Affairs.

The SPEAKER. Is there any objection to that?

Mr. HOUSTON. Yes, I object.

The SPEAKER. Then the report cannot be made.

Mr. McRAE, from the Committee on Military Affairs, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury is hereby requested to furnish the House of Representatives with the memoir of the Mississippi sound, on the Mexican Gulf coast, with the maps and charts of the same as taken by

the Coast Survey; also, to furnish the House with a statement of the amount of money at any time heretofore so appropriated by Congress for the naval and military defenses on the Gulf coast of Mississippi.

PACIFIC RAILROAD AND TELEGRAPH.

Mr. McRAE. I ask leave to report back from the Committee on Military Affairs a bill to establish a Pacific railroad and telegraph, by railroad and telegraph, between the Atlantic States and California, and for other purposes.

Mr. HOUSTON. I object to that.

Mr. McRAE. I shall not insist upon it. I knew that it was out of order, but I thought that the House would consent to have the bill printed and referred.

DANIEL WRIGHT AND OTHERS.

Mr. OLIN, from the Committee on Military Affairs, made an adverse report on the petition of Daniel Wright and others, for the abrogation of a contract for the construction of a military road; which was laid upon the table, and ordered to be printed.

BURKE AND WINDER.

Mr. PENDLETON, from the same committee, reported a bill for the relief of Lieutenant Colonel Martin Burke and Captain Charles S. Winder; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CORRESPONDENCE OF GENERAL HARNEY.

Mr. PENDLETON, from the same committee, also reported back the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the House the official correspondence of Brigadier General W. S. Harney, in command of the department of Oregon, relating to the affairs of that department.

JOSEPH B. EATON.

Mr. PENDLETON, from the same committee, also made an adverse report on the petition of Joseph B. Eaton; which was laid upon the table, and ordered to be printed.

FRANCIS MEANS AND OTHERS.

On motion of Mr. PENDLETON, the Committee on Military Affairs was discharged from the further consideration of the petitions of Francis Means and others, of Oregon; and the same were referred to the Committee on Private Land Claims.

CORRESPONDENCE OF GENERAL SCOTT.

On motion of Mr. PENDLETON, the Committee on Military Affairs was discharged from the further consideration of a resolution calling for the official correspondence of Lieutenant General Scott and Brigadier General Harney, in reference to the Island of San Juan.

Mr. LEAKE moved that the House do now adjourn.

The motion was disagreed to.

Mr. CURTIS. I rise to propose a privileged question. I ask the indulgence of the House for a moment, to explain an unjust imputation cast on me in regard to a resolution which I presented on Wednesday. I ask for the reading of a small paragraph from the Constitution of to-day, which I sent to the Clerk.

Mr. BURNETT. I would willingly indulge the gentleman from Iowa; but the point was made upon the other side of the House the other day, that a privileged question could not grow out of a newspaper article. I insist upon the enforcement of the rule then adopted.

Mr. CURTIS. Will the gentleman allow me to make a statement, without the reading of the paper? I can present the facts in a few moments.

Mr. BURNETT. I have no objection to the gentleman making a personal explanation, if it is understood that the privilege is to be generally but it was refused the other day to a gentleman upon this side who wished to make a personal explanation.

The SPEAKER. The objection is a good one, if insisted on. The gentleman from Iowa can only proceed by unanimous consent.

Mr. CURTIS. I am sure the gentleman from Kentucky will not object to a moment's explanation which will remove an unjust imputation as to my having attempted to violate an agreement made by the two parties in this Hall.

Mr. CRAIGE, of North Carolina. If it relates to anything in a newspaper, I object to it. It was decided the other day that newspaper articles could not give rise to personal explanations. That was a good decision; and I hope the House will adhere to it.

Mr. CURTIS. I surely ought to have the privilege of saying that the resolution which I presented on Wednesday was presented in good faith, with no idea of intruding on any arrangement; and that when presented yesterday, in the very same words, in full House, it passed unanimously. I had no bills and no other resolution to present on Wednesday.

Mr. CRAIGE, of North Carolina. If members are permitted to notice all the newspaper attacks made upon them, we shall have no time for anything else.

MRS. A. W. ANGUS.

Mr. SEDGWICK, from the Committee on Naval Affairs, reported a bill for the relief of Mrs. A. W. Angus, widow of the late Captain Samuel Angus, United States Navy; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

CHILDREN OF MARTHA SWILLING.

Mr. JUNKIN, from the Committee on Invalid Pensions, reported a bill to pay to the surviving children of the late Martha Swilling, widow of George Swilling, the pension which was due her for the period of her death, under the act of July 7, 1838; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

JAMES LACEY.

Mr. STORES, from the same committee, reported a bill granting a pension to James Lacey, of Greengrass county, Tennessee; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

JOHN MADDEN.

Mr. STORES, from the same committee, also reported a bill for the relief of John Madden, of Clay county, Tennessee; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

CYRUS C. BLACKMAN.

Mr. STORES, from the same committee, also reported a bill granting a pension to Cyrus C. Blackman, of St. Helena Parish, Louisiana; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

ADELAIDE ADAMS.

Mr. KELLOGG, of Michigan, from the same committee, reported a bill granting a pension to Adelaide Adams, widow of Commander George Adams, United States Navy; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

MICAJAH HAWKES.

Mr. POSTER, from the same committee, reported a bill for the relief of Micajah Hawkes; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

TIMOTHY CAVAN.

Mr. POSTER, from the same committee, also reported a bill for the relief of Timothy Cavan, an invalid pensioner; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

Mr. BARNETT. I move that the House do now adjourn.

Mr. FLORENCE. Let us first get through with the reports of committees.
• The question was taken; and the House refused to adjourn.

NATHANIEL SMITH, DECEASED.

Mr. HALL, from the Committee on Invalid Pensions, reported a bill for the relief of the children of Lieutenant Nathaniel Smith, deceased; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

MRS. HANNAH McDOWELL.

Mr. HALL, from the same committee, also reported a bill for the relief of Mrs. Hannah McDowell; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

WEBSTER S. STEELE.

Mr. HALL, from the same committee, also reported a bill for the relief of Webster S. Steele; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and with the accompanying report, ordered to be printed.

OBJECTION DAY.

Mr. MAYNARD. I ask the Speaker whether this is not objection day in Committee of the Whole House on the Private Calendar?

THE SPEAKER. It is.

Mr. MAYNARD. We ought not to let it pass without taking advantage of it; for, sir, we will have no other objection day until the fourth Friday of this month. Let us, then, go into Committee of the Whole on the Private Calendar and dispose of the bills there in which there is no objection.

Mr. FLORENCE. I will remind the gentleman that the cases in that committee are mostly those adversely reported on. Some bills, I believe, were referred there yesterday; but I apprehend that they have not been printed, and that the reports accompanying them have not been printed. I think we will do more good by sending to that committee all the bills ready to be reported from the standing committees. I have no doubt that, by unanimous consent, we will make next Friday an objection day in Committee of the Whole House on the Private Calendar.

Mr. MAYNARD. I withdraw my motion, approving of the gentleman's suggestions.

Mr. HINDMAN. I move that the House do now adjourn.

Mr. HELPS. I appeal to the gentleman to withdraw his motion until all the committees are called.

Mr. HINDMAN. I insist on my motion.
Mr. BARKSDALE. I suggest that the Committee on Roads and Canals be passed over to-day, with the understanding that it be called next Friday. [Cries of "Agreed!" "Agreed!"]

Mr. MALLORY. I have a report which I want to make from that committee. It is a bill, sir, in which my constituents are deeply interested.

Mr. FLORENCE. Reports of a general nature are not in order to-day.

Mr. MALLORY. I do not object to the understanding suggested by the gentleman from Mississippi.

THE SPEAKER. The motion to adjourn is insisted on.

Mr. FLORENCE demanded tellers.

Mr. BARKSDALE. There is no quorum present, and no business ought to be done without a quorum.

Mr. MAYNARD. A quorum is always present to be present. I hope that we will go through with the call of committees for reports of private bills.

Mr. BURNETT. I insist upon a count of the House. There is no quorum here.

Mr. BARKSDALE. I order. Messrs. GARLES and BINGHAM were appointed.

The House divided; and the tellers reported—ayes 24, nays 58; no quorum voting.

Mr. WASHBURN, of Illinois. I move that there be a call of the House.

Mr. BARKSDALE. I move that the House do now adjourn.

The motion was agreed to; and thereupon the House (at fifteen minutes past four o'clock, p. m.) adjourned until Monday next.

IN SENATE.

MONDAY, March 5, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY.
The Journal of Friday last was read and approved.

CREDENTIALS.

Mr. HAUN presented the credentials of Hon. MILTON S. LATHAM, elected a Senator by the Legislature of the State of California, to the vacancy occasioned by the death of Hon. D. C. Broderick; which were read, and the oath prescribed by law was administered to Mr. LATHAM, and he took his seat in the Senate.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 27th ultimo, correspondence in relation to obstructions of streets, avenues, and public reservations in the city of Washington; which was ordered to lie on the table; and a motion of Mr. YULEE to print the report, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a daily mail from the village of Lake Mills, in the county of Jefferson, Wisconsin, to the village of Okauchee, in that county, via Milford and Aztalan, in that county; and also in favor of the discontinuance of the mail route from Watertown, via Milford, Aztalan, Lake Mills &c., to Madison, between Watertown and Lake Mills; which was referred to the Committee on the Post Office and Post Roads and ordered to be printed.

Mr. WADE presented the petition of S. K. Miller and others, praying that the militia of the Indian wars and that of 1812 may be placed on the same footing, in regard to bounty land, as those who served in the late wars with Mexico; which was referred to the Committee on Military Affairs and Militia.

Mr. HUNTER presented the petition of Charles Maurice Smith, praying compensation for defending, at the request of the superintendent of Indian Affairs in Utah, the Indian Agency at Fort Hays, indicted for a criminal offense in the second judicial district of that Territory; which was referred to the Committee on Claims.

Mr. BIGLER presented a memorial of Swain & Abell, and others, publishers of newspapers in the city of Philadelphia, praying an amendment to chapter fourteen, section one hundred and seventy-three, of the postal law of the United States; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of James Page, Eli K. Price and others, citizens of Philadelphia, praying Congress to grant a pension to John L. Kinsick, a quartermaster in the Navy, who was wounded by the bursting of a cannon on board the United States steamship Princeton; which was referred to the Committee on Pensions.

He also presented a petition of soldiers of the war of 1812, residing in Berks county, Pennsylvania, praying Congress to allow them a pension for their services in that war; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Armstrong county, Pennsylvania, for the establishment of a mail route from Kittanning to Leechburg, in that county; which was referred to the Committee on the Post Office and Post Roads.

He also presented the memorial of George W. Bonnin, praying to be awarded an increase of pension; which was referred to the Committee on Pensions.

He also presented resolutions and a memorial adopted at a convention of soldiers of the war of 1812, held at Harrisburg, Pennsylvania, on the 20th of February last, requesting the necessity for the immediate passage of a law granting pensions to the soldiers of the war of 1812; which were referred to the Committee on Pensions.

Mr. GREEN presented the petition of A. Armstrong and others, praying the establishment of a weekly mail route from Rockford, Iowa, to Albert Lea, in Freeborn county, Minnesota; which was referred to the Committee on the Post Office and Post Roads.

Mr. POWELL presented the petition of Locky

Simpson, praying for an increase of pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SUMNER, it was
Ordered, That the papers in the case of F. W. Lander, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. CIESNUT, it was

Ordered, That the memorial of James A. Black, special agent of the State of South Carolina, praying that said State may be refunded certain sums of money expended in the common defense of the United States, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. BIGLER, it was

Ordered, That A. E. Ford, administrator of Augustus Ford, have leave to withdraw his petition and papers from the files of the Senate.

On motion of Mr. JOHNSON, of Arkansas, it was

Ordered, That the petition of A. S. H. White, praying compensation for signing land patents, on the files of the Senate, be referred to the Committee on Public Lands.

Mr. JOHNSON, of Arkansas. I ask leave, at the instance of an ex-member of Congress, to withdraw the papers in the case of J. B. Milton, and that they be referred to the Committee on Claims. I will state that there has been some difficulty in finding these papers, but it is believed they accompanied an amendment that was made to an appropriation bill during the last Congress. Leave was granted.

REPORTS OF COMMITTEES.

Mr. GREEN, from the Committee on the Judiciary, to whom was referred the memorial of Secretary, Ruttenberg, Faust & Co., praying indemnity for losses sustained in consequence of the Secretary of the Treasury not adhering to the terms of the proposals for the ten million loan under the act of 14th June, 1858, submitted a report accompanied by a bill (S. No. 245) for the relief of Secretary Ruttenberg, Faust & Co. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom were referred the petition of the legal representatives of Christened and Miguel De Arango, praying the confirmation of certain land titles; the petition of the city of New Orleans, praying the confirmation of its title to one half of certain lands bequeathed to that city and the city of Baltimore by John McDonough; the petition of the legal and legal representatives of James Johnson, praying the confirmation of their title to certain land; and the petition of Joseph Reycaes, praying the confirmation of his title to certain lands in the State of Louisiana, claimed under a Spanish grant, and to be indemnified for such lands, embraced in his claim, as may have been sold by the United States as public land, submitted a report, accompanied by a bill (S. No. 246) to confirm certain land claims in the Florida parishes of Louisiana to the city of New Orleans and others. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 169) to amend an act entitled "An act to ascertain and settle private land claims in the State of California," passed March 3, 1851, reported it with amendments.

Mr. TEN EYCK, from the Committee on Revolutionary Claims, to whom was referred the memorial of Burnet W. Dole, son and heir-at-law of Enoch Dole, a surgeon in the revolutionary war, praying compensation pay, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

CONGRESS OF PARIS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if, in his opinion, not inconsistent with the public interests, to furnish to the Senate copies of all correspondence on the files of the Department of State, not already communicated, relating to the propositions on maritime law and neutral rights by the Congress of Paris, (July 1856).

NEW MEXICAN LAND CLAIMS.

Mr. BENJAMIN. At the request of the Del-

egate from New Mexico, I offer the following resolution, and ask for its adoption:

Resolved, That all the communications from the General Land Office, and papers accompanying the same, relative to private land claims in New Mexico, that have not yet been definitely acted on by Congress, be withdrawn from the files and referred to the Committee on Private Land Claims, for examination and report thereon.

The resolution was considered by unanimous consent, and agreed to.

DEBTS OWING TO THE UNITED STATES.

Mr. BENJAMIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of further legislation relative to the collection of debts due to the United States, and the sale of lands taken by the United States for the payment of debts; and that it report by bill or otherwise.

POST ROUTE IN ARKANSAS.

Mr. JOHNSON, of Arkansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads inquire into the expediency of establishing a post route from Washington to the Quartermaster's Office, from Newburg, Mount Ida, and Waldron, to Fort Smith, in Arkansas.

PRINTING OF A DOCUMENT.

On motion of Mr. BRIGHT to print a communication from the superintendent of the Capitol extension, addressed to the chairman of the Committee on Public Buildings and Grounds, in relation to the construction of the dome and porticoes of the Capitol,

Ordered, That it be referred to the Committee on Printing.

CONGRESSIONAL COMPENSATION.

Mr. CRITTENDEN. It will be recollected that before the last session of Congress, members of Senators were elected for the new State of Minnesota. They were here some time, and it was late in the session before they were admitted. I ask the unanimous consent of the Senate to introduce a joint resolution to entitle them to compensation during the period that they were here under disability.

There being no objection, the joint resolution (S. No. 18) in relation to the compensation of Senators and Representatives in Congress elected from new States, was read twice by its title, and referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

An act (No. 237) for the relief of Anthony Schlander; and

An act (No. 241) authorizing publishers to print on their papers the date when subscriptions expire.

The message further announced that the House ordered, this day, the printing of the following documents:

Letter of the Secretary of the Interior, communicating additional estimates of appropriations for military service within the Territories of Oregon and Washington—ordered at twelve o'clock and thirty minutes.

Letter of the Secretary of the Interior, in answer to a resolution of the House, calling for information in regard to the New York Indian reserve west of the State of Missouri—ordered at twelve o'clock and thirty minutes.

Letter of the Secretary of the Interior, in reference to the report of the art commissioners—ordered at twelve o'clock and thirty-one minutes.

ADDITIONAL LAND DISTRICT.

Mr. JOHNSON, of Arkansas. The Committee on Public Lands, to whom was referred the bill (S. No. 90) to create an additional land district in Washington Territory, have instructed me to report it back with an amendment, and to ask the Senate to allow it to be put on its passage at once. That Territory is now embraced in one single land district, and the public service really requires that another land district should be established there at once. I hope the Senate will pass the bill without amendment.

By unanimous consent, the bill was considered as in Committee of the Whole. The amendment

reported by the Committee on Public Lands is to strike out all of the original bill after the enclosing clause, and insert:

That when, in the opinion of the President, it may be expedient for the Territory of Washington, the entire area to which the Indian title shall have been extinguished, or may hereafter be extinguished, lying east and south of the following described lands, and including the same, to be called the Columbian river district, namely: Beginning on the boundary line between the United States and the British possessions, the summit of the Cascade Mountains, at the nearest range line to the east line of range twelve; thence south on the nearest range line to the summit of said mountains, to the line of dividing range eleven and eleven north; thence west to the line dividing ranges six and seven west; thence north on said line to the third standard parallel; thence west to the Shoshone Water lay; thence with the Shoshone Water lay, including any islands therein, to the Pacific; the western boundary of said district above the line dividing ranges ten and eleven, and on the summit of the Cascade Mountains, to be adjusted by the Department of the Interior, as near the points before given as is consistent with the best of the public surveys; and the President shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of the land district of said Territory, and remove the officers when the same shall be expedient.

Sec. 3. And he is further authorized, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, or during the recess thereof, a register and receiver for said district, who shall be required to reside at the site of the land office, be subject to the supervision of the President, and to the jurisdiction, as is or may hereafter be prescribed by law in relation to the existing land office and officers in said Territory.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

FLORIDA CLAIMS.

Mr. MALLORY. I move to take up the bill S. No. 230, with a view of making it a special order.

Mr. GWIN. I made a motion to reconsider the reference of the West Point appropriation bill to the Committee on Military Affairs; and I should like to have that question taken up and decided.

THE VICE PRESIDENT. There is a motion now before the Senate. I should like to have the Florida moves to take up, with a view to make it a special order, the bill S. No. 230, declaratory of the acts for carrying into effect the ninth article of the treaty of 1819 between the United States and Spain.

Mr. MALLORY. I desire to make this bill the special order for Wednesday, the 14th of March.

Mr. HUNTER. I should like to know what the bill is, before it is made a special order.

Mr. MALLORY. It is a bill to carry into effect our treaty with Spain. I will change the time to the 19th. I move to make the bill the special order for the 19th of March.

THE VICE PRESIDENT. The question now is on taking up the bill.

Mr. MALLORY. I will briefly state the reasons for making the motion, if there is to be any objection to it. I did not anticipate opposition to my motion. I propose to make it a special order for the 19th instant, so as not to interfere with any other special order. The bill is S. No. 230; and if it be left on the Calendar, it will be taken up on its regular order, and will not reach the floor during the session. The bill has been defeated heretofore simply for want of time. Efforts have been made to bring it before the Senate, but there has always been a disposition to talk the bill out, as I conceive, and its merits have never been fully considered.

It is evident now that we have spent so much of the session, that unless it be taken up at a very early day it will not be disposed of. It is a bill of great importance; it involves large interests. It is to carry into effect a treaty stipulation. I have no objection to its being made a special order of March—to avoid interference with all other special orders. I will state, too, that various gentlemen who are friends of the bill will have to be out of the city; and unless it be made a special order before they leave, there will be very little hope of its passing. I shall have, myself, to be absent from the city.

Mr. HUNTER. I hope the Senate will not make a special order of this bill, which, I understand, is merely to provide for a private claim; one which has been, I think, already before the Senate, and the Senate has decided against it, if my memory does not fail me. It ought to come up on Friday, upon the Private Calendar. It

seems to me unprecedented to make a special order in that portion of the week which is devoted to public business, for a mere private claim. Let the Senator move to take it up on some Friday. I hope the Senate will not make the bill a special order.

Mr. GWIN. I should like to oblige the Senator from Florida, but I must oppose making any bill a special order hereafter. I want to have the Calendar taken up regularly. I have been waiting for three months to see if we could not get to the business on the Calendar, and I shall be compelled to oppose the making of all special orders that are asked for, from this time forward, under the hope and with the expectation that by that course we shall be enabled to proceed to the consideration of the business on the Calendar. We lose more time in debating questions with regard to the order of business than would enable us to go through our Calendar. Why, sir, it is a fact, I believe, that we have not called the Calendar regularly for two years, and in that time no public bill has been taken up, except in the way the Senator now proposes, out of its order. I desire to return to the old practice of taking up the Calendar in regular order. The first bill upon the Calendar is the most important measure that is before the Senate. I very much regret that I have to oppose the motion of the Senator from Florida, but I shall vote against all such motions hereafter; and I give notice that as soon as we get through with the morning business, I shall move to proceed to the consideration of the bills on the Calendar.

Mr. MALLORY. I regret much, after the manifestations which have been made, that I feel constrained to insist on this motion. I know there is a great deal of force in what the Senator from California says. My friend from Virginia may perhaps be mistaken in regard to the bill on the Calendar; but the fact stated by the Senator from California, that the Calendar has not been called regularly in two years, really shows what hulk change there is for the consideration of this bill if we adhere to the Calendar as it is. There are, perhaps, fifty bills of very little importance preceding this, and this has been for various sessions before Congress. I say again, it has only failed to pass because we have never had time to consider the bill fully on its merits. My friend from Delaware [Mr. Bayard] intends to discuss the bill thoroughly; and I am anxious to get it up as early as possible. The claimants have been before Congress at various sessions. We have pledged the faith of the country to pay them their money. They have been before the Court of Claims; they have been before the Supreme Court; and they are finally driven to Congress for justice. I hope we shall not get rid of the bill simply by the interposition of time preventing action upon it. It is one of first consequence, far more than fifty other bills on the Calendar; but if it must occupy its place on the Calendar, I shall regard it as a defeat of the bill. I must, therefore, insist on my motion.

Mr. BAYARD. I differ with my honorable friend from Florida. I think the bill has been here before the Senate; it comes before the subject of investigation before Congress in a variety of ways, during the last fifteen or twenty years. It was heard before the Senate prior to its going to the Court of Claims. I took no part in debating myself at that time; the Committee on the Judiciary, or a majority of them, having reported verbally against it, the then chairman of the committee discussed it at length in the Senate; and it was discussed on the other side; and the Senate, by a vote of three to one, after discussion, rejected it. That was when it came before us as an amendment to an appropriation bill. At the same session, in the House of Representatives, the measure came up as a separate bill; and, after discussion, it was rejected by a very decided majority. Subsequently to that, it went to the Court of Claims, and there it was rejected. I give you, for, I do not think, then, it can be pretended that this bill has not been heretofore considered and discussed.

I doubt, myself, the policy of making it a special order. That, however, is a question which depends on the pleasure of the Senate. I will give some labor, I admit. Anxious as I was to do justice to the case if I could, my first impressions

having been formed by merely reading the treaty, and by the information derived from the then chairman of the Judiciary Committee, my friend the late Judge Butler, my opinions were against it; and having seen a great many other memorials, I did, at the last session, take the trouble to investigate the claim thoroughly, as I believe; and with some further reading, to refresh my reading of the last session, I shall hold myself prepared at any time that the Senate choose to take up the bill and having seen a great many other memorials, I did, at the last session, take the trouble to investigate the claim thoroughly, as I believe; and with some further reading, to refresh my reading of the last session, I shall hold myself prepared at any time that the Senate choose to take up the bill and having seen a great many other memorials, I did, at the last session, take the trouble to investigate the claim thoroughly, as I believe; and with some further reading, to refresh my reading of the last session, I shall hold myself prepared at any time that the Senate choose to take up the bill

The VICE PRESIDENT. It is moved to take up the bill indicated by the Senator from Florida, with a vote to make it the special order for the 19th of March.

Mr. GWIN. In order that we may test the question, and see whether the Senate are going to take up the Calendar, and stop this plan of making bill special orders, by which we shall never reach their Calendar, I ask for the yeas and nays on this proposition.

Mr. MALLORY. Very well; let us have the yeas and nays upon it.

The VICE PRESIDENT. If no objection be made, the Chair will put both motions at once. It is a double motion, that the bill be taken up and made the special order for the 19th of March. If no division be called for, the motions will be put together. On this question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken—yeas 32, nays 20; as follows:

YEAS—Messrs. Anthony, Bigler, Bingham, Bright, Broome, Cameron, Chandler, Cushing, Collier, Dixon, Durkee, Fessenden, Fish, Fitzpatrick, Fox, Green, Hale, Hildreth, Knapp, Knowlton, Mason, Fessenden, Rice, Wilson, Howard, Simmons, Sumner, Trenchard, Wade, Wilson, and Yates—32.

NAYS—Messrs. Bayard, Benjamin, Briggs, Coombs, Clay, Crittenden, Davis, Grimes, Gwin, Hammond, Lester, Johnson of Arkansas, Johnson of Tennessee, Hunt, Lincoln, Nicholson, Rensselaer, Sillist, Wadsworth, and Wilkinson—20.

So the motion was agreed to; and the bill was made the special order for the 19th of March, at two o'clock.

SALE OF ARMS.

Mr. GWIN. I now move that the Senate proceed to the consideration of business on the Calendar. Let us take up the Calendar in its regular order.

Mr. DAVIS. There is an unfinished bill pending, which I should like to have concluded. The unfinished business on which the Senate adjourned on Thursday last was the bill to provide for the sale of arms to the States, and for the appointment of superintendents of the national armories, to which the Senator from Maine [Mr. Fessenden] was about to propose an amendment.

The VICE PRESIDENT. The Chair will state to the Senator from California, that he will call up the business regularly in order without a motion.

Mr. GWIN. Will the Calendar be taken up? I move that the Senate proceed to the consideration of the unfinished business on the Calendar, and to postpone all other business. The Calendar has not been called up this session.

The VICE PRESIDENT. The Chair will state to the Senator, that all business before the Senate is upon the Calendar, and he can call up any bill he pleases, and not on the Calendar.

Mr. GWIN. I want to call up the first bill on the Calendar.

Mr. CAMERON. I hope the Senator will allow me a moment. The Senate adjourned with the Calendar before them, on Friday last, on the report of Mrs. Cameron of the Senate, and I suppose that is the business now in order. Is it not?

Mr. GWIN. That is a private bill, and comes up on Friday next.

Mr. CAMERON. It was postponed until Monday.

Mr. GWIN. And it will come up on Friday, which is private bill day.

The VICE PRESIDENT. The Chair will state that when the hour for the consideration of the special order arrives, he will call it up. The hour has not yet arrived for the special order.

Mr. DAVIS. Then I hope we shall proceed to the consideration of the unfinished business.

The VICE PRESIDENT. The Chair is informed by the Secretary that there is no unfinished business.

Mr. DAVIS. The Senate adjourned on the bill providing for the sale of arms to the States on Thursday last, and the Private Calendar came up on Friday.

The VICE PRESIDENT. Then it can no longer be the unfinished business.

Mr. DAVIS. That special order is regard to the Private Calendar ended with today, and the business on which the Senate adjourned on the last regular legislative day was the bill to provide for the sale of arms to the States. The Senate adjourned upon it, the Senator from Maine proposing to submit an amendment.

The VICE PRESIDENT. The Chair does not think, with respect to the Senator from Mississippi, that that comes up as unfinished business.

Mr. DAVIS. Then I move to take up that bill for consideration.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi to take up the bill in regard to furnishing arms to the various States.

Mr. BAYARD. I hope the Senate will not take up any bill that will tend to debate, so as to interfere with the special order at two o'clock. I shall call, at two o'clock, for the consideration of the bill to amend the act establishing the Court of Claims, which was made the special order. This day was given to the Committee on the Judiciary for the consideration of that and other bills. It was made the special order for two o'clock to-day.

The motion of Mr. DAVIS was agreed to; and the Senate resumed the consideration of the bill (S. No. 45) "to authorize the sale of public arms to the several States and Territories, and to regulate the appointment of superintendents of the national armories; the pending question being on the motion of Mr. Simmons to strike out the first section, as amended, after the enacting clause, as follows:

"That the Secretary of War be, and he is hereby, authorized to issue in any State or Territory of the United States, on application of the Governor thereof, arms made at the United States armories, in any amount he may be required from the public supplies without injury or inconvenience to the service of the General Government, upon payment therefor, in cash at the time of delivery in each case, of an amount sufficient to replace, by fabrication at the national armories, the arms so issued."

Mr. FESSENDEN. I propose to amend that section, before the question is taken on striking out, if it be in order, by inserting at the end of the section the following:

Provided, That the whole number of arms which may be sold, as aforesaid, shall be ascertained and made known to each year by the Secretary of War; and no State or Territory shall be allowed to purchase a number of arms exceeding a certain number, to be ascertained and determined, than the Federal population of each State or Territory bears to the aggregate Federal population of all the States and Territories of the United States, according to the census of the United States next preceding such purchase.

The VICE PRESIDENT. The amendment to the bill is before the Senate; but the Chair is informed by the Secretary of War, that it is not in order, which [two o'clock] calls up the special order; which is the bill (S. No. 53) to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1855.

Mr. DAVIS. I move to postpone the special order, with a view to finish this bill.

Mr. BENJAMIN. In relation to that motion, I will observe that the Senate acceded to the Judiciary Committee this day, and to-morrow also, if it be necessary, for the disconnection of business that has been confided to that committee. At the last session of Congress we were unable to get up one of our bills; and to-day and to-morrow were given by the Senate expressly to that committee for finishing its bills. If a vote can be taken on the bill now before the Senate, that it be struck out, more than a few moments, I presume the chairman of the Judiciary Committee will make no objection to that; but if this bill is to be contin-

ned under discussion, I must insist on the special order.

Mr. FESSENDEN. There will be further discussion.

Mr. COLLAMER. It will be discussed, certainly.

Mr. BENJAMIN. I think Mr. President, that the Senate will give us the time granted to us for the consideration of the business of the Judiciary Committee. Gentlemen on the other side say they mean to go on discussing this bill.

Mr. DAVIS. I do not suppose they can discuss it at any very great length. They may have the discussion to themselves. I take it for granted that there will be no great deal of argument on the bill; but really I have been very often compelled to move to take up the bill, and then it has been laid down again. The last time it was under discussion we had approached a vote, when it was proposed to postpone it with a view to offer an amendment. Now the amendment is before us. It scarcely, I think, opens any new discussion. The bill has been discussed already. I do not wish to interfere with the proceedings of the Committee on the Judiciary; but I do not see how this bill can take up half an hour, even if gentlemen wish to speak upon it.

Mr. TRUMBULL. I trust the chairman of the Judiciary Committee will insist upon his motion. It has been very truly said, that at the last session of Congress, that committee could dispose of none of its bills, because it matured several bills; because, when they were assigned for a particular day, something else was permitted to crowd them out of the way. Now, sir, I do insist, as day and to-morrow, if necessary, have been assigned to the Judiciary Committee, that they shall have them; and I trust the Senate will agree to it. If we are to pile special order upon special order, and then, when the time comes for the consideration of the special order, it is to be postponed to take up something else, we might just as well have no special orders. It is manifest that the bill which the Senator from Mississippi wishes to have considered now cannot be passed without discussion. I doubt if it could pass to-day, if we devoted the whole day to it. I trust the motion to postpone the special order will not prevail.

Mr. BAYARD. Is the motion made to postpone the special order?

The VICE PRESIDENT. The motion before the Senate is to postpone the bill, with a view to continue the consideration of the bill to authorize the sale of public arms.

Mr. BAYARD. I hope this motion will not be acceded to by the Senate. Most of the bills, not but one of them, which the Judiciary Committee reported, were reported at the last Congress, and we were never able to get them up. It is true, as I stated the other day, they refer to no party relations, they embody no sympathy with party action, but they are all-important to the general interest of the country; and I do not think they have for one Congress been suffered to lie over without any action by the Senate at all, that now, when you have made them the special order, they ought to be postponed for a measure which has only arisen at the present session. I hope that the Senate will be this rule—going on with the special order. It does not follow at all, and I do not know that this bill will lead to any protracted debate. There are but two questions connected with it that can give rise to any. The debate cannot well extend on to the merits of the bill at all, because it embodies no party action. Being so confined, I do not think the debate can be long, and as to the mere amendments to the bill, I do not suppose there will be any discussion on them. I hope that the motion to postpone the special order will be agreed to. It is idle for the Judiciary Committee to report bills, and have questions of that kind referred to them, unless they are allowed a hearing before the Senate. One Congress has passed already with no hearing upon them.

The motion of Mr. Davis was agreed to, there being, on a division—yeas twelve, nays not counted.

COURT OF CLAIMS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 53) to amend an act to establish a court for the investigation of

claims against the United States, approved the 24th February, 1853. The bill as originally introduced by Mr. IVERSON, was read, as follows:

A bill to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1853.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be appointed by the President, by and with the advice and consent of the Senate, two judges for the said court, to hold their offices during good behavior; who shall be qualified in the same manner, discharge the same duties, and receive the same compensation, as now provided by law in reference to the judges of said court; and that from the whole number of said judges, the President, in his discretion, appoint a chief justice, for said court.

Sec. 2. And be it further enacted, That all petitions and bills, praying or providing for the satisfaction of private claims against the Government, shall, without otherwise ordered by resolution of the House in which the same are presented or introduced, be transmitted by the Secretary of the Senate, or the Clerk of the House, with all the accompanying documents, to the court aforesaid.

Sec. 3. And be it enacted, That in all claims founded on legal or equitable obligation, and which might be enforced by a court of law, or equity, if the Government were suable, the said court shall have jurisdiction, and in such cases their judgment shall be final, as heretofore in such cases; and in every such case, upon the filing of their petition, whether the same be originally presented by him to the court, or be referred to it by either House of Congress, the same principles of adjudication shall be made applicable to both classes of cases.

Sec. 4. And be it further enacted, That when the claim that is to be considered is founded on the claim of more than one party to the controversy may take an appeal to the Supreme Court of the United States, on the ground of law involved in the judgment of the said court, and mode of such appeal shall be regulated by such rules as the said Supreme Court shall establish for this purpose.

Sec. 5. And be it further enacted, That the number of three said judges shall be necessary to the rendition of final judgments; and in case of final judgments rendered by said court, and appealed by the said Supreme Court, where the same is in favor of the claimant, the sum due thereby shall be paid out of the Treasury of the United States, and mode of such payment shall be regulated by such rules as the said Supreme Court shall establish for this purpose. And in cases where the judgment appealed from is in favor of said claimant, and the same is affirmed by the said Supreme Court, the sum due thereby shall be paid out of the Treasury of the United States, and mode of such payment shall be regulated by such rules as the said Supreme Court shall establish for this purpose.

Sec. 6. And be it further enacted, That in all cases so referred, where the ground for relief is not founded upon any legal or equitable obligation as aforesaid, but is addressed in the favor or against the Government, the court shall, on the application of the petitioner, order and direct the taking of the evidence as to the facts stated for relief, as in other cases, and when the same is completed, shall return the same to the House in which the petition or bill was originally presented.

Sec. 7. And be it further enacted, That the Secretary of either of the Departments, before whom any claim of the claimant, and before he has decided thereon, to refer said claim to the adjudication of said court, the proceedings in such cases shall be regulated by such rules as the said court shall establish for this purpose. And in case of appeals from the said court to the Supreme Court, the same shall be satisfied and executed in the same manner as if such judgment had been rendered by the said Supreme Court; and in case of a copy thereof, certified as heretofore provided; and where such judgment is for a money demand, and there is no objection to the same, the sum due shall be paid out of which it can be paid, then the same shall be paid as provided for judgments in other cases.

Sec. 8. And be it further enacted, The jurisdiction of the court shall not extend to, or include, any claim against the Government, growing out of, or dependent on, any treaty stipulation entered into with foreign nations, or with the Indian tribes.

Sec. 9. And be it further enacted, That the judges of said court shall appoint a reporter, whose duty it shall be to report and publish the decisions of said court. And it shall be the duty of the said reporter to furnish a copy of the decisions of the said court to the Secretary of the Treasury, and the pay and compensation shall be the same as now allowed by law to the reporter of the Supreme Court.

Sec. 10. And be it further enacted, That all laws or parts of laws inconsistent with the provisions of this act, be, and the same are hereby, repealed.

The Committee on the Judiciary reported the bill with various amendments. The first amendment of the committee was to strike out the first section after the enacting clause, in the following words:

That there shall be appointed by the President, by and

with the advice and consent of the Senate, two additional judges for the said court, to hold their offices during good behavior; who shall be qualified in the same manner, discharge the same duties, and receive the same compensation, as now provided by law in reference to the judges of said court; and that from the whole number of said judges, the President, in his discretion, appoint a chief justice, for said court.

Mr. BAYARD. I will state the reason for proposing this amendment. The committee believed that it would be unwise at the present time to increase the number of officers by law; but that, if it was found by experience that the duties devolved on the court under the act were more than the existing judges could transmit, then it would be quite sufficient time to enlarge the number of judges. The motion, therefore, is made to amend the bill by striking out that section which authorizes the appointment of additional judges of the court, I hope the amendment will be adopted.

The amendment was agreed to.

The next amendment of the committee was in line three of section two, to strike out the word "without," and insert the word "unless."

Mr. BENJAMIN. That is a merely verbal correction.

The amendment was agreed to.

The next amendment of the committee was in line one of section four, to strike out the word "the," and in line two, of the same section, to strike out the letter "s" from the word "claims," and insert "any;" so that it will read:

That when any claim thus adjudicated, &c.

The amendment was agreed to.

The next amendment was in line three of the same section, to fill up the blank with the word "three;" so that it will read:

That when any claim thus adjudicated exceeds in its amount the sum of \$3,000, either party to the controversy may take an appeal to the Supreme Court, &c.

The amendment was agreed to.

The next amendment was in line five of the same section, after the word "law," to insert "and on the facts;" so that it will read:

Either party to the controversy may take an appeal to the Supreme Court of the United States, on the points of law and on the facts involved in the adjudication, &c.

The amendment was agreed to.

The next amendment was in lines one, two and three of the fifth section, to strike out the words, "The concurrence of a majority of the judges shall be necessary to the rendition of final judgments, and."

The amendment was agreed to.

The next amendment was in section five, lines six and seven, to strike out the words, "money in the Treasury not otherwise appropriated," and insert in lieu thereof:

General appropriation made by law for the payment and satisfaction of private claims.

And after the word "presentation," to insert, "to the Secretary of the Treasury;" so as to provide that after the decision of the court favorable to a claim,

The sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury of the United States.

The amendment was agreed to.

The next amendment was in line eleven of the same section, to strike out the words "the chief justice, or, in his absence;" so as to require the signature of the presiding judge to the copy of a judgment presented to the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was in line five of the same section, to strike out "six" and insert "five;" so that it will read:

And in cases where the judgment appealed from is in favor of said claimant, and the same is affirmed by the said Supreme Court, interest thereon, at the rate of five per centum, shall be allowed, &c.

The amendment was agreed to.

The next amendment was in the end of section five, to insert:

And provided further, That any final judgment rendered against the claimant, on a motion presented as aforesaid, shall forever bar any further claim or demand against the United States, arising out of the matters involved in the controversy.

The amendment was agreed to.

properly claims, but applications to Congress irrespective of any obligation on the part of the Government.

Mr. HALE. I wish the chairman to explain to the Senate why a provision of the fifth section is put in, excluding the consideration of claims growing out of a treaty. As a treaty is the supreme law of the land, I should think a claim growing out of that should be well submitted to them as anything else.

Mr. BAYARD. That clause was in the bill as referred to us; and the committee, after considering it, were of the unanimous opinion that we were not under obligation to offer anything of the kind. In general, where the Government is obliged to pay anything under a treaty, it almost invariably appoints a commission for the purpose of determining the matter, and therefore it was thought unnecessary to give jurisdiction of such cases to the Court of Claims; because, whenever a treaty is made which requires payments, we have a special tribunal to determine the matter, and that a judicial one. We thought it better not to throw the onus of such claims on the court, but to leave them as they arose under treaties to be properly considered.

Mr. BENJAMIN. I desire to move an amendment, by adding a few words to the end of the fifth section—the eighth section of the original bill, now the fifth section by the action of the committee. This fifth section provides that “the jurisdiction of the court shall not extend to include any claim against the Government, growing out of or dependent on any treaty stipulation entered into with foreign nations or with the Indian tribes.”

I desire to add the words, “or on any action of the Government in its intercourse with a foreign Power.”

The object of the amendment is to exclude from the jurisdiction of the Court of Claims those claims which are purely political in their character. The claims which Congress has always desired to preserve under its own jurisdiction. I may instance, as one set of such claims, the French spoliation. Those are claims which Congress has always desired to act upon, of sufficient magnitude to require the action of Congress under any of its acts. The Government has always ought not to embarrass the passing of this bill in relation to the Court of Claims by any extraneous considerations of that kind. The bill is for claims of citizens against the Government in law and equity, but not those which arise out of political relations with foreign Powers. Those were intended to be excluded by the committee.

The amendment was agreed to.
Mr. TOOMBS. I move that the second section be amended by inserting in the second line, after the word “obligation,” the words “for a valuable consideration.” This is to exclude another class of cases—the class of gratuities, post-service pensions, which belong exclusively to the bounty of the Government; and for that purpose I propose to amend the second section.

Mr. BAYARD. I cannot think that the amendment moved by the honorable Senator from Georgia is essential; yet it would alter the whole character of the bill. How would you apply the words “for a valuable consideration” to a case founded upon the tort of a citizen of the Government, who is responsible? The bill is meant to cover that. The word “obligation” is not used in the mere common law sense; the word “obligation” is used in its general sense—meaning a duty to pay, arising accruing to a party, whether it arise from a tort of the Government or from a contract of the Government. If this was only to give power to the court under contracts, you might well insert the amendment; but I think the honorable Senator will find a court giving a construction to these words, “legal or equitable obligation,” would never consider a gratuity or pension an obligation. It is an imperfect obligation, and therefore not an obligation; so held by the civil law as well as the common law. If it is an imperfect obligation, as a gratuity always is, it is not an “obligation” within the meaning of the bill. There was no difference of opinion in the committee as to the effect of the language used in the bill. It certainly was not intended for a moment, as the honorable Senator will see, to include the cases that he means to exclude. In the original section the original bill provided for taking testimony in cases of gratui-

ties and pensions. That we struck out because we did not want to throw upon the court the mere duty of taking testimony; we thought, as they had no jurisdiction in such cases, it would not be proper to give them the duty of taking testimony for us. I submit to him that, within the meaning of the language used in the bill, the words “legal or equitable obligation” can include no gratuity. A mere gratuity is certainly never an obligation.

Mr. TOOMBS. Probably I might make the gentleman agree with me—for we are at the same thing—by adding the proviso:

Provided, It shall not extend to post-service pensions.

Mr. BAYARD. I have no objection to the gentleman framing it in that way.

Mr. TOOMBS. Then I move to add to the second section:

Provided, That this section shall not extend to post-service pensions.

I think that would be the proper term. I make the distinction, because it is a wrong designation to talk of a contract being a pension. An allowance, provided for in advance for services to be rendered, is a contract, and I wish that kept in. But to illustrate my view: Congress passed a law a few years ago, which was construed by the courts as a very good answer for a portion of the Senator's arguments, in which he was greatly mistaken. This court decided that, under a gratuity, a pension law to give to the widows or children of somebody that was married at any time, they were entitled to arrears of pension. First, they confined it to those married before 1794. They decided a case probably involving two or three hundred dollars; but there was a million under it more than he says they decided. Congress properly overruled it twice or three times; held that that decision was wrong, of which I had no doubt. Where there is no valuable consideration or no tort, where there is nothing but a post-service pension, I do not think the judgment of the court should be final; for Congress ought certainly to keep its gratuities in its own hands.

The amendment was agreed to.

Mr. HALE. In the fourth section of the amended bill, as it now stands, I move to strike out the words, “out of any general appropriation made by law for the payment and satisfaction of private claims;” and insert in lieu thereof, “whenever Congress shall make an appropriation therefor.”

Mr. BENJAMIN. I will ask the Senator from New Hampshire why the difference is?

Mr. HALE. I will state.

The PRESIDING OFFICER. (Mr. FETTERBURN.) The Chair will inform the Senator from New Hampshire that the words which he proposes to strike out, having been inserted in Committee of the Whole, it is not now in order to move his amendment.

Mr. BAYARD. I am opposed to the amendment. It seems to me it destroys the whole effect of the bill. The effect would be simply, under a different form, to reserve to Congress the right of action in each particular case. That would be the result.

The PRESIDING OFFICER. The amendment is not in order at this stage of the proceedings. It will be in order when the bill shall be reported to the Senate.

Mr. HALE. Very well; I will offer it then.

The bill was reported to the Senate as amended. The PRESIDING OFFICER. In the presence of the Senate to vote on all the amendments together, or on each separately? (“All together.”)

The amendments were concurred in.

Mr. HALE. I now move the amendment in the fourth section; in lines six, seven, eight, and nine, strike out the words “out of any general appropriation made by law for the payment and satisfaction of private claims;” and insert, “whenever Congress shall make an appropriation therefor;” so that it will read:

That in all cases of final judgment by said court, or on appeal by the Supreme Court, where the same is in favor of the claimant, the sum due thereby shall be paid, whenever Congress shall make an appropriation therefor, out of the moneys so appropriated.

A provision of article one, section nine, of the Constitution, is, that—

“No money shall be drawn from the Treasury, but in consequence of appropriations made by law.”

In pursuance of that, it is indispensably neces-

sary, I suppose, that an act of Congress should be passed for the payment of the money out of the Treasury; and therefore this bill, as it originally went to the Committee on the Judiciary, I apprehend, was obnoxious to that provision of the Constitution. It was unconstitutional because it required money to be paid upon the passage of a claim by the Court of Claims, without the intervening act of Congress. As it is in conflict with that provision of the Constitution which says no money shall be paid except by virtue of an appropriation made by law. The committee have amended the bill in this respect; but it strikes me they have got rid of the difficulty in form and not in substance, because, if I understand the bill as it comes from the committee, and has been now amended, there will be a general estimate made by the Secretary of the Treasury of how much money is necessary to meet all the bills passed by the Court of Claims, and whenever that estimate comes in, and Congress appropriates it, they let go any jurisdiction they may have over any particular case and give up that discretion which the Constitution vests in them of making specific appropriations for individual cases and contracts on the Court of Claims. It is in favor of one hundred bills, and if \$150,000 is necessary to meet those bills, although there may be a claim passed by that court which conflicts with the judgment of the Senate, and a large majority of them, yet they cannot refuse to pay it, and thereby denying the whole, as it is a general appropriation made to meet all those claims, and there is nothing specific about it. I am opposed to that feature of the bill, and I think the Congress should retain its jurisdiction over each individual case.

I do not believe in the great amount of injustice which it is said we are doing. I believe that fair, honest claimants get their due; and the difficulty is that a great many more get more than their due. The Court of Claims may possibly be of some service to the Government in the sense in which they have heretofore, as a committee to investigate and find out what the facts are, and report them to Congress, and leave each individual case subject to the action of Congress. I know that that court have reported claims, and a number of them in direct contravention of the principles of action which had been adopted by this body and by the other House; and we have refused to pass the bills, and I hope we shall continue to refuse to do so; but pass this bill, and that discretion will be given up. You lose a portion of that jurisdiction, of the discretion, which the Constitution intended you should exercise, and you confer it on this court. I am opposed to it. I desire to retain in the hands of Congress the jurisdiction and discretion which the Constitution vests here, and I am not willing to give it up to any other tribunal. It may be burdensome, it may be annoying to Congress; but it is a burden and annoyance which the Constitution devotes on them, and it is up to them to get rid of it. I think it is improper and unconstitutional to take it away from them.

Mr. BAYARD. I am in favor of the amendment of the honorable Senator from New Hampshire prevails, the bill, of course, in one of its objects, will be entirely defeated. The object is to relieve us from this jurisdiction, not on the score of autonomy and honor, as we are to have, because a legislative body is not competent, from its organization, to act on private claims; and yet the inevitable result is, if his doctrine be true, that there can be no appropriation unless you make a specific appropriation for each claim. That is what his amendment requires. Of course, in every case which comes up for an appropriation, there will have to be a separate motion; and the reading of the papers will be called for in each case; and there will be a revision of each individual judgment by Congress, which is a totally incompetent body for the purpose. Nearly all the evils of the present system will be preserved if the amendment prevails.

On the contrary, I am unable, myself, to see the force of the constitutional objection of the honorable Senator. I believe I have to look to the action of Congress, or look to the principle of the Constitution itself. Even the original bill, I think, is not obnoxious to the objection. Congress has constantly passed bills directing that, when certain sums were ascertained, they were to be paid out of any moneys in the Treasury not

otherwise appropriated; and they have authorized them sometimes to be paid by commissions. All the claims under the Florida treaty were paid in that way, without any other appropriation than that, when ascertained, and approved by the Secretary of the Treasury, they should be paid out of any moneys in the Treasury not otherwise appropriated. That is compelling and imperative legislation. But in this case the committee thought it wise and right that Congress should, without acting on the individual cases that come before them on their merits, (which they mean to trust, as a judicial decision, to the court, both as to the proof as to the law,) have the supervisory power of knowing, by return of the Secretary of the Treasury, what was the amount and the aggregate number of claims in each year; and they should make a general appropriation, and out of that general appropriation alone should the claims be paid. That certainly gives them a supervision, which is all that is essential. It requires an appropriation to be made by Congress before a single claim can be paid. It gives you that kind of supervision which is the only one that Congress can intelligently exercise.

I stated what is the fact as to the action of this court heretofore, that it has had all the past claims before it, as well as it will have in future, merely claims arising from day to day, and that, in five years, only \$550,000 has been decreed in favor of claimants; that is about one hundred thousand dollars a year, or it is a little more; if you please, say one hundred and twenty thousand dollars. I ask honorable Senators if, within their recollection, a session of Congress has ever passed, before the constitution of the court, a law, in which there had not been a much larger amount paid for private claims? I speak independent of gratuities. Is there any great tax in that upon the Treasury of the United States? Yet it is a very fair estimate of what will be the probable average result. To the 11th of January, 1854, the claims reported since the past session of Congress amounted to about twenty-one thousand dollars. The amount of those reported unfavorably I have no memorandum of; I know many of them took very large sums indeed. The Government, therefore, is really paying out of the Treasury, in the experience goes, and, after all, experience as regards legislation should be the great guide of the legislator, the Government will not be injured by the passage of this bill; and yet, certainly, I have heard no justifiable complaints that cases are not heard fairly in this court, as far as the public has counsel; he is represented. The business is dispatched with as much promptitude as the mass of business ever could possibly be expected to be, and as it is, I believe, in any court of the country. The court has done its duty as regards claimants; done its duty on judicial principles. I think we have every reason to congratulate ourselves that it was originally established. I am satisfied that we shall have still more reason to do so if we make its decisions final, and only retain the supervision which the bill contemplates as to the supervision over the general amount that is to come out of the Treasury; and not to retain that which is one of the great evils of the past system—the right to pass judgment upon the particular case, and what measure will make an allowance for it. That involves the principle that arise out of the attempt to investigate particular cases by a legislative body, because, though the parties would have nominally the legal adjudication of the case by the court, they would be withdrawn from the fruits of the judgment, they would find that Senators, when an individual bill came up, would say, "Let us have the papers; if my judgment is not satisfied that that amount ought to be paid, I shall vote against it, though the court have decided in favor of it." That would be the result, you retain the power of appropriating money for each case. I do not think that necessary to guard the Government. I am sure it defeats the object of the bill. I hope it will not be adopted by the Senate.

Mr. HALE. I shall be obliged to the Senator from Delaware if he will tell me how large a proportion of those claims which have been reported on favorably by the court, have been provided for by Congress.

Mr. BAYARD. Congress have paid by legislation out of the \$550,000 reported during the Thirty-Fourth and Thirty-Fifth Congresses,

\$283,000. The others are still pending, unacted upon by Congress. There is a residue of less than two hundred thousand dollars. At this session there was reported to the Senate, up to the 11th of January, \$20,000; and there have been subsequent reports made to the House of Representatives. I have not been able to get at the amount of the residue of the amounts of this session. Congress have paid \$283,000 out of \$550,000.

Mr. HALE. And if I am not mistaken, of that a pretty large proportion was in a single case—the Residue case.

Mr. BAYARD. That is true.

Mr. HALE. Apprehend, if you look at the Calendar, you will find that Congress have refused to sanction the principles adopted by the court in a large majority of the cases; and I think we should be very slow to let go our control over this court, when they are making decisions in, as I believe will be found, a majority of the cases—

Mr. FESSENDEN. There have been no decisions by Congress against them. They are pending.

Mr. HALE. But they have been here for years, and they cannot get through.

Mr. FESSENDEN. They cannot be got up.

Mr. HALE. There are good many you have got up that you cannot pass. I will tell you one principle that the court have decided that the Senate have decided against this session; and that is, that where a subordinate officer performs the duty of a high position, he is entitled to the salary of that higher office. I understand they have decided that.

Mr. BAYARD. In some cases they have; and yet I know that at the present session of Congress I have read one of their reports, in what I considered an exceedingly meritorious case, looking at the whole case and the usage of the Government, where they decided against the claimant.

Mr. HALE. When they have decided two ways on the same question.

Mr. BAYARD. I allude to the case of Mr. Pleasant. This court had to decide for the first time on new questions and new principles, without authority of any kind scarcely to support their decision. Every case, every question, has to be developed to its full benefits, must have time. They may have committed errors in their early decisions, no one can doubt, nor that they may do so sometimes hereafter. The only question is whether there will not be errors committed by a court of special investigation to be reserved by a body like Congress, if it undertakes to reverse the jurisdiction to itself.

Mr. HALE. I am not disposed to take up the time of the Senate on this matter. I think they understand the question. I should like to have the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. IVERTSON. I desire barely to give the reason why I shall oppose this amendment of the Senator from New Hampshire. I did not hear the action of the Senate on the bill, but I might have given the same reason. Under this bill, with the provisions made by the amendments of the Committee on the Judiciary, when the Court of Claims pass their judgments, and they are certified to the Secretary of the Treasury, he will call upon Congress for an appropriation. He will accompany that call, of course, with a schedule of the cases, and the amounts in each case. Then, a general bill will be introduced to pay the whole amount. Whenever that bill comes up, any Senator who thinks there is a bad case amongst them, can move to strike it out; and then the merits of that case will be adjudicated by Congress. Under the provision of the amendment of the Senator from New Hampshire, Congress would have to pass upon each case; the very difficulty we want to avoid. Congress would have to take up each case in its order, and pass affirmatively on each one; and there would have to be a separate bill introduced in every case—just precisely the condition we are now in. I do not think that that changes the present condition of things. The Court of Claims now pass judgments, report the bills to each House of Congress, and each House takes up those bills and appropriates the money, if they think the claim is right. The amendment of the Senator from New Hampshire goes to that extent, and further; that each case shall be considered and investigated and decided upon by

Congress separately and apart from all the rest; whereas, by the other plan, that suggested by the committee, the whole will come in a batch, and one that is a bad case can be excluded, if the Senate or House of Representatives think proper. That will save, I think, a great deal of trouble.

Mr. HALE. The Senator from Georgia is certainly right in his view of the propriety of this thing. As the case now is, the court reports its decisions to the Senate, the Senate refers them to their own committees, these committees report on them, and if the committees report in favor of a decision and the Senate concur with the committee, the bill is passed and the money appropriated. That is the present system. Now the bill, as amended by the committee, contemplates an entirely different proceeding. It contemplates a passage, by the court, of a claim, without sending the bill for that purpose, or the decision, to Congress to be reexamined, but sending it to the Treasury to be there paid at once, without the intervention of Congress at all; and it contemplates further, that there shall be a general appropriation to meet private claims, and every claim that receives the sanction of the court is then to be paid out of that general fund, and there is no schedule of claims or anything else to be submitted to Congress. Congress, in other words, lets go its whole responsibility and gives it over to the court. It gives to the court the examination of a whole mass of cases, where it is decided, in favor of the claimant coming here, he is to go to the Treasury; and from the returns thus made, the Secretary is to estimate a general sum and send it here, and we are to pass it. There will be no schedule of the claims that we should not care will be nothing by which you can tell what the money is appropriated for, to what objects it is to go; but we shall pass the general sum, and then it will be taken as an approval of the whole by law.

I have had a little experience of the manner in which appropriation bills are constructed. I remember a few years ago an officer of the Navy came here year after year and asked that his salary might be raised from \$1,500 to \$3,000 a year, and we voted it down every year as often as it came up. I remember that, when the bill was introduced in Congress, I found that the Secretary of the Navy was paying him a salary of \$3,000 a year, though we were voting every session that he should not have it. And I will tell you how it was done—this simple way. The Secretary of the Navy, when he was introduced, he had voted for \$3,000 a year for this officer, and as we had voted all the money that he asked, we must have intended that he should spend it in the manner he specified; and so, though we voted every time that it came to us that we would not raise his salary, right in the face of our votes, the Secretary of the Navy paid it year after year, and went back and gave the officer back pay at that rate.

Mr. CRITTENDEN. What Secretary?

Mr. HALE. The case was all investigated, and the money was paid out of the Treasury, the least attention in the world, because it was a general specimen of the manner in which our money goes. Now, sir, I want to hold on to this position. I do not ask that each case shall come before us and be investigated, as is now done; but I ask that each claim shall be reported to the appropriation, so that if I sit here and see a claim made that, in my judgment, I believe to be utterly and totally wrong, I may vote against it. That is all I ask. If the Senate see fit to give up this power, the money will be retained in the Treasury.

Mr. IVERTSON. I think the Senator from New Hampshire is mistaken in two things. In the first place, he says the Secretary of the Treasury will not send to Congress a schedule of the cases. The bill, to be sure, does not provide for that; but I ask the Senator to look at the bill from New Hampshire. The bill calls on Congress for a general appropriation to cover the claims adjudicated by the court, he will, of course, send a schedule of the cases, that the two Houses may know to what claims the money is to be applied. I will make this suggestion to the Senator from New Hampshire, that, if the Secretary fails to do that, it is the easiest matter in the world for either the Senate or the House of Representatives to have such a schedule by calling for it. The Court of Claims certify all the cases to the Secretary of the Treasury. Then, by calling on the Secretary of the

Treasury, by a simple resolution of either House, we can get every case that the court has adjudicated; and then each gentleman can look for himself, and decide which cases are bad, and which good, and he can move to exclude the bad ones. So there is no difficulty on that score. The Senator says that now, cases adjudicated by the Court of Claims are referred to our committee, and thus undergo investigation. The Senator is mistaken about that. The law which established the Court of Claims provides for no such proceeding. It provides that every bill reported by the Court of Claims shall go on the Calendar, and be considered and decided without any investigation by any committee of this body.

Mr. HALE. Are they not referred as a matter of fact?

Mr. IVERSON. The committees do not now investigate claims coming from the Court of Claims. It is true, that, at the commencement of the session, all the reports of the court, both favorable and adverse, were referred to the Committee on Claims; but, on full consideration and investigation of the whole subject, they came to the conclusion that it was an improper proceeding, and that there had been too much delay. They referred the matter and put on the Calendar, without any expression of opinion on their part in a single instance. It seems to me that the Senator is mistaken in that respect.

If the bill passes in its present shape, as reported by the Judiciary Committee, whose amendments have been agreed to by the Senate, there will be no difficulty; because if there be a bad case amongst the aggregate, any Senator or Representative can move to strike it out. Then there is the decision of the Court of Claims, with a full report of the proceedings, the arguments of counsel, the briefs, the testimony, the decision of the court itself, giving its reasons—all can come in review by the two Houses, and any improper case may be stricken from the list, and the Secretary pay the balance.

Mr. FESSENDEN. I am very clear, Mr. President, that something ought to be done in reference to the Court of Claims, and it makes very little difference to me whether the court be abolished, or whether we try to improve it. The objection to the establishment of the court is that we have cases investigated in some proper and legal manner, that Congress might in some way get at the true facts, and not be obliged to rely, as it always had done before, on *ex parte* testimony and means of which many very bad claims had been got through Congress. But, sir, owing to the fact that we gave the court no final jurisdiction, we accomplished that purpose, and that alone, in a certain number of cases; but we did not accomplish another object, and that was to rid Congress of that which consumed so great an amount of time and labor that had been expended here in the investigation of cases for which we, by the very constitution of the bodies, were an unfit tribunal.

There has been the experience? The experience has been with regard to suits, that the y have gone into the court with their claims under the invitation of Congress, pursued them all through the court at very great expense, and to their very great annoyance, (as all law suits are), and then the report made to Congress, and the advice given by Congress as a matter of course, or even adopted upon consideration; but for a considerable period they went to the Committee on Claims—they did while I was a member of that Committee, and have been so referred since. The committee ordinarily found that the decisions were correct and reported them back with a recommendation that the bills should pass. But, sir, after having invited claimants to go into this court, after they had gone through the court, obtained its decision and report from the Committee on Claims, each member of the Senate or this body considered himself at liberty to contest the claim just as much, if he did not like the decision, as he would have contested it originally on his own judgment against the decision of the court; and we all know that whatever may be the situation or the merits of a claim, and however it may stand, when a member of this body chooses to contest it here, such is our mode of doing business that it is almost impossible to pass it.

The consequence has been, in my judgment, the most gross injustice to claimants. It is unfair

to invite a claimant to go into a court of your own creation where you appoint the judges, having the whole thing in your power, where they hold their judicial lives at your mercy, to put him to the expense of carrying his claim through it, get a favorable decision by the court, and then utterly refuse to do him any justice here. I have ordinarily, since the court was established, acted on the bill as it came, and I have never made a mistake on the part of the court, such as was manifest, I should consider myself bound by its decision. I acted on that principle while I was a member of the Committee on Claims of this body, and for the simple reason that I considered it a gross outrage and injustice to claimants, adding insult to injury, first to refuse to pay their claims here, and then to send them to a court of our own creating, and when they had been at the expense and trouble of getting a decision in their favor there, our evidence properly taken by a proper tribunal, to refuse to consider their case here, and that has been almost invariably our course of practice, and that is the reason why so many claims which have been adjudicated by the court have not been allowed here. They have not been allowed here, because they remain unsatisfied.

Then, sir, comes the question, whether there is any great danger in giving this court final jurisdiction? The result which we have witnessed heretofore will be the same hereafter, if the court does it; and hence, occurring this question, is there any very great danger in giving the court final jurisdiction? The bill seems to me to be very well guarded. It says, in the first place, if I understand it, that the court shall have final jurisdiction only in those cases where, if the United States were an individual, it would be subjected to a suit at law in equity, that is, not general equity; but, according to the principles of equity practice—a suit in chancery—there is no injustice in that. The case is then to be tried, being a suit properly brought. In other words, we waive our objection, if we are a party to a suit, to be subjected to a suit upon a claim. The court investigate the claim and send their decision here. The law provides for such cases only—not for mere gratuities or bounties, but for legal or equitable claims against us. They are investigated; they are adjudicated by a competent court, and if the law is against them, more than \$3,000 the parties may go to another tribunal—the Supreme Court of the United States—and have a decision there. I do not see but that the bill is as well guarded as it can possibly be with regard to these matters. They are referred to final jurisdiction, to a certain extent, in these smaller cases which will not pay for repeated investigations. I see no particular difficulty about it, because the court itself is in our power, and if we find, at any time, that it is going beyond the limits of what we think to be right, is becoming, as we may imagine, corrupt, deciding cases upon bad principles, we can strike it out of existence at any moment we please; we can protect ourselves as members of the Government, and protect the people against any evil consequence arising from this court, except for a very short period of time while we are finding it out.

If there are no difficulties of this kind, why should we hesitate to give the power? The Senator from New Hampshire says, let us keep a check on it in our own hands, do not let us say that these claims shall be paid out of a general appropriation made for the payment of claims. He proposes to limit that by saying that there shall be a specific appropriation for each case; or, in other words, that we shall get back to precisely the point from which we started, and accomplish nothing; because then the debate will come up on the appropriation instead of upon the bill itself; and if any member chooses to object to an adjudication, that will be it is wrong, in his judgment, he will make a fight upon the appropriation, and according to the course of legislation, which we follow here, the result will probably be to defeat the appropriation, and let the claim remain where it was; thus only subjecting the claimant to additional delay and difficulty.

Let us do anything, do anything, let us do it with something which makes the power that we apparently give entirely inoperative, and avail nothing to the claimant. Let us do the thing in a mode to accomplish the purpose which we originally intended to accomplish by the institution of this court—which was, in the first place, to

provide that claims should be properly investigated by a competent tribunal; that when they had been investigated by that competent tribunal and found to be correct, we being relieved of all the time and all the trouble and all the difficulty which arise from the very constitution of our body in looking into such matters, then the claimant should have his money. I think the principles of the bill are correct, yet, I am willing to let the Court of Claims should exist at all, it is very obvious that we ought to give it a power which will accomplish some of the purposes which were intended to be accomplished by it originally. Certainly, in my judgment, none of them have substantially been accomplished yet. I am willing to let the court longer under a new system; but if it is to stand as it has hitherto stood, with no more power than it has had, I should be for abolishing it at once; because I think it has utterly failed—not from any want of ability on the part of the court; not that I think the court has not done its duty; for, so far as I have read its decisions, I believe they are very sound in most cases, and based on correct principles, though, to be sure, there are some in which I disagree; but from its constitution, and from the manner in which it effect the purpose. I am willing, therefore, to give it this additional jurisdiction, and try it a while at that. If it shall then be found to have failed entirely, or the evils result which some gentlemen imagine, as I said before, we can put a period to its existence at any time that we may think proper. I am willing to try it still further; because I think it is important to us to have claims against the Government investigated upon the same principles that claims between individuals are investigated, and to have a decision made upon them in the proper way.

I would prefer that the amendment proposed by the honorable Senator from Georgia (Mr. Toombs) had not prevailed, because it necessarily introduces other questions with regard to other classes of claims. I am willing to let the court have power to submit to the decision of the court a claim which arises under a law passed after the service to which it applied had been rendered; but he confines the exception to cases of a similar character. I presume he refers to a particular class of pensions, which he has in mind. I have not a considerable number of years. Undoubtedly there might be some reason for that exception; but the reason arises not so much from the question itself as from the amount it involved. In my judgment, however, the amendment is better, and I will settle that question. I did not oppose the amendment, because I think the honorable Senator is extreme in his views on the subject of pensions; and while there are difficulties of the same description arising under other laws, it would take too long a time, and embarrass the bill, to look them all up and make the proper exceptions. That will not hurt it in regard to other things, although I imagine it may produce injustice in regard to many honest claims for pensions arising under laws passed before the year 1860. I do not know the Senator looks on them all as mere gratuities; and, therefore, thinks they ought to be excluded. I presume that is his principle. The jurisdiction of the court under this bill will extend to cases arising at law and in equity. The cases arising at law will be according to the law, and though the law was passed after the service was rendered. It might have been a gratuity at the time; but the question, as a gratuity, was to be considered; I think, rather at the time the law was passed. The amendment to which I allude, introduced into the bill a principle not legal; but I shall not object to it further. I merely wished to show that I did not agree to that amendment.

Mr. HALE. It seems that I was not mistaken in regard to the course of proceeding in relation to these claims under the bill. I am glad to see the Committee on Claims have not adopted a different plan. Heretofore, they have always examined these cases, and I supposed now, from seeing on the Calendar, as to all the bills "reported by Mr. Iveson from the Committee on Claims"—so my Colleagues have been misled, and they have followed them, and would not make a report without consideration. But, as this bill stands, we let go all sort of control, and these claims may be paid out of a general appropriation—a fund appropriated before a single claim passes the Court of Claims—a general appropriation made; or, in other words,

Solicitor of the Court of Claims here, when a claim is presented before that tribunal, addresses himself at once to the proper Department; the books are thrown open; the records are examined; the clerks are employed, and all the evidence necessary for the defense of the Government is near at hand. What would you do with such a case, if brought in California, or Oregon, or Washington, or any distant tribunal? Evidently the Government would be without efficient defense.

But there is another and a different objection, far more fatal to this idea of allowing the Government to be sued in any court. It is one which would place the Treasury of the United States entirely at the disposal of neighboring cliques. The money given to the Government in the district and circuit courts of the United States all over the United States, the cases would go before local juries; and those gentlemen might well profess alarm at the prospect of the disposal of the public Treasury under circumstances like those.

But here the sole proposition is, that whereas men are in the habit of coming to Congress, and presenting themselves with small claims for one, two, three, five hundred dollars—your record has a hundred such cases just now; and whereas these men have been in the habit of going by themselves, of going to the Court of Claims, and making good their claims, and obtaining judgments; and whereas it has cost Congress more time to discuss these matters than the whole of them are worth; and whereas it has cost the Government all reasonable defenses for the Government against improper claims by providing first judges, appointed by yourselves, next an advocate, appointed by yourselves, and thirdly, placing the court where it is under the eye of Congress, and making it a court which is located in duration to your own discretion, which you may at any moment destroy by repealing the law, you have got such guards thrown around the Treasury as suffice in warning you in making the experiment, if experiment you choose to consider it. I believe the bill rests on sound principle. It is well guarded; it was thoroughly discussed in the Committee on the Judiciary, and I feel confident that, if gentlemen will allow us to make this experiment, the claims against the Government will be adjusted on more equitable principles. They will be gone, and the Treasury will be better defended than ever. My principle we have yet had under this Government. Some gentlemen around me have said, and I participate fully in their opinion, that, of all the tribunals under heaven that could be devised for the purpose of adjusting our claims against the Government, this tribunal of which honorable Senators around me are members is the very worst.

Mr. SIMMONS. Mr. President, I have not exactly attended to this discussion; but I suppose the limit of \$2,000 which has been spoken of in secrecy as to those cases that may be carried up to the Supreme Court. Now, I should like to call the attention of the Senate to the objection made to this amendment. The Senator from Louisiana says, that after you have made the Court of Claims, and if you have adjudicated the claims, decided it, and if we reserve the right to make specific appropriation, we shall certainly reexamine every claim. That is singular. After we have provided all the means to ascertain the just balance due to the juries, because we require the Secretary of the Treasury to give us the items, which he ought to do, so that we shall know something about the extent of the claims, it is said we shall certainly reexamine all the decisions. That is the reason he assigns. Now, I have no idea of reexamining these decisions, or of requiring the payment of any amount in magnitude to be passed upon by this court, it is well enough that Congress should know whether or not there has not been some bad management. I can see a very good reason in the argument of the Senator from Louisiana, that we should not examine the cases originally; and I believe it to be an effectual reason. I believe our unwillingness to go over these old matters will make us pass a thousand that ought not to be passed where we should reexamine one. That there is danger to the President in his being set that would involve this country in large engagements, large outlays from year to year, I have no doubt. I examined one decision about two years ago—

Mr. BENJAMIN. If the Senator will permit

me, this bill does not repeal the section of the former law which requires the Court of Claims to take up the cases every year.

Mr. SIMMONS. I have no objection to the interest. I think, if the Government do not pay when the balance is ascertained, they ought to allow interest until they pay the money; but I think we ought to have a particular account of our expenditures, and how what the money you appropriated for; we ought to have the Secretary of the Treasury annually estimate for sufficient to pay all these balances, and then we shall pay them. I have no idea that that will cause us to reexamine the cases scheduled in these old bills; but we ought to know where the money is going, and for what purpose; and it would be no very great trouble to publish a little book containing a statement of each claim and its amount; and if there was nothing very wrong in it, it would not be questioned.

Mr. CRITTENDEN. I do not intend to occupy time, but to make a single remark to my friends who seem to be so exceedingly apprehensive that dangerous encroachments will be made on the Treasury through this court. Out of the sixty-seven millions, invited to be expended, how much of it will probably be expended under the judgments of this court? It has been said \$100,000 per annum would exceed that which our experience teaches us to be. How much of the money you speak of, of the sixty or seventy million that you speak of, will the \$100,000 paid under the judgments of this court? The whole balance of the people's money is expended upon the judgment of executive officers in the Treasury Department. Which will be the best security for being judiciously and justly expended? Who settles all the accounts which we get in return for these millions? Executive officers, auditors, comptrollers, clerks, of every denomination.

It is upon their settlements, and payments made in virtue of their settlements, that all your money is expended; and yet, when you come to pay upon the judgment of a court, which has heard the cause openly, in the face of counsel on both sides, upon evidence recorded, upon judgments which are made in the report of, and upon judgments which are made in the report of, and upon proceedings which you call for at any day you please when Congress is in session—all is accessible to you, just as accessible to you as the records of any Executive office—where is the cause for alarm? If you do not tremble for the millions that are expended under the judgments of individuals that you do not know, that you never will know, that are liable to influences all around them more than courts of justice are supposed to be—if you can bear all that in patience and in security, why this panic about the judgment of courts of justice, where parties are suing openly, and have their rights decided upon by written and recorded opinions, for which the men who give them are responsible? It would be a great deal better if we could turn a portion of our attention to look after the sixty or seventy million that go on the judgment of others. I really think we may entertain some hope that the administration of this court will contribute to the purposes of justice, to the security of the people's money. I hope, Mr. President, that the amendment will be adopted, and that the experiment to be made which this bill contemplates.

Mr. BAYARD. The honorable Senator from Rhode Island objects to the bill, not because he says it is necessary or proper that Congress should reexamine the cases, but because he does not wish to know where the money goes. There is to be a general appropriation on an estimate for the payment of the judgment of the Court of Claims. Of course, the appropriation will be confined to that, and the court will be paid out of that appropriation. Then the bill provides that the Secretary of the Treasury, at each succeeding session, shall return to Congress a list of the amounts of the judgments and the parties to whom he pays the money. Do you not know, then, where the money goes, a great deal better than if it is to all your general appropriations for any other service?

Besides, as I said before, experience is the great test of these matters; and as regards the fear of danger to the Government, I will present simply

the return of the list of claims made on the 11th of January. The court are obliged to make returns, at the commencement of the session, of past decisions since the previous session. There are forty-five claims. Of those forty-five claims, there are five favorable reports, covering allowances to the amount of not quite twenty-one thousand dollars, and the others are adverse; and they cover an amount exceeding one million two hundred thousand dollars.

Mr. HARLAN. I am not certain that I understand the theory on which the Court of Claims was originally established. I have never understood that it was the intention of Congress to allow the Government of the United States to be sued; but that this court was to act in the capacity of a committee, but with superior advantages to any ordinary committee of the Senate and House of Representatives, before whom claimants may appear in person, and present the strongest evidence against the Government, or its acts, and be contradicted, and where the Government is usually unrepresented, where no one is interested in procuring rebutting testimony. The Court of Claims was established, I had supposed, to secure the Government against impositions that could not be so readily made against the Government as it is. However, I understand the effect of the bill now pending, it is to allow the Government, in certain cases, to be sued; to put it in the situation of a mere individual. If we are to reverse the theory upon which the Court of Claims was originally established, and allow the Government to be sued by claimants, I see no sufficient reason for compelling the people of Iowa, or any other remote State, who have claims against the national Government, to come to the capital of the nation to bring their suits, unless it be for the benefit of claimants, or attorneys here, perhaps members of Congress, who may intend to act as claim agents. Why should a citizen of Iowa be compelled to turn his back on the court of the United States in Iowa, and come to the District of Columbia to commence suit? Is the Government to tax the people of Iowa to be compelled to go to the capital of their nation to be taxed? Are the courts of the United States in Iowa without integrity?

The answer made to my inquiry by the Senator from Louisiana is, no, I suppose, considering that the records are all here. The original records are not produced in the Court of Claims, as I understand it, but mere copies of those records. How much time would be consumed in sending a copy of any record to the State of Iowa, and back to the State of Iowa for transportation? About fifty-six hours. This, then, is not a sufficient answer, as it seems to me; and if the Government of the United States is about to place itself in the attitude of an individual, and allow itself to be sued, I desire that the citizens of Iowa may sue in the Federal courts within the limits of the State; and if the Government of the United States should be dissatisfied with the result of the suit, provide for an appeal to the Supreme Court, and bring the whole matter to the capital of the nation.

The Senator from Louisiana objects, on the ground that jury trials would be a necessary consequence of allowing these claims to be sued in the district and circuit courts of the United States in the several States. To my mind, this is no objection. I have no objection to twelve or more men, properly selected and under their oaths, would be no more likely to decide unjustly against the Government than three men. The juries, I suppose, would not try the law involved, but merely the facts presented for their consideration. I have no objection to jury trials in other States by what I have observed in my own, I have no fear of submitting any claim to a jury of my countrymen. They would be as safe guardians of the Treasury as the judges of courts, and the only safe guardians of the Treasury that State regard this Government as their property would be as careful of the public money as they would be of their own treasure; would be no more likely to perjure themselves, to wrong the Government, than an individual party litigant.

Mr. CRITTENDEN. Yes, Mr. President, I am surprised at the honorable Senator who has just addressed the Senate. Does he propose that we should make the United States suable everywhere, in every court, in every State, and submit Treasury accounts to a jury to be settled?

favor of appropriations for certain mail routes, light-houses, buoys, and for the removal of Blossom Rock in the harbor of San Francisco—ordered at twenty-five minutes after one o'clock.

Resolutions of the Legislature of California in relation to the transmission of the ocean mail between the Atlantic and Pacific States—ordered at twenty-five minutes after one o'clock.

Message of the President communicating information relative to the marking of the boundary, pursuant to the first article of the treaty of 1846, between the United States and Great Britain—ordered at twenty-two minutes after one o'clock.

Resolution of the Legislature of California in relation to the transmission of the mail from San Francisco to Sacramento—ordered at thirty minutes after one o'clock.

The report of the Secretary of the Interior, submitting additional estimates of appropriations for the Indian service in Oregon and Washington for the current and ensuing fiscal years—ordered at fifteen minutes after four o'clock.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, submitting additional estimates of appropriations for the Indian service in Oregon and Washington; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a letter from the Secretary of the Interior, in reply to a resolution of the House of Representatives, of the 37th of February, requesting him to report the condition of the tract of land, west of the State of Missouri, set apart for the New York Indians, &c.; transmitting a copy of the report of the Commissioner of Indian Affairs, to whom the resolution was referred, together with correspondence therein referred to; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Also, a letter from the Secretary of the Interior, acknowledging receipt of the House resolution of the 2d of March, asking for a copy of the report of the art commission, and stating that it had been referred to the Secretary of War for a reply; which was laid upon the table, and ordered to be printed.

CONTESTED-ELECTION CASES.

The SPEAKER, by unanimous consent, also laid before the House evidence in the several contested-election cases from Maryland and Nebraska; which, on motion of Mr. Borex, were referred to the Committee of Elections, and ordered to be printed.

CHAPLAIN.

Mr. MILLSON. I am unwilling that the House shall seem to be indifferent to the discharge of a duty, and the perpetration of a usage which is coeval with our Government and identified with so many of our historic recollections. I therefore ask leave to introduce the following resolutions:

Resolved, That the House will proceed to morrow, at one o'clock, p. m., to elect a Chaplain, who shall officiate during the present Congress alternately with the Chaplain already elected by the House.

Mr. AVERY. I desire to amend that resolution by substituting the resolution which was introduced last Congress upon the same subject.

Mr. HOUSTON. I object to the introduction of the resolution; and a motion to amend is not in order until the resolution is received.

Mr. AVERY. Then I give notice that I will offer that amendment to the resolution of the gentleman from Virginia, whenever it shall be received.

Mr. MILLSON. The gentleman from Alabama says he objects to the introduction of the resolution. I will then present that resolution as one of privilege. If there be any question of privilege it is certainly this.

Mr. HOUSTON. The Speaker decided that point the other day.

Mr. MILLSON. But I hope the Speaker, upon a reconsideration of the question, when he is told, as I now state, that there never has been the point of order raised as to this being a question of privilege but once, and then by the gentleman from Alabama; that objection it was overruled by the Speaker of the Thirty-Fourth Congress, who held that it was a question of privilege, and an election took place on that decision; I say, I hope the Speaker will decide, on reconsideration, that

this is a question of privilege. There is but one single precedent, so far as I am informed, and it was then held to be a question of privilege.

Mr. HOUSTON. I suppose the Speaker will rule as he ruled a few days ago upon the same question. It cannot be a question of privilege, Mr. Speaker, unless a Chaplain is, by law, a part of the organization of the House. There is no law for the election of Chaplain. It is true, that, heretofore, Congress, on many occasions, has seen fit to elect a Chaplain. The Constitution says that the House of Representatives shall choose its Speaker and other officers. Is the Chaplain an officer of this House? Where is the law for it? Where is the constitutional provision for it? By what authority is he an officer of the House? Then, if he be not an officer of the House, this cannot be a question of privilege; and I take the ground that he is not; for if he is an officer, the Thirty-Fifth Congress was never organized, because it had no such officer. I am willing to compromise with the gentleman from Virginia, and permit the resolution passed for the Thirty-Fifth Congress to be applied to this Congress. It seems that the Thirty-Fourth Congress—if the statement of the gentleman from Virginia be correct—decided against a point of order I then raised, as I do now, upon this same matter; but if it did, it is no reason why the Speaker of the present Congress should overrule the very sensible and truthful decision he made a few days ago.

Mr. MILLSON. The House having indulged the gentleman from Alabama, I desire to make a brief reply. The reference made by the gentleman from Alabama to the Constitution disproves his own conclusion. The Constitution provides that the House shall choose its Speaker and other officers. It is, then, a question of privilege for the House to choose its officers, whether it will or not. I do not say the House must elect a Chaplain; but I say it is for the House to determine whether they will have a Chaplain among its other officers. It is their privilege to determine what officers they shall have. In other words, as the gentleman from Virginia presents the question, whether it shall be the privilege of the House of Representatives to commence the discharge of their daily duties with a daily invocation of Divine assistance and protection, or whether they have so framed their laws as to make it the privilege of any one member, unmindful, it may be, of his own duties and obligations, contemptuous, perhaps, of all conventional decencies, to interpose his solitary objection, and obstruct and defeat the will of the House.

Mr. BURNETT. If it is in order, I want to reply to that part of the speech.

Mr. HOUSTON. I desire to know whether the gentleman from Virginia intends to apply his last remark to me?

Mr. MILLSON. Unquestionably not; and I say the gentleman from Alabama what was said by himself some time since, in reply to an inquiry under similar circumstances, I am surprised he should put the question to me. I mean only to say, that, according to his construction of the Constitution, the privilege of electing a single member, privileged, or ruffian, it may be, if such should ever become a member of this House, to defeat the will of the House. It will not do to answer that the House may, on Monday, suspend the rules; for a suspension of the rules implies that the rules, as now now stand, secure this privilege to a single member, in contempt of the wishes of the whole House. But I did not intend to enter into any discussion, and I conclude by asking the decision of the Chair upon the question.

Mr. HOUSTON. I desire to state, in reply to the gentleman from Virginia, that I object.

Mr. BURNETT. I object to this debate, if it is not in order.

The SPEAKER. No debate is in order. Mr. HOUSTON. The remarks of the gentleman from Virginia have been rather extraordinary, and I would like to say a word in reply to the very extraordinary position which he has assumed.

The SPEAKER. If there be no objection, the gentleman from Alabama may have a right to reply.

Mr. ETHERIDGE. Certainly there is. Mr. HOUSTON. Then I desire to state one fact, not in reply to the gentleman from Virginia, but as a matter of information to the Chair and

to the House. Always heretofore, and in the Thirty-Fourth Congress, when the Speaker ruled that the election of a Chaplain was a privileged question, it was because there had been an appropriation made at the preceding Congress for the payment of a Chaplain for the next Congress. I state what is true, and what I know to be true, and what the books show to be true. There had been an appropriation made at the preceding Congress to pay salary to the Chaplain contemplated to be elected; and that appropriation was considered by the Speaker as a law which made the Chaplain an officer of the House. Hence it was that the Speaker decided that the Chaplain was an officer of the House, and that a motion to proceed to his election was privileged. But in this case that reason no longer exists; for there is no appropriation, no law, no authority, nothing from which we can infer, in even a remote degree, that the House of Representatives intends to have such an officer.

The SPEAKER. The Chair desires to say—

Mr. CLEMENS. I desire to refer the Chair and the gentleman from Alabama to a law of Congress fixing the salary of Chaplains to Congress; thus recognizing them as part of the legislative department.

Mr. HOUSTON. I am aware of that; but that law was virtually repealed by the action of the last Congress in refusing to carry it out.

Mr. CLEMENS. Not at all. There was a proposition made at the last Congress—

Mr. BURNETT. The Chair considers that debate is not in order; otherwise the Chair would be very happy to have the information which the gentleman from Virginia desires to impart.

Mr. CLEMENS. Sir, I cannot forget the fact that Mr. BURNETT, in his speech, said that the Constitution was framed, and when the Speaker had his chair in front of a picture of the rising sun, Benjamin Franklin rose in his place, and—

Mr. BURNETT. I object to the gentleman from Virginia being allowed to proceed unless we have a chance of participating in the discussion.

Mr. CLEMENS. Benjamin Franklin rose in his place and said, during the stormy discussions of the convention, that—

Mr. BURNETT. I desire to say that I object to this discussion unless we are to be all allowed to participate in it. I am opposed to this thing of electing Chaplains. I believe it is wrong in principle.

The SPEAKER. The Chair desires to state his position.

Mr. CLEMENS. Before the Chair does so, I desire to refute the position taken by the gentleman from Alabama; and I believe I can do it by the law and by the record. I am sure there cannot be any rational objection to a gentleman rising and endeavoring to assist in the legislation of the country. Sir, I was referring to that act when the Federal Constitution was formed—

The SPEAKER. The gentleman from Virginia cannot proceed unless by unanimous consent. Discussion is not in order.

Mr. BURNETT. The gentleman from Kentucky [Mr. Borex] has yielded his objection.

The SPEAKER. If there be no objection, the Chair will be happy to hear the gentleman from Virginia.

Mr. WINSLOW. Well, let there be a general debate on the subject, and I do object.

Mr. HOUSTON. I do not object. All that I want is the opportunity of replying.

The SPEAKER. Then the gentleman from Virginia will proceed.

Mr. BURNETT. If it be understood that we shall all be allowed to participate in the discussion, I will not object. But I do not believe that it is right to elect a Chaplain in the manner proposed by the gentleman from Virginia. If we are to have an opportunity to reply, I say to the gentleman from Virginia—

Mr. JOHN COCHRANE. I have an essay to deliver on the subject. [Laughter.]

The SPEAKER. The question is now, whether the gentleman from Virginia will be permitted to proceed with his remarks?

Mr. BURNETT. I do not see that an objection is to effect anything. I have objected three times, and I have called on the Speaker stating that I did object; and yet the gentleman from Virginia proceeds in despite of my objection.

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Mr. CLEMENS. Well, I will waive the remarks which I intended to make, and will merely refer to the law of 1818, which will be found in Brightly's Digest, page 830. That law provides, under the head of "legislative department of Congress," that the annual salary of the Chaplain to Congress shall be \$750. That law remains unrevoked. Brightly's Digest carries up the laws to the year 1857. Now I ask the gentleman from Alabama what he means by saying that the last Congress repealed that law? In addition to that—

Mr. HOUSTON. The gentleman asks me a question—

Mr. CLEMENS. One word more.

Mr. HOUSTON. I want to know whether I am to have permission to answer the questions which the gentleman asks me? Will that be objected to?

Mr. DAVID, of Indiana. Yes, sir.

Mr. HOUSTON. Because, if so, I want to stop the gentleman where he is.

Mr. DAVID, of Indiana. I object.

Mr. CLEMENS. In addition, I desire to refer to the House—

The SPEAKER. Objection is made, and the Chair must enforce the objection. The Chair wishes to state that, when this question was up, the other day, the Chair was of opinion that it was not a privileged question. Since then, the Chair has looked into the precedents, and finds that they are in favor of the question being considered privileged. The Chair is not disposed to alter the precedents on this subject, and, therefore, decides that the resolution offered by the gentleman from Virginia must be considered a privileged question.

Mr. BURNETT and Mr. MILLSON each addressed the Chair.

Mr. BURNETT. I believe I have been recognized by the Chair.

The SPEAKER. The gentleman from Kentucky has recognized the Chair. The gentleman from Virginia. I rise to a question of order. Mr. BURNETT. I then offer, as an amendment to the resolution introduced by the gentleman from Virginia, the resolution adopted by the House in the Thirty-Fifth Congress.

Mr. BURNETT. I have in the resolution which I intend to offer as an amendment for the resolution of the gentleman from Virginia.

The SPEAKER. The gentleman from Virginia is entitled to the floor.

Mr. BURNETT. I am entitled to the floor, having been recognized by the Chair. I addressed the Chair first, and was recognized.

Mr. MILLSON. Having offered the resolution, I retain the floor.

The SPEAKER. The gentleman from Virginia has the way to the gentleman from Kentucky, and he has had the floor assigned to him.

Mr. MILLSON. I rise to a question of order; which is, as to the right of the gentleman from Kentucky to the floor. I say that the gentleman from Kentucky could not take the floor from me without my consent. Having offered the resolution, and the Chair having only this moment decided that it was my right to offer it, I was on the floor, and the gentleman from Kentucky could not take it from me, except by my consent.

The SPEAKER. The Chair understands that to be the rule.

Mr. MILLSON. Then, I move the previous question on the adoption of the resolution.

Mr. BURNETT. I insist that the gentleman had not the floor to move the previous question. What are the facts? The gentleman from Virginia offered a resolution, to which the gentleman from Alabama objected. The question was then made by the gentleman from Virginia, that the resolution was a privileged one, and that an objection could not prevent its being received and taken up. That question was submitted to the Speaker; and the Chair decided that the gentleman from Virginia was right, and that it was a privileged resolution. It thus came up before the House. I rose from my seat, addressed the

Speaker, was recognized by him, and, under the rules of the House, I am entitled to the floor. That is the fact, and I ask by what right, under such circumstances, the gentleman from Virginia deprives me of the floor?

Mr. MILLSON. By the right that I had not yielded the floor, and that the gentleman from Kentucky could not take it from me.

Mr. BURNETT. I am appealing to the Speaker, and not to the gentleman from Virginia.

The SPEAKER. The gentleman from Virginia being the introducer of the resolution, was, by the parliamentary law, entitled to the floor; and the gentleman from Kentucky could only get it by his consent. That is the parliamentary rule.

Mr. HOUSTON. As that is to be the ruling of the Chair, I desire to take an appeal.

Mr. MILLSON. I call the gentleman from Alabama to order.

Mr. HOUSTON. I am rising to a point of order. I have taken an appeal from the decision of the Chair, and I ask to have a vote on the appeal.

Mr. MILLSON. I move to lay the appeal on the table.

The SPEAKER. Then I ask for the yeas and nays on that motion; for I see there is a determination that we shall not have a fair vote on the contesting propositions, but that Chairmen are to be foisted on the people—

The SPEAKER. The gentleman from Alabama will please state what decision he appeals from.

Mr. HOUSTON. I am perfectly willing to do so. I supposed that the gentleman from Virginia was so incoherently entitled to the floor this morning that I would hardly be permitted to state my appeal; as he, while I was on the floor, took it from me, I suppose, with the permission of the Chair, and moved to lay the appeal on the table.

The SPEAKER. The gentleman from Alabama has stated the point he desires to make.

Mr. HOUSTON. The point is this: The Chair decides that the resolution offered by the gentleman from Virginia is one of privilege, and that it is in order to introduce it. From that decision I appeal. I make an objection to the introduction of the resolution on the ground that it was no question of privilege.

The SPEAKER. The question is on the appeal.

Mr. HOUSTON. The Chair decided a few days ago in favor of the point which I made to-day; but the Chair being enlightened by the consideration which enrich the mind of the gentleman from Virginia, has now reversed his decision. From that decision I appeal.

The SPEAKER. No debate is in order.

Mr. HOUSTON. I did not know that debate was not in order; and therefore I did not call the gentleman to order while he was discussing the matter—

The SPEAKER. Does the Chair understand the gentleman from Virginia as moving to lay the appeal on the table?

Mr. MILLSON. I rose for that purpose. I have not yet made the motion, for the gentleman from Alabama contends that when I indicated the motion I was not entitled to the floor; and I merely desired to say a word upon my own behalf, and that was all. I am not one of those who are in the habit of addressing or attempting to address the Chair when other gentlemen are upon the floor. I beg the gentleman from Alabama to be assured that when I moved to lay his appeal upon the table, it was because I supposed that he had yielded the floor, or else I should have been guilty of the discourtesy of rising to address remarks to the Chair—not a very unusual practice here perhaps—when I was aware that another gentleman was upon the floor.

Mr. HOUSTON. I shall move to lay the appeal upon the table; and I beg the gentleman from Alabama to be assured that, even if the House should elect a Chaplain, there will be no great violation of the Constitution; and there will be no great harm

done to the institutions of the country from daily appeals to Almighty wisdom to guide the councils and deliberations of this body. I move to lay the appeal upon the table.

The question was taken; and the motion was agreed to.

So the appeal was laid upon the table.

The question resumed upon seconding the demand for the previous question.

Mr. MILLSON. I withdraw the demand for the previous question, for a single moment. It never was my purpose or wish, nor did I ever fancy that it was within the power of any one member, to prevent the House from deciding, as the gentleman from Alabama seemed to think I desired to do, between any competing propositions.

Mr. HOUSTON. Then, why not let in the proposition of the gentleman from Kentucky?

Mr. MILLSON. Because a vote upon that proposition would involve a double duty, and two votes upon two independent propositions, when the very same object may be attained in the mode I suggest to the House; and it is this: let those gentlemen who prefer to continue the system which has existed, and from which the other branch of the Legislature has already departed; let those gentlemen who are still desirous of maintaining and preserving that system, vote against the demand for the previous question. A vote for the previous question will indicate a preference for the resolution I have submitted, and in so doing we save the time of the House by having one vote instead of two. I demand the previous question.

Mr. BURNETT. I ask the gentleman from Virginia, as an act of justice to me, to withdraw the previous question, and from which the other branch of the Legislature has already departed; let those gentlemen who are still desirous of maintaining and preserving that system, vote against the demand for the previous question. A vote for the previous question will indicate a preference for the resolution I have submitted, and in so doing we save the time of the House by having one vote instead of two. I demand the previous question.

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Mr. CRAWFORD. Very well; I want the yeas and nays.

Mr. BARKSDALE. If the motion of the gentleman from Georgia prevails, the gentleman from Kentucky can then offer his resolution as an independent proposition.

Mr. HOUSTON. I call for tellers on the yeas and nays.

Mr. CRAWFORD. I am not particular about having the yeas and nays on the motion to lay on the table. All I want is vote on the motion.

Mr. CLEMENS. Very well; I will call for tellers on the question.

Tellers were ordered; and Messrs. Eliot, and Anderson of Missouri, were appointed.

The House proceeded to divide.

Mr. BARKSDALE. I desire to state that the gentleman from Tennessee [Mr. AVERY] has already sent resolutions to the table; and if the motion of the gentleman from Georgia prevails, they will be offered as an independent proposition, and the same resolution can be adopted as was adopted by the late House of Representatives.

Mr. FLORENCE. Well, but that system has failed entirely.

Mr. BARKSDALE. I demand the yeas and nays on the motion of the gentleman from Georgia.

The SPEAKER. The yeas and nays have been already offered.

Mr. FLORENCE. No; the demand was withdrawn.

Mr. BARKSDALE. If the Speaker is right, I call for tellers on the yeas and nays.

The SPEAKER. It is too late. The question has been decided.

Mr. BARKSDALE. I do not understand that the yeas and nays have been refused on the motion of the gentleman from Georgia.

The SPEAKER. The Chair has decided that they were refused.

Mr. BARKSDALE. My recollection is that the demand for the yeas and nays was withdrawn.

The SPEAKER. The yeas and nays were certainly refused on the motion of the gentleman from Georgia.

Mr. CRAWFORD. I withdraw my motion to lay upon the table.

Mr. AVERY. I rise to a question of order.

Mr. BARKSDALE. I move that the resolution be laid upon the table; and on that motion I call for the yeas and nays.

Mr. AVERY. I rise to a point of order; and my point of order is this: I understand that the Chair has decided that the gentleman from Virginia [Mr. MILLSON] was entitled to the floor upon the ground that the resolution he offered was privileged in its character. That resolution is, that this House shall proceed to the election of a Chaplain. I submit, if it be a privileged question to move to elect a single Chaplain for the whole session, that it is equally a privileged question to move that we proceed to adopt a resolution inviting the ministers of the several religious denominations of this city to alternate in opening this House with prayer. I think so.

The SPEAKER. That question does not, nor can it now, arise.

Mr. BARKSDALE. I insist on the yeas and nays on my motion.

Mr. MILLSON. I hope that the gentleman will be indulged with the yeas and nays on his proposition.

The yeas and nays were ordered.

Mr. BARKSDALE. I want the House to know that I am in favor of the proposition indicated by the gentleman from Tennessee, [Mr. AVERY].

Several MEMBERS on the Democratic benches. And so are we!

The resolution was again read.

Mr. MAYNARD. I ask that the resolution indicated by my colleague be read to the House for information.

Mr. THEAKER objected.

Mr. MAYNARD. On a single objection avail to prevent its being read, when we are called to determine how we shall vote on this question? When the House is divided between the resolution of the gentleman from Virginia, and the one suggested by my colleague, has not the House a right to have them both read?

The SPEAKER. The proposition of the gentleman from Tennessee is not before the House.

Mr. BARKSDALE. I wish to say to the House

that the proposition of the gentleman from Tennessee is the one that was adopted by the House of Representatives of the last Congress.

The question was taken, and it was decided in the negative—yeas 61, nays 116; as follows:

YEAS.—Messrs. Ashmore, Avery, Barksdale, Barrett, Boyer, Branch, Burgess, Branch, Bunker, Cragg, Davidson, John D. Davis, Fenke, Garrett, Hadenham, John T. Harris, Hays, Holman, Houston, Jackson, Jenkins, Jones, Labadie, James M. Leach, Logan, Love, Elbert S. Martin, Maynard, McCrendall, McClure, McRae, Miles, Montgomery, Sutherland Moore, Noble, Pendleton, Peyton, Pryor, Pryor, Pugh, Rogers, James C. Robinson, Rufus, William Smith, William N. H. Smith, Spinner, James A. Sprague, Thomas, Underwood, Vance, Waldron, Whitely, Windsor, and Wright—61.

NAYS.—Messrs. Charles F. Adams, Green, Adams, Adair, Alsty, Alley, Thomas L. Anderson, William C. Anderson, Adick, Babbitt, Bingham, Blair, Blake, Bragg, Briggs, Briggs, Brown, Burdick, Burdick, Burdick, Cade, Clemens, John C. Cochrane, Conkling, Cowan, Cowan, James Craig, Curtis, H. Winter Davis, Dawes, Deaton, Dwell, Evans, Blair, Edwards, Farnsworth, Felt, Florence, Foster, French, Gilmer, Goodrich, Grove, Hale, Hall, J. Morrison Harris, Haskins, Hutton, Helmick, Hickman, House, Hughes, Humphrey, Houston, Irvine, Jackson, Francis W. Kellogg, William Kellogg, Hewitt C. Leach, Leslie, Low, Lovell, Mackey, Mallory, Marston, Charles D. Martin, McKee, McKim, McPherson, Milburn, Milburn, John T. Moore, Morrill, Morrill, Edward J. Morris, Moore, Nelson, Nichols, Nixon, Olin, Foy, Porter, Potter, Pratt, Rees, Rice, Christopher Robinson, Boyce, Richards, Sedgwick, Sherman, Sumner, Sumner, Spaulding, Stanton, Stevens, Stevenson, William Stewart, Briggs, Stone, Stratton, Taylor, Thayer, Thayer, Tompkins, Train, Trumble, Vandever, Van Wyck, Watson, Caldwell, C. Watson, Ellis, B. Washburne, Israel Washburne, Wells, Wilson, and Woodard—116.

So the House refused to lay the resolution upon the table.

Pending the above call,

Mr. COX and he was paired with his colleague, Mr. EDGEWORTH, and though in doubt whether that pair extended to this question, he preferred not to vote.

Mr. DAVIS, of Mississippi, stated that he was paired with Mr. VENABLE until next Monday.

Mr. GRALLAM stated that he was paired with Mr. DIMICK.

Mr. ENGLISH stated that he was paired with his colleague, Mr. KILGORE, for two hours.

Mr. HINDMAN stated that he was paired with Mr. KILLINGER for to-day and to-morrow; and that if he were allowed to vote he would vote in the affirmative.

Mr. MORRIS, of Illinois, stated that on this question he was paired with Mr. FAIR, and that if he were at liberty to vote he would vote in the affirmative.

Mr. MAYNARD stated that his colleague, Mr. QUABLER, was called home; and was paired with Mr. PERRY.

Mr. JOHN COCHRANE stated that Mr. SICKLES was paired with Mr. FENTON until next Monday.

Mr. HOWARD stated that he was not within the hour when his name was called, and asked an unanimous consent of the House for leave to vote.

Mr. PHELPS objected.

The vote was then announced, as above recorded.

The question recurred on sending the call for the previous question.

Mr. MAYNARD. I put the question to the Chair, whether, if the previous question be not seconded, the resolution of my colleague will be in order as an amendment?

The SPEAKER. It will.

Mr. MAYNARD. Then let us have tellers on seconding the call for the previous question.

Tellers were ordered; and Messrs. WALDRON and NOELL were appointed.

The question was taken; and the previous question was seconded, the tellers having reported—yeas 57, nays 35.

The main question was ordered; and the resolution was then adopted.

Mr. MILLSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

AMENDMENT OF THE RULES.

Mr. WASHBURN, of Maine. I rise to a question of order. I am in possession of a resolution submitted on the rules to submit a report; which I ask be received, referred to the Committee of the Whole on the state of the Union, ordered to

be printed, and made the special order for Thursday week.

It was ordered accordingly.

SENATE BILLS UPON THE SPEAKER'S TABLE.

Mr. BRIGGS. I rise to a privileged question. I move that the Senate bills upon the Speaker's table be taken up and referred to their appropriate committees. If there be objection, I shall move for a suspension of the rules. I hope, however, that there will be no objection.

Mr. WASHBURN, of Illinois. I object, unless the gentleman will qualify his proposition, and allow the House to put such bills as it may desire upon their passage.

Mr. BRIGGS. I insist upon my motion as I have made it.

The SPEAKER. Is there objection?

There was no objection; and Mr. BRIGGS's motion was agreed to.

Mr. BRIGGS. I insist upon the execution of the order of the House which has just been made.

CHAIRMAN—AGAIN.

Mr. AVERY. Mr. Speaker, the following is the proposition I wanted to offer a few moments ago:

Resolved, That the daily sessions of this body be opened with prayer.

Resolved, That the ministers of the gospel in this city are hereby requested to meet, and alternately perform their solemn duty, without compensation from the national Treasury.

I present it as a separate proposition, and I insist that I have the right to present it as a privileged question.

Mr. CLEMENS. It is not in order to adopt two discrete propositions on the same subject.

This subject has already been disposed of by the adoption of my colleague's resolution; and I make the point of order that the resolution of the gentleman from Tennessee is not now in order.

The SPEAKER. The Chair decides that at present nothing is in order except the execution of the order of the House, made on the motion of the gentleman from New York [Mr. Batoka.]

In execution of the order of the House, the following Senate bills and joint resolutions were taken from the Speaker's table, and disposed of as indicated below:

GUADALUPE ESTUDBLO DE ARGUELLO.

An act (No. 117) for the relief of Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello; which was read a first and second time by its title.

The SPEAKER. If there be no objection, the bill will be referred to the Committee on Private Land Claims.

Mr. SCOTT. I move that it be referred to the Committee on Military Affairs.

The motion was agreed to.

MARKET-HOUSE FOR WASHINGTON.

An act (No. 192) authorizing the corporation of Washington city to make a loan and issue stock for \$300,000, for building a market-house; which was read a first and second time by its title, and referred to the Committee for the District of Columbia.

CAPTAIN HUDSON AND SANDS.

Joint resolution (No. 16) authorizing Captains William L. Hudson and Joshua R. Sands to accept certain testimonials awarded to them by the Government of Great Britain; which was read a first and second time by its title, and referred to the Committee on Naval Affairs.

ASSIGNEES OF BOUNTY LAND WARRANTS.

An act (No. 197) in relation to the assignees of bounty land warrants; which was read a first and second time by its title, and referred to the Committee on Public Lands.

WILLIAM B. HERRICK.

An act (No. 217) for the relief of William B. Herrick; which was read a first and second time.

Mr. WASHBURN, of Illinois. I ask to have that bill put upon its passage. I ask the Clerk to read the bill.

The bill, which was read, directs the Secretary of the Interior to first and second time by Mr. Herrick, late a surgeon of the first regiment of Illinois volunteers, upon the pension roll, at the rate of thirty dollars per month; to commence on

the 14th day of May, 1858, to continue during his life.

Mr. WASHBURN, of Illinois. I desire to submit a statement to the House in reference to this case; and if a single gentleman objects, after hearing my statement, I will not press the matter. Dr. Herrick was one of the most eminent surgeons and physicians in my State. At the time of the breaking out of the Mexican war, he was persuaded to accompany the first regiment of Illinois volunteers to Mexico. He was upon the Rio Grande, and contracted that terrible disease in that climate, the diarrhoea, which proved to be chronic. Afterwards he was attacked by neuralgia, which deprived him of the use of his lower limbs. From all these causes he suffered so much as to be dependent on the use of crutches, and he is this day totally insane. He was an eminent surgeon; and, at the battle of Buena Vista, he dressed the wounds of the distinguished gentleman from Mississippi in the other wing of the Capitol, Colonel Davis, upon the field. The Senate unanimously passed the bill which is now upon the Speaker's table. There certainly never was a case which appealed more strongly to justice and humanity. [Cries of "All right!" "Pass the bill!"]

The bill was read to be read a third time; and it was read the third time, and subsequently passed.

GUADALUPE ESTEBILLO DE ARGUELLO.
Mr. SCOTT. I rise to a privileged question. I made a motion to order the Senate bill No. 117, for the relief of Guadalupe E. Arguello, widow of Santiago E. Arguello, to the Committee on Military Affairs. I withdraw that motion, and move that the bill be referred to the Committee of Claims.

The motion was agreed to.

DISBURSING OFFICERS.

A resolution (No. 4) to allow credit to certain disbursing officers therein mentioned, which was read a first and second time, and referred to the Committee on Commerce.

SWAMP LANDS.

An act (No. 26) to extend the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," to Minnesota and Oregon, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

TILMAN LEAK.

An act (No. 53) for the relief of Tilman Leak; which was read a first and second time. **Mr. CLOPTON.** I ask that that bill may be put upon its passage. The bill provides for the refunding of \$679 57, the amount paid by Mr. Leak to the United States as the purchase money for fractional sections six and seven, in township No. 19, range north 38, in Alabama, at the sale thereof, as dead and abandoned Indian reserve, under the Creek treaty of 1839; provided he shall first surrender any patent he may have received therefor for cancellation. The bill allows no interest on the money so paid. I hope the bill may be allowed to pass.

Mr. BRANCH. I will remind my friend that the bill contains an appropriation.

Mr. CLOPTON. So did the bill which the House passed upon the solicitation of the gentleman from Illinois, [Mr. WASHBURN].

The SPEAKER. It is clearly an appropriation bill, and if objection is made, it cannot be put upon its passage.

Mr. BRANCH. I will not object, if nobody else does.

Mr. MOORE, of Kentucky. I object.
The bill was referred to the Committee on Indian Affairs.

COLLECTION OF DUTIES.

An act (No. 215) to amend the provisions of the fifth-sixth section of "An act to regulate the collection of duties on imports and tonnage," approved the 24 day of March, 1799; which was read a first and second time, and referred to the Committee of Claims.

JOHN A. FRONT.

A resolution (No. 7) for the relief of the legal representatives of John A. Front, deceased; which was read a first and second time, and referred to the Committee on Naval Affairs.

JOHN SCOTT AND OTHERS.

An act (No. 22) for the relief of John Scott, Hill W. House and Samuel O. House; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

HARRIS AND BUTTERWORTH.

An act (No. 23) for the relief of Arnold Harris and Samuel F. Butterworth; which was read a first and second time, and referred to the Committee on the Judiciary.

SIMON DE VISER AND JOSE VILLARUBIA.

An act (No. 39) for the relief of Simon de Visser and Jose Villarubia, of New Orleans; which was read a first and second time, and referred to the Committee on Commerce.

RICHARD W. MEADE.

An act (No. 56) for the relief of Richard W. Meade; which was read a first and second time, and referred to the Committee on Naval Affairs.

DAVID D. PORTER.

An act (No. 57) for the relief of David D. Porter; which was read a first and second time, and referred to the Committee on Naval Affairs.

GEORGE B. BACON.

An act (No. 58) for the relief of George B. Bacon, late acting purser of the sloop-of-war Portsmouth; which was read a first and second time, and referred to the Committee on Naval Affairs.

SAMUEL A. WEST AND OTHERS.

An act (No. 59) for the relief of Samuel A. West, George McCullough, Hiram McCullough, and Charles Pendergast; which was read a first and second time, and referred to the Committee on Naval Affairs.

ANN SCOTT.

An act (No. 60) for the relief of Ann Scott; which was read a first and second time, and referred to the Committee on Naval Affairs.

MICHAEL NASH.

An act (No. 63) for the relief of Michael Nash, of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

JANE M'CRABB.

An act (No. 65) for the relief of Mrs. Jane McCrabb, widow of the late Captain John W. McCrabb, assistant quartermaster in the United States Army; which was read a first and second time, and referred to the Committee of Claims.

LIVINGSTON, KINKADE & CO.

An act (No. 69) for the relief of Livingston, Kinkade & Co.; which was read a first and second time.

Mr. BRIGGS. I desire to have that bill read, and I will give to the House, after it is read, an explanation which, I feel satisfied, will convince the House that the bill ought to be put upon its passage. The bill was passed by the Senate unanimously, and it is one of those cases which I think appeals to the justice of the House, so that the parties interested may be indemnified for losses sustained by them under the circumstances stated in the bill.

Several MEMBERS. Read the bill.

The bill was read. It directs the Secretary of the Treasury to pay to Livingston, Kinkade & Co., merchants of Salt Lake City, Utah, the sum of \$10,070, as indemnity for an amount of money of which they were robbed by a party of Sioux Indians, near Fort Laramie, in the month of November, 1854.

Mr. BRANCH. That bill makes an appropriation, and must, under the rules of the House, go to a Committee of the Whole House.

Mr. CONKLING. I object to the bill being put on its passage.

Mr. BRIGGS. This is a day on which it is in order to suspend the rules, and I will make a motion for that purpose. I am aware that there is a rule of the House which requires that all appropriation bills shall be referred to a Committee of the Whole House; but, as this is a day on which it is in order to move the suspension of the rules, I shall feel it my duty to make that motion. If the gentleman from North Carolina [Mr. BRANCH]

will hear the report read, I am satisfied he will not oppose the passage of the bill.

Mr. BRANCH. I feel obliged to object, because if we commence this system, we will never get through the reference of those bills. The bill has not been considered either by a standing committee of the House, or by a Committee of the Whole House; and the rules require that it shall be considered by a Committee of the Whole House.

Mr. WINSLOW. Debate is not in order, and I object.

Mr. BRIGGS. Then I move to suspend the rules.

Mr. SHERMAN. That motion cannot be made, because the rules are already suspended. We are working now under a suspension of the rules, and the motion is not in order.

Mr. FLORENCE. Yes; we are acting under a suspension of the rules now, merely as to referring these bills; but not as to putting them on their passage. The suspension of the rules was their reference merely, and no human being supposed for a single moment that there was going to be any action on any of those bills to-day. There may be merits in the case of the bill referred to; I do not mean myself to make any objection to it; but I state what the agreement and object were.

Mr. WINSLOW. By the order of the House, the bills were to be taken up for reference merely. **The SPEAKER.** The motion of the gentleman from New York is in order, and is not debatable.

Mr. BRIGGS. I withdraw my motion, satisfied that gentlemen are too impatient to hear the merits of the question. I now move that the bill be referred to the Committee on Indian Affairs. The bill was so referred.

GEORGE STEALEY.

An act (No. 71) for the relief of George Stealey; which was read a first and second time, and referred to the Committee on Indian Affairs.

EDWARD N. KENT.

An act (No. 74) for the relief of Edward N. Kent; which was read a first and second time, and referred to the Committee of Ways and Means.

RICHARD CHENEY.

An act (No. 77) for the relief of Richard Cheney; which was read a first and second time, and referred to the Committee on Commerce.

FRANCIS HUTTMANN.

An act (No. 78) for the relief of Francis Huttman; which was read a first and second time, and referred to the Committee on Commerce.

TENCH TILGHMAN.

An act (No. 79) for the relief of Tench Tilghman; which was read a first and second time, and referred to the Committee on Commerce.

JEREMIAH MOORS.

An act (No. 80) for the relief of Jeremiah Moors; which was read a first and second time, and referred to the Committee on Commerce.

ELIZABETH M. COCKE.

An act (No. 81) for the relief of Elizabeth M. Cocke, widow of Major James H. Cocke, late marshal of the district of Texas; which was read a first and second time, and referred to the Committee on Commerce.

W. D. MOSELEY.

An act (No. 89) for the relief of W. D. Moseley; which was read a first and second time, and referred to the Committee on Naval Affairs.

HENRY ETING.

An act (No. 91) for the relief of Henry Etting; which was read a first and second time, and referred to the Committee on Naval Affairs.

CHARLES PEARSON'S REPRESENTATIVE.

An act (No. 229) for the relief of the legal representative of Charles Pearson, deceased; which was read a first and second time.

Mr. TAPPAN. I ask the unanimous consent of the House to allow that bill to be put on its passage.

Several MEMBERS. Read the bill.

Mr. BRANCH. I object to any bill being put on its passage under the order of the House.

that offers have been made to bribe, as inhuman in that resolution, nobody will object. But I do object to charges against any officer of the Government by innuendo.

Mr. BINGHAM. I object to this debate. It is all out of order.

Mr. UNDERWOOD. When gentlemen will not make their charges upon their responsibility as Representatives upon this floor, I must object.

Mr. FLORENCE. I submit a point of order.

The SPEAKER *pro tempore*. The gentleman from Georgia has submitted a point of order; and until that is disposed of, no other question is in order. The Chair overrules the point of order.

Mr. FLORENCE. For the reason mentioned by the gentleman from Georgia—that there is a vague and indefinite something in these resolutions—I object to them. There is no use of reading them. If my colleague wants the rules suspended, he can have them, if he can get votes enough; but I will not sit in my place quietly, when such innuendoes as these are leveled against honest men. [Laughter.]

Mr. COVODE. If it will relieve my colleague, I will leave the navy-yards out.

Mr. FLORENCE. I have nothing to do with the navy-yards. I court investigation everywhere, and condemnation in the navy-yards as soon as I would anywhere else; and my colleague knows it. I am against corruption everywhere. Give me a reason for this investigation, and I will vote for it.

Mr. MORRIS, of Pennsylvania. I do not mean to debate the resolutions; but I wish simply to say if these charges are vague and unfounded, they can be proved to be so by the investigation.

The Clerk then read the resolutions again, as above inserted.

Mr. COVODE. I call for the yeas and nays upon the suspension of the rules.

Mr. BURNETT. I wish to vote correctly upon this question; and, for that purpose, desire to say to the gentleman from Pennsylvania—

Mr. GROW. I rise to a point of order. Upon a motion to suspend the rules debate is not in order.

The SPEAKER *pro tempore*. The Chair sustains the point of order.

Mr. BURNETT. If the gentleman will make the charges specific, I will vote for the investigation; but I cannot vote for the investigation upon such vague charges as those contained in those resolutions.

Mr. COVODE. This is no time to make the charges specific and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 117, nays 45; as follows:

YEAS—Messrs. Charles F. Adams, Green Adams, Adams, Aldrich, Allen, William C. Anderson, Ashley, Bassett, Bingham, Blair, Blake, Brigham, Briggs, Brewster, Buffington, Burlington, Burleigh, Case, Clayton, Cobb, Colfax, Conkling, Cooper, Corbin, Covode, James Craig, Davis, H. Winter Davis, John C. Davis, Deane, Delano, Doolittle, Edmunds, Farnsworth, Ferry, Foster, Fremont, Gillet, Gresham, Gross, Gurley, Hale, Hall, John T. Harris, Harkin, Hutton, Holmbeck, Hill, Humphrey, Hutchins, Irvine, Johnson, Francis W. Kellogg, William Kellogg, Kilgore, Lamber, James M. Leach, Lee, Loamie, Liverpool, Mallory, Marvin, Robert S. Martin, Maynard, McDonald, McKim, McKnight, McMahon, Millard, Lusk, T. Moore, Moorhead, Morrill, Edward J. Morris, Isaac T. Morris, Morse, Nelson, Nye, Oakes, O'Brien, Olin, Orin, Pettit, Pugh, Reynolds, Rice, Rogers, Christopher Robinson, C. Robinson, Royce, Schwartz, Sedgwick, Sherman, William W. Smith, Spaulding, Stewart, Stanton, William Stewart, Stock, Stratton, Tappan, Tompkins, Train, Trimble, Vance, Venable, Wadsworth, Walden, Walcott, Caldwell, C. Washburn, Ellis B. Washburn, Leroy Washburn, Wells, Wilson, Winfield, and Woodruff—117.

NAYS—Messrs. Ashmun, Avery, Barstow, Barrett, Beane, Branch, Burck, Burnett, John B. Clark, John Cochrane, Burton Cragg, Crawford, Curry, Edmundson, Brewster, Gardner, Gillette, Gove, Hays, Hughes, Jackson, Jones, Logan, Love, Macfar, Charles D. Martin, McQuire, McKim, Miles, Milson, Niblack, Noel, Peabody, Peyton, Philip Reardon, Rogers, Russell, S. Smith, Stillwater, Stevenson, Thomas, Underwood, and Winslow—45.

So the rules were suspended, (two thirds voting in favor thereof.)

During the call,

Mr. ASHMORE, when his name was called, said: I desire to vote for an investigation if the charges are properly made—

Mr. GROW. I call the gentleman to order.

Mr. ASHMORE. The gentleman from Pennsylvania has no right to call me to order. The gentleman has taken it upon himself, frequently, since I have been here, to interfere with me, [cries

of "Order!" "Order!"] and I would be obliged to him if he would keep his tongue silent when I am concerned. [Loud cries of "Order!"] I desire to vote for the resolutions if gentlemen will assert upon their responsibility that—

Mr. BINGHAM. I call the gentleman to order, and I call upon the Chair to enforce the rules.

Mr. ASHMORE. (amidst loud and continued cries of "Order!") I will not vote for an investigation merely upon insinuations and imputations like these upon the character of noble officers, made by those who will not take the responsibility of doing, and who have not the manliness to do what gentlemen ought to do. I say I will vote for the resolutions whenever the charges are properly specific. Now I vote "no."

Mr. HINDMAN. I am paired off, upon all questions which have a political bearing, with the gentleman from Pennsylvania, [Mr. KILLINGER.] I therefore decline to vote upon this proposition.

Mr. LANDRUM stated that he was paired off with Mr. CASE.

Mr. CRAIG, of North Carolina, said: While I am ordinarily willing to vote for an investigation of any charges made against any officer of the Government, ["Order!" "Order!"] or any department of it, I am determined not to vote for a resolution which charges corruption or malfeasance, under the cry of "Order!" as this resolution does, the highest officer in the Government—the President of the United States.

Mr. GROW. I call the gentleman to order. No debate is in order while the roll is being called, and I call upon the Speaker to enforce the rule.

The SPEAKER *pro tempore*. The point of order is well taken; and the Chair hopes gentlemen will preserve order.

Mr. WINSLOW. I hope the House will indulge me in saying a few words.

Mr. GROW. I object to debate.

Mr. WINSLOW (amidst loud and continued cries of "Order!") said: I feel some hesitation about my vote. These resolutions are very vague and indefinite, large in their terms, and framed like French and Italian resolutions of ground and abounding in a multitude of general charges. I have perfect confidence in the integrity of the President and his Cabinet. Let any specific charge be brought against him, or them, and I will cheerfully yield the fullest investigation and accept the whipsnapper action I will do rendered to hinder, but everything to facilitate it. I cannot, however, vote for a committee on these sweeping charges. I vote "no."

Mr. BOGOC. Is debate in order?

The SPEAKER *pro tempore*. It is not.

Mr. BOGOC. I shall give some reasons for my vote hereafter; not now. I vote "no."

Mr. HARRIS, of Virginia. Not having the slightest confidence in the accuracy of the charges preferred, I vote "ay."

Mr. GOMES said that he should have voted "ay," had he been within the bar when his name was called.

Mr. COBB. If my party is guilty of corruption, let it be ferreted out. I vote "ay."

Mr. MILES. Is my vote recorded? for I wish to put the record as voting against clap-net and humping.

Mr. FLORENCE. Is my vote recorded? I am as much opposed ["Order!" "Order!" "Order!"] to corruption ["Order!" "Order!" "Order!"] as any gentleman upon this floor.

The SPEAKER *pro tempore*. Debate is not in order; and the Chair hopes gentlemen will preserve decorum.

Mr. FLORENCE. I will preserve decorum, of course.

Mr. MONTYON. I wish to change my vote. I vote under a misapprehension, and suppose that definite charges had been made against the Administration; but learning that the charges are general, I change my vote, and vote "no."

Mr. JOHN COCHRANE. Because no charges are preferred upon which an investigation can be founded—

Mr. GROW and others called the gentleman to order.

Mr. JOHN COCHRANE. I suppose my friends will say I am in order, when I vote "no."

Mr. ASHMORE. No debate is in order.

Mr. JOHN COCHRANE. I am proposing to vote "no." The gentlemen furnish me with the reason for it. Will the Clerk call my name?

The CLERK. Mr. COCHRANE.

Mr. JOHN COCHRANE. No. [Laughter.] Mr. SMITH, of Virginia. I simply want to say, ["Order!" "Order!"] the resolution is unworthy of the men who draft it. ["Order!" "Order!"] Yes, sir, unworthy of the men who drew it. I vote "no."

Mr. MONTGOMERY. I desire to vote. I was not within the bar when my name was called.

Mr. FLORENCE. I must object, though I would like the men who draft it. ["Order!" "Order!"] Yes, sir, unworthy of the men who drew it. I vote "no."

The result of the vote was then announced, as above recorded.

Mr. COVODE. I call for the previous question upon the adoption of the resolutions.

Mr. NOELL. I desire to offer an amendment, and ask that it may be read for information.

Mr. COVODE. I cannot yield for that purpose.

Mr. NOELL. I ask to have the amendment read for information.

Mr. BINGHAM. I object.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the resolutions were adopted.

Mr. COVODE moved to reconsider the vote by which the resolutions were adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

FRONTIER DEFENSES.

Mr. REAGAN. I ask leave to offer a joint resolution.

The joint resolution was read. It recites that information has been publicly circulated that the frontier of the Rio Grande is being ravaged by hostile bands of Mexicans, acting in sufficient numbers to prosecute hostilities successfully against the scattered settlements of American citizens in that quarter; that these hostile bands came from the territory of Mexico, if they are not instigated to their ravages by the Mexican authorities; that hostile Indians on the frontiers of Texas have been engaged in murdering citizens of that State, and in depriving them of their property for several years past; and that the citizens of Texas have been, and are, without the necessary military protection for their security; and it therefore appropriates \$50,000, and places it at the disposal of the President, to pay the expenses of such a volunteer force as he may consider it expedient to the public interest to call into military service on the southern frontier of the United States, to assure the safety of citizens of the United States residing in that quarter, to vindicate the laws, and to insure their faithful execution.

Mr. BINGHAM objected to the introduction of the resolution.

Mr. REAGAN. I move to suspend the rules, in order to enable me to introduce the resolution; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. My Speaker, if we adjourn now, will not this resolution come up the first business in order next Monday?

The SPEAKER *pro tempore*. It will.

Mr. WASHBURN, of Illinois. Then I move that the House do now adjourn.

Mr. STANTON. I would ask the gentleman from Texas whether, if the rules be suspended, he will consent to have the joint resolution referred to the Committee on Military Affairs?

Mr. REAGAN. If it be the pleasure of the House that it should be so referred, I will make no objection.

Mr. BRANCH. It appears to me that this resolution ought properly to go to the Committee on Frontier Defense.

Mr. GROW. This debate is out of order, and I object to it.

Mr. BARSDALE. The resolution must necessarily go to the Committee of the Whole on the second day, because it makes an appropriation of \$50,000.

Mr. REAGAN. My motion is to suspend the rules so as to permit the resolution to be introduced. The House can then dispose of it as it sees proper.

Mr. WASHBURN, of Illinois. I have submitted a motion that the House adjourn. I believe that is in order.

Mr. REAGAN. I ask the Chair whether, if

very sorry to do anything which should seem to question the authority of the Senate by modifying this resolution; the more especially as it has been taken from the precedents, and I think has been well conceived. If the witness has any reason satisfactory to the Senate why he did not appear, it will, of course, be received as an excuse, but as an excuse only. I hope the resolution will be passed in the shape in which it is offered.

THE VICE PRESIDENT. The amendment of the Senator from Kentucky is, in the first interrogatory, to strike out the words "what excuse have you for not appearing," and insert, "why did you not appear?"

The amendment was rejected.

MR. HALE. This is an extraordinary resolution, and as it is important to set a proper precedent, I propose this amendment, to come in at the end of the resolution:

And that the Sergeant-at-Arms allow him all reasonable opportunity to consult with counsel.

MR. MASON. I have not the slightest objection to that proposition in itself; but, of course, I take it for granted that if he desires to consult counsel in his relations to the Senate as a witness, the Sergeant-at-Arms will allow it. The Sergeant is only to keep him out of the room, not to interfere with the opportunity for adding such a provision, unless there is complaint that it is not done.

MR. HALE. This is a novel case—new in the Senate—and I suppose it is the right of the individual to have an opportunity of consulting counsel, and it should not rest in the after discretion of the Sergeant-at-Arms or anybody else. If we mean to give him this right, let us say so.

MR. KING. Mr. Hyatt, the party in custody, is a constituent of mine, and I consulted with me on this subject, and desired me, at the proper time—which I supposed would be after the adoption of this resolution, and the propounding of the questions to him—to ask for a delay of two or three days, which I had no doubt would be granted, for the purpose of having an opportunity to put in his answer, without indicating at this time what that answer will be in any way.

MR. MASON. I intend to follow the adoption of the resolution—still adhering to the usage; but, until it is shown to be wrong, that is the safest guide—by this order:

Ordered, That Thaddeus Hyatt be remanded to the custody of the Sergeant-at-Arms; and that he have until two o'clock on Thursday next, the 8th instant, to make answer to the questions directed to be propounded to him by the President of the Senate.

MR. KING. I will state that, in reply to the suggestion of Mr. Hyatt, I said that I had no doubt, though I was not at all aware of the intention of the Senator from Virginia to make the proposition he has just indicated, that the time he asked would be given to him. I understand that he asks for one day beyond that proposed to be given by the Senator from Virginia. His counsel are in Boston, and he would like to have one day more so as to be able to have them here.

MR. MASON. I have no objection to allow that additional day.

MR. KING. If he can have till Friday, or such day Thursday as the Senate shall deem proper, he hopes and expects to be able to put in his final answer to the interrogatories.

THE VICE PRESIDENT. The question is on the amendment offered by the Senator from New Hampshire.

MR. HALE called for the yeas and nays, and they were ordered.

MR. MASON. I submit to the honorable Senator that he withdraw that amendment. It only embarrasses and delays the action of the Senate. I will say to him frankly, that if, after the witness is remanded, any complaint is made that he is not allowed the freest access to his counsel, I will unite with the Senator in passing such a resolution; but I do not see the propriety, in advance, of suggesting that he shall have counsel, for it is equivalent to that. I hope the amendment will be withdrawn.

MR. KING. I suggest to the Senator from New Hampshire that this question is one which would properly arise whenever it shall appear to the Senate that the witness in a case like this desires counsel. It may be that the witness is prepared at once to answer; that he has had sufficient counsel already; and that, therefore, no such thing is required. If, however, he makes a request for

counsel, I have no doubt it would be granted. I suggest that that will answer the same purpose.

MR. HALE. As this is the first case of the kind in the Senate, as we are making precedents, and as the Senate are voting on a motion to precedents so closely, I want to have a good precedent here. As, however, it seems to be desired that my amendment should be withdrawn, and as I have no feeling about it, I will give my consent to withdraw it, but as the yeas and nays have been ordered, I propose it requires general consent.

THE VICE PRESIDENT. It requires unanimous consent to withdraw the amendment, the Chair hears no objection. The question now is on the yeas and nays.

MR. HALE. I want the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 49, nays 6, as follows:

YEAS.—Messrs. Anthony, Bayard, Benjamin, Bigler, Briggs, Bright, Brown, Chandler, Claiborne, Clay, Clingman, Collamer, Crittenden, Davis, Dixon, Doolittle, Douglas, Fessenden, Flick, Fitzpatrick, Foster, Foster, George, Granger, Harris, Hammon, Harlan, Hendricks, Hunter, Iveson, Johnson, of Tennessee, Kennedy, King, Lane, Logan, Mason, Nicholson, Prioleau, Packer, Seabury, Howard, Simmons, Sibley, Ten Eyck, Thompson, Treadwell, Westfall, Wilson, and Yates—49.

NAYS.—Messrs. Buchanan, Durkee, Hale, Sumner, Wade, and Wilkinson—6.

So the resolution was adopted.

MR. MASON. I now offer the following as a final order:

Ordered, That Thaddeus Hyatt be remanded to the custody of the Sergeant-at-Arms; and that he have until two o'clock on Friday next, the 8th instant, to make answer to the questions directed to be propounded to him by the President of the Senate.

The order was agreed to.

THE VICE PRESIDENT. The Sergeant-at-Arms will bring Mr. Hyatt to the bar of the Senate.

The Sergeant-at-Arms conducted Mr. Hyatt from the bar of the Senate to a spot a few steps nearer to the President's chair—Mr. Hyatt being supported on the right by Hon. PIERCE KINO, and on the left by Mr. ARMY.

THE VICE PRESIDENT. Mr. Hyatt, you are not expected to answer, at this time, the questions which, by order of the Senate, I am about to ask you; they are to be answered at a future time and under oath.

1. What excuse have you for not appearing before the select committee of the Senate, in pursuance of the summons served on you on the 24th day of January, 1860?

Are you now ready to appear before said committee and answer such proper questions as shall be put to you by said committee?

These questions you are to answer on Friday next at two o'clock, in writing, and under oath. Mr. Hyatt is remanded to the custody of the Sergeant-at-Arms.

The Sergeant-at-Arms then conducted Mr. Hyatt from the Senate Chamber.

ORDER OF BUSINESS.

MR. SEWARD. Mr. President—

THE VICE PRESIDENT. The Chair must call up the special order at this hour.

MR. SEWARD. I hope that I shall be allowed to withdraw from the Chamber.

THE VICE PRESIDENT. If there be no objection, by unanimous consent the Chair will receive morning business.

MR. BROWN. Is not the special order the one which I have the floor to-day?

THE VICE PRESIDENT. The special order for half past one o'clock is the resolutions of the Senator from Mississippi; but the bill from the Judiciary Committee in relation to the Court of Claims being the unfinished business, takes precedence of it in the order of to-day.

MR. SEWARD. I ask the consent both of the honorable Senator from Mississippi and the honorable Senator from Delaware to refer some papers without argument.

THE VICE PRESIDENT. It can only be done by unanimous consent. The Chair hears no objection.

PETITIONS, ETC.

MR. SEWARD presented additional papers in relation to the claim of the American, Atlantic, and Pacific Ship Canal Company, of Nicaragua; which were referred to the Committee on Foreign Relations.

MR. CLAY presented the petition of Thomas Kirkman, of Alabama, praying indemnity for losses caused by the failure and refusal of the Government of the United States to convey title to a section of land purchased and paid for by him; which was referred to the Committee on Private Land Claims.

MR. TRUMBULL presented the petition of William Petelska, only surviving child of Elizabeth Petelska, deceased, praying compensation in money or the privilege of locating other lands in lieu of a grant of three hundred and twenty acres of land made to his mother by the treaty made with the Delaware Indians at St. Mary's, Ohio, on the 3d of October, 1858; which was referred to the Committee on Private Land Claims.

MR. TOOMBS presented the petition of George W. Greene, praying the aid of Congress in publishing the life and letters of his grandfather, Major General Nathaniel Greene; which was referred to the Committee on the Library.

He also presented the petition of A. C. Rhind, a lieutenant in the Navy, who was dropped by the action of the late naval board, and since restored to active service, praying to be placed on the same footing as other lieutenants to active service; which was referred to the Committee on Naval Affairs.

MR. DOOLITTLE presented two memorials of citizens of Wisconsin, praying the construction of a harbor and refuge at the mouth of the Fox River, on Lake Michigan; which was referred to the Committee on Commerce.

MR. CAMERON presented three petitions of manufacturers, colliers, merchants, farmers, and others, of Schuylkill county, Pennsylvania, praying such a modification of the tariff as will protect the productive interests of the country; the abolition or a radical change in the warehouse system, and the substitution of specific for ad valorem duties; which were referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HUNTER, it was *Ordered*, That leave be granted to withdraw from the files of the Senate, the memorial of H. L. Galtner, praying such a modification of the tariff as will protect his business, and that of a laborer, during the time, he may be settled upon principles of justice and equity.

On motion of Mr. FITZPATRICK, it was *Ordered*, That the petition of Patrick Byrne, praying to be allowed the difference between the pay of a dockworker and that of a laborer, during the time, he performed such extra service, on the files of the Senate; be referred to the Committee on Finance.

On motion of Mr. WILSON, it was *Ordered*, That the petition of Rhin Elen Graveland, widow of Captain John H. Graveland, of the Army, praying to be allowed a pension, on the files of the Senate, be referred to the Committee on Finance.

On motion of Mr. CHANDLER, it was *Ordered*, That leave be granted to withdraw the memorial of H. R. Schoolcraft, praying compensation for the collection of facts and material embodied in his historical statistics, condition, and prospects of the Indian tribes of the United States, prepared and published by him from the files of the Senate.

BILLS INTRODUCED.

MR. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 248) supplemental to the act entitled "An act to authorize the President to receive deposits of guano," approved 18th August, 1856; which was referred to the Committee on Commerce.

MR. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 251) for the relief of John B. Rutenhouse; which was read twice by its title, and referred to the Committee on Naval Affairs.

INDIAN AFFAIRS.

MR. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the expediency of repealing an act entitled "An act to provide for the Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury and a Commissioner of the General Land Office," and to transfer from the Secretary of the War Department to the Secretary of the Interior, the supervisory and appellate powers, in relation to the title and duties of the Assistant Secretary of Indian Affairs, and of restoring by law the said powers to the Secretary of War, as they existed prior to the passage of said act.

REPORTS OF COMMITTEES.

MR. DAVIS, from the Committee on Printing,

to whom was referred the motion to print the message of the President of the United States, communicating, in compliance with a resolution of the Senate, further information in relation to the heating and ventilating of the Capitol and the Post Office Department, reported in favor of printing the usual number, and that two hundred and fifty additional copies of the message, and two hundred and fifty additional copies of the previous message on the same subject, be printed for the use of the late superintendent of that work; which was agreed to.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred a resolution of the Senate, relative to contracts made by the Secretary of the Senate with Mrs. Adeline Sergeant for binding the reserved numbers of the Senate documents, submitted a report; which was ordered to be printed.

Mr. GRIMES, from the Committee on Pensions, to whom was referred the petition of Mary E. Castor, widow of Lieutenant Thomas F. Castor, praying a pension, submitted a report, accompanied by a bill (S. No. 347) for the relief of Mary E. Castor. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. CLAY, from the Committee on Pensions, to whom was referred the petition of Lemuel Wood, praying a pension, on account of disability incurred while employed as a waiter to a militia officer in the United States service during the late war with Great Britain, submitted an adverse report; which was ordered to be printed.

Mr. CLAY, The Committee on Commerce, to whom was referred the bill (S. No. 85) declaring the consent of Congress to any act which may be passed by the Legislature of the State of Alabama, authorizing the municipal authorities of the city of Mobile to impose and collect a duty on the vessels of vessels entering the port of Mobile, have reported it back to the Senate with an amendment. I wish to say that during the next week I propose to call up this bill and ask the action of the Senate upon it. I will then give the reasons why I ask its early consideration and passage.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the report of the Court of Claims adverse to the claim of Samuel J. Hensley, submitted a report, accompanied by a bill (S. No. 249) for the relief of Samuel J. Hensley. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Treasury in answer to a resolution of the Senate, relative to the expenditure of the appropriation for the repair of the light-house and pier at Chicago, reported in favor of printing the usual number; and the report was agreed to.

Mr. also, from the same committee, to whom was referred a motion to print the report of the superintendent of the Capitol extension, addressed to the Chairman of the Committee on Public Buildings and Grounds in relation to the dome and portico of the Capitol, reported in favor of printing the usual number; and the report was agreed to.

Mr. also, from the same committee, to whom was referred a motion to print the usual number, and five hundred additional copies, of the report of the Secretary of the Interior, communicating, in accordance with a resolution of the Senate, the correspondence on file in that Department in relation to obstructions of streets, ferries, and public reservations in the city of Washington, reported in favor of printing the usual number, and adverse to printing five hundred additional copies; and the report was agreed to.

Mr. NICHOLSON, from the Committee on Revolutionary Claims, to whom was referred the petition of Catharine Lydia McLeod, only surviving child of Ebenezer Markham, a Canadian refugee, praying relief on account of the losses and sufferings of her father in aiding the cause of the American Revolution, submitted a report, adverse report; which was ordered to be printed.

Mr. WILKINSON, from the Committee on Pensions, to whom was referred the petition of Kate D. Taylor, widow of the late Oliver H. P. Taylor, submitted a report, accompanied by a bill (S. No. 350) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P.

Taylor. The bill was read, and passed to a second reading; and the report was ordered to be printed.

COMMITTEE SERVICE.

Mr. GREEN. There is a vacancy upon the Committee on Territories, caused by the expiration of the term of Senator Haun. It is important to have it filled. I move that the Vice President be authorized to fill that vacancy.

The motion was agreed to.

Mr. GWIN. I move that the Vice President be authorized to fill the vacancies in the Committee on Indian Affairs and on Enrolled Bills, caused by the retirement of my late colleague.

The motion was agreed to.

MILITARY ACADEMY.

Mr. GWIN. I made a motion the other day to reconsider the vote of the Senate referring the West Point appropriation bill to the Committee on Military Affairs. I move to take up that question, which I believe is a privileged one, *in order*. I will not interfere with the Senator from Mississippi, [Mr. BROWN.] I give notice that, when I get the question before the Senate, I will ask, after he has concluded his remarks, to take up that bill. I merely wish to have the motion to reconsider taken in order that a vote of the Senate may be taken on the reconsideration, so that the question can then be before the Senate.

The VICE PRESIDENT. The Senator from California moves to take up the bill making appropriations for the support of the Military Academy for the year ending the 30th June, 1861.

The motion was agreed to.

Mr. GWIN. I move to reconsider the vote by which it was referred to the Committee on Military Affairs.

The VICE PRESIDENT. That is the question now pending. The question is on the motion to reconsider the vote by which the bill was referred to the Committee on Military Affairs. The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on the motion to refer the bill, with the amendment offered by the Senator from Texas, to the Committee on Military Affairs.

Mr. GWIN. I do not wish to interfere with the Senator from Mississippi; but as soon as he concludes his remarks, I shall call the bill up for the consideration of the Senate.

COURT OF CLAIMS.

The VICE PRESIDENT. The business before the Senate is the unfinished business of yesterday, being the bill (S. No. 53) to amend an act to establish a court for the investigation of claims against the United States, approved February 24, 1855.

Mr. BROWN. I hope I may have the consent of the Senator from Delaware to postpone that bill for say an hour and a half, with a view of referring to the consideration of the special order.

Mr. BAYARD. I am very loth not to accede to the proposition of the honorable Senator, but I do not see the right to the Committee on the Judiciary, to have the bill, which has been reported and been under discussion, postponed until it is disposed of. There will be ample time afterwards for the honorable Senator to take up his resolutions. Two days were, I understand, assigned by the Senate to the Committee on the Judiciary—yesterday and to-day. We did not complete the bill under consideration yesterday, which certainly, in my judgment, is of great practical importance to the people of the country; and unless the Senate so order it, I cannot consent to such a postponement.

The VICE PRESIDENT. The Senator from Mississippi moves to postpone the unfinished business of yesterday, with a view to take up his resolutions, which is the next special order.

The motion was agreed to.

Mr. BENJAMIN. I understood the motion of the honorable Senator from Mississippi to be to postpone this subject until he gets through with his speech, and then that we shall go on with the business of yesterday.

Mr. BROWN. I have no objection to that.

The VICE PRESIDENT. The Chair will give it that construction.

PROPERTY IN THE TERRITORIES.

The VICE PRESIDENT. The resolutions

offered by the Senator from Mississippi are now before the Senate.

Mr. BROWN. Mr. President, I ask, before proceeding with my remarks, that the resolutions may be read.

The Secretary read them, as follows:

Resolved, That the Territories are the common property of all the States, and that it is the privilege of the citizens of all the States to go into the Territories with every kind of description of property recognized by the Constitution of the United States, and held under the laws of any of the States; and that it is the constitutional duty of the law-making power, as above described, to protect the rights of the citizens, whether by the Congress, or by the Territorial legislatures, to enact such laws as may be found necessary for the adequate and efficient protection of the same.

Resolved, That the Committee on Territories be instructed to insert, in any bill they may report for the organization of new Territories, a clause declaring it to be the duty of the Territorial Legislature to enact adequate and sufficient laws for the protection of all kinds of property, as above described, within the limits of the Territory; and that, upon its failure or refusal to do so, it is the admitted duty of Congress to interfere and pass such laws.

Mr. BROWN. When I introduced these resolutions, Mr. President, I acted under a deep sense of duty. I have seen the southern people excluded from most—inferior, from all but the best—the organized Territories of this Union with their slave property; and I believed that the same thing would occur in reference to the Territories about to be organized, unless Congress interposed its authority to protect the rights of the free citizens of the Territories about to be organized, moved resolutions which looked to direct, immediate, and positive protection to the slave property. As to the Territories already organized, I soon after introduced a bill looking to the overthrow of their unfriendly acts, and to the substitution of laws friendly to the species of property. In all these I sought what I believed to belong to the southern people under the Constitution; nothing more. At one time I supposed these resolutions would meet the approbation of Democratic Congresses generally. I have been disappointed in that respect. I have, however, to sustain them has in no wise shaken my confidence in their correctness; and I stand before you to-day, sir, to plead the cause of these resolutions. If I fail to convince the Senate that the resolutions are right, I shall not feel at all at least have the consolation of feeling that my hearers believe me to be sincere in offering them.

The resolution, and the bill which I subsequently introduced, and to which I have already alluded, embody these substantive principles: first, that the slave is not property in the Territories of the United States; secondly, that, being property, his owner has the same right to take him to a common Territory, and there hold him as property, that the owner of any other species of property has to take and hold it there; thirdly, that, having the constitutional right to take his property to the Territory, he is of necessity entitled to have it protected after he gets there, else the right would be nugatory. Up to this point, I have not found myself differing materially with my Democratic friends; but at this point, as you will said by my honorable friend from Indiana, [Mr. Fitch], we begin to diverge. I insist that it is primarily the duty of a Territorial Legislature to afford me the protection to which I am entitled; but the Legislature failing to refuse, then that it be the duty of the Congress to afford that protection; and here comes the rub. Is Congress, under any circumstances, bound to afford me adequate and sufficient protection for my slave property? I insist that it is; that if slaves are property under the Constitution, they are entitled to the same protection which is afforded to any other kind of property; and that, whatever obligations were imposed by the Constitution, are imposed directly upon Congress, and not upon a Territorial Legislature. Whatever appeal I, as a citizen of one of our sovereign States, may wish to address for the maintenance of my constitutional rights, I necessarily address to Congress; and why? Because all the powers imposed by the Federal Constitution to make laws were imposed upon Congress, and not, I repeat, upon a Territorial Legislature.

Sir, when the Constitution was formed, there was no such thing as a Territorial Legislature, and there was no such thing for many years afterwards. No authority is found in the debates which gave rise to the Constitution, indicating that the instrument of that instrument of that instrument ever would be such a legislative body as a Terri-

If I could find the exact property, I could bring my writ of replevin and recover it; but then, the same man who decoyed it from me yesterday might decoy it away to-morrow, and then I suppose I must bring another action of replevin; and so I must go on multiplying my actions to all eternity, recovering my property one day, simply to have it decoyed from my possession the next.

But suppose I cannot find the property, that it is as secreted I cannot get at it; John Brown's man, finding me in hot pursuit of my slave, secretes him. I prove that he had him in his possession, but I cannot find him. What then? I suppose I am told that then I am to bring an action of trover, or an action of trespass, or some other action sounding in damages, and that a friendly court and jury would assess me the full amount of my damages. So they might; but what will my judgment be worth if the offending party happens to be, as he would be nineteen times out of twenty, an insolvent? I should have a return of *nuda bona*, and be compelled myself to foot the bill of costs. I

should have lost my property; been engaged in a litigious lawsuit; recovered a worthless verdict, and had to pay the costs. This is your common law. No, Mr. President, the experience of every State in this Union, for more than one hundred years, has demonstrated the proposition that slave property is not secure without statutory laws. The Constitution has been in existence for seventy years; the common law has been in existence here ever since the colonies adopted it; and never, at any time since the adoption of the Federal Constitution, has the Constitution aided only by the common-law remedies, afforded adequate and sufficient protection to slave property anywhere. The Senator goes on and says:

[illegible]

"Certainly [says the Senator] there is now no organized Territory adapted to slavery where it exists, or is likely to exist, and where protection is consequently required, and is withheld."

I differ very widely from my friend from Indiana. There is just such a Territory; it is the Territory of Kansas. There not only is protection withheld, but positive laws are passed prohibiting the existence of slavery. Does my friend from Indiana take the ground that Kansas is unsuited to slavery? I have heard this argument of climate and soil and production used so often against my appeal for the introduction of slavery into Kansas, that I stand prepared to answer it.

Sir, where is Kansas? It is in precisely the same latitude with the Capitol in which I speak to-day. The Capitol in which we are assembled for legislation to-day is not ten miles north or south of Wyandotte, the place where Kansas lately assembled in convention to form an anti-slavery constitution. Does slavery exist profitably here? Does it exist profitably all around us? Go into Maryland; go into Virginia; look into their planting interests, and come and tell me whether slavery does not exist in those States, in the same latitude with

Kansas, with a greatly inferior soil, profitably, and whether it has not existed profitably for two hundred years; and yet we are told that it cannot exist profitably in Kansas on account of climate and soil and productions. The soil is the same, the climate is the same, the productions are the same. There are five States, one third of all the slaveholding States, lying in the same latitude with Kansas—Delaware, Maryland, Virginia, Kentucky, and Tennessee—each of which has a population of more than a million—States in which slavery has existed since the early settlement of this country, or from the earliest introduction of the black race on this continent; existed profitably at all times, and in all seasons, and in all climates, and in all soils, and cannot be introduced into Kansas, because the soil and climate and productions forbid it. Sir, I believe no such thing. If the master can work his slave profitably on the old lands in the States where he can work him on the virgin soil of Kansas, in the same latitude, worth \$1.25 per acre? Ah, Sir, give him Maryland lands to protect his slaves from the weather, and give him the laws and regulations about climate, and soil and productions.

But what has been the course of this Territorial Legislature? Why should it commend itself, as it seems to do, not only to Republicans, but to Democrats? What are its appeals to your forbearance? It passed a law, which I have in the volume before me, which would have afforded the Territory an affording positive protection to slave property. Three years afterwards, as is shown by this volume, the Legislature repealed that law. The first Territorial Legislature of Kansas believed that slave property needed protection; and they afforded it by a positive law to the Legislature. When the second Legislature got the ascendency, they repealed that legislation, and substituted nothing in its place; thus practically carrying out the doctrines which the Senator from Illinois [Mr. DOUGLASS] first predicted would be efficient for the exclusion of slavery from a Territory. He was right. When the Legislature took this course of inaction and unfriendly action on the part of a Territorial Legislature would be effective for the exclusion

of slavery. That doctrine has been denounced and by none more vehemently than by the honorable Senator from Indiana, [Mr. Fairs], and the honorable Senator from Illinois, [Mr. Schuyler]. But, I tell you, Mr. President, I will tell the country, that the doctrines promulgated by Senator from Illinois are in full force in Kansas to-day; and that they have produced the precise results which I predicted. I do not intend to announce these doctrines as I do; but when they are asked to apply the corrective, they pause, hesitate, and finally abruptly refuse.

Having repealed all laws in the Territory for the purpose of securing the equality of the white and colored races, the attitude of the Legislature then became one of non-action. The case up to that point stands as though Kansas had done nothing. In repealing her own statutes for the purpose of securing equality, she was friendly spirit; that was her friendly action. Thus by the non-action and unfriendly action, suggested, I say again, first by the Senator from Illinois, we have been excluded from Kansas. Second, we are now in a position to be expelled from it. I ask my Democratic friends who have been loud in the denunciation of that doctrine, as I have been, to interpose and restore these repealed laws for our protection, they would do it. Instead of doing so, however, they have been silent, and by, when very many other things have been shown, and they say that then they will be ready to interpose. Ah! my friends, you will interpose when all is lost. But more on that point presently.

My friend from Indiana tells me that whatever rights I have under the Constitution and the common law, he is for protecting—seeing them protected in the courts of justice; in other words, if he can go to the courts and obtain a judgment, based upon the common law and the Constitution, then he is for seeing the judgment executed. This is about the extent to which my honorable friend goes. I might almost ask the Senator from New York [Mr. SEAWAS] whether he would not go farther than that; whether he would not go so far as to actively take away from me a right guaranteed by the Constitution, and by the common law, as expounded by the Supreme Court? If I can establish a constitutional right, through the courts

unaided by his active interference, I doubt very much, if the Senator were President, whether he would not see the judgment in my favor executed. It will not amaze the world much, then, if I say that my gratitude is not deeply excited by promises of this kind from a Democratic friend.

But, Mr. President, not only does this Government refuse that sort of protection to slave property in the Territories, which I think it is entitled to, but it has denied it protection everywhere. It totally ignores this species of property, though it constitutes the great moneyed interest of the country. There is directly and indirectly dependent upon the security of that property, investments of millions of the money of our country. Destroy our \$2,000,000,000 worth of slaves and you destroy the value of the soil on which they work; you destroy the value of all our machinery; our stock becomes worthless; commerce is broken up; our cities dwindle and perish; and yet, sir, this great interest—the greatest individual interest under the Government—gets no protection from the Federal Government.

Wherever your property goes, on the land or upon the sea, Government stretches over it the strong arm of its power and protects it.

Sir, it was yesterday that I saw the stereotyped boast that the last night, or the night before, seventeen slaves had been spirited to Canada by the underground railroad. I saw the same old story show that thousands and thousands of slaves have been carried from the slaveholding States of this Union and secreted in Canada, and it is in the face of this explanation that I am to be told to suppose that the agents of the underground railroad were to boast every morning that last night they carried away seventeen head of horses from New York, one hundred head of horned cattle from Pennsylvania, and a hundred and fifty head of sheep from New Jersey. I suppose the underground railroad managers were constantly boasting that Canada was being made a receptacle for your stolen goods: what would the British Government say to that? Would it tell New York herself any? What would all the non-slaveholding States say? They would go to the President and demand that he discharge his duty, by notifying the British Government, that, unless the British Government would restore the stolen goods, it would be declared, and if its colony persisted in receiving and concealing the stolen goods of American citizens, this Government would resent the

ing, even the Senate from New York, [Mr. SEWARD,] whether he does not know that such would be the course of his section if northern property was taken instead of ours; yet he sees our property carried off, a million dollars' worth of it were taken from the hands of the Government, and he does not see it, and he does not care, and he goes on with a derisive laugh, and walks away. Are we not your equals in the Confederation? Have we not the same right to claim the protection of the Government for our property that you have for yours? I know not, sir, what other men would do, but I would have been very glad to have done so, until I had filed a notice with the British Minister accredited to this Government that, unless Canada yielded up the stolen negroes, as she would be compelled to yield up stolen horses, cattle, or any other property, she would be considered as interfering with the commerce of the United States, and if that remedy was not efficient, this Government would declare war. She has no more right to conceal my stolen negroes than she has to conceal your stolen goods; and I have the same reason to complain of her that you would have the same complaint good unheeded; yours would be listened to.

But, say gentlemen on our side, in your appeals for protection through the direct agency of Congress, you are departing from the recognized doctrine of the party—the doctrine of non-intervention. Sir, this argument so often repeated to, has been made in vain. It is an important principle to the public mind than all else that has been said on that subject. It has made its impression in the South, in the West, in the East, and in the North; and I will endeavor to answer it. I have the point very fairly stated in a private letter from a leading member of the House, and in retirement. His says: "I repeat, we will stand by and see you take possession and firmly plant slavery in all Territories adapted to slave labor, which will be evinced by the action of local legislatures."

else as it left us to the tender mercies of the Constitution, and the common law. It interpreted, by positive legislation, to protect every species of property except slave property.

Mr. SAULSBURY. Will the Senator pardon me one moment? I do not wish to be misunderstood. I do not wish to place myself in the position of denying the present law, or of arguing that slave property with any other species of property in a Territory. When the Senator shows an actual case where the slaveholder has been wronged in any Territory of the United States by an action of a Territorial Legislature, and where he has no adequate remedy to redress that wrong, I, for one, shall be as ready to vote for the protection of slave property in a Territory as I would for the protection of any other species of property. I have no sympathy with those who deny that slaves are property, and justly and completely and as fully as any other species of property known to any law of any State of this Union; and I have no disposition to deny to that species of property any protection which any other species of property has afforded to it; but the difference between the Senator and myself is this: I think it supposes that there is a present actual necessity for such legislation; I have not seen that present necessity.

Mr. BROWN. I have already shown that Kansas passed laws in the beginning to protect this kind of property. I have shown you that repealed those laws and substituted nothing in their stead. I now go further, and show you that in derogation of the authority of Congress, and in violation of its laws, the people of that Territory have assembled through their delegates in convention, and made an anti-slavery constitution, thus acting the authority of Congress at defiance. I then show you that they have passed a law positively abolishing slavery in the Territory, thus setting the authority of the Supreme Court at defiance. I then go one step further, and show you that they have passed, with the law for a year, a personal liberty bill, more odious in its terms than even a similar bill passed by the Legislature of the State of Massachusetts. I send the bill to the Secretary's desk, and ask him to read it.

The Secretary read, as follows:

An act to secure freedom to all persons within the Territory of Kansas.

Be it enacted by the Governor and Legislature, Annually of the Territory of Kansas: No person within this Territory shall be considered a slave, or be held to any form of purchase, or delivery; nor shall any person, within the limits of this Territory, at any time, be deprived of liberty or property without cause previously established.

Sec. 1. Use process of law, mentioned in the preceding section of this act, civil, in all cases, be defined to mean the usual process and forms in force by the laws of the Territory, and issued by the courts thereof; and under such process every person shall be entitled to a trial by jury.

Sec. 2. Whosoever any person in this Territory shall be deprived of liberty, arrested, or detained on the ground that such person owes service or labor to another person, who has made either written or without this Territory, either party may claim a trial by jury; and in such case, all the legal remedies and defenses provided by the law, in any case, shall be allowed the same as in any other case.

Sec. 3. Every person who shall deprive, or attempt to deprive, any other person of his liberty, contrary to the provisions of the preceding sections of this act, shall, on conviction thereof, forfeit and pay a fine not exceeding \$100, nor less than he be held to any form of sale in the Territory, nor in a term not exceeding—

Sec. 4. Every person who shall hold, or attempt to hold, in this Territory, any person, or be held to any form of sale in any form, or for any time, however short, under a pretense that such person is or has been a slave, shall, on conviction thereof, be imprisoned in the State Prison, or county jail, for a term not less than one year, nor more than fifteen years, and be fined not exceeding \$1,000.

Sec. 5. All acts and laws heretofore passed in violation of the provisions of this act, are hereby repealed.

Sec. 6. This act shall take effect from its passage.

Mr. BROWN. Thus we see, Mr. President, that the Territorial Legislature of Kansas deprives us of our rights by non-action, and by positive legislation; goes on and adopts a constitution in violation of the authority of Congress; passes a law in derogation of a decision of the Supreme Court positively prohibiting slavery; and then winds up the whole affair with that personal liberty bill; and still we are asked to fold our arms and let the Territory, the Constitution and the common law to give us protection. Sir, the gentlemen who have so much faith in courts, unaided by statutory laws, go far ahead of the teachings of my experience. Why, sir, I should as soon think of proceeding against Mr. Brown, to get him out of the Territory, as I should Harper's Ferry by an action of ejectment, relying

on the court to give me a judgment of ouster, and then sending the sheriff with his posse to turn him out, as to rely on the courts, aided only by the Constitution and the common law, to give me protection for my rights against such legislation as this.

What I demand is protection—that protection which you admit we are entitled to by the common Constitution. Give it to us now; do it at once. You see what delays have produced. You see of what right, of what liberty, of what privileges, we have been deprived by your non-action heretofore. Still you are content to wait. We have no Territory after Territory beyond redemption, and all for what? Not because the soil and climate and production were against us, but because we had no law to protect us. We waited under these specious pleas that our rights would be snatched from us until they were gone without hope of recovery. We come again and ask protection, and you tell us still to wait.

Sir, I had published in the gazettes of the day a series of resolutions, said, I have no reason to doubt, correctly, to have been agreed upon in a convention held in the Territory, and which were, second, and third, and to the sixth and seventh of those resolutions, I make no objection, and therefore shall offer no comment. The fourth and fifth do not so precisely meet my approbation. The fourth resolve is in these words:

Resolved, That neither Congress nor a Territorial Legislature, whether direct legislation, or by an indirect and indirectly character, possess power to annul or to impair the constitutional right of any citizen of the United States to take his slave property into the common Territories and there hold and enjoy the same while the territorial condition remains.

I have only a verbal criticism to make on that resolution. I like the word "right" better than that word "power." I can say with confidence that a Territorial Legislature may have the power to accomplish the result without doing it rightfully. I have seen that result accomplished already: accomplished wrongfully; still it was the exercise of power. I have no expectation, no belief, that they will be contented with any other result, and I have seen purpose that I would have, if I substituted a different word; and therefore I criticize the introduction of it here in an unfriendly spirit. I suppose it was intended to be used as synonymous with the word "right." With that alteration that resolution I should be satisfied. The fifth resolution is in these words:

Resolved, That if experience should at any time prove that the judicial and executive authority do not possess means to insure adequate protection to constitutional rights of citizens, and if the Territorial government shall refuse or refuse to provide the necessary remedies for that purpose, it will be the duty of Congress to supply such deficiency.

Sir, I think the duty of Congress commences at an earlier period than is designated in this resolution. I am not willing to wait for experience to demonstrate that which experience has already demonstrated. So far as any individual is concerned, I have no objection to the resolution that experience has proved in the last twenty years all that experience will prove for seventy years to come. Sir, if experience has not already shown us that protection, by direct and immediate legislation, is necessary for the security of our rights in the Territory, I have no objection that it never will demonstrate that fact. I have said before, and now repeat, in this connection, that experience in every one of the slaveholding States has shown that legislation is necessary in aiding the executive and judiciary to give protection to this kind of property. Such legislation has been found necessary in Mississippi, necessary in Louisiana, necessary in all the slaveholding States without a solitary exception, so far as I am informed or believe. If experience has shown that protection is necessary in all the slave States, why are we called upon to wait until experience shall demonstrate that a like necessity exists in a Territory? I see no reason for it. I think experience has shown us that, unaided by statutory law, slavery has not been protected in any Territory, and that it has been driven out by the force of public opinion in derogation of the rights of the master, and, as I honestly believe, in total disregard of the guarantees of the Constitution.

And if the territorial government shall fail or refuse to provide the necessary remedy—

Why, sir, have they not already failed and refused? Have I not read documents, as procured from Kansas, showing that they have failed and refused? Why wait? If you are going to legislate actively, when it shall be shown that they have failed and refused, then you must do it now. They have failed; they have refused; they have refused to pass any law, they have refused to pass any liberty bill; bills abolishing slavery; bills repealing former laws protecting slavery. If all this does not prove that Kansas has failed and refused, I do not know what evidence we shall require to prove that they have failed and refused.

Only, Mr. President, with a view to indicate my own clear convictions on this subject, and with no expectation that the proposition is to be received with greater favor in the Senate than it is received elsewhere, I give notice that when this resolution is brought to a vote of the Senate, I shall move this amendment:

That experience having already shown that the Constitution and the common law, unaided by statutory enactment, do not afford adequate and sufficient protection to slave property, some of the Territories having failed, others having refused, to pass such enactments, it has become the duty of Congress to interpret and pass such laws as will afford adequate and sufficient protection to the rights of citizens to take their slave property into the Territories, which is given to other kinds of property.

I say that it is my purpose to propose this amendment. I shall vote for it myself. If it fails, then I shall vote against it. I have no standard, and I have no chief, because of the concluding words, "and these things shall have happened, when we get the necessary experience, and when the Territorial Legislature shall have been shown to fail and refuse, then the resolution says 'it will be the duty of Congress to supply such remedy.'" In that, I get a recognition of the principle for which I contend, that it is your duty to act. You refuse to act now. That is the gravamen of my complaint. You want a greater amount of evidence to bring your minds to the conclusion that I require. I have no objection to that, but I have both the contingencies on which you base your determination to act, to pass laws for the protection of slave property, have already happened. I do not feel, myself, that any further experience is necessary or demonstrative that the courts, unaided by statute, are unable to afford protection. I think we have abundant evidence that the Territories, some of them, at least, have failed and refused to afford this protection; and, no thinking, I am prepared to act now. If my friends will not be convinced, I will not be. I will not be. I will then stand quietly, and wait until their minds are brought to the same conclusion as my own. I hope, if we are ever to have protection, we shall get it while it may be useful, and not have it mockingly tendered after the Territories are hopelessly lost to the South and to slavery.

Talking about protection is a very idle ceremony. If we present a case demanding protection, you ought to meet it like men. If we have no case, say so, and let us quit talking about it. Promises about what Congress will do years hence, when we shall see the result, are not worth the paper on which they are recorded.

Apologizing, Mr. President, for having detained the Senate so long, I yield the floor.

Mr. FITCH. Mr. President, some of the remarks of the Senator from Mississippi call for a brief response from me. I have no objection to the Senate for a very short time, aware, as I am, from the lateness of the hour, that members must be extremely anxious to leave the Chamber. The Senator spoke in complimentary terms of the approved efficacy of my professional, my medical prescriptions, but appears averse to having my political prescriptions—deems them inert. I trust it will be many years before the Senator requires a prescription for the benefit of his bodily health. May he live a thousand years without a single bodily ailment. But that he is a slaveholder, I call; and yet he will not perceive the disease, or, perceiving it, will not admit its existence. He is like the victim of that scourge of our race in variable climates, the consumption; the victim who, after passing away under the ravages of the disease, finds it is a slaveholder, and that it is, and fancies that his friends, whose solicitude in his behalf calls them daily about him, are laboring under some strange hallucination relative to his condition. Possibly I could convince the Senator that he is a slaveholder, and that he is, to become the victim, of a dangerous political malady. Pos-

ably I could point out the appropriate treatment for its recovery. Possibly I could prepare a political prescription for his benefit, possessed of curative powers equal to those he has been pleased to assign to my professional. But I much fear me, as he has indicated that he would not adopt my treatment, that he would not take my prescription. I must, therefore, be content to sit, and those acting with me and our remedies, to paralyze an eminent northwestern man, deemed, by many, a political empire, and his nostrums; for while the Senator will not himself, as he has assured us, take that empiric's nostrums, deceptions, and economies, yet «contentless» remedies to their effects upon others, and pursue such course toward his nostrums as may well induce others to take them.

His argument, designed to prove that the common law cannot protect slave property, is an argument against the truth of history. African slavery was first introduced into England and its possessions under the common law. It first came to this country under the common law. It received here, and throughout the English dependencies, its full protection from the common law—years during which it most flourish; years during which it acquired that vigor which has perpetuated itself to this time. That law, as the Senator will said, exists not only in this country, but wherever the Anglo-Saxon race has established a government, except in the particular instances in which it has been superseded by particular legislative acts. It exists certainly in this country, not only in States, but in Territories alike. In both alike it is recognized by the courts, except where it comes in conflict with some constitutional legislative enactment. Well, sir, one of its first axioms is, that every right has its remedy. I would say, then, to the Senator from Mississippi, he has but to establish his right, and the remedy necessarily goes with it. The Constitution has asserted the right, and we must conquer with that of the North in the Territories. The Supreme Court has affirmed this right. The Constitution, the courts, and the common law, will protect the right. A Territorial Legislature may regulate as to improve that protection. If it does not do so, it is not the Legislature, but the action recently inculcated, and evades its duty; but it cannot go any further in that direction; it cannot violate its duty and the Constitution by destroying, or even impairing the right; however, it may make the situation, a mockery of the right. I think it reasons thus: if a Territorial Legislature has the right to protect and to regulate the protection of slave property, it has the right to impair its value; if it has the right to impair its value, it has the right to destroy it. What abhorrent reasoning, if it can be called reasoning! My friend from Mississippi dissents from the *rationale*, but arrives at its conclusion.

The Constitution guarantees to every citizen life, liberty, and his property. The Constitution, the courts, and the common law, protect these rights. A Legislature may regulate, but it cannot prove this protection. A Legislature may, for instance, vary the punishment for a violation of these rights. It may vary the punishment for taking life; but does the power to vary the punishment for taking life carry with it the power, by indirect action, to lessen the value of the life of the innocent citizen? the power to place his life in daily jeopardy? the power to destroy his life? The latter proposition might as well be maintained as a similar one relative to the power to appropriate property.

I shall allude to but one time—will not allow more—of the Senator's illustrations in support of his opinion that the common law is impotent to the protection of slave property. He asks, «If a man decoys my slave from one country to another, what remedy has he? He will be permitted that he had a remedy, but objected that the remedy must necessarily be applied day after day.» We can look at this illustration made by him, in the very same light with another illustration which I have heard, if I mistake not, from the same Senator. A man creates a law to sell the two. It has been objected to the common law that it contained no provision against, and provided no punishment for selling liquor to slaves; and that in the absence of such law, their owners might find them, at times, not only useless and troublesome, but mischievous. The difficulty in

both cases, in the illustration of to-day and the previous one, is not in punishing the act, but it is in creating it. Laws exist, I presume, in every slaveholding State, prohibiting and punishing the sale of spirits to slaves, prohibiting and punishing the decoying away of a negro. If a negro, when he is owned as property, is found in the possession without permission of law or owner of any other person, the possession implies the fact that such person has decoyed him away, and in proof sufficient; but if he is found running at large, no one is responsible for his being so, unless the fact can be carried home to some individual who has decoyed him away. The remedy is to be established? Or if a slave is found intoxicated, and thus useless, how are you to prove that any white man sold him spirits in violation of law? You cannot do it under the existing laws. The slaveholding States, and several of the non-slaveholding, prohibit the negro testimony being received against a white man. What then is the Senator's remedy, if he has it not under the common law? Would he come here and ask Congress to do that which his own Legislature has refused to do—that the negro owe the level with the white man? the courts, put him on an equality with the Senator himself before a court? Surely he would not ask that kind of congressional legislation; and if he did, respect for ourselves, if not for the Government of which we are a part, would compel us to deny it.

He points us to the action of the Legislatures of Nebraska and Kansas, in proof of the necessity of congressional intervention, and in justification of the intervention he asks in his resolutions and bill. What is that action? The Legislature of Nebraska passed a law prohibiting slavery. The Governor vetoed it, and the veto was sustained. Surely, on this abortive attempt at usurpation of power, the Senator cannot base an application for protection of slave property in Nebraska, even if property of that kind existed there for protection, as he has based it on Kansas. The Legislature of Kansas passed a similar act, and that, too, was vetoed, but passed again over the veto. The Senator, in commenting on the resolutions last introduced by his colleague, stated that the remedies for protecting property, now proposed by the Legislature, as Congress must afford, were exhausted, and therefore Congress must intervene. Not so, even in Kansas. The judiciary yet stands between the right sought to be destroyed by the Kansas Legislature, and the usurpation by the Legislature of that right is sought. What would you who have the decision of that judiciary will be? No one who has read the Dred Scott decision can for a moment doubt that the courts, upon appeal, will declare the recent attempt at usurpation in Kansas, by a prohibitory act, null and void, and leave the owners of slave property there in the possession of their common-law remedies for protection—remedies which, in my estimation, will be found quite sufficient. This action to which he has pointed was the first, but the legitimate fruit of the right asserted by the Senator in his resolutions, (Mr. DOUGLASS) and it was honestly introduced in part, doubtless, from a supposition upon the part of the Territorial Legislature that the overshadowing influence of that Senator would induce a congressional sanction of their usurpation. When this supposition was disappointed, and the Senator and when those Legislatures have been rebuked by the courts for their attempted usurpation, as we know in advance, from the Dred Scott decision, they will be, such action will not be repeated. It will be no other remedy, but the Legislature, and the doctrine on which it is based will cease to be entertained; unless, indeed, the Senator from Mississippi and others who may be disposed to aid him secure the nomination for the Presidency of the main pillar of the doctrine, and thus make it a settled government principle.

The absence of any special legislative protection for slave property may, I grant you, subject the owners of that property to inconveniences, to annoyances; but certainly to none greater than are the owners of other self-moving, locomotive property daily subjected to—inconveniences and annoyances requiring vigilance for the preservation of property, but not affecting its title, nor necessarily its possession. We must not create, and we should not be asked to create—and I doubt our right to grant the request if it is asked—rigidly either for the North or for the South, by legisla-

tion; but it is our duty, the duty of every department of the Government, to see that rights granted by, or recognized by, the Constitution, receive adequate protection. The power of the judiciary to grant such protection cannot be questioned; because the judiciary derives its power from the Constitution, which asserts the right; and the judiciary was created by the Constitution for the very purpose of asserting and defending rights under it. Hitherto, the courts have been found possessed of the required means for the adequate exercise of that power. If, at any time hereafter, they are found deficient in those means, and the Legislature neglects to supply the deficiency, it is the duty of Congress to supply the deficiency in support of the courts; but it is not the duty, and scarce the right, of Congress, to grant that general legislation in advance contemplated by the Senator's resolutions, and asked by his bill. Such legislation would be a departure, as he has well said, from that great principle of non-intervention we have so long sustained—a principle now so necessary, as it has been heretofore, for our success; and not only for that, but so necessary to harmonize between the northern and southern wings of the only party who has its members from Lakes to the Gulf.

As with the Senator's special «decoy» argument adverse to the common law, so with his others; their fallacy generally can be shown; and the justice of the intervention he asks for both of most of the congressional legislation he asks for the Territories, can be easily demonstrated; but I do not design to consume the time of the Senate with any lengthy arguments on the subject. I shall leave them to able heads. Far better leave the protection of an established right to both of the Constitution, the courts, and the great unwritten common law, which is the sense of right among intelligent men, their common sense and that of the courts, than to that over-legislation asked for in the Senator's bill, which would subject him to more inconvenience, more annoyance, in subversion of its provisions, than will the absence of all legislation.

Mr. President, I have already, however, gone further than it was my intention to do on first rising. Now, I have a few words to say on a subject which I design making a motion. There lies upon the desk a communication from the regents of the Ladies' Mount Vernon Association, extending the courtesy of an invitation to the Senate, or such members of it as may choose to accept of it, to visit Mount Vernon, and to-morrow in Washington to-morrow. A boat, it appears, is placed at the disposal of the association, or such members of it as happen to be now in the city, who propose to visit Mount Vernon for the first time since they have completed its purchase. They would be doubtless gratified at the acceptance of the invitation; and for the purpose of allowing Senators who may design to accept of it to do so without interfering with public duties, I move that when we adjourn, we adjourn to meet at twelve o'clock to-morrow, and to-morrow we adjourn at three o'clock.

THE PRESIDING OFFICER, (Mr. BUELER in the chair.) The Senator of course must first move the postponement of the subject under consideration.

Mr. FITCH. I move, then, the temporary postponement of it, unless some gentleman wishes to speak now.

Mr. GWIN. I want to call up the West Point appropriation bill.

Mr. FITCH. Will the Senator permit me to make any motion?

Mr. GWIN. Certainly, provided I can make the motion to call up that bill.

Mr. FITCH. I move the postponement of this subject.

The motion was agreed to.

BOOK OF MEETING.

Mr. FITCH. Now I move that when we adjourn this afternoon, we adjourn to meet at twelve o'clock to-morrow, and then adjourn at three p. m. to-morrow.

Mr. WIGFALL. I hope the vote will not be taken on that yet. It may be important to consume the time in business. If the Senator will withdraw that motion, I will renew it at some other time.

Mr. MASON. Will Senators allow me to sug-

gest this; let us meet to-morrow at twelve, if they desire it—

Mr. FITCH. Very well. I will withdraw the latter part of the motion.

Mr. MASON. And let Senators who desire to go on this excursion, go; but do not make it matter of formal entry that we adjourn to go with the ladies to Mount Vernon or anywhere else.

Mr. FITCH. I do not know that we could have better company.

Mr. GWIN. The motion, I understand, is to meet at twelve o'clock to-morrow.

Mr. DOOLITTLE. I move to amend that by saying twelve o'clock to-morrow, and each day thereafter.

Mr. DAVIS. There is a great deal of committee work to be done. I am serving on four committees. I do not know whether others are quite so inconveniently circumstanced as I am; but I find the hour from twelve to one more profitably employed in the committee rooms than I believe it to be in the Senate; and I think we had better continue to meet at one o'clock, at least until we get all the business out of the committee rooms and before the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin.

Mr. BRIGHT. I must confirm what has been so well said by my friend from Mississippi. I hope we shall not change the hour.

Mr. FITCH. My proposition only embraces one day.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin.

Mr. DOOLITTLE. On that subject, it seems to me that, at this stage of the session, ought to meet as early as twelve o'clock in the day. When it gets to be about four o'clock, there is a very great uneasiness, and gentlemen begin to leave the Senate one after another. If we meet at an earlier hour, I think we shall accomplish more business in the Senate; and although I know that the committees are busy, still the committees can meet at the hour of ten o'clock, instead of meeting at the hour of eleven.

Mr. HALE. I hope this amendment will not be adopted. For one, I confess that my opinion coincides with that of the Senator from Mississippi and the Senator from Indiana. I think we can do a great deal better by meeting at one o'clock than at twelve. I have found it so. I beg my friends on this side of the House, when they see so much good sense on the other, not to go and act like fools. [Laughter.]

Mr. DOOLITTLE. I ask for the yeas and nays on my amendment. ["Oh, no!"]

Mr. WIGFALL. I hope the Senator will withdraw that. We have something to do.

Mr. DOOLITTLE. I ask for the yeas and nays. I wish to take the sense of the Senate on this question.

The yeas and nays were not ordered. The amendment was rejected.

The PRESIDING OFFICER. The question now is on the original motion of the Senator from Indiana, that the Senate meet to-morrow at twelve o'clock.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had at twelve o'clock this day ordered the printing of the following documents:

Letter of the Secretary of the Navy, transmitting statement showing the pay and allowances to the officers of the Navy and marine corps, for the year ending June 30, 1859;

Letter of the Secretary of the Navy, transmitting copies of the Navy Register for the current year.

Also, that the House had passed the following bills and resolution, in which the concurrence of the Senate was requested:

An act (No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers, and for other purposes.

An act (No. 279) providing for satisfying claims for bounty lands, and for other purposes.

A joint resolution (No. 11) providing for the manner of expending the balance of appropriate

tion for repairing the works and piers, in order to preserve and secure the light-house at Chicago, Illinois.

Also that the House had passed Senate bill (No. 217) for the relief of William B. Herrick.

MILITARY ACADEMY BILL.

Mr. GWIN. I now move that the Senate proceed to the consideration of the bill making appropriations for the West Point Academy. I hope it will be taken up.

Mr. FESSENDEN. I would inquire if it is the intention of the Senator, in calling up that bill, that we shall proceed to the discussion of the matter to-night?

Mr. GWIN. My own desire is, to leave it as the unfinished business for to-morrow.

Mr. FESSENDEN. It is proposed merely to call it up and leave it the unfinished business for to-morrow. I have no objection.

Mr. WIGFALL. I want it proceeded with to-night. I desire to have it disposed of.

Mr. FESSENDEN. Then I object to taking it up, because it is manifestly improper to call up at this hour of the afternoon, for the purpose of introducing a bill of no great importance, and so much debate, after what so many gentlemen have left the Senate.

Mr. JOHNSON, of Arkansas. Allow me for one moment to make a suggestion to the Senator from Maine. I have had no conference about this matter with the Senator from Texas, but I am very certain that if the Senator from Maine, who makes this objection, would listen to the details, horrible in their character, from the frontier of Texas, he would not hesitate for one moment to consider the bill and either pass it or reject it, so as to let that people know what to expect and what to do. I have listened to these details from a source in which I have confidence. I have heard them from a gentleman with whom I have been intimate, and whom I have known well, who was formerly an officer of the United States Army, and who resigned his position and settled in Texas—a man of the highest character. What he has told me shows the condition of things on that frontier to be not only lamentable but horrible.

Mr. FESSENDEN. And to this moment, notwithstanding the debate the other day, we do not get a communication on the subject from the Executive—not a particle of information.

Mr. MASON. The Senator is mistaken. It is on the table.

Mr. JOHNSON. When did it come?

Mr. MASON. It came to-day.

Mr. JOHNSON, of Arkansas. I believe I have the floor.

The PRESIDING OFFICER. The Senator from Maine is entitled to the floor.

Mr. JOHNSON, of Arkansas. If the Senator from Maine will allow me further, I will state that the position in which the Executive stands was depicted the other day at considerable length, and all the tenets that the Senator could put to the Administration were then applied. I certainly put the matter before the Senate, and I am now taken up by me put them more forcibly to-day than he did then. If that be so, the question must address itself to him whether he will take any step to grant relief unless the President of the United States can be by him forced to do so before the Senate was taken into consideration on the subject. These people are in relief, and I think we ought, at least, to consider their case and pass upon it.

Mr. FESSENDEN. Mr. President—

Mr. DAVIS. If the Senators from Maine and Arkansas will allow me, I will merely state that since the time this subject was laid before the Senate, a communication has been made by the Secretary of War upon it, which is in the room of the Committee on Military Affairs now, and can be sent for. It was in answer to a bill which was sent by the Committee on Military Affairs some time ago to the War Department, and bears on the matter under consideration, on which the two Senators are discussing.

Mr. JOHNSON, of Arkansas. I understand the communication has been sent for to the committee room, and I presume no Senator will object to the reading of it.

The PRESIDING OFFICER. (Mr. BELLA.) The communication is before the Chair.

Mr. WADE. I had the floor for to-morrow on the resolution that has been under consideration

to-day. I consented that it might be taken up to-day to accommodate the Senator from Mississippi; but I was understood, I believe, all around, that I should have the floor to-morrow morning.

Mr. WIGFALL. I so understood it.

Mr. WADE. If it was so understood, unless there is some business that is very pressing, I should like to have the floor to-morrow morning.

Mr. GWIN. In that condition of things, I appeal to the Senator from Maine to let us take up this appropriation bill which is also pressing, on account of the situation of affairs in Texas, and let the Senator from Ohio have the floor to-morrow, as he is evidently prepared to speak, and it is inconvenient to a Senator, under such circumstances to postpone him. I am willing to present this question in the most favorable form. We have now the communication from the War Department that the Senator from Maine, as well as myself, has been waiting for. I hope we shall take it up. We have now time, I think, to act on this bill.

Mr. MASON. I would suggest that the Senate is very full, that it is two hours at least, if not more, of the sun sets, and that is an important matter, as shown by the papers on the table, as well as by the very proper urgency of the Senator from Texas. I hope the bill will be taken up, and at any rate, a vote reached on the proposition of the Senator from Texas.

Mr. FESSENDEN. I commenced my address to the Chair, I was not aware that there was anything at all on the table upon the subject. I had not heard that there was any communication from the President or Secretary of War; I knew nothing about it. That I objected to was that the bill should be called up at this hour of the day, as we were about adjourning, without any previous notice, when many Senators had left the Chamber, for the purpose of going on with it, and taking a vote upon it. It had a very unfair appearance, and so much so, that I, an individual, took the other day, that, in the shape in which the measure then presented itself, the Senators on this side of the Chamber were opposed to it decidedly; and it looked very strange to me that at half past four o'clock in the afternoon a matter which had been so much debated on this side, and gone on the table by common consent to await communications from the Executive, and to await a report from the Committee on Military Affairs, to which it had been referred, should be called up in this way.

The Senators say that we have all the information from the Executive which was sought for, and an Executive recommendation on the subject, I, of course, shall not object to the bill being taken up; but I will say to Senators that I think the fairer course would be, under such circumstances, when the Senate is divided upon a question of this kind, and is well known and understood to be so divided, to give notice in the morning that you intend to call up the bill in half past four or five o'clock in the afternoon, and that you mean to call it up for action.

Mr. FESSENDEN. I have the notice this morning.

Mr. GWIN. I did; and I knew that these papers were here when I gave the notice.

Mr. FESSENDEN. My understanding—and it was certainly so regarded on this side of the Chamber—was, that the only motive which the Senator from California had in calling up the bill this morning, was to do what he said was to right a wrong that had been done the other day, and that we had simply to restore the bill to the table.

Mr. GWIN. I am sorry to be misunderstood in consideration. I proposed to put it in such a condition then, that we could call it up this evening.

Mr. FESSENDEN. The Senator says he gave the notice. Certainly I did not hear it.

Mr. GWIN. Certainly I did give it, because the papers were here, and I knew that we could consider them.

Mr. FESSENDEN. The papers have not been printed.

Mr. GWIN. They are in the hands of the chairmen of the Committee on Military Affairs.

Mr. FESSENDEN. Then you are going to act contrary to all custom; because, when communications of this kind are made from the Executive, they are always printed, so that the Senate may see what they are.

Mr. DAVIS. If the Senator will allow me, I think I can explain this matter so that it may be understood. There seems to be some confusion in the Senate as to the matter, and I want to put the matter straight. A bill was referred to the Committee on Military Affairs, which bill was sent to the War Office for information and the views of the Secretary. The Secretary replied yesterday. The committee on Military Affairs have not had a meeting since this reply was received. Therefore, of course, I have not reported it back to the Senate, nor does it appertain to the amendment to this bill, otherwise than as it belongs to the same subject. His reply was upon a bill which was before the Committee on Military Affairs, and I expect to get the action of the committee on it tomorrow. If this subject is called up for consideration, the information called for can be laid before the Senate and digested as they think proper.

Mr. BAYARD. The motion made by the honorable Senator from Mississippi, [Mr. Browne], this morning, which the Senate acted upon, was to postpone, for an hour and a half, the bill which was then the special order—the bill to amend the act in relation to the Court of Claims. With what I see of the tone and temper of the Senate, I am not desirous, though that is a practical, and not a political question, to press it upon them now; but I ask the Senate to allow me to take it up, and as there is no special order for Monday next, to move to postpone it and make it the special order for Monday next, at half past one o'clock. Then gentlemen can dispose of these other matters during the interim.

THE PRESIDING OFFICER. There is a question under consideration, which must first be disposed of.

Mr. COMBES. I hope the appropriation bill will not be taken up. I think the Senator from Maine is quite right. We have referred this question to the Military Committee.

Mr. WIGFALL. Will the Senator allow me to make a word of explanation?

Mr. COMBES. Yes.

Mr. WIGFALL. Mr. President, I thank the Senator for the opportunity that he has given me. Immediately after the beginning of this session, as soon as Congress met, my colleague—I not being here then—introduced a bill providing for an appropriation for a regiment of Texas rangers that was already authorized by law. The chairman of the Military Committee, to which that bill was referred, wrote immediately thereafter to the War Department and received no answer until yesterday. The object of his communication was such as is usual in such cases, to obtain the necessary information and details as to the amount of the appropriation. Finding that the Secretary of War did not send any answer to the Military Committee, I, knowing the state of things in Texas, introduced a resolution requesting the President to muster the regiment into the field and trust to luck and to the sense of justice and the patriotism of the two Houses to make the appropriation afterwards. I consulted with all the different Departments, but I could get no action on the part of any of them. In the meantime there was a war going on upon our northern frontier with the Indians and upon our western border with the Mexicans.

I found that the resolution which I introduced was not useful—one side of this Chamber being opposed to it on general principles, and the other side supposing that it might involve some imputation on the Administration. Time passed on, and then I introduced an amendment to the West Point appropriation bill. I did that because I thought if I introduced a bill which it would meet the same fate that the bill which my colleague introduced had met—it would be referred to a committee. An appropriation bill moved, as for the West Point Academy. I then moved, as an amendment to that, making an appropriation for this regiment that was already provided for by law. Last Wednesday or Thursday that question came up. We took a test vote on it. The Senator from Maine says it was obvious that his

side of the Chamber was opposed to it. There were at least three Senators on that side who declared that they would vote for it. It was attempted, in order to get his side, by a motion to refer it to a committee. We took a test vote upon that motion. There were 31 votes in favor of the measure and against the reference, and 25 on the other side. Just at that time, however, by some parliamentary gentleman who I do not understand, while I was filibustering about, and declaiming for my bill, and trying to get votes for it, the Senator from Delaware [Mr. SALLISBURY] had the bill referred to a committee; and "Presto change!" before I could turn around and see what was done, the Senate had it again from the committee and upon the table. [Laughter.]

Under these circumstances, I waited to see what would turn up next. Then Senators wanted some information from the War Department. We now have the information from the War Department. Yesterday morning I came here and desired to call up the bill, but I was told not to press it. The Senator from Louisiana [Mr. BENJAMIN] said that they had one or two judiciary bills which they would get through in a short time, and as soon as they were through with, he would send them in to me, in order to get his side, I forbore to press it. This morning the Senator from Mississippi wanted to speak. Well, I was willing to let him do that. The speech has been delivered; the chairman of the Committee on the Judiciary is waiting to postpone the regular order, and we are to take this up; and now it is objected to and from the State of Georgia comes the objection.

I will say to the Senator from Georgia that I received this morning a newspaper from Texas, published on the 25th day of last month, only ten days ago, in which we have the following, together received, that in three of the center counties of the State the Indians have simultaneously made an attack, one of them a county within fifty or one hundred miles of the seat of government. There are four counties now involved. Some eight or ten different parties of Indians have attacked the settlements in four different counties, and three of those lying almost adjoining the county in which the seat of government is situated. Five persons were killed in Bosque, one of those counties, and two persons in Corsell, in Lampasas they do not know what destruction of life and of property has taken place. In Palo Pinto some four or five families had been attacked. There were men there present who drove the Indians off; but they at last attacked a house inhabited by four women, in which there were one man and those four women were captured. Their neighbors immediately followed upon the Indian trail, and they found two of them with unmistakable evidence upon their persons of having been abused in the most brutal manner, and scalped. Since that time the other two have been unable to return home, without a vestige of clothing upon them—the habit of the Comanches being to turn loose those whom they have abused, if they do not kill them.

Under these circumstances, with a war raging not upon our northern frontier, but carried down to the very seat of government, with a war upon the Rio Grande going on now, I ask, am I impatient, having waited for nearly two months here to get some legislative action on the subject? Senators have objected, because they do not want them, in substance, to say they wanted the Administration to make a recommendation. The Administration is now making it. The Secretary of War has informed the chairman of the Military Committee that he deems this appropriation necessary, that he thinks it should be made, and he has always thought so. He is anxious to muster this regiment into service, and would so if this appropriation be made. Now we have his letter here; the Administration is committed to and advises the course I propose to pursue, and I ask, why longer delay?

I am told that it is now half past four o'clock. Suppose it is. I have heard that in England, not during the better days of the Republic, prisoners

were sometimes hanged that judges might die; but I trust in God that in this country an American Senator will not adjourn for dinner while the people in one of the States of the Union are suffering from the tomahawk and the scalping-knife. I do not expect Senators on the side of the Chamber on which the Senator from Maine sits, to vote against this. They may have peculiarities, they may have notions, they may have sympathies for a claim of the human family that extend those to some matters, but I do not believe they have entirely lost all sympathy with their own color. Those women who are murdered and outraged are white women, and the State in which those things are taking place is one of the States of this Union. She has given up her army and her navy. She has entered into a compact with the other States, and the other States have agreed, through this Federal Government, to protect her people; but they have been left exposed to the tomahawk and the scalping-knife ever since they have been admitted into the Union. I may just as well tell the whole story; it is not a long one, and I shall not take up much time.

This Indian war has been going on in Texas ever since our country was upon the upper Wichita and the Red river, and the Canadian, the buffalo assemblage in summer; and with the buffalo the Comanches and other wild tribes assemble to feed on them. As the winter comes on, the buffalo moves south for grass, and the Indian comes down. When they approach the settlements they enter; and then they pass upon our western border, down between the settlements and the Staked plain, cross the Rio Grande, go into Mexico, rob and commit depredations in Mexico until spring; when they return by the same route, go north with the buffalo, and there they congregate together in large villages. It is in the fall, when they have followed the buffalo down to the northern border of Texas, and when they are passing down on our western frontier to Mexico, that they break up into small parties and attack and sack settlements along the northern border, sometimes making incursions into the State to the distance of a hundred, two hundred, and two hundred and fifty miles, in small parties through thinly settled portions, avoiding those settlements that are thick. When they come back into Mexico, they again make depredations; and there is but one way that these people can be reached, and that is in summer, when they have congregated together upon the Canadian, upon the Red river, and upon the Wichita, to attack them in their towns, and there punish them for their depredations.

This is the advice given in the correspondence of General Twiggs, who has been the commander of that department for years past, which was published by order of the Senate last year. He says that there is but one way of dealing with the Comanches, and that is to attack them in their settlements during the summer months. Major Van Dorn, in 1848, went into that country and attacked them near the Wichita or Canadian and defeated them. Unfortunately, Major Van Dorn was superseded, and when he was superseded his company was removed and he went upon leave of absence. He has returned to the country. Now, there are not troops enough in Texas for these expeditions. The spring has broken upon us. The time for the summer campaign has passed. The Secretary of War is desirous to send all the troops he can down to Texas, but there are no troops to send. The regiments now in Utah will not be in that country before fall, when it will be too late either to operate on the Rio Grande or against these Indians. But with such regiments as the Secretary of War has in Texas, a campaign can be made against the Indians this summer, and they can be bound to keep the peace by the punishment which will be inflicted upon them. In the meantime, the troops that are in Texas, aided by ten companies of soldiers, the soldiers of the Rio Grande, and that border can be protected.

A State that has a war going on from its center to its circumference, upon its northern frontier,

coastguard such a force on the border as the means and men at the command of the Department could authorize.

It is certain that, whatever may have been the origin of the quarrel, or who the parties to it at first, it has now grown to a formidable and dangerous proportion. The band of Cortinas increased rapidly, until its numbers reached over five hundred men, and he moved himself and his followers to the Grande, there keeping up a constant and friendly intercourse with the Mexican border, and maintaining an attitude of determination to resist any attempt to dislodge him. He remained until the 30th of December, when Major Heston, with one hundred and fifty regular troops, and one hundred and eighty Texas volunteers, led by Major Heston, strongly posted, and, after a sharp engagement, routed him completely, taking his guns, camp equipment, and mule-trains, and killing about sixty of his men. Cortinas fled with his shattered band to the Mexican shore, where he still remains, insulting and firing upon American vessels, and thus defying the authority of the United States to exercise any, which is greatly questioned by many intelligent persons, and giving opportunity to the United States to arrest parties of his men cross the river constantly for the purposes of theft and plunder.

This state of affairs, as I understand it, constitutes the foundation of the report of the commissioners sent by the Governor of Texas to the frontier to examine into all the facts connected with the disturbances on the border. And upon their report, he declares that Texas has been invaded, and he calls for the "interposition of the Federal arm" for the protection of the citizens of the State.

This call of the Governor is the first which has yet been made by the authorities of Texas for Federal troops to be sent to the border. It is a call for Federal troops to be sent to the border, and it is a call for Federal troops to be sent to the border, and it is a call for Federal troops to be sent to the border.

But upon this call of the Governor of Texas, and upon the undeniable proof of gross and flagrant wrongs, which I did not hesitate to urge a concentration of all the force upon the frontier which the exigencies of the service elsewhere would allow.

Very respectfully, your obedient servant,

W. M. FLOYD, Secretary of War.

TO THE PRESIDENT.

Mr. FESSENDEN. I gave way to hear these communications read; and I have a remark or two to make upon them. The Senator will not fail to observe one or two things in them. The President simply said to Governor Johnson's communication to the Senate. He makes no recommendation at all; and, if I am not mistaken, the Governor says nothing in his communication about the Indians.

Mr. WIGFALL. He does, distinctly.

Mr. FESSENDEN. If he does, I do not hear it, and those listening with me did not hear it.

Mr. WIGFALL. Read it again.

Mr. FESSENDEN. I should like to hear that again, if I am mistaken.

The Secretary read as follows:

"I deplore the situation of Texas. An empty treasury, the Indian troubles, unquenched for the last ten years, and the forces from Mexico to the frontier, have all been calculated to impress the mind of the Executive of the State of Texas with the intricacies of the attitude which he has, in justice to his fellow citizens and humanity, to assume, should not the Federal arm be speedily raised and extended in behalf of our suffering frontier."

Mr. FESSENDEN. What for? That Indian troubles on the border for the last ten years should call for the speedy interposition of the Executive arm?

Mr. WIGFALL. That they are greater than they have been for the last ten years.

Mr. FESSENDEN. We heard that over and over again in the Senate, while the Senator now the Governor of Texas was here, at least some four or five times during every session of Congress, and Congress passed upon that. What I want to say was, that he said nothing of any right in saying was, that he does not intimate that there are any particularly recent Indian troubles calling for the interposition of the Federal Government, nothing of modern date. He goes back to what he urged on the Senate heretofore, and what was urged on the Senate when we authorized this regiment to be raised, if the President thought it best to call it into the field and to organize it. Therefore I was right substantially, in the assertion I made.

Mr. FESSENDEN. His communication is directed particularly to the matter of Cortinas and his band. Then, when we come to the communication of the Secretary of War, what is that? It proves conclusively that the greater part of all these stories about outrages were at one time found to be false and fabricated, and the Senate undoubtedly understood what was said by General Twiggs, in his communication with regard to the feeling of the people on the border, and the objects which those people had in keeping the troops in the field; but what has been done?

Mr. JOHNSON, of Arkansas. I must really rise to a point of order. I regret to do it when

the Senator from Maine is on the floor, but I must make the point. It must necessarily draw a good deal more debate, and we are not debating the bill justly. My point is, that it is not in order, on a motion to take up a bill, to go at large into its merits; and so the discussion is entirely out of order.

Mr. CLAY, (to Mr. FESSENDEN.) You will admit that, I presume.

Mr. FESSENDEN. I do not understand the Senator.

Mr. CLAY. I presume the Senator, and every other Senator on the floor, will admit that it is out of order.

Mr. FESSENDEN. I will admit that, if it is out of order, it is an order that has never been followed in the Senate since I have been a member of it; but has been uniformly and universally disregarded.

THE PRESIDING OFFICER, (Mr. BOLK.) The Chair has already stated that, in his opinion, it was clearly out of order, and in violation of parliamentary law; but the practice has been followed in this body. If obliged to make a decision, the Chair must say that it is out of order to discuss the merits of a bill, pending a motion to take it up; but it has been the custom in this body.

Mr. FESSENDEN. If I understand the Chair to turn on the subject, I will obey the ruling, whatever it may be. I only want to know what the ruling is.

THE PRESIDING OFFICER. The Chair will rule, then, that this question is out of order.

Mr. FESSENDEN. Very well; I submit to the ruling.

THE PRESIDING OFFICER. The question is on taking up the bill.

Mr. FESSENDEN called for the yeas and nays, and yeas and nays were ordered.

Mr. HEMPHILL. I should like to make a brief explanation.

Mr. FESSENDEN. It is out of order.

Mr. LANE. I wish to say a word in explanation before the vote is taken. The Senator from New York [Mr. SEWARD] said to me some two hours ago that he was going off to fulfill an engagement, and he desired me to pair with him. I stated that on any political question I would do so. Not regarding this as a political question, but being in favor of the bill, I am at liberty to vote. I shall therefore vote "yea."

The question being taken by yeas and nays, yeas—YEAS—YEAS, 27, nays 17, as follows:

YEAS—Messrs. Bayard, Benjamin, Bigler, Briggs, Brown, Claiborne, Clifton, Davis, Douglas, Fitch, Fitzpatrick, Hammond, Humphreys, Johnson, of Arkansas, Johnson, of Tennessee, Kennedy, Lane, Lathrop, Mason, Powell, Rice, Sinsbury, Sebastian, Wigfall, and Yates.

NAYS—Messrs. Bingham, Chandler, Collamer, Doolittle, Fessenden, Ford, Foster, Hale, Harlan, King, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Willard.

So the motion was agreed to.

Mr. DOOLITTLE. As the bill is now taken up, and will be the unfinished business for tomorrow morning, and have precedence of all other business, I move that the Senate do now adjourn.

Mr. BENJAMIN. I ask the Senator to permit me to make a motion of form before that is done. I move, with the consent of the Senator, that the further execution of the order of the Senate appointing Monday and Tuesday for Judiciary business be postponed until Monday next.

Mr. HUNTER. That has been done, I think. Mr. BENJAMIN. No; it has not been done. Let the Senate extend the order until Monday next for Judiciary business.

THE PRESIDING OFFICER. The Chair will put the question on the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. DOOLITTLE. I now renew the motion that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 6, 1860.

The House met at twelve o'clock, P. M.

The Journal of yesterday was read and approved.

PAY OF NAVAL AND MARINE OFFICERS.

THE SPEAKER laid before the House a com-

munication from the Secretary of the Navy, transmitting a statement of the pay and allowances to the officers of the Navy and marine corps, during the fiscal year ending 30th June, 1859; which was laid on the table, and ordered to be printed.

NAVY REGISTER.

THE SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting three hundred copies of the Navy Register for the current year, for the use of the members of the House of Representatives; which was laid on the table, and ordered to be printed.

PAY AND MILEAGE OF MEMBERS.

Mr. SCHWARTZ. I ask leave to offer the following resolution:

Resolved, That the Committee on Mileage be instructed to inquire into the expediency of reducing the compensation now paid to members of Congress, to what it was formerly; that it be further instructed to inquire into the expediency of regulating and reducing the mileage now allowed to members of Congress; and that it have power to report by bill or otherwise.

Mr. JOHN COCHRANE. This is the last day the Committee on Commerce has for its reports. There has been some important business reported, and a bill for the regulation of a passenger order for to-day, which is the bill to protect female passengers in emigrant ships. I hope, therefore, that the House will allow us to proceed with that special order.

Mr. CLAYMEN. I object to the introduction of the resolution.

BOUNDARY BETWEEN GEORGIA AND FLORIDA.

Mr. LOVE. I ask leave to offer a resolution.

Mr. DAVIS, of Indiana. If the morning hour has not commenced I will not object; but if this is to come out of it, I must object.

THE SPEAKER. The morning hour has not commenced.

Mr. BUFFINTON. There can be no objection to this resolution. Let it be read.

Mr. Love's resolution was read, as follows:

Whereas, in the recent settlement of the boundary question between the States of Georgia and Florida, a line has been run, and dealises will be adopted and affirmed by the two States, which will result in the exclusion of a large number of persons who have heretofore been considered citizens of said State of Georgia, and who hold claims of land in said State, and who are entitled to the same, and whereas it is not only important to these two States that this sacred question should be finally and finally settled, but also to the United States Government, do hereby:

Resolved, That the Committee on Public Lands be, and they are hereby instructed, to consider the expediency of reporting a bill and yielding any claim that the Government of the United States may have to lands on either side of said line, to all whose claims were good before said line was run.

There being no objection, the resolution was considered, and agreed to.

ORDER OF BUSINESS.

Mr. SHERMAN. I call for the regular order of business, if I am not the first to be answered.

Mr. COX. I desire to make a report from the Committee on Revolutionary Claims. I was sick the other day when my committee was called.

Mr. CRAWFORD. I desire to ask the gentleman from Ohio to allow me to present a resolution in relation to the State of Georgia, in order that they may be referred to the appropriate committees, and ordered to be printed.

Mr. SHERMAN. I call for the regular order of business, in order that the morning hour may commence.

THE SPEAKER. The regular order of business is the reception of reports from the Committee on Commerce, and the first in order is the following bill, reported when the calendar was called, named H. R. No. 19, to amend an act entitled "An Act to regulate the carriage of passengers in steamships or other vessels," approved March 2, 1855, for the better protection of female passengers and for other purposes.

RESOLUTIONS OF GEORGIA.

Mr. CRAWFORD, by unanimous consent, presented the following joint resolutions of the Legislature of Georgia, which were referred to the Committee of Ways and Means, and ordered to be printed:

Joint resolution relative to the Branch Mint at Dahlburg. Whereas a serious effort was made in the last Congress to withhold the usual appropriations for the Branch Mint

at Dahlonege, in this State, and thereby is effect to abolish the mine and wherever the said mine is of great and growing importance to the gold diggers of Lumpkin and the surrounding country, inasmuch as heavy sums of money are said to be being extracted from the mine and sold for gold, and thereby developing the gold buried in the mountains of Georgia; and whereas increasing quantities of gold are being extracted from the mine and sold for gold from the above causes, as well as from the fact that a large number of the citizens of upper Georgia are now engaged in mining in the Rocky Mountains, who return the ore for coinage at the Dahlonege mint; and whereas, the said mint at Dahlonege is almost the only one which directly benefits the actual laborer, the gold miner himself, and one of the few establishments of the Federal Government so early, wherein a gift of Federal money is expended on the people of the State.

It is resolved by the Senate and House of Representatives of Georgia, That our Senators and Representatives in Congress be requested to use all efforts in their power to procure the said mint, and to procure the usual appropriations therefor.

Resolved, That this Excellency the Governor be requested to transmit a copy of this preamble and resolutions to each of our Senators and Representatives in Congress.

JAMES J. DIAMOND, Clerk of the House of Representatives.
T. L. GURNEY,
President of the Senate.

FREDERICK H. WEST, Secretary of the Senate.
Assented to December 15, 1859.

JOSEPH E. BROWN, Governor.
Mr. CRAWFORD also presented the following joint resolutions of the Legislature of the State of Georgia, which were severally referred to the Committee on the Post Office and Post Roads, and ordered to be printed:

Remitted by the General Assembly, That our Senators be requested, and our Representatives in Congress be requested, to use their efforts to have the mail service which has lately been discontinued in Georgia put in operation again by the Postmaster-General, so that the facilities at present afforded are insufficient to meet the commercial, agricultural, and social wants of the people.

Speaker of the House of Representatives.
JAMES J. DIAMOND, Clerk of the House of Representatives.

FREDERICK H. WEST, Secretary of the Senate.
Assented to December 17, 1859.

JOSEPH E. BROWN, Governor.
Remitted by the General Assembly of the State of Georgia, That our Senators and Representatives in Congress be requested to use their influence to have the mail routes through the counties of Worth, and Wilkes, altered and changed from what they now are to what they were previous to the letting of the new contracts in 1856, so as to better the transmission of the mails, the facilities at the mail routes through said counties being in a wretched condition at the present time, and that a copy of this resolution be forwarded to our members in Congress.

Speaker of the House of Representatives.
JAMES J. DIAMOND, Clerk of the House of Representatives.

FREDERICK H. WEST, Secretary of the Senate.
Assented to December 17, 1859.

JOSEPH E. BROWN, Governor.

CORRECTION OF THE JOURNAL.
Mr. BOCCOCK. I rise to a question of privilege. Upon examining the Journal I find that my name is not recorded on the vote yesterday on the motion of the gentleman from Mississippi, [Mr. BARKSDALE,] to suspend the rules, with a view to introduce a resolution to fix a period for the adjournment. I was in the House at the time, and have a distinct recollection that I voted. The recording of my vote will not change the result. I voted against suspending the rules, and I ask that the Journal be amended so as to record that vote. It was so ordered.

HEIRS OF JOHN PAULDING AND OTHERS.
Mr. COX, by unanimous consent, from the Committee on Revolutionary Claims, reported back, with a recommendation, that it do pass, a bill for the relief of the heirs of John Paulding, David Williams, Isaac Van Wert, and Sergeant John Champe; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. VANCE. I would appeal to the gentleman from New York to allow me to introduce a bill.

Mr. JOHN COCHRANE. I have yielded repeatedly, and will yield to the gentleman.

Mr. VANCE. I was accidently mistaken when the Committee on Revolutionary Claims was called the other day.

Mr. CASE. I object, for the reason that there are others similarly circumstanced.

Mr. VANCE. I wish to introduce the bill for reference.

Mr. GROW. I hope the rules will be enforced.

PROTECTION OF FEMALE EMIGRANTS.

The House then resumed the consideration of the bill reported from the Committee on Commerce, to amend an act entitled "An act to regulate the emigration of passengers in ships or other vessels," approved March 3, 1855, for the better protection of female passengers, and for other purposes, the pending question being on the motion of Mr. JOHN COCHRANE to recommit the said bill to the Committee on Commerce.

Mr. STANTON. I rise to a privileged question. I call up the motion to reconsider the vote by which the fortification bill was referred to the Committee of the Whole on the state of the Union.

The SPEAKER. That cannot take precedence of the business before the House. The gentleman from New York [Mr. JOHN COCHRANE] is entitled to the floor.

Mr. JOHN COCHRANE. When this bill was last under consideration, I submitted a motion that it be recommitted to the Committee on Commerce. I now withdraw that motion, and move that the bill be passed on its passage.

I wish to say, in connection with the motion that I have made, very briefly, that this bill provides for the punishment of those who seduce, by solicitation, by gifts, females suspected of passenger ships upon the high seas. The punishment of that offense is one year's imprisonment or a fine not exceeding \$1,000.

The second section of the bill provides that no subordinate officer or seaman on board any vessel, who attempts to visit the ship or to induce the emigrant passengers are placed, and that a violation of that provision shall be visited with the penalty of their wages during the voyage, and that the captain shall be visited with a penalty of fifty dollars for permitting it.

The third section provides that the captain shall be placed publicly upon the vessel notices to the effect that seamen are prohibited from visiting the part of the vessel where the emigrant passengers are, and inflicts a penalty on him of fifty dollars for the omission to do so. There is no reason why if the court, in its discretion, shall choose, it shall double the fines in these several instances to the female who has been injured. The time of limitation, as fixed by the bill, is one year from the time of the commission of the offense.

Since I occupied the floor the other day, numerous suggestions have been made to me as to the propriety of two alterations in the bill, and I have supposed that those alterations are proper. One is, that the third section, the notice to be given shall be couched, not only in the English language, but in the French and German; and the other is, that the time of limitation, instead of being only one year from the commission of the offense, shall be one year from the time of the arrival of the vessel in port.

The reason of the first alteration is obvious. That of the second is to be found in the fact that passenger vessels frequently, by stress of weather, are upon the sea some three, four, or five months; so that if the period of the limitation be taken from the time of the commission of the offense, the limitation may, perhaps, be too short, which will be provided for and obviated by such an amendment as I propose to submit, namely, one year from the time of the arrival of the vessel in port. I now offer the amendment which I send up, and upon it I shall demand the previous question.

The amendment was read; as follows:

Insert in line four of section three, between the words "notice" and "containing," the words, "in the English, French, and German languages;" and strike from line five the last words thereof, namely, "the commission of the offense;" and insert the words, "the arrival of the ship or vessel at the port for which she was destined when the offense was committed."

Mr. JOHN COCHRANE. I now move the previous question.

The previous question was seconded, and the main question was ordered.

The SPEAKER. The first question is upon the amendment presented by the gentleman from New York, [Mr. JOHN COCHRANE.]

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time and being en-

grossed, it was accordingly read the third time and passed.

Mr. JOHN COCHRANE, moved to reconsider the vote by which the bill was passed; and announced that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

● CODIFICATION OF THE REVENUE LAWS.

Mr. JOHN COCHRANE. I am instructed by the Committee on Commerce to report back to the House a bill (H. R. No. 21) for the simplification and codification of the existing revenue laws of the United States, and plan other purposes.

Mr. Speaker, most of the members of the House understand this bill intimately. I may say here that it has been very materially and radically changed from its condition when offered to the last Congress. Innovations have been abandoned, and it has been deemed best to provide for the existing laws only those amendments which are necessary for their enforcement—amendments which have been adopted by the Treasury Department, and have prevailed under its administration during the last year, without the action of law-makers, and, therefore, without the possibility of reference by our judicial tribunals to law to control and modify them, when presented in cases for judicial examination.

This bill, sir, has had devoted to it seven years of labor. The members, as they stand here, have simply collated, with the amendments annexed, which I have referred to. Those laws that are in conflict with adjudicated law have been repealed; and those which are doubtful have been changed to the language of judicial decisions. I have adopted, sir, the law recognized, and which has been advised by the Committee on Commerce, that the bill should present upon its face indications by which every member consulting it, may perceive what part of it is old and what part of it is new; so that they may carry away each member of the House, as he finds time to take up the bill, will know what it is that is proposed to him to record his vote upon.

It is of the utmost importance, Mr. Speaker, that this bill should be considered. The interests of commerce are very largely affected by the new limited and confined by an imperfect code of revenue laws. More inadequate laws are operative upon the transactions of commerce all over the land. Lawyers are interested in the passage of this bill; merchants are interested; all classes of any degree connected with the transactions of commerce have a direct, intimate, and extended interest in the subject of the bill. And, sir, it is for the purpose of asking this House that the further consideration of this bill shall be postponed to some future day certain, the members during the interim thus having an opportunity for consulting it and learning its facts, and forming an intelligent judgment upon it—that I have made the remarks I have just submitted to the House. I have selected that period which is compatible with action, and not unduly taxing the remaining business of this House, to which to move that the bill be postponed; and I trust that there will not be a solitary objection. I say, in my place now, sir, that at the time to which I propose to postpone the further consideration of this bill, should more important business require attention or should there be objection to its consideration, based upon a reasonable intimation from gentlemen that they do not understand the bill, I will give way and permit its consideration to be postponed to another day. I am sure that should be referred to the Committee of the Whole on the state of the Union, there to be considered as a special order. I move, then, that the further consideration of the bill be postponed until the fourth Tuesday of the present month, the 27th instant.

Mr. MAYNARD. Unless we be so ordered, we agree to fix a later day for the postponement. I will be constrained to object.

Mr. JOHN COCHRANE. I have made my motion, and I call for the vote on it. I cannot consent, with my present information, to a later postponement.

Mr. WASHBURN, of Illinois. I suggest to my colleague on the Committee on Commerce to call for the previous question; for it will bring the House to a vote on the passage of the bill at this time. There will be no objection to the postponement of the further consideration of the

bill, and there will be no objection to ordering the bill to be printed.

Mr. MAYNARD. Certainly. I want the postponement to a day later than that which has been stated. I would suggest between the 1st and 10th of April.

Mr. CLEMENS. I am satisfied we ought to agree to the postponement of the bill to the time stated by the gentleman from Tennessee; and that suggestion is adopted, it is obvious it will obviate all difficulty in reference to the course proposed by the gentleman from New York.

Mr. JOHN COCHRANE. Then I agree to modify my motion to the extent that the further consideration of this bill be postponed until the first Tuesday in April.

Mr. GROW. Is it moved to make this bill a special order on the day to which it is proposed to postpone it?

Mr. WASHBURN, of Illinois. Not at all. Mr. GROW. Neither in the Committee of the Whole on the state of the Union nor in the House? I am opposed to the bill being made a special order.

Mr. JOHN COCHRANE. I do not propose that it shall be made a special order, but only that it shall be postponed to the day which I have named.

The SPEAKER. The Chair understands the proposition to be for a postponement, and not for a special order.

Mr. GROW. I object to this system of postponement. The Committee on Commerce, under the rules, are entitled to two days in which to submit their reports. Now, suppose they postpone the further consideration of one half of their reports to other days; when those days are reached they will consume further time, prevent any other business being taken up in the morning hour, and unfairly interfere during that morning hour with the business of the other standing committees.

Mr. JOHN COCHRANE. I am not in error that isthis; this business is privileged to the extent that it ought to take precedence of any other business less important. I have already stated in my place that, should business of greater importance, necessary to the administration of the Government, or to carrying on the business of this House, intervene, I will readily yield to its consideration. I make the motion for the postponement of the further consideration of this bill for the benefit of the members of this House in order that they may have time in which to consult the pages of the bill, and to learn what it is that it is proposed to them to vote for.

Mr. GROW. Under the rules of the House, I will repeat, each committee is allowed two days in which to make its reports. If committees, when they make reports, postpone their consideration to future days, one committee, by that practice, might absorb the whole session with the business of that committee.

Mr. JOHN COCHRANE. The gentleman is entirely in error in the opposition he makes. Under the former rules, committees had the floor for reports in the morning hour as against all privileged questions; and now, the question is, whether a committee should have the floor two days is one addressed to the discretion of the House. To that discretion—that reasonable discretion, as I claim—I have appealed, when I named the facts in the case, and asked for the postponement of the further consideration of this bill to the day I have indicated. I now address that motion for a postponement to the intelligence and to the equity of this House. It is as clear as light that this subject demands the early and speedy action of the Congress of the United States. I move that the further consideration of the bill be postponed till the first Tuesday of next month; and I ask for a vote on that motion.

Mr. GROW. If the gentleman will make his motion to postpone to apply after the morning hour of the day to which he moves to postpone the bill, I will make no objection. But I do object to a committee reporting, and then postponing the consideration of their business to a certain day, to be brought up in the morning hour, thereby swamping the committees which follow.

Mr. WASHBURN, of Illinois. I presume the gentleman from New York will so modify his motion.

Mr. JOHN COCHRANE. I will move that it be postponed until the first Tuesday of April,

to be taken up after the morning hour, and that it be printed.

The motion was agreed to.
Mr. JOHN COCHRANE. I move that there be printed five hundred extra copies.
The motion was referred to the Committee on Printing, under the rules.

ADVERSE REPORTS.

Mr. JOHN COCHRANE, from the Committee on Commerce, made adverse reports in the following cases; which were laid on the table, and the committee discharged from the further consideration thereof:

A bill for the erection of a custom-house, post office, &c., at Apalachicola; and

A bill for the erection of marine hospitals at Memphis, Tennessee, and Apalachicola, Florida.

LIGHT-HOUSE AT CHICAGO.

Mr. WASHBURN, of Illinois, from the same committee, reported a joint resolution providing for the sale and use of expending the balance of appropriation for repairing the works and piers, in order to preserve and secure the light-house at Chicago, Illinois; which was read a first and second time.

The resolution, which was read, provides that the unexpended balance now remaining of the appropriation made March 3, 1859, for repairing the works and piers, in order to preserve and secure the light-house at Chicago, Illinois, be expended in repairing and improving the harbor of Chicago; provided that nothing in said bill contained shall interfere with so much of said appropriation as may have been already required by the Light-House Board for repairs in order to secure said light-house, but that the same shall be expended in accordance with such requisition.

Mr. WASHBURN, of Illinois. I desire to say that the last Congress made an appropriation of some eighty-seven thousand dollars for the purpose of repairing the piers and light-house, in order to preserve the harbor of Chicago. A portion of that money has been expended, but there is yet an unexpended balance. We merely wish to change the direction of it, and apply it to cleaning out the harbor, in order that the commerce of that lake may be protected, and to save the resolution put upon its passage, and I call the previous question upon its engrossment and third reading.

The previous question was seconded, and the resolution ordered to be printed and read in the operation thereof, the resolution was ordered to be engrossed and read a third time. The resolution being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Illinois, moved the previous question upon the passage of the resolution.

The previous question was seconded.
Mr. BRANCH. I would like to know of the gentleman from Illinois whether the resolution in his joint resolution covers an amount that will undoubtedly be sufficient to secure the light-house, so that no possible occasion will arise calling for a further appropriation?

Mr. E. A. WORTH. It unquestionably does.

Mr. GARRETT. What amount does the resolution cover?

Mr. WASHBURN, of Illinois. What remains of an appropriation of \$87,000—about sixty-four thousand dollars.

The main question was ordered to be put.

Mr. UNDERWOOD called for the yeas and nays upon the passage of the resolution.

Tellers on the yeas and nays were called for.

Tellers were not ordered.

The yeas and nays were not ordered.

The resolution was then passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, made adverse reports in the following cases; which were laid on the table, and the committee discharged from the further consideration thereof:

The memorial of the Legislature of Nebraska, asking a grant of land to aid in testing the navigability of the Platte river;

The memorial and joint resolution relative to school lands in the Indian reservation in Richardson county, Nebraska; and

The petition of the commissioners of common schools of the Territory of Nebraska.

BOUNTY LANDS.

Mr. DAVIS, of Indiana, from the same committee, also reported a joint resolution for satisfying claims for bounty lands and for other purposes.

The bill was read a first and second time.

Mr. DAVIS, of Indiana. There will be no objection to the passage of this bill, and I therefore move that it be engrossed and read a third time.

The bill, which was read, provides that the act entitled "An act giving further time for satisfying claims for bounty lands and for other purposes," approved February 8, 1854, and the act entitled "An act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain and for other purposes," approved July 27, 1842, and also the two acts, approved January 27, 1854, and thereupon revised, shall be revived and continued in force, without restriction or limitation as to time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was subsequently read the third time and passed.

Mr. DAVIS, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HOUSTEAD BILL.

Mr. LOVEJOY. I am instructed by the Committee on Public Lands to report a bill to secure homesteads to small settlers on the public domain.

The bill was read a first and second time.

Mr. LOVEJOY. I move that the bill be referred to the Committee of the Whole on the state of the Union; and I will state, at the same time, that the bill is so framed as to reconsider the vote by which it may be so referred.

Mr. BRANCH. I move to lay on the table the motion to reconsider the vote referring the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The bill has not yet been referred. The question is on referring the bill to the Committee of the Whole on the state of the Union.

The question was taken; and it was agreed to.

Mr. LOVEJOY. I now move to reconsider the vote by which the bill has been referred to the Committee of the Whole on the state of the Union.

Mr. BRANCH. And I move to lay on the table the motion to reconsider.

Mr. LOVEJOY. The gentleman from North Carolina may make that motion; but I hope it will be understood by the House that the purpose I have had in view was not to consume the morning hour in putting the bill on the passage, but still to reserve, so that it may be filed up at some future time, that the House may act upon it.

Several Republican MEMBERS. Fix a day.

Mr. BRANCH. I hope the House will understand that this movement is to put the homestead bill in such a position that it can be brought back before the House, to be voted on whenever the friends of the bill desire to do so.

Mr. FARNSWORTH. That is what we want.

Mr. LOVEJOY. I hope there will be no objection to this. I simply want to have the bill in such a position that it can be brought up at some future time, when the House will not be too much engrossed.

Mr. NOELL. I desire to say to the gentleman from Illinois that I want an opportunity to discuss this bill before it is put upon its passage.

Mr. LOVEJOY. I want to submit the question whether any gentleman can take the floor from me to make the motion to lay on the table?

Mr. BRANCH. The gentleman from Illinois is entitled to the floor on the motion to reconsider.

Mr. BRANCH. Did not the gentleman from Illinois yield the floor?

Mr. LOVEJOY. No, sir; I have not yielded the floor.

Mr. BRANCH. Then I give notice that, when

to respond to the invitation of the gentleman from New York.

Mr. ADAIR. I withdraw the nomination of Mr. Davidson.

Mr. HINDMAN. I am informed by friends of Mr. Sunderland, that he does not desire to be voted for as Chaplain. I therefore withdraw his nomination.

The House then proceeded, in execution of its order, to vote *à la fois* for Chaplain of the House for the Thirty-Sixth Congress, with the following result: Whole number of votes, 189; necessary to a choice, 95; of which—

Rev. Mr. Proctor received	41
Rev. Mr. Bull	41
Rev. Mr. Stockton	24
Rev. Mr. Nadin	4
Rev. Mr. Fox	9
Rev. Mr. Merrill	9
Rev. Mr. Denney	8
Rev. H. Knap	8
Rev. H. Knapp	6
Rev. Mr. Cane	4
Rev. Mr. Butler	3
Rev. Mr. Spurr	3
Rev. William A. Smith	2
Rev. Mr. Chapin	2
Rev. Mr. McClure	2
Rev. Mr. Mier	1
Rev. Mr. Burdick	1
Rev. Mr. Sunderland	1
Rev. Mr. Holmes	1
Rev. Mr. Davidson	1
Rev. Mr. Beecher	1
Rev. Mr. Brown	1

So there was no election

The following is the vote in detail:

For Rev. Mr. Proctor—Messrs. Thomas L. Anderson, Avery, Barckdale, Branch, Briggs, Burnett, John B. Chase, Chapin, Elden, Crawford, Burton, Curry, Curtis, Garrett, Holliman, Hutton, Hill, Houston, Jackson, Jones, Linn, Leach, Lincoln, May, Martin, Montgomery, Synkison, Moore, Neely, Perry, Pryor, Pugh, Reagan, Buffin, Stems, Singleton, William N. Smith, Stokes, Thomas, Underwood, Vallandigham, Vance, and Woodruff.

For Rev. Mr. Bull—Messrs. Charles F. Adams, Green Adams, Alter, William C. Anderson, Bissell, Briggs, Buffington, Burlingame, Barnham, A. J. Case, Cooper, Dault, Etheridge, Fowle, Gosh, Gurley, Hale, J. Morrison Harris, Harbeck, Howan, Humphrey, Hutton, K. K. Kline, Marston, Merrill, Moore, Nelson, Otis, Perry, Reynolds, Sherman, Rogers, Russell, Stanton, Thacker, Tompkins, Van Wyck, Wells, and Wright.

For Rev. Mr. Stockton—Messrs. Adrich, Bingham, Blair, Campbell, Corvick, Colfax, Corde, Cox, Delano, Dunn, Fawcett, Gove, Hall, Hickman, Jankin, Frank W. Kellogg, James M. Leach, Longfellow, Lee, McKee, McKnight, Milward, Montgomery, Edward Jay Morris, Foster, Boyer, William Stewart, Schwartz, Smith, Smith, Daniel Washburn, Webster, Wilson, Wood, and Mr. Speaker.

For Rev. Mr. Nadin—Messrs. Adams, Clemens, John Currier, Corde, Curtis, John D. Davis, Elton, Eastford, Florence, Hawkin, Macley, McPherson, Niblack, and Storer.

For Rev. Mr. Fox—Messrs. Ashby, Dawes, Potter, Christopher Robinson, Sedgwick, Tappan, Train, Waldron, and Walton.

For Rev. Mr. Merrill—Messrs. Boyce, H. Wimer Davis, Hughes, Charles D. Martin, Miles, Pendleton, Rice, and Taylor.

For Rev. Mr. Denney—Messrs. Beacock, Davidson, Edmundson, Jenkins, Lenke, Love, Scott, William Smith, and Wright.

For Rev. H. Ross Smith—Messrs. Abbott, Burlingame, Cocking, Ford, Foster, and Spinner.

For Rev. Mr. Knapp—Messrs. Robinson, Holman, McClelland, Niven, James C. Robinson, and Whiteley.

For Rev. Mr. Cane—Messrs. Ferry, Loomis, Montgomery, and Woodruff.

For Rev. Mr. Butler—Messrs. Bullough, Buech, and Stevenson.

For Rev. Mr. Spurr—Messrs. Lahan T. Moore, and Taylor.

For Rev. William A. Smith—Messrs. Hindman and McCall.

For Rev. Mr. Chapin—Messrs. Haskin and Caldwell.

For Rev. Mr. McClure—Mr. Lovejoy.

For Rev. Mr. Mier—Mr. William Kellogg.

For Rev. Mr. Burdick—Mr. E. W. Martin.

For Rev. Mr. Sunderland—Mr. Wagon.

For Rev. Mr. Holmes—Mr. Kigs.

For Rev. Mr. Davidson—Mr. H. H. Harris.

For Rev. Mr. Beecher—Mr. Farnsworth.

candidates on the respective sides; and my proposition to the House is this: that I shall be permitted to offer a resolution declaring a particular gentleman Chaplain; that the other side shall be permitted to offer an amendment, proposing to substitute another name for it; that then the previous question shall be called, and that this matter shall be settled by two votes.

Mr. FARNSWORTH. I object to take.

Mr. SIEMAN. I suggest that we take the names of candidates, whoever they are, and vote for them.

Mr. McKnight. I object to that.

Mr. BRANCH. The difficulty is, that we cannot prevent gentlemen voting for who they please.

The SPEAKER. The proposition of the gentleman from North Carolina is objected to.

Mr. BRANCH. I do not press it. I see that it is objected to; and it can only be done by unanimous consent.

Several Members asked leave to change their votes.

The SPEAKER. The Chair would suggest that it would be better to take another vote. No result can be attained by this continual changing of votes. The Chair hears an objection to that course. This vote is therefore closed.

Mr. KILGORE. I move that the election be postponed until the first Monday in December next.

The SPEAKER. That motion is not in order until the result of the vote has been announced.

Mr. KILGORE. I understood the Speaker to announce that the vote was terminated.

Mr. FARNSWORTH. I desire to change my vote.

The SPEAKER. It is not in order. The Chair understands that, by unanimous consent, another vote is taken, and that no further changes of vote are to be allowed.

The result of the vote was then announced, as above recorded.

Mr. SIEMAN. I move that whoever gets the largest number of votes on the next ballot shall be declared Chaplain of this House.

MEMBERS on both sides objected.

The SPEAKER. That proposition can only be entertained by unanimous consent, and objection is made by members from all sides.

Mr. BARKSDALE. I move that Mr. Proctor be declared Chaplain of the House by acclamation.

Mr. McKnight. I move to amend by substituting the name of Mr. Stockton.

Mr. CLEMENS. I favor that amendment.

Mr. WASHBURN. Is "Object?"

The SPEAKER. The proposition cannot be entertained, objection being made.

Mr. KILGORE. I move that the further consideration of this subject be postponed until December next.

Mr. WASHBURN, of Maine. I object. The motion is not in order unless by unanimous consent.

Mr. SIEMAN. Let us have a vote between the two who have had the highest number of votes on the last ballot.

Mr. WASHBURN, of Maine. All these propositions are out of order; for, since the House has agreed, by unanimous consent, to take another vote. It is, therefore—that order having been made by the House—not in order to move for a postponement.

The SPEAKER. The Chair sustains the point of order. The House agreed that another vote should be taken, and all other propositions are out of order unless by unanimous consent. [Cries of "Call the roll" and "Let us vote!"]

Mr. KILGORE. I take an appeal from the decision of the Chair.

Mr. RUFFIN. I never heard of the understanding that is referred to.

The SPEAKER. It was the understanding, and because of that understanding gentlemen ceased to question of order, that the motion I made was, as the Chair believes, distinctly agreed to.

Mr. KILGORE. I appeal from the decision of the Chair. I moved that the further consideration of this question be postponed until next December, upon which the gentleman from Maine raised a question of order, that the motion I made was not in order because the House had agreed by unanimous consent to take another vote. I insist that my motion is in order, and I therefore take

an appeal from the decision of the Chair sustaining the point of order by the gentleman from Maine.

Mr. BOCK. I move that that appeal be laid upon the table.

The motion was agreed to.

SECOND VOTE FOR CHAPLAIN.

The House proceeded the second time to vote for Chaplain, with the following result: Whole number of votes cast, 189, necessary to a choice, 95; of which—

Rev. Mr. Stockton received	111
Rev. Mr. Proctor	70
Rev. Mr. Bull	2
Rev. Mr. Merrill	2
Rev. Mr. Fox	2
Rev. Mr. Knapp	1

The following is the vote in detail:

For Rev. Mr. Stockton—Messrs. Charles F. Adams, Adrich, Adrich, Alter, William C. Anderson, Abbott, Bingham, Blair, Blake, Briggs, Burlingame, Burnham, Burlingame, Campbell, Curry, Case, Clemens, Colfax, Cocking, Cooper, Corvick, Corde, Cox, Curtis, John D. Davis, Hawes, Delano, Dunn, Elton, Elton, Etheridge, Farnsworth, Foster, Fletcher, Foster, French, Gosh, Gurley, Hale, Hall, Harbeck, Harris, Harbeck, Harbeck, Hickman, Howan, Howard, Humphrey, Harbeck, Irvine, Jenkins, Francis W. Kellogg, William Kellogg, James M. Leach, Lincoln, May, Martin, Montgomery, Loomis, Lovejoy, McKee, Mahony, Marston, Charles D. Martin, McIver, McKee, McKnight, McPherson, Milward, Montgomery, Edward Jay Morris, Foster, Boyer, Morris, Moore, Niven, Otis, Perry, Potter, Pugh, Rogers, Rice, Christopher Robinson, Porter, Schwartz, Sedgwick, Sherman, Spurr, Stanton, Thacker, Tompkins, Stevens, William Stewart, Stork, Stanton, Thacker, Tompkins, Train, Trimmer, Van Wyck, Waldron, Walton, Caldwell, C. W. Waldron, Elias B. Washburn, Israel Washburn, Webster, Wells, Wilson, Woodruff, Wood, Woodruff, and Mr. Speaker.

For Rev. Mr. Proctor—Messrs. Thomas L. Anderson, Avery, Barckdale, Bock, Bock, Boyce, Robinson, Branch, Bissell, Buech, Buech, John B. Chase, Chapin, Colfax, Corde, Corvick, Craig, Burton, Curry, Crawford, Curry, Davidson, Edmundson, English, Fowle, Garrett, Hutton, K. K. Kline, May, Martin, Montgomery, Houston, Jackson, Jenkins, Jones, Kellogg, James M. Leach, Leach, Logan, Love, E. L. Martin, Maynard, McKee, May, Milson, Lahan T. Moore, Farnsworth, Nelson, Niblack, Nolen, Pendleton, Perry, Pugh, Pugh, Reagan, Ridge, James L. Robinson, Russell, Scott, Singleton, William Smith, Daniel Washburn, Webster, Wilson, Wood, Woodruff, and Mr. Speaker.

For Rev. Mr. Bull—Messrs. Green Adams and Thayer.

For Rev. Mr. Merrill—Messrs. Hughes and Taylor.

For Rev. Mr. Fox—Messrs. Foster and Tappan.

For Rev. Mr. Knapp—Mr. Holman.

Pending the above call,

Mr. WHITELEY moved that the House do now adjourn.

The SPEAKER. No motion is in order pending a division of the House.

Mr. EDMUNDSON withdrew the name of Mr. Denney as a candidate.

Mr. ROBINSON, of Rhode Island, stated that his colleague, Mr. BRAYTON, was paired with Mr. STEWART, of Maryland.

Mr. FLORENCE said that he would change from the gentleman for whom he before voted, and vote for Mr. Stockton, whom he understood to be a pure and pious man and a good Bible Christian.

Mr. MARTIN, of Virginia, withdrew the name of Mr. Stockton as a candidate for the office.

Mr. FLORENCE said that he understood to be a Constitution and Union-loving man, and a sectarian in no sense of the word.

Mr. MONTGOMERY withdrew the name of Mr. Holmes, and voted for Mr. Stockton.

Mr. NIBLACK withdrew the name of Mr. Nadin.

Mr. ETHERIDGE said that he was satisfied Mr. Ball could not be elected, and he therefore changed his vote to Mr. Stockton.

Mr. CONKLING said that, fearing there was some error in the list of members being elected, he would vote for Mr. Stockton.

The vote was then announced, as above recorded.

The SPEAKER *pro tempore* (Mr. WASHBURN, of Maine, in the chair) declared Rev. THOMAS H. BRAYTON, of Rhode Island, Chaplain of the House of Representatives for the Thirty-Sixth Congress.

VISIT TO MOUNT VERNON.

The SPEAKER *pro tempore* laid before the House the following communicating communication: "The members and officers of the House of Representatives are invited to accompany the Mount Vernon Ladies' Association on a special trip to the home of Washington, being the first of the season, by the way of the place becomes their property, and that of the nation. A steamer

must be somewhat humbling to the pride of the head of that distinguished special committee.

Mr. HUTCHINS. I rise to a question of order. I want to hear this speech; but I cannot hear it unless members are compelled to take their seats.

The SPEAKER *pro tempore* directed members to resume their seats.

Mr. FRENCH. Will the gentleman from Alabama allow me to interrupt him?

Mr. HOUSTON. I desire to finish my remarks upon one other point, and then I will allow the gentleman to proceed.

Mr. FRENCH. I would like to ask the gentleman a question.

Mr. HOUSTON. The gentleman can ask it now.

Mr. FRENCH. I would ask the gentleman from Alabama, then, on what authority he makes the statement here that the treasurer of Maine has declared that he expended thousands of dollars of the money of the State treasury for election purposes?

Mr. HOUSTON. Mr. Speaker, my authority for making reference to that Maine defalcation is what I have seen, and what I presume every gentleman has seen, in the newspapers, and in papers published in the State of Maine, purporting to give the facts.

Mr. FRENCH. I wish to state to the gentleman from Alabama that the whole of that story was an entire fabrication—a fabrication made by the editor of the Bangor Union, without the slightest foundation whatever; and I have begun inquired that he himself has since been compelled to acknowledge, under oath, before an investigating committee, that it was entirely unauthorized and false.

Mr. HOUSTON. Does the gentleman from Maine say that there was no default on the part of the treasury?

Mr. FRENCH. That was not the question in controversy.

Mr. HOUSTON. Well, I desire to have that question answered here. Let us deal frankly with each other.

Mr. FRENCH. I do not deny that there was a defalcation there.

Mr. HOUSTON. The gentleman admits that there was a defalcation, but—

Mr. FRENCH. But I deny that the treasurer stated that the money was used for election purposes.

Mr. HOUSTON. Well, then, I want to call the attention of this investigating committee to that defalcation in Maine. [Laughter.] I want them to inquire whether the statement that it was used in elections is not true, and find out what became of the money. And the statement has been made, and I have no doubt with more truth than is found in the gentleman's resolutions. The gentleman says that an investigating committee in Maine found that statement to be incorrect. That may be, and I have no doubt that the investigations in the gentleman's resolutions are untrue; and if the committee will do its duty, it will so find.

Mr. FRENCH. Well, I wish to say to the gentleman from Alabama—

Mr. HOUSTON. There was a substantial foundation for the charges and investigation in that case. There is none in the one noted on yesterday, as shown by the resolutions themselves.

Mr. FRENCH. Will the gentleman from Alabama yield to me one moment?

Mr. HOUSTON. Yes, sir.

Mr. FRENCH. I wish to say this: that the charge of defalcation is now being investigated before a committee. The State of Maine will endeavor to ferret out only the extent of the defalcation, but the manner in which that defalcation was produced, and will spread the facts before the country, to the satisfaction, I have no doubt, of even the gentleman from Alabama.

Mr. HOUSTON. And, Mr. Speaker, my very distinguished investigating committee, presided over by its distinguished chairman, [Mr. Covode,] can probably render them some assistance; for it is directed to examine whether any, and what amount of money has been expended in elections, and to inform, also, to report the names of the parties to the House, and I intend he shall have no excuse for overlooking the Maine elections,

and I therefore bring it to his notice. A very interesting employment for the gentleman from Pennsylvania. I wish, also, to call his attention to the election of Printer to this House, so that he may find out whether there was any division of spoils there.

Mr. COVODE. I tell the gentleman from Alabama that it was Mr. Buchanan who made the charge of money being used to influence elections, and I was only proposing to help him find out what the facts were.

Mr. HOUSTON. Mr. Speaker, that is an excellent, suitable, most suitable, that could be resorted to. [Derisive laughter from the Republican benches.] I ask the gentleman from Pennsylvania whether he intends that his committee shall examine and find out whether the charges made by the letter writers in this Capitol, and published in the newspapers, are true, to the effect that Mr. Defrees's expenses were paid so as to get him off the track for Printer? Will his committee inquire whether any division of the printing spoils was made by his own side of the House? and if so, on what principle it was made? These are important and grave questions; and I hope the gentleman will meet and investigate them; he has the committee, and I want no sulking of investigation. Let the public know the truth, and the whole of it, concerning these charges of corruption. The gentleman shall have no excuse for concealment.

Mr. COVODE. I would say to the gentleman from Alabama—

Mr. HOUSTON. No, sir, I will not be interrupted by you just now. [Laughter.] Now, I would like to know whether that investigating committee intends to extend its inquiries into all these charges, involving his own party, that have been published in almost every newspaper that professes to publish anything of what takes place in this Capitol? Does that committee intend to examine into and report upon the truth of these charges?

Mr. COVODE. I will say to the gentleman from Alabama that, as far as my influence goes in these matters, I will economize as much as possible; but I would not attempt to invent a matter unless I had good reason to believe that there was something in it.

Mr. HOUSTON. The gentleman says he will, so far as his influence goes, economize. Possibly he may economize; but I hope it may not induce corruption in examination into the conduct of his own party friends who are under charges of improper conduct.

Mr. COVODE. If the gentleman from Alabama wants a committee to investigate into those matters, I will vote for it.

Mr. HOUSTON. Sir, we have a committee; and if that committee will do its duty, if it will but discharge its duty faithfully, it will examine into these things and report the truth to the House.

No additional committee is necessary for such investigation, and I have no doubt that the resolution does not cover the ground; it seems to me it is broad enough to cover almost anything and everything.

Mr. COVODE. If the gentleman from Alabama will furnish me with direct charges with regard to the conduct of his own party friends, I will be glad to refer to them, in reference to any matter proper to come before my committee, I shall investigate them.

Mr. HOUSTON. The gentleman wants me to furnish him with direct charges. What direct charges is he resolved to put forth throughout the country? Are they not the vaguest insinuations that ever were presented for the consideration of sensible men. What do they charge? Tell me, against whom do they make a charge? They contain no such thing, and should never have been entertained by any body.

Mr. COVODE. Well, if the gentleman insinuates that any guilt attaches to any parties, I will investigate.

Mr. HOUSTON. Why, sir, the insinuations are all over the country, as I have fork throughout the country, and the gentleman cannot be ignorant of the fact, and if he shall refuse to investigate them, the plea that he was ignorant that such charges existed, will avail him nothing before an honest public.

Mr. COVODE. Mr. Speaker.

Mr. HOUSTON. Does the gentleman desire to ask me a question?

Mr. HOARD. No, sir; I thought the gentleman was through.

Mr. HOUSTON. Not quite, sir. I did not expect, Mr. Speaker, to occupy the floor as long as I have done. I desire to see this investigation had, and such is the desire of this side of the House. We demand it. It is due to truth that it be had; it is due to the persons whose characters were attempted to be aspersed, that it be not stifled. I would not have it stopped if I could. I want it to proceed. We desire a full and fair investigation.

And upon Mr. Speaker, if I am permitted to do so, before I yield the floor, I will move that this resolution be referred to the committee that was created yesterday on motion of the gentleman from Pennsylvania.

Mr. HOARD. I did not yield the floor for that purpose.

The SPEAKER *pro tempore*. The Chair understood the gentleman from New York as yielding the floor to the gentleman from Alabama to make a few remarks only.

Mr. HOUSTON. Very well; I shall interpose no sort of difficulty. The gentleman shall have his committee; and shall leave his investigation; and all I ask is, that it shall be pursued, and that the truth shall be fully and fairly brought out.

Mr. HOARD resumed the floor.

Mr. HASKIN. I ask the gentleman from New York to afford me an opportunity to say a few words on the subject embraced in the resolution.

I want to give the reasons why I cannot vote to refer this subject to another special committee.

Mr. HOARD. I designed to move the previous question; but I will give way for a few moments to my colleague, before doing so.

Mr. BURNETT. I insist that the gentleman from New York shall either retain the floor himself, or yield it absolutely—one or the other.

Mr. BRADY. I have yielded the floor to the gentleman from New York in under a misapprehension. There is no motion pending to refer this resolution to the special committee appointed yesterday.

Mr. HASKIN. But I want to give the reasons why I think it ought to be referred to that committee.

Mr. HOARD. I will yield to my colleague, if he will demand the previous question when he is through.

Mr. HASKIN. I will do so. It will be remembered by the House that a few days since, I proposed a resolution for disbanding a special committee appointed upon motion of the gentleman from Pennsylvania, [Mr. Grew,] and referring the subject-matter that had been referred to that special committee, under his resolution, to a regular standing committee of the House, of which I have the honor to be chairman. I did it because I was anxious that some system should exist here on this subject of investigations.

The subject-matters embraced in the resolution proposed by my colleague from New York were referred to the regular committee, to a special committee, of which Mr. Covode will probably be chairman. As I understand it, the primary object of the resolution proposed by the gentleman from Pennsylvania [Mr. Covode] was to require into the regular committee, to a special committee, of which Mr. Buchanan and his Cabinet in carrying through the last Congress the LeCompton constitution. Having myself moved to disband the select committee appointed on motion of the gentleman from Pennsylvania, [Mr. Grew,] although anxious to have the subject-matters embraced in the resolution of my colleague [Mr. Hoard] should be examined into, I cannot, consistently, vote to refer his resolution to a new select committee.

Sir, this creating of additional select committees, in my judgment, will be reduced to a perfect farce. As chairman of the Committee on Expenditures, I insist that where there is an appropriate committee in existence, the House should insist upon retrenchment and reform, by keeping these matters before the public, giving liberty to all my colleagues, especially as I am one of those who have been referred to by name in his resolution, that he will consent that that resolution be referred to the committee appointed under the resolution proposed by the gentleman from Pennsylvania [Mr. Hoard]. I do not desire to give liberty to a committee to examine into the subjects embraced in his resolution.

Mr. HOARD. This resolution is introduced with the consent of Mr. COVODE.

Mr. HASKIN. I voted yesterday for the resolution of the gentleman from Pennsylvania, (Mr. Covode), and I did it cheerfully, for I am anxious to have many of the matters referred to in it examined; but if he and his friends intend that the subject embraced in his resolution—some twenty—shall be parceled out among different committees, then retrenchment and reform are not advocated by that side of the House.

I intend, so far as I am concerned, during this session, to act with them in favor of exposing corruption wherever it may exist; but I want to keep them within the line of duty in keeping down the enormous expenses of this Government; and therefore I say that this resolution should go to the committee created yesterday by the resolution of the gentleman from Pennsylvania. Those gentlemen upon the other side of the House must look out, or they will get the laugh upon them for raising unnecessary special committees upon vague rumors. Before moving the previous question, as I promised to do, I appeal to my colleague to allow me to move to refer his resolution to the committee appointed yesterday on motion of the gentleman from Pennsylvania.

Mr. HOARD. I must decline to do that. I renew the demand for the previous question.

Mr. HINDMAN. I appeal to the gentleman from New York to withdraw the demand for the previous question, and to offer, as an amendment, the resolution which I send to the Clerk's desk.

Mr. HOARD. I must decline to yield the floor for that purpose.

Mr. HINDMAN. I ask that it be read for information.

Mr. HOARD. I decline to yield for that purpose.

THE SPEAKER *pro tempore*. It is not in order to have it read, unless the gentleman from New York withdraws the demand for the previous question.

Mr. HINDMAN. Let it be read only for information. [Cries of "Order!" "Order!"]

Mr. HOARD. It is time to adjourn, and I must object.

Mr. HINDMAN. I only ask that it shall be read for information.

THE SPEAKER *pro tempore*. Is there objection?

Mr. HOARD. Yes; object.

Mr. HINDMAN. I still have the floor, and I resign to read the resolution myself for the purpose of letting the gentleman from New York know what it is.

[Mr. HINDMAN then, amidst deafening shouts of "Order!" from the Republican benches, and the utmost confusion and uproar, proceeded to read his amendment to the resolution; the purport of which was an instruction to the committee to inquire whether any money was used corruptly to procure the election of any member of the House; and also, whether any corrupt means were used, or proposed, to influence the election of *any* of the House; and to inquire generally into any and all charges preferred against members of the House, or officers of the General Government.]

THE SPEAKER *pro tempore* repeatedly called the gentleman from Arkansas to order, and requested him to take his seat.

Mr. KELLOGG, of Illinois. I want to hear the resolutions that gentlemen have to offer, and I am opposed to stifling any such charges as may be presented, setting forth any specific charges against officers of this Government.

Mr. HINDMAN. Are you of the other side determined to muzzle investigation?

Mr. JOHN COCHRANE. If the previous question is called, then this debate is not in order.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the resolution was adopted.

Mr. MORRIS, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and he proposed that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. BURNETT. I insist that I rose and addressed the Speaker before the gentleman from Pennsylvania, who could not lay any claim of

precedence to it over me, under the rules, as he was not the mover of the resolution.

THE SPEAKER *pro tempore*. The Chair did not see the gentleman from Kentucky at all.

Mr. LOVEJOY. I wish to inquire whether it is in order for a resolution, read despite objection and repeated decisions of the Speaker to the contrary, to be included by the reporters for the Globe in their report of our debates?

THE SPEAKER *pro tempore*. The House has no control over the Globe.

Mr. HINDMAN. Does the gentleman wish to abridge the freedom of the press? Does his party object to full and fair inquiry into all charges against all officers of the Government? Is the original resolution a mere party move, intended to make capital for Black Republicans, but designed to hide their own corruptions? If so, the people of the United States will put the right estimate upon it. If Republicans wish to conceal the fact that I have attempted to institute a general and impartial inquiry into all Federal corruptions, they will exclude my resolution from the Globe; otherwise they will let it appear there.

Then, on motion of Mr. WASHBURN, of Illinois, (at twenty minutes to five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, March 7, 1860.

THE Journal of yesterday was read and approved.

COMMITTEE SERVICE.

THE VICE PRESIDENT announced the appointment of Mr. LAYMAN to fill the vacancies on the Committee on Indian Affairs, the Committee on Territories, and the Committee on Enrolled Bills, made vacant by the retirement of Mr. HAYS.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

An act (No. 237) for the relief of Anthony Schacter, to the Committee on Private Land Claims.

An act (No. 241) authorizing publishers to print on their papers the date when subscriptions expire—to the Committee on the Post Office and Post Roads.

An act (No. 279) providing for satisfying claims for bounty lands and for other purposes—to the Committee on Public Lands.

A joint resolution (No. 11) providing for the manner of expending the balance of appropriation for repairing the works and piers, in order to preserve and secure the light-house at Chicago, Illinois—to the Committee on Commerce.

An act (No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels" approved March 3, 1853, for the better protection of female passengers and for other purposes—to the Committee on Commerce.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented seven petitions of manufacturers, coal operators, merchants, farmers, mechanics, miners, and laborers, of Schuylkill county, Pennsylvania, praying such a modification of the tariff as will protect the industrial interests of the country; which were referred to the Committee on Commerce.

He also presented a petition of citizens of Brooklyn, New York, praying Congress to pass a law to prevent all further traffic in and monopoly of the public lands, and that they be laid out in farms and lots for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. HAMLIN presented the petition of Joseph Pater, a sergeant in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. TEN EYCK presented the petition of Richard Stout, praying compensation for carrying the mail from Easton, Pennsylvania, via New Brunswick, to New York; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS presented the memorial of C. T. Alexander, in relation to his rank in the medical corps of the Army; which was referred to the Committee on Military Affairs and Militia

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the petition of J. Hooford Smith, late United States consul at Beirut, Syria, praying an increase of compensation for diplomatic services in negotiating a treaty with the Kingdom of Spain, while consul general at Japan, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. SEWARD, it was

Ordered, That the memorial of Thomas W. Harris, praying compensation for diplomatic services in negotiating a treaty with the Kingdom of Spain, while consul general at Japan, on the files of the Senate, be referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Mr. FITCH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 254) to confirm certain entries of land therein named; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred a communication from the Mayor of Washington, inclosing a copy of a joint resolution of the Board of Aldermen and Board of Common Council of that city, instructing the committee appointed to represent the interests of the city before Congress to ask an appropriation for the improvement of the navigation of the Potomac river, asked to be discharged from its consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the same committee, to whom was referred the petition of James and Theodore Walters, praying that certain lots of ground in the city of Washington may be conveyed to them, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of L. A. Gobright and others, in behalf of the Grand Lodge of the Independent Order of Odd Fellows, of the District of Columbia, praying an act of incorporation, reported a bill (S. No. 252) to incorporate the Grand Lodge of the Independent Order of Odd Fellows of the District of Columbia; which was read, and ordered to be second reading.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of the legal representatives of Wetonaw, son of James Conner, deceased, praying the payment of a sum of money adjudged to be paid to said Wetonaw, by an Indian trader, considering a report accompanied by a bill (S. No. 253) for the relief of the legal representatives of Wetonaw, son of James Conner. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of the legal representatives of John G. Mackall, praying indemnity for the destruction of a house during the war with Great Britain, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William G. Ridgely, of the District of Columbia, praying indemnity for tobacco destroyed by the British in the war of 1812, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Hodges & Lansdale, praying indemnity for property destroyed by the British in the war of 1812, submitted an adverse report which was ordered to be printed.

RECOMMITTAL.

On motion of Mr. DAVIS, it was

Ordered, That the petition of Mrs. Mary B. Smith, widow of the late Brecht Brander General J. B. W. Smith, of the United States Army, praying to be allowed a pension, with the adverse report thereon, be recommended to the Committee on Pensions.

CODIFICATION OF STATUTES.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be directed to consider the expediency of providing by law for the appointment of a committee to revise the public laws of the United States; to supply their language; to correct their inaccuracies; to simplify their deficiencies; to arrange them so as to render them as far as possible consistent text; and to report them thus improved to Congress for its final action, to the end that the public statutes, which are

are presumed to know, may be in such form as to be more easily the appropriation of all.

POCAHONTAS INDIANS.

Mr. HUNTER. The Committee on Finance, to whom was referred the bill of the House of Representatives (No. 216) making appropriations for fulfilling the treaty stipulations with the Pocom Indians, and with certain bands of Indians in the State of Oregon and Territory of Washington, for the year ending June 30, 1860, have directed me to report it back with certain amendments. I will state that this is merely to carry out treaty stipulations with certain Indian tribes, ratified at the last extra session of the Senate, and I ask that it may be considered and acted on now. I will take no time. If it does not, I will press it.

There being no objection, the Senate, and Committee of the Whole, proceeded to consider the bill (H. R. No. 216) making appropriations for fulfilling treaty stipulations with the Pocom Indians, and with certain bands of Indians in the State of Oregon and Territory of Washington, for the year ending June 30, 1860.

The bill was reported back from the Committee on Finance with certain amendments. The first amendment of the committee was, after line (twenty-four), to insert:

For maintaining and subsisting the Pocoms during the one year after their removal to their new home, purchasing stock and agricultural implements, breaking up and tracing out building lots, and in making such other improvements as may be necessary for their comfort and welfare, per second article of the treaty of the 13th of March, 1860, \$20,000.

The amendment was agreed to.

The next amendment of the committee was to add:

To provide the Pocoms with a mill suitable for grinding grain and sawing timber, one or more mechanic shops, with all building tools, and in making such other improvements as may be necessary for their comfort and welfare, per second article of the treaty of the 13th of March, 1860, \$10,000.

The amendment was agreed to.

The next amendment of the committee was to add:

To provide and set apart such sum as enable the Pocoms to adjust and settle their existing obligations and engagements, and to provide for the compensation of the services of citizens of the United States prior to the date of the ratification of this agreement, so far as the same may be legally provided for by their agents to be valid and just, subject to the approval of the Secretary of the Interior, per second article of the treaty of the 13th of March, 1860, \$5,000.

The amendment was agreed to.

The bill was reported to the Senate as amended. The VICE PRESIDENT. Shall the amendments be voted upon together or separately? ["All together!"]

The amendments were concurred in, and ordered to be engrossed; and the bill was ordered to be read a third time. It was read the third time, and passed.

TEXAS MOUNTED VOLUNTEERS.

Mr. DAVIS. The Committee on Military Affairs, to whom was referred the bill (S. No. 18) making appropriations for the support of one regiment of Texas mounted volunteers, authorized by the act of Congress approved April 7, 1858, and instructed me to report it back with an amendment, and recommend that it be passed, and to ask for its present consideration.

Mr. HUNTER. It seems to me we had better consider it in this shape than as an amendment to the appropriation bill. If it is to be decided upon, there will be no trouble in going on with the West Point bill afterwards. As I understand it, this bill is the same as the amendment of the Senator from Texas. It is the same subject.

Mr. DAVIS. It is the same subject, and covers the same question.

Mr. HUNTER. This is the bill as matured by the Committee on Military Affairs.

Mr. GWIN. I will suggest to the Senator from Virginia that we may get into a difficulty with the House by sending them an appropriation bill; and therefore I think we had better take up the West Point bill and ascertain, by examining the question, whether or not we shall not be forced to put this as an amendment on that bill; otherwise the House might not consider the bill reported from the Committee on Military Affairs, on the ground of its being an appropriation bill, and as infrug-

ing upon their rights. I merely make the suggestion.

Mr. FESSENDEN. I should like to understand what bill it is that is proposed to be taken up? There seems to be some difference of opinion about it.

Mr. DAVIS. It is a bill which was referred to the Committee on Military Affairs, to provide an appropriation for a regiment of mounted volunteers which was authorized by a law passed on the 7th of April last.

Mr. FESSENDEN. I have no objection to that being taken up, except that I understand there will be a motion to adjourn at a pretty early hour, and to-day was assigned, by common consent, to the Senator from Ohio, to address the Senate. If this bill be taken up, it will unquestionably lead to debate.

Mr. HUNTER. It will come up after the Senator from Ohio has concluded his speech, as the unfinished business, if we take it up now.

Mr. FESSENDEN. If it does not interfere with the Senator from Ohio, I have no sort of objection.

Mr. GWIN. I desire to go on with the bill in the same manner as not to interrupt the Senator from Ohio.

Mr. FESSENDEN. I suppose the special order on which he is to speak will come up at half past twelve o'clock to-day.

Mr. FESSENDEN. At one o'clock.

Mr. GWIN. I should prefer taking up the West Point bill now. By the time the Senator from Ohio wishes to proceed with his remarks, I think we can dispose of the bill.

Mr. FESSENDEN. The Senator from Ohio must wait to proceed now; because, if motion is to be made at two or three o'clock to adjourn, of course he will have no time to make his speech unless he commences at once.

Mr. CLINGMAN. Three o'clock was the time spoken of.

Mr. GWIN. If the Senator wishes to proceed, I will not press the bill now.

Mr. FESSENDEN. I have no objection to its being taken up; I shall not object to it, provided it does not interfere with the Senator from Ohio.

Mr. GWIN. If the Senator wishes to proceed now, I will not make my motion. I thought was understood that he was to proceed half past one o'clock.

Mr. FESSENDEN. No, sir.

Mr. GWIN. I have no objection to his proceeding with the understanding that we shall take up the bill after he is through.

Mr. WIGFALL. I hope the Senator will proceed now with his remarks; and as soon as he is through we can take up the unfinished business of yesterday.

Several Senators. That is right.

Mr. WIGFALL. I have no wish to interfere with the Senator's speech.

Mr. WADE. I am entirely willing to begin now, or at any other time, or on any other day. I have no particular desire about it.

Mr. FESSENDEN. There is no objection to taking up the bill from the Committee on Military Affairs?

Mr. GWIN. Yes, sir.

The VICE PRESIDENT. Then it must lie over.

PRESIDENTIAL PATRONAGE.

The VICE PRESIDENT. If there be no further morning business, the next business in order is the resolution submitted by the Senator from Massachusetts [Mr. WILSON] on the 7th of February, for a select committee to inquire into the extent of the patronage of the President of the United States.

Mr. WILSON. Let that matter lie over.

The VICE PRESIDENT. If there be no objection, the resolution will lie over.

METEOROLOGICAL REPORTS.

The VICE PRESIDENT. The next business in order is the following resolution, reported by the Senator from Indiana, [Mr. FRY], from the Committee on Printing, on the 7th of February last:

Resolved, That there be printed, in addition to the annual number, in quarto form, with the plates to illustrate the same, the reports and copies of the report of the Commissioner of Patents on meteorological observations, for the use of the Commissioner of Patents and the Secretary of the Smithsonian Institution.

Mr. FOOTE. Let that lie over for the present. I make that motion.

The motion was agreed to.

PACIFIC RAILROAD.

The VICE PRESIDENT. The next business in order is the following resolution, submitted by the Senator from California [Mr. GWIN] on the 14th of February:

Resolved, That so much of the President's message as refers to the construction of a Pacific railroad be referred to a select committee, to be composed of nine members, to be appointed by the President of the Senate.

Mr. GWIN. I hope that will lie over for the present.

The VICE PRESIDENT. If there be no objection, the resolution will lie over.

PROPERTY IN TERRITORIES.

Mr. WADE. I suppose we might as well come directly to the resolutions that are to be under consideration—the resolutions offered by the Senator from Mississippi, [Mr. BAILEY]—on which it is understood that I have the floor. I move, therefore, to postpone all prior orders, with a view of taking up those resolutions.

The motion was agreed to; and the Senate proceeded to consider the resolutions submitted by the Senator from Mississippi on the 18th of January.

Mr. WADE, who was entitled to the floor, proceeded to address the Senate, and spoke until two o'clock, when he was interrupted, and having arrived for another special order—the homestead bill.

The PRESIDING OFFICER, (Mr. BATES in the chair.) The Senator from Ohio will allow the Chair to suggest that the business under consideration of the special order has arrived; and it must be taken up, unless otherwise directed by the Senate.

Mr. FESSENDEN. I move that the special order be postponed until the Senator has finished his remarks.

Mr. JOHNSON, of Tennessee. I have no objection to its being postponed, if by general consent it retain its present position, until the Senator has done speaking.

The PRESIDING OFFICER. Is any particular hour suggested by the pleasure of the Senate?

Mr. JOHNSON, of Tennessee. Until the Senator from Ohio has concluded his speech.

The PRESIDING OFFICER. That order will be made, unless there be objection. The Chair hears none.

Mr. WADE resumed and concluded his speech.

[This speech will be found in the Appendix.]

Mr. TOOMBS. I shall detain the Senate but a few moments in a brief reply to so much of the remarks of the Senator from Ohio as had special reference to myself; and if it be the pleasure of the Senate, I will go on now, provided that by so doing I do not interfere with any friend from Texas.

Mr. JOHNSON, of Tennessee. The Senator from Texas has just given me the unfinished business, and the Senator from Georgia wishes now to make a short reply to the Senator from Ohio. By way of comity to all parties, and with a certain expectation that the Senate will, in-morrow, at half past one o'clock, take up the homestead bill, I move to postpone the special order until that hour.

The PRESIDING OFFICER. The special order is the bill (S. No. 1) to grant to every person who is the head of a family and a citizen of the United States, a homestead of one hundred and sixty acres, &c. The Senator from Tennessee moves to postpone that bill until to-morrow at half past one o'clock, and to make it the special order for that hour.

The motion was agreed to.

Mr. TOOMBS then addressed the Senate in reply to the Senator from Ohio.

Mr. WADE responded.

[These speeches will be published in the Appendix.]

Mr. COLLAMER. I desire, at as early a day as the Senate has time to give me an opportunity to be heard on this subject as I am in a hurry; but I do not wish to be heard now. I propose that this subject be deferred, and made the special order for to-morrow.

The PRESIDING OFFICER. There is a special order for to-morrow.

Mr. MASON. I understood that bill was up and is postponed.

The PRESIDING OFFICER. Until to-morrow.

Mr. MASON. It will come up as the unfinished business, I presume.

The PRESIDING OFFICER. If the Senate should adjourn in the present stage.

Mr. WIGFALL. I ask if there is any motion to take these documents private.

Mr. FESSENDEN. That was part of my motion.

Mr. WIGFALL. Then I understand this bill does not lose its precedence by an adjournment.

On motion of Mr. POWELL, the Senate then adjourned.

HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1860.

The House met at twelve o'clock, p. m. The Journal of yesterday was read and approved.

PUBLIC BUILDINGS IN NEW MEXICO.

Mr. PHELPS. I ask the unanimous consent of the House for leave to submit the following resolution, which is one merely calling for information from a Department.

The Clerk read the resolution, as follows: Resolved, That the Secretary of the Treasury is hereby requested to communicate to this House, estimates of the means necessary to complete the capital and the penitentiaries in the Territory of New Mexico.

Mr. GROW. I ask the gentleman that he will allow his resolution also to call upon the Department for information in reference to the public buildings in all the Territories.

Mr. PHELPS. I ask that my resolution be adopted. The gentleman from Pennsylvania can report from his Committee on Territories in reference to the other Territories. The buildings referred to in my resolution have been commenced and are now progressing toward their completion.

Mr. GROW. So are the public buildings in the other Territories.

Mr. PHELPS. Let the gentleman, then, submit a separate resolution, providing for the other Territories. I will not object to its adoption.

Mr. GROW. I have always had the misfortune, when I have submitted a resolution calling for information, to have objection made from the other side.

Mr. PHELPS. I will not object; and I will help the gentleman to have his resolution adopted.

Mr. GROW. If the gentleman will allow me, I will move my proposition as an amendment to his resolution.

Mr. HOUTSON. If the resolution is amended, I will object.

Mr. PHELPS. I decline to accept the amendment.

The resolution was adopted.

EXEMPLIFICATION OF LAND OFFICE PAPERS.

Mr. HOLMAN. I was absent the other day when the States were called for bills, and I now ask the unanimous consent of the House for leave to introduce and have referred two bills.

There was no objection.

Mr. HOLMAN, previous notice having been given, introduced a bill to provide for the granting and exemplification of records and papers remaining in the General Land Office; which was read a first and second time by its title, and referred to the Committee on Public Lands.

INDIANA UNIVERSITY.

Mr. HOLMAN, previous notice having been given, also introduced a bill to authorize the State of Indiana to appropriate the lands granted to that State by Congress, for the use of a seminary of learning, and for the endowment of the Indiana University, and the proceeds thereof to any other educational purposes, in the discretion of the State; which was read a first and second time by its title, and referred to the Committee on Public Lands.

BRANCH MINT AT CHICAGO.

Mr. FARNSWORTH. I ask the unanimous consent of the House for leave to introduce the following resolution.

The Clerk read the resolution, as follows:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of establishing an

assayer and branch mint at Chicago, Illinois; and that they report by bill or otherwise.

There was no objection.

Mr. FARNSWORTH. I move that the resolution be referred to the Committee on Commerce. Mr. MORRIS, of Pennsylvania. That is not a proper reference for that resolution. I move that it be referred to the Committee of Ways and Means.

The question was taken; and the resolution was referred to the Committee of Ways and Means.

HOUSE DEBATES.

Mr. CASE. I ask the unanimous consent of the House for leave to introduce the following resolution.

The SPEAKER. It will be read for information.

The Clerk read the resolution, as follows:

Resolved, That the select committee heretofore appointed on the revision of the rules, be instructed to inquire into, and report upon, the expediency of so amending the standing rules of this House, as to prohibit the publication in the official reports, of any remarks of members made out of order, or violation of the rules of this body.

Mr. HOUSTON. That select committee has made its report, and it is no longer in existence. Mr. NOELL. I object to the resolution, for, sir, I think we have law enough here already.

Mr. CASE. I give notice, then, that when the report of the committee comes up for action, I shall move the resolution just read, as an amendment. I think, sir, that it ought to be adopted.

SWAMP AND OVERFLOWED LANDS IN ILLINOIS.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House for leave to introduce a bill concerning certain swamp and overflowed lands in the State of Illinois. Previous notice has been given. I want it to go to the Committee on Public Lands.

There was no objection, and the bill was read a first and second time by its title, and referred to the Committee on Public Lands.

PAPERS WRONGLY REFERRED.

Mr. BRIGGS. I ask the unanimous consent of the House for leave to report back, from the Committee on Revolutionary Claims, certain papers wrongly referred to that committee.

There was no objection.

Mr. BRIGGS, from the Committee on Revolutionary Claims, reported the following papers; which were laid upon the table:

The petition of John Winslow and others for a private act in the settlement of revolutionary claims of her husband; The memorial of Wallace Estell; and The memorial of Mary Balloch of Georgia.

Mr. CRAWFORD. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports.

EXCUSED FROM SERVING ON A COMMITTEE.

Mr. UNDERWOOD. Mr. Speaker, I rise to a privileged question. I discover, from the publication of the committee of this House, made during my absence from the city, that I am placed as a member of the Committee on Naval Expenditures. It is not my purpose to complain that I was appointed on that committee; for I would as soon serve on that as on any other committee of this House. I understand that that committee has not met for four years, but that probably it will meet during this session. At the last session of Congress a special committee was raised to investigate the expenditures of the Navy Department at the Brooklyn and Philadelphia navy-yards into certain live-oak purchases, and into other matters connected with the administration of the Navy Department. Upon that committee were Mr. SIZEMAN, of Ohio; Mr. BOECK, of Virginia; Mr. GROEBECK, of Ohio; Mr. KITCHIE, of Pennsylvania; and Mr. READY, of Tennessee. Mr. SIZEMAN and Mr. BOECK are the only two members of this House who were upon that select committee. It investigated various matters, and made a report embodying something like one thousand printed pages of testimony.

Mr. SHERMAN has introduced that same subject into this Congress, and it has been referred to that committee. Mr. SHERMAN is on the Committee on Naval Expenditures. It is a very unusual thing to appoint the chairman of the Committee of Ways and Means upon another standing committee. Mr. BOECK is the only other member of the present Congress who was upon that committee. You, Mr. Speaker, were not a member of the last Congress, and consequently did not know how the former committee was constituted, nor whether this subject would be referred to this particular committee during this session of Congress. As an act of justice to the country, as an act of justice to this House, as an act of justice to a high officer of the Government, I ask to be excused from service upon that committee, and that Mr. BOECK, of Virginia, be appointed in my place.

Mr. UNDERWOOD was excused.

The SPEAKER appointed Mr. BOECK upon the committee, in the place of Mr. UNDERWOOD.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKY, its Chief Clerk, informing the House that a message had been received at 11. No. 2161 making appropriations for fulfilling treaty stipulations with the Ponca Indians, and with certain bands of Indians in the State of Oregon and Territory of Washington, for the year ending June 30, 1860, with amendments, in which he was directed to ask the concurrence of the House.

LANDS TO ACTUAL SETTLERS.

Mr. THAYER, from the Committee on Public Lands, reported back, with a recommendation that it do pass, a bill (H. R. No. 22) to prevent the sale of the public lands, except to actual settlers, for ten years after the same shall have been surveyed; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ASSIGNEES OF LAND WARRANTS.

Mr. THAYER, from the same committee, also reported back, with a recommendation that it do pass, an act (S. No. 197) in relation to the assignees of bounty land warrants; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

LANDS FOR AGRICULTURAL PURPOSES, ETC.

Mr. THAYER, from the same committee, also reported back, with a recommendation that it do pass, a bill (No. 6) donating public lands to the several States which may provide colleges for the benefit of agriculture and the mechanic arts.

Mr. MORRILL. I desire to ask the House to postpone the consideration of that bill until the third Tuesday of April, and that in the mean time it be printed.

Mr. BRANCH. I move to refer the bill to the Committee of the Whole on the state of the Union; and upon that question I call the previous question.

Mr. MORRILL. I have not yielded the floor. Mr. BRANCH. I beg the gentleman's pardon, if he has not relinquished the floor. I thought he had.

Mr. MORRILL. I do not desire to consume unnecessarily the time of the House on this subject. When the bill was passed at the last session of Congress, complaint was made that it was passed through this body without discussion. I wish the bill printed, that gentlemen may read it, and I desire its consideration postponed in order that gentlemen may have a fair chance to discuss it, and dispose of it.

As I said before, I do not desire to consume any time upon it now, or hereafter; and I simply make the motion that its consideration be postponed until the third Tuesday of April, and that it be printed; and upon that motion I call the previous question.

Mr. BRANCH. The object I have in view is precisely such as that which the gentleman from Vermont says he has in view—to have a full and complete discussion of the bill.

Mr. MORRILL. I raised the previous question. Mr. BRANCH. I believe I was recognized before the gentleman called the previous question.

The SPEAKER. Does the gentleman from Vermont yield the floor? Mr. MORRILL. I do.

The SPEAKER. Then the gentleman from North Carolina is entitled to it.

Mr. BRANCH. This bill is one of vast importance to the interests of the country, not only for the amount of public property which is proposed to be donated for the purposes specified, but for the principle involved. I do not desire to see a bill of the importance which attaches to this pass through this House after the ship and spur of the previous question, or after the new law. It is right that the bill should be discussed, and I am pleased to hear the gentleman from Vermont say that his object is to permit a discussion of the bill. If the motion to postpone succeed, we will know perfectly well that when the day arrives to which the bill is postponed, all the gentleman has to do is to rise and call the previous question upon the bill, and it will be put upon its passage without discussion or an opportunity for amendment.

If this bill is similar to the one reported at the last Congress by the gentleman from Vermont, there are important amendments I wish to offer to it, in order to make it just to the Old States of this Union. There are provisions in it that are grossly unjust to all but the New States. Wherever it is taken up for consideration, I desire an opportunity to propose amendments to it which shall remove those unjust provisions.

Mr. MORRILL. I will say to the gentleman that it is not my intention to move the previous question; but it is my purpose to do so before I rise. I said I would do so after a fair chance in this House; nothing more, nothing less.

Mr. BRANCH. We all know that our rules were framed to provide for the reference of bills to the Committee of the Whole on the state of the Union; because experience and reason both have taught us that so far discussion and perfection of a measure can be made in the House; that the only way any measure can receive full and fair discussion and perfection by amendment is under the freedom which exists in the Committee of the Whole on the state of the Union.

Nor can I see why the friends of this measure should object to its going to that committee. It is a great mistake, which has grown up in the House, to suppose that the sending a bill to the Committee of the Whole on the state of the Union is equivalent to its being lost. A majority of this House can reach any bill that stands upon our Calendar in the Committee of the Whole on the state of the Union. All that a gentleman has to do in that committee, when he wishes his bill taken up, is to move to pass over the bill before us upon the Calendar. Then a majority of the House has full and absolute control over it, not only to amend it, but to bring it into the House, whenever they think it is sufficiently discussed and amended. My object in desiring it to go to that committee is none other than I indicate that we may have a full opportunity to discuss its details, the great principles involved in it, and to amend it so as to make it more perfect. And in particular, as I before informed the gentleman from Vermont, my object is to amend it so that it shall be made to conform to what it professes to be—a bill to do equal and exact justice between all the States of this Union, the Old States as well as the new.

Mr. MORRILL. Will the gentleman from North Carolina allow me?

Mr. BRANCH. Certainly.

Mr. MORRILL. I make this proposition to the gentleman from North Carolina: to allow the bill to be referred to the Committee of the Whole on the state of the Union, and let me enter a motion to reconsider.

Mr. BRANCH. Ah, Mr. Speaker, that would not put the bill in a different position, in any respect, from that which it occupies to-day. The motion to reconsider is a privileged motion, and the gentleman from Vermont could call it up whenever it might be his pleasure to do so, and thus bring the bill into the House in precisely the same position in which it now is.

More than that, Mr. Speaker. After the gentleman had entered his motion to reconsider, the bill could not be taken up and discussed in Committee of the Whole on the state of the Union until that motion was withdrawn, or otherwise disposed of, so that we would not have advanced one single step in referring the bill to the Committee of the Whole on the state of the Union, if at the same time the gentleman from Vermont

were to enter his motion to reconsider. The gentleman from Vermont will understand that his motion to reconsider would prevent the bill from going to the Committee of the Whole on the state of the Union until the motion was disposed of. The only way in which we can discuss the bill and have an opportunity of perfecting it by amendments is, by sending it absolutely to the Committee of the Whole on the state of the Union.

This bill purports to donate lands to the several States for agricultural purposes. Now, I am curious to know—and we can only ascertain by a discussion of the bill in the Committee of the Whole on the state of the Union—whether the gentleman propose to get the lands to comply with the requirements of the bill, if they should pass their honested bill? The vote that was taken here yesterday indicates very clearly that this House, at least, intends to pass a homestead law, and by a sufficient majority to set at defiance the veto of the President, if the President should think fit to veto it. When that homestead law is passed, where are we to get the lands with which to build these agricultural colonies? The friends of this bill, I am sure, very generally know the source of the homestead bill. I would like to explain this to us; I want them to prove it to us; and it can only be explained and proved in free discussion in the Committee of the Whole on the state of the Union. How are they going to give lands to the States and to the military colleges, when they have already passed, or are about to pass, a bill to give all the lands that the Government owns to whomever will go and take possession, whether he be an American citizen or a foreigner freshly landed on our shores? That is one of the points which I wish to have discussed in Committee of the Whole on the state of the Union in regard to this bill. That is precisely the object of my motion to refer to the Committee of the Whole on the state of the Union—as is to give gentlemen a chance to show us where they are to get the lands with which to build agricultural colonies, if they give away all the lands to actual settlers. I now make my motion to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The first question will be whether the motion to postpone, submitted by the gentleman from Vermont.

Mr. BRANCH. Do I understand the Chair to say that the motion to postpone will take precedence of my motion to refer to the Committee of the Whole on the state of the Union?

The SPEAKER. The motion to refer to the Committee of the Whole on the state of the Union is not in order while the motion to postpone is pending. It will be in order afterwards.

Mr. PHELPS. I desire to know what was the recommendation of the Committee on Public Lands.

The SPEAKER. That the bill do not pass. Mr. PHELPS. Then, I suppose, the proper motion would be to lay the bill on the table. I submit that motion.

The SPEAKER. I understand that that was the motion of the chairman of the Committee on Public Lands.

Mr. COBB. If so, how, then, has this debate been got up?

The SPEAKER. It was a mere recommendation. The motion to lay on the table has been made by the gentleman from Missouri. The motion is in order and is not debatable.

Mr. COBB addressed the Speaker.

Mr. MORRILL. I ask the gentleman from Missouri to withdraw his motion for a single moment.

Mr. PHELPS. I will.

Mr. COBB. I have got the floor; but I will not occupy it more than three minutes.

The SPEAKER. Does the gentleman from Missouri withdraw his motion to lay on the table?

Mr. PHELPS. I withdraw my motion to lay on the table, for this reason: The gentleman from Vermont, I believe, has introduced this bill, and had it referred to the Committee on Public Lands. I knew it, at all events, to have been a favorite subject of the gentleman from Vermont, and I introduced it in the last Congress; and I am willing to afford to the gentleman from Vermont an opportunity to make suggestions in regard to his bill; and then afford the same opportunity to the gentleman from

Mr. COBB. I have the floor, I believe.

The SPEAKER. The gentleman from Alabama is entitled to the floor.

Mr. COBB. After the gentleman from Missouri has withdrawn his motion to lay on the table, he cannot transfer the floor from me. I am a member of the Committee on Public Lands. That committee has directed its chairman to make an adverse report on this bill. A similar report was made by the committee the last Congress. At that Congress, only two members of the Committee on Public Lands favored the bill. The bill came into the House. It was taken up and discussed; and it occupied so much time that the gentleman from Missouri was not permitted to make some most important reports which it had to present. I call the attention of the House to this fact. If this thing goes on now, we will have the year and nays on the question of referring it, and the Committee on Public Lands will have no time to present their other reports, so as to let the other committees of the House make their reports. It is, therefore, the duty of all who feel an interest in having the reports of the Committee on Public Lands made, to endeavor to get this matter into such a form as to enable that committee to go and report to-day.

Now, I make this suggestion to the gentleman from Vermont. Let me make that the bill be recommended to the Committee on Public Lands. And let the gentleman from Vermont say that he is satisfied with the lands now vested in him, and sent from Mr. MORRILL. Ah! the gentleman shakes his head. He will not. Then I shall make the motion, and call on the House to sustain it. I do not make the motion with a view to defeat the gentleman's bill; because, if it be recommended to the Committee on Public Lands, that committee will probably be called before the day that the gentleman proposes to have it made a special order. The question is now before the House and the country, and every member of the House, and the citizens of every country, can, in the morning, investigate the merits of the bill. When it is again reported back by the Committee on Public Lands, whether adversely or favorably, the gentleman from Vermont can take such action upon it as he may deem proper. The Committee on Public Lands has not yet made its report, and it is left to the gentleman from Vermont to make his report, and to make his country interested; and I therefore request the gentleman from Vermont, and the House, to let this bill be recommended. That will not, as I said before, have the bill lost, because, if the gentleman himself to have it postponed to a period, subsequent, in all probability, to the time when the Committee on Public Lands will be again called.

The measure is not particularly a favorite with me; but still I do not want to put it in any worse position than the gentleman from Vermont proposes. All that I desire is, that the matter shall not prevent us to-day from making reports that are to result in benefit to the country.

The gentleman from Vermont can accomplish the object that he has in view by accepting my proposition, letting the bill be referred back to the Committee on Public Lands, and letting that committee report it back again. I hope the gentleman from Vermont will consent to this, and permit the Committee on Public Lands to report their measures, in which the whole country is concerned.

Mr. MORRILL. I do not purpose, Mr. Speaker, to consume more than a few minutes of the time of the House. This is a bill which occupied a considerable time of the last House, and which passed both the House and the Senate.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled a bill for the relief of William B. Herrick; which the Speaker signed the same.

AGRICULTURAL COLLEGES—AGAIN.

Mr. MORRILL. I deem this bill one of the most important that will come before us for some time. The proposition which I made was not to make it a special order. I would much prefer to make it a special order, but I know how objectionable special orders are to gentlemen upon all sides of the House, and I merely asked to postpone it to a day certain, in order that we might

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ified the General Land Office that the mails have been carried in accordance with that contract?

Mr. COBB. Yes, sir; the parties must satisfy the Post Office Department that they have complied with all contracts.

The substitute was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and, being engrossed, was accordingly read the third time, and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POST OFFICE AT BOME, GEORGIA.

Mr. UNDERWOOD. I ask the unanimous consent of the House to introduce a bill simply for reference.

There being no objection, Mr. UNDERWOOD introduced a bill appropriating \$10,000 for the construction of a post office at Bome, Georgia, and for other purposes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

JOHN V. DOBRYN.

Mr. WINSLOW. As I am unexpectedly compelled to go home, I ask the indulgence of the House, to introduce a bill merely for reference.

There being no objection, Mr. WINSLOW introduced a bill for the relief of John V. Dobryn, a purser in the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

TEXAS COURT-HOUSE.

Mr. HAMILTON. I ask the same indulgence of the House. I have been unavoidably absent from the House for some days from sickness. I ask consent to introduce a bill for reference.

There being no objection, Mr. HAMILTON introduced a bill making an appropriation for the erection of court-houses for the United States district courts in the cities of Austin and Tyler, in the State of Texas; which was read a first and second time, and referred to the Committee on the Judiciary.

SURVEY OF CHERMERE ISLAND.

Mr. LANDRUM, by unanimous consent, introduced a bill recognizing the survey of Chermere Island, in the State of Louisiana, as approved by the surveyor general, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

LOUISIANA SWAMP LANDS.

Mr. LANDRUM also, by unanimous consent, introduced a bill supplemental to an act entitled "An act to aid the State of Louisiana in draining the swamp lands therein," which was read a first and second time, and referred to the Committee on Public Lands.

REMOVAL OF THE SEAT OF GOVERNMENT.

Mr. ALDRICH asked unanimous consent to introduce the following resolution:

Resolved, That the Committee of Ways and Means be, and hereby are, instructed to inquire into the expediency of removing the capital of this nation to some point on the Mississippi river, not between the falls of St. Anthony and the city of St. Louis, and report by bill or otherwise.

Mr. CLEMENS and others objected.

NEBRASKA RAILROAD ACT.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, reported the House bill No. 210, granting lands to the Territory of Nebraska for the construction of certain railroads therein.

Mr. DAVIS, of Indiana. This bill is reported back with an amendment. I desire to enter a motion to reconsider it. The committee on Public Lands, and that it be printed.

The motion to print was agreed to.

Mr. COBB. As the morning hour is out, I move to go to the business on the Speaker's table. The bill just reported by the gentleman from Indiana, of course every gentleman will examine.

The SPEAKER. That motion is in order, and is received.

UNITED STATES AGRICULTURAL SOCIETY.

Mr. BURNETT. I ask the unanimous consent of the House for leave to report from the Committee for the District of Columbia, a bill

incorporating the United States Agricultural Society.

Mr. COBB. I have no objection.

The SPEAKER. There is no objection, and the gentleman will submit his report.

Mr. BURNETT. I report the bill I have introduced, and I ask that it be put on its passage. It is nothing more than a simple act of incorporation. My reason for making the request that it be now passed is, that I understand the proposed incorporators have a promise, in case the society is organized and incorporated, of a deed to a lot in this city upon which to erect a suitable building for agricultural exhibitions.

Mr. MCCLERNAND. Is the society open for the United States?

Mr. BURNETT. It is a mere act of incorporation confining the action of this Agricultural Society in and to the District of Columbia, and no more.

The bill was read a first and second time by its title; and the bill was then read in *extenso*.

Mr. BURNETT. Mr. Speaker, I am perhaps as much opposed to acts of incorporation as any gentleman upon this floor; and when they are granted, I am for guarding them strictly and rigidly. This is a simple act of incorporation. It merely authorizes the incorporation of an Agricultural Society for the District of Columbia. It extends no further. The bill, as read, authorizes them to sue and be sued within the District of Columbia "and elsewhere." Those words, "and elsewhere," the committee reported should be stricken out, and I thought they had been stricken out.

I hope the bill will now be passed, for the reason I have already stated. If any gentleman is unwilling that it should be passed at this time, and desires a postponement, giving a reason why it should not be acted on at once, I will unhesitatingly yield for a motion to postpone.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BURNETT. I demand the previous question on the passage of the bill.

Mr. MORRIS of Illinois. I object to putting the bill upon its passage.

Mr. FLORENCE. It is bad enough to have acts of incorporation introduced here, without having them put upon their passage under the operation of the previous question. I have no particular objection to the bill; but it would authorize an opportunity of examining it. I would ask the gentleman from Kentucky whether it includes a rigid liability clause? Unless it does, I certainly will not vote for it; I will vote for no act of incorporation that does not contain that clause.

Mr. SHERMAN. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BURNETT. That motion is not now in order. To meet the views of gentlemen, I withdraw the demand for the previous question, and ask that a motion to reconsider be entered.

Mr. FLORENCE. That is right. I do not object to that.

The SPEAKER. The motion to reconsider is entered.

Mr. BURNETT. I move that the bill and report be printed, and the motion was agreed to.

UNITED STATES COURTS IN KENTUCKY.

Mr. MALLORY. I ask the unanimous consent of the House to introduce a bill providing for an additional term of the United States circuit and district courts in the State of Kentucky. Previous notice has been given.

There was no objection; and the bill was received, read a first and second time by its title, and referred to the Committee on the Judiciary.

PACIFIC RAILROAD.

Mr. STOUT. I ask the unanimous consent of the House for leave to introduce a bill for the construction of a railroad from the Missouri river to the Pacific ocean.

There was no objection; and the bill was received, and read a first and second time by its title.

Mr. STOUT. I move that the bill be referred to the select committee on the Pacific railroad ques-

tion, to which committee other bills for a Pacific railroad have been referred.

The question was taken, and the motion was agreed to.

VISIT TO MOUNT VERNON.

Mr. FLORENCE. Yesterday we accepted the invitation of the Ladies' Mount Vernon Association to visit Mount Vernon to-day, and I move that the House do now adjourn, in order that we may execute that acceptance practically.

Mr. BRANCH. Let there be a general understanding that no business shall be done to-day, and then those who wish to make speeches can do so, and those who wish to go with the Ladies' Mount Vernon Association to Mount Vernon, can do so.

Mr. SHERMAN. Let us get through with the introduction and reference of some bills first.

Mr. FLORENCE. I will waive my motion to adjourn for a moment or two.

CUSTOM-HOUSE OATHS.

Mr. MORRIS, of Pennsylvania. I ask the unanimous consent of the House to submit the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of establishing custom-house oaths, and of substituting declarations in lieu thereof, with proper penalties for breach of the same.

There was no objection; and the resolution was then adopted.

LEWIS W. CHATFIELD.

Mr. HELMICK, by unanimous consent, previous notice having been given, introduced a bill for the relief of Lewis W. Chatfield; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

NANCY BUKY.

Mr. HELMICK, by unanimous consent, previous notice having been given, also introduced a bill for the relief of Nancy Buky; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

JACOB AMMON.

Mr. HELMICK, by unanimous consent, previous notice having been given, also introduced a bill for the relief of Jacob Ammon; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

JOHN JACKSON.

Mr. HELMICK, by unanimous consent, previous notice having been given, also introduced a bill granting a pension to John Jackson, an invalid soldier; which was read a first and second time by its title, and referred to the Committee on Invalid Pensions.

ALEXANDER CROSS.

Mr. TOMPKINS. I ask the unanimous consent of the House that it report of the Court of Claims on the petition of Alexander Cross be taken from the files of the House, and referred to the Committee of Claims.

There was no objection, and it was ordered accordingly.

EXTENSION OF THE PORT OF NEW ORLEANS.

Mr. TAYLOR, by unanimous consent, previous notice having been given, introduced a bill to extend the port of entry of New Orleans, so as to include the city of Jefferson, in the State of Louisiana; which was read a first and second time by its title, and referred to the Committee on Commerce.

RAYOU LA FOUCHE.

Mr. TAYLOR, by unanimous consent, previous notice having been given, also introduced a bill to remove the obstructions in the bayou La Fouché, in the State of Louisiana; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. CRAWFORD. Has the morning hour expired?

The SPEAKER. It has.

Mr. CRAWFORD. I move, then, that we proceed to the business upon the Speaker's table.

Mr. SHERMAN. If objection is made to getting through with this little business of introducing bills for reference, I move, then, that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of

thing which would have a tendency to retard their settlement or diminish their value; and, as the entire history of the world shows, and our own country establishes, that slavery is a mildew and blight, that Congress should keep free territory free during its territorial condition, unless for any cause it delegates such power to be exercised by the people therein.

I believe that slavery is a local institution, existing entirely and exclusively by virtue of the law of the State which creates it, not recognized as such beyond the State limits only so far as the Constitution of the United States regards the right of each State to retake, and the obligation of sister States to return, fugitives from justice or labor.

Such, sir, is the platform of the Republican party. Does it not contain the recorded principles of the Democratic party, and of all parties, from the adoption of the Constitution down to 1847?

Listen to a resolution of the gallant State of Georgia, whose entire delegation on this floor and in the Senate make loud and valorous boasts that no man elected on the Republican platform shall ever be inaugurated President. On the 12th day of January, 1775, she said:

"To show the world that we are not influenced by any interested or contracted motives, but a general philanthropy for all mankind, of whatever language or complexion we hereby declare our disapprobation of the practice of the unnatural practice of slavery in America—a practice founded in injustice and equity, and highly dangerous to our liberties, habits and to our fellow-creatures below men, and corrupting the virtue and morals of the rest, and violating the balance of liberty we contend for upon a very wrong foundation. We therefore demand: that laws to enforce our solemn endeavors for the transmission of our slaves into this colony, upon the most humane and equitable footing for the masters and themselves."

Men of Georgia, go by the graves of your fathers, renew your love of country, and recall your treasonable designs. The serious charges you make against us last week are the testimonies of your ancestors. We stand this day on the Georgia resolutions of 1775. Such were the sentiments of all the patriots of the Revolution. Under their influence, your fathers—I mean your liberty-loving fathers, for I suspect the traitors of Georgia did not, even in that day, subscribe to the above resolutions—aided to achieve the freedom of our country. The desire of universal liberty warmed the heart of the American soldier; and in the hopes of final establishment and full fruition, he sacrificed property and life. By men breathing such sentiments, the Constitution and Union were established; and now you say that the mere enunciation of the same principles must produce dissolution, anarchy, and a reign of terror.

Washington said, in 1786:

"It being among my first wishes to see every man subdued by which slavery in this country may be abolished by law."

Franklin, who lent the powers of a great soul to achieve our independence, and then brought the wisdom of a great mind to aid in constructing a Constitution, became, almost immediately after its adoption, president of an abolition society.

Madison said:

"We have seen more distinction of color made, in the most enlightened period of any age, than in the most oppressive dominion ever exercised by man over man."

Mr. Henry said:

"I deplore slavery with all the pity of humanity; I reprobate again, it wounds my soul, and that every one of my fellow-beings was emancipated."

Mr. Jefferson said:

"And with what execration should the stemmen be loaded who, permitting one half of the citizens thus to trample on the rights of the other, transmit their inheritance and three times ten millions. I tremble for my country when I reflect that God is just; that His justice cannot sleep forever. No feeling so strong as that which the book of fate, thus that these people are to be free. What a stupendous task! What a tremendous material man, who can endure toil, hunger, stripes, imprisonment, and death itself, in vindication of his own liberty, and the most inhuman to all states of man, who has ever been supported him through his trials, and inflict on his fellow-men a bondage, one hour of which is fraught with more misery than ages of that which is termed freedom possess? When the measure of their tears shall be full; when their groans shall have lowered heaven in darkness, and when a God of justice will awake, and their oppressor, by diffusing light and liberty among their oppressors, shall at length be made to feel that he is unworthy. His attention to the things of this world, and that they are not left to the guidance of a blind fate."

Here you now, believe these sentiments? Would you suffer a press in the southern States to publish them? Would you allow a man, except under

pain of death, to read them in the ears of your slaves? And must I be expatriated and dishonored because I merely echo them? Sir, these principles were born in the shock of the Revolution, and were inspired in the blood of your fathers and mine on the battle-fields of the North and the South. In the light of an universal sentiment of universal liberty among the patriot framers of the Constitution, will you say that the Declaration of Independence is but a glittering generality? When the pillars of the Republic shall have crumbled in the dust; when her liberties shall have been sacked and burned; when a free press and free speech shall be dragged, as Hector, at the chariot wheels of a slave oligarchy; when the rights of the millions of wretched fellow-creatures of the Revolution shall be forgotten by an unworthy posterity; then tell them that the great bill of rights for all mankind was but a glittering generality. No, sir, our fathers threw it out, not as a wandering comet, or dazzle for a moment by its brilliant coruscations, but as a sun, far above the mists and exhalations of avarice and power, to shine upon and for all, to the remotest generations.

Our sentiments were repeated by your grandmen in Virginia in 1802, shortly after the slave insurrection at Southampton, when over sixty of your white persons were slain. They were then in convention dispensing the question of emancipation, and when all the horrors of a servile war had been perpetrated, and the country was exposed to remedy the evil, not by the penitentiary and gallows, but by applying the principle of universal liberty. Such were the opinions of Moore, Rives, Powell, Preston, Randolph, Marshall, and a host of others.

McDowell said:

"You may close upon his mind every avenue to knowledge and flood it over with artificial night—yoke him to the mill, and make him toil for his food, and yet he was born to be free will survive it; it is said to his hope of immortality; it is the rational part of the nature which cannot reach; it is a moral truth; it is a law of the hand of the Deity, and never meant to be extinguished by the hand of man. If gentlemen do not see or feel this, they will be unable to see the truth, and they will see and feel that it is gone. We cannot correct this, we can only see the current of error."

Among those who have in the hope to see Charles J. Faulkner, who lately has avowed so much of disunion, and been duly rewarded by an appointment at the hands of this slavery-controlled Administration. The disunionist Faulkner is worthy of such an appointment; while the disunionist Phillips and Garrison would only merit stripes and imprisonment. Disunion for slavery or for freedom are quite different things. Mr. Faulkner, on the 20th day of January, 1832, speaking of emancipation, said:

"I shall recoil at among the proudest instances of my life, that I have contributed my feeble aid in forward a revolution to grand and patriotic in its results. The people demand I have raised my voice for emancipation. Sir, tax this grade; vilify our country; carry the sword of extermination through our own desolate villages; but spare no pains to open the eyes of the slave, his interest drop from the chalice of the destroying angel."

This he said while the soil of Virginia was yet moist with the blood of his murdered countrymen. He further added:

"Slaves are held not by any law of nature; not by any paternalism from God. Sir, I am grateful to gentlemen who yet rise in this hall the avowed advocates of slavery. The day has gone by when such a voice could be listened to with patience or tolerance."

Men of Virginia, can you believe that such opinions were uttered in the Old Dominion near thirty years ago? Now take down Helper; place them side by side, and determine which is the more rational and more judicious. Will you read "oughts" while such sentiments are slumbering in the debates and archives of your Commonwealth? Get some country squire to pronounce judgment, and commit them to the flames. I solemnly declare of nearly all your States that slavery was merely a right existing by positive law of a municipal character, without foundation in the law of nature.

Congress, guided by the prevailing sentiment of the nation, exercised its power over free territory by a compact of non-interference. This was the universal action of Congress unless it was restrained by the act of purchase or cession. In the territory ceded to the General Government by the Carolinas and Georgia, those States, in ceding, expressly did so on the condition that Congress should not

prohibit slavery therein. Those States, which had but recently been discussing the national Constitution, were presumed to be well informed as to its spirit and provisions; and the mere fact of their resistance to Congress is an acknowledgment on their part that Congress does have the right to exercise the power, and they desired to guard against it. When Louisiana was purchased, Napoleon, in the treaty of sale, provided that the rights of the inhabitants should be protected, and one of the rights then existing was slave labor. Congress, however, did interfere, and exercise a power over the Territories, by prohibiting the foreign and domestic slave trade.

From the ordinance of 1787, prohibiting slavery in the new States, Congress, in Ohio, dated in 1848, Congress, on eighteen different occasions, and during each Democratic Administration, did, without interruption or rebuke, exercise the power of governing the Territories, furnishing their officers, and retaining a negative or approval upon the acts of respective Territorial Legislatures. In the case of Florida, Congress, five times, between 1823 and 1838, approved of, and eleven times, during the same period, amended, the laws of her Territory.

The people will not, if gentlemen on this floor dare, impugn the Democracy of Jackson. During his administration, in 1836, a law was passed declaring "that no act of the Territorial Legislature incorporating a militia or militia company, liable to be put into the field, shall have any force or effect until approved or confirmed by Congress." Twice did Jackson arrest the Legislatures of Wisconsin and Florida in violation of this law. This power was questioned in 1839, when Mr. Monroe (and still his Cabinet, with possibly the exception of Mr. Calhoun, a majority of whom were slaveholders) and his Democratic Administration acknowledged the right, and approved its exercise.

Even in 1840, Mr. Polk signed, and a Democratic Administration approved, a law, in which slavery was prohibited. It is said Mr. Polk approved the bill because the Territory lay north of 36° 30'. That does not weaken the force of the argument that he recognized the existence of the right of Congress to legislate on the line of 36° 30', by its very terms, only extended to the Louisiana purchase, and could not be applied to any other Territory, unless especially enacted. It did not reach west of the Rocky Mountains, and was not extended to the Pacific line, in 1847-48, should be extended to the Pacific the very fact that they urged an extension of the line by Congress, is an irresistible argument that they believed Congress had the power so to extend it. They claimed a tax, in the spirit of the legislation of 1820, the line should be extended to the Pacific. They did not question the power of Congress so long as they hoped to control its exercise. Hence, there was no possible restraint on Mr. Polk from voting the Oregon bill, had he or his party believed Congress possessed so much power. Polk had only to restrain legislation, not to undo, but to keep from doing, in order to save the Constitution.

In 1853, the Democratic party believed, or professed to believe, that Congress had so much power, and it had no hesitation in destroying the work of the fathers. By way of pseudo, allow me to add that Mr. Buchanan, at Lancaster, November 25, 1859, offered a resolution that the Representatives in Congress pass and such power. He requested to use their utmost end-avances, as members of the national Legislature, to prevent the extension of slavery in any of the Territories or States which may be created by Congress." Does Mr. Buchanan suppose that the Democratic party took a step further in itself of freedom than the Republicans on this floor? Was Mr. Buchanan a murderer and traitor in 1819?

In 1840 and 1828, the Supreme Court of the United States recognized and affirmed this power of Congress under the Constitution.

Such is the uniform and consistent historical, legislative, and judicial history of this subject down to 1848. At that time the fruitful valleys and rich mines of California aroused the lust of avarice and desire for more of the bread of the slaveholders. They sought a market on the Pacific coast for their human merchandise, and were avaricious for the control of that princely domain; and they knew their only way was through and over the well-defined legislation of our country.

in my devotion to the laws and judicial decisions; but I claim the right to seek the repeal of an unjust law, or the reversal of a decision which shocks the humanity of the nation. This very hour, Virginia is waging an irrepressible conflict in the court of appeals, in the State of New York, to nullify one of the humane laws of that State, so that slavery may be allowed the right, in the State of New York, to roam throughout the Union. And when Virginia, as she undoubtedly will, notwithstanding her clamor for State rights, carries the Lemmon case to the Supreme Court of the United States, that court will sustain Virginia, and then all the States will be bound to do so. A unanimous decision, we could not propose armed or factious resistance. We would cry it; but, at the same time, we would indulge the hope that the awakening of the public mind, the arousing of a righteous indignation, would send some rays of light down into the subterranean vaults from whence Dred Scott decisions emanate; that the conscience and judgment of the court would see the folly and wickedness, and reverse its own decisions.

We will obey the law, to be wrong; but when we feel and believe it to be wrong, we must be allowed the effort to make it right.

The records of the world show that the last and most insidious attacks made on the rights of the people have come through the judiciary. How often has "man looked for judgment and behold oppression." The history of England is full of admonition. We cannot forget the Star Chamber and the High Commission; with what avidity English judges were ready to obey the behests of English monarchs, whether to confiscate property or to sacrifice life. The Divine right of kings received judicial acknowledgment from the judges of Charles I., and the right of Parliament to tax the American colonies was protected by the bench. What faith now are the followers of the Democratic party called upon to profess? Said Mr. Cass, a few days since, in the Senate Chamber:

"I claim the Democratic party was purer and better than it is. I am afraid it is becoming itself, if not corrupt, if least corruptible."

On another occasion:

"But I believe that the greater portion of the northern Democratic party—those who belong to that organization in the States—are to-day as true as the Black Republicans."

Corrupt, rotten—expressive adjectives. I make no such charges; but a dignified, venerable, gray-headed Democratic Senator thus solemnly arraigns the northern Democracy. At a later day, to point his former speeches, he adds:

"The large portion, if not the whole, of the northern Democracy are unscrupulous. I mean on the question of territorial rights; their position is as false as the rights of the southern States as the *Wilmot proviso* itself."

It is for me to

Nothing extensive,
Nor set down ought in salience."

I only desire the Democracy to see to what indignities they must be subjected, if they manifest any unwillingness to bow down and worship this black Juggernaut of slavery. *Cassand, rotten, corrupt!* To show that slavery is repugnant to the Constitution, to the Democratic party, to control the Democratic party, is in now molding its destinies, only notice that Mr. Buchanan, in his late message, says:

"I cordially congratulate you upon the final settlement, by the Supreme Court of the United States, of the question of slavery in the Territories. The right has been established of any citizen to take his property, of any kind, including slaves, equally to all the States of the Confederacy, and to have it protected there under the Federal Constitution. Neither Congress nor a Territorial Legislature has the power, has any authority to annul or impair this vested right."

I ask the Democratic party, where now is your popular sovereignty? Where the right of the people of the Territories? Where the rights of that portion who were leaders of the radical Barnburners? What a record will stare them in the face! Free-Soilers in 1848, popular sovereignty men in 1856, deniers of both in 1860.

When did you, gentlemen, first incorporate this dogma in your creed? Did you ever try to take you begged from Congress the privilege to retake your slaves in the Territories? Did you believe it in 1854-55-56, when, at the sacrifice of much money and blood, you were determined to force slavery into Kansas? If the people in that Terri-

tory had no right to exclude slavery, you would never have waged so cruel and unnatural a warfare. Why did you struggle, if the Constitution gave you all you could obtain after a hard-fought victory? No, gentlemen, you never believed it; not for one moment. It was not until defeated you in the face in Kansas, that you sought to arm yourselves with a law and doubtful reasoning.

Within a few weeks the Legislature of Nebraska, by a law, prohibited slavery therein; and the willing tool of this Administration vetoed the bill. The people of that Territory, now numbering some forty or fifty thousand, along with the rivers villages and cities are springing up as if by magic, whose prairies are teeming with the fruits of free and educated industry, are told that they cannot frame their domestic institutions, even to keeping back "the bitter water that causeth the curse."

Only a few days since the Legislature of Kansas enacted a law prohibiting slavery within the Territory, and another plain Administration-pro-slavery Executive vetoes the bill; and that people, who were assured by the Democratic party on this floor, a year ago, that they could assume the rights and position of a sovereign State, if they would only submit to a constitution recognizing human bondage, are now told that they have no inherent or delegated power to stop the tread of the slave. Yet would the Democratic party, what Democratic organs, even in the free States, dare rebuke the insolence and spurn the outrage? Possibly you may turn on us and say, why do we object, that we were opposed to the Nebraska bill? You told us, in 1854, that we must wage the war of the fact that the Missouri line; granted. Did that give you the right, when you wrenched all but that from us, to turn and steal that little also. And when, again, you drive us to the wall, and take all but the uncertain privilege of popular rights, and tell us we must wage the war of the fact of the Territory; and, while we protest that you leave us no little, must we quietly submit that you should finally come and depose us even of that?

It is due to truth to say that, in the circle of the Democratic family, on this subject there is an irrepressible conflict now waging; they differ about the meaning of the Constitution; quarrel about the Cincinnati platform, seeming to forget it was designed to have a northern as well as southern exposure; and have a furious contest as to what has been done by the Democratic party. This organization will allow no toleration of individual opinion on this slavery question. You may claim it, as did Galileo and Wickliffe, at the risk of the anathemas of a religious despotism. See the political executions of the last two years. No matter how humble the man, how unimportant his situation, if he suffered the least glimmer of anti-slavery sentiment he must be excluded from the pale of the party as a warning to all others that a like rebellion should merit and receive a like fate.

For a moment, and see the positions Democratic leaders must assume in waging this unholy war to extend slavery. Senator JEFFERSON Davis said, in Mississippi, in July last:

"Thus, for a long period ever scattered her seed broadcast in every corner of our confederate States. The recent free discussion by the press and on the forum have dispelled delusions which had shrouded the minds of a generation, that the only way out of it was more easy to find the apologist than the defender."

Alexander H. Stephens, the acknowledged leader of the Democracy on this floor during the last Congress, said in Georgia, in June last:

"Negro slavery is but in its infancy! It is a mere problem of our Government; our fathers did not understand it, and the people of the South were once obliged to find the apologist than the defender."

Negro slavery in its infancy! That fact must be consoling to those exceedingly pious gentlemen who are claiming for African slavery divine origin from the curse denounced against Canaan in the frantic rage of Noah's delirium. In its infancy! when gentlemen justify it because it has existed in all ages of the world. The gentleman from South Carolina, [Mr. KITT], on this floor, adds his testimony:

"The sentiments which the great mass of the Revolution entertained upon the question of slavery, are immaterial to me. The institution had not been discussed; its character and capacities had not been tested; besides, they were im-

posed with the influence of the French encyclopedists, and were affected by the abstractions of the Declaration of Independence."

The gentleman from Virginia [Mr. SMITH] said:

"The gentleman refers to the sentiments of distinguished revolutionary men, and asks me if I repudiate them. Sir, many of those sentiments, of course, I repudiate; many of those sentiments are false in philosophy and in fact."

As gentlemen daily pass through the rotunda or the galleries, and are asked to consider the magnificent painting representing their fathers in Congress signing this now vilified Declaration of Independence? Why, sir, since the world began, save the band of Apostles gathered with Christ at the last supper, never has there been conceived so grave, deliberate, and determined a body of men. When you are in the presence of the life-like representation of your patriot fathers, then there must come down a withering rebuke from the silent canvas reproving your ingratitude and infidelity, in stigmatizing the work and men whom they represent as abstractions, and the frenzies of French encyclopedists.

Sir, such imputes needs only the rebuke of silence. Where are the Danites who assassinate men if they are suspected of slandering the history of the South? Who are the cold-blooded slanderers of your history and the memory of your great men? Why not seize your canes, and clutch your knives, and drive such men from your borders?

Has it come to this—the solemn declaration of your fathers at all personalities and abstractions; their well-settled principles of freedom you stigmatize as delusions; their established policy and laws you rebuke under the insolent arrogance that the people men of the South "did not understand the system of negro slavery;" and that, in spite of the fact that for years they had been struggling against the despotism of royalty to suppress slavery and the slave trade?

You have a right to change your views and condemn your fathers. We have a right to pursue their policy and revere their memory. For this, you will reproach and proscribe, and deprive us of all participation in the administration of this Government; yet you cannot control us by threats of danger, or blameworthy of power. For us, "Is not the gleaming of the grapes of Ephraim better than the vintage of Judah?"

Do you ever reflect upon the treason of your insane threats? Said the member from South Carolina, [Mr. KITT]:

"The South will resist to the overthrow of the Government the ascendancy of the Republican party. Should the Republican party succeed at the next presidential election, my advice to the South is to map the cords of the Union at once and forever."

Said the member from Mississippi, [Mr. DAVIS]:

"The Black Republicans showed their organized rebellion when they presented Fremont as a sectional candidate for the Presidency, as a representative of their system of free labor in opposition to our system of slave labor. Against that rebellion we turned to arms. We mean to put it down, even if we have to do it with the bayonet. Gentlemen of the Republican party, I warn you: preserve your sense of honor, and do not, ever, hire a representative of your system of labor, and we of the South will tear the Constitution into pieces."

Sir, raise your brain, nerve your arm, precipitate the issue upon us, and we are ready. Our northern fathers were told by an English officer, "Disperse, ye rebels; throw down your arms, and disperse." Their answer, if necessary, shall be our answer.

He continued:

"I, I, now, have more affection for an Englishman than a Black Republican rebel."

Quite likely. Many of the men in the South, during the Revolution, experienced the same thrill of joy in loving a British red-coat, or a Hessian child-butcher, better than an American patriot or a colonial rebel.

You also threaten to dissolve the Union in case another demand is not complied with. The member from Georgia [Mr. CALHOUN] said:

"We have now four million slaves. In some twenty-five years hence we will have eight million. We demand emancipation. We will have emancipation, in spite of the Republican party."

The member from Mississippi [Mr. SHELTON] said:

"We have now four million slaves to Africa States; we will, in fifty years from now, have sixteen million. But I

tell you the institution of slavery must be sustained. Yes, sir, we will expend this institution; we are not inclined to be coerced within our present limits; and there are not men enough in all your borders to coerce three million armed men in the South."

Have you, gentlemen, made any calculation where you will withdraw your nation, when you have withdrawn from the Union? Have you the madness and folly to believe that you could wrest it from the States who retain their allegiance to the Constitution and Government?

There is yet another plank in this modern Democratic platform. Mr. Kerry adds:

"It is also incontrovertible that all the inhabitants of a State cannot be educated; the ordinance of God condemns mankind to labor, and certain mental occupations are incompatible with mental cultivation."

Does the slaveholder impiously claim to be above mankind, so as to be beyond the reach of the ordinance of God? Are you so privileged and exalted an order that you are not required to yield allegiance to that ordinance? You insist man shall be kept under the curse of cursed Noah. By what right do you endeavor to avert from the ordinance, given by the Almighty himself: "in sorrow shalt thou eat of all the days of thy life; in the sweat of thy face shalt thou eat bread, till thou return unto the ground?" This explains the horrors of southern Democracy to free men, free labor, and free schools.

Freemen—laboring men of the North—and, if it be not reasonable, of the South, are you willing to add in extending into the common Territories a system whose corner-stone is the ignorance of the people, and which will establish the policy that labor "is incompatible with mental cultivation?" Must the honest-hearted laborer, as he reads the record of science, history, and government, in a free press, and around whose humble fireside, after the toil and sweat of the day, from the various sources of labor are poured out the treasures of all ages; and in the mind of his child, if there be a diamond, it will be developed by education, and finally shine in his country's history: is he to be told that mental cultivation is incompatible with labor?

And you now declare, in case this system of oppression and ignorance be not expanded, you will sever every tie that binds the Union. You may have counted the costs. Have you the vision of a seer, to reach far down through coming centuries, to see all the horrors that the American people will end in decades, centuries, or cycles. If you force dissolution upon us we can only hope—

"If it were done, when 'tis done, then 'twere well it were done quickly."

On this subject, how appropriate to-day is the language of Lewis Cass and Daniel S. Dickinson on the 1st day of March, 1847, in the Senate Chamber. Said the former, speaking of dissolution:

"That word has got to be quite a common one in our national vocabulary. It frightened me once; but I have now ascertained that the word became quite familiar, and does not inspire the least dread. I recognize it as an old acquaintance, changing from time to time its drapery, but retaining its identity. For example, the American people, will take care of us and the crisis, too, and they will still take care of the Union, and guard it from any foreign or domestic invasions."

The latter said:

"I have no gloomy forebodings over the dissolution of the Union; politicians need not dissolve it, if they would; it will dissolve itself, if it expand, it will contract, it will be said in the dust. Pillar after pillar shall strengthen and adorn the edifice, while others, the venerable and gray-headed are your fathers, shall occupy those seats, and those walls echo to their voice."

Why will you not, then, heed the counsel of the statesmen of the past and present? You profess much sympathy for the free laborers of the North, and brand them as white slaves. Take warning from your sympathy the free whites of the South, and unite with us to give them free homes in the West. Insist not upon your expansion theory, nor plant on that virgin soil a servitude which will disgrace them; for your own people feel more keenly than we, that—

"The badge of the slave is the stain of the free."

Charge not upon us the folly of your weakness. Easy, ye North. You possess the soil, and more than half the Union, to the exclusion of northern freemen; with a climate genial, to nurture the fruits of the tropics, and a soil rivaling that of the Nile

in richness. Saving the blight of slavery, "among the smooth stones of the stream is thy portion;" while the North wrestles with the waterfall, digs into the mountains, struggles with the quarry, and cultivates, here and there, a fruitful valley. Be content to let slavery wear itself out on your own soil. You may suffer plagues and pestilence; you may harden your hearts, as did Pharaoh; but in God's own time He will bid you "let the people go;" and He will lead them to a land of rest.

You say the slave, in many cases, kisses the hand that smites him, and prefers his yoke to freedom. So did the Israelites, even when the Lord was their pillar of cloud by day and fire by night; for in the wilderness they hankered for the yokes and flesh-pots of Egypt. Ages of oppression will destroy the ability and inclination to resist.

"Prolonged endurance tames the bold."

Byron makes Bonivard, the brave prisoner of Chillon, to say:

"It was, at length, the same to me,

Freedom for prisoners as to be

I learned to love despair.

My very veins and I grew friends;

So much a long confinement tends

To make us what we are."

Gentlemen take about the brute force of majorities, and declare they will not submit. We are now told, "Dare you but exercise the right of freemen, in a clear and constitutional mode; elect for President your choice, and we will see the teachings of all parties down to 1848, and the dogs of war shall be let loose upon you." Already you are making appropriations of thousands to build arsenals, to purchase arms, and are now mustering forces, as you say, to threaten and coerce the North. You may limit no chain to the body of your slave; you may subject him to the lash and imprisonment; but when, in the insolence of long-enjoyed power, you seek to coerce individual opinion and political action by cruel threats, did we yield we would deserve to be slain.

"Must I give way and room to your rash choice?

Shall I be frightened when a madman starts?"

We meet you in unkindling spirit. We desire that no "son of man" should "prophecy against the freemen of the South field." We are glad that you are commencing to live on your own account; that is the true wealth of nations. We are gratified that you are wearing your own garments; it is true they look a little rough at present, but persevere. After the lapse of years, (probably not in your time, but your posterity will see it,) science will render you much aid. All arts are rude among a people which is just assuming independence of its neighbors.

You cannot expect the advantages of machinery, until some Yankees go down and explain the necessities of the use; for no chain to your great rage and passport system, the tyranny of travel is exceedingly irksome in your empire, especially to the Yankee who is at all fond of the free use of his limbs; so you will have to forego all advantages of machinery some longer. I see by our country papers, that when you are to make shoe pegs, then your brogans you will no longer import from the North; all you want now is toleration and industry to make you a great nation. This is well enough, but for your frightful gasconade, You declare that should a Republican President be elected, he never can be inaugurated in this Capitol. How will you prevent it? I judge from your military preparation you mean force. Where will you get your gunpowder? You make none south of Delaware. Where will you get your arms? South of New England, Dixon's line you manufacture none in all your borders. Can you retain it now by force? If so, you will do infinitely better than you did in 1814. The English, then, without any fear, could have crowned a king in your Capitol. They drove the English out of your own New England; and although you knew the design of the enemy was to invade and burn, you retreated, and stopped not to fire a gun in its defense.

I impugn not your courage, nor reflect upon your motives; but I hazard the opinion that, had the Capitol stood amidst the rocks of New England, or the rough hills of the North, five thousand of herocracy would have struck, and if necessary

perished, in its defense. Since that time, some of your people have been very solicitous about the archives. You know Governor Wise, in 1856, had Fremont been elected President, was prepared to march with one hundred thousand men to the capital, and seize the archives. Some persons very wickedly suggested that it might be the Treasury he was after. Impossible! whoever alleged that a southern Democrat was actuated by mercenary motives? You say you will magnanimously withhold the aid if we will consent that the Constitution recognize property in man, and the corresponding right to take it into all the Territories of the Union. That we never can do, for our fathers never did, but guarded carefully against any such implication. Madison said: "he would not consent that the Constitution should recognize the idea of property in man."

In the Constitution the word "servitude" was stricken out, and the word "service" was inserted: the former being thought to express the condition of slaves, and the latter the obligations of free persons. The term "legally" was stricken out, because it was thought equivocal, and favoring the idea that slavery was legal in a moral view, and "under the laws thereof" substituted. Why, then, should we admit what our fathers never conceded? The Constitution recognizes the right of each State, and the obligations of sister States, to restore her fugitives, whether from service or justice; and as by this provision it did not pretend to designate what might or might not be crime, leaving that with each State, any State might make a new and additional enumeration of crimes, and have her rights respected under this provision. So the Constitution did not legalize and sanction existing forms of labor any further than protecting each State in her systems of labor, whatever they might be; and should new forms of labor be devised, and should any State be protected in the rendition provision, and the Constitution not be chargeable with the folly or wisdom of existing or new forms of labor.

The white men of the North are now excluded from fifteen slave States of the Union; they are driven from their homes, simply because they exercise the right of thought and speech. Such as South Carolina, Georgia, and Kentucky are, you sought to make California, Oregon, and Kansas. While you claim the right to carry into the territories your laws, you have simply taken the law which creates them, and the public opinion which sustains it, you deny to the men of the North the right to take what is dearer to them than property—their principles. You deny them the free use of the mails; you exercise a censorship of the press and incursion of individual thought, more revolting than a Russian despotism. Even here, in the calmness of deliberation, the distinguished gentleman from the noble State of Missouri, where the bonds of slavery are weakening and dissolving, where the steam engine is puffing the dark wave to the remote South, [Mr. ALEXANDER] said:

"Now predict that, unless a revolution shall take place in the public sentiment of the North, of which I have now no hope, your people will be driven from that section of the Union will be permitted to travel through the southern States, unless he brings with him evidence of conservative foreign institutions, and claims the people of the South and its domestic institutions."

These, sir, are the liberal principles of that party, which knows no North, no South, no West, no East, and is self-boarding in the virtues of a great nationality, and clamorous over the fact that Fremont had no electoral votes in the free States where just such intolerance as has been thundered in our ears dominates over all. Remove the despotism of opinion and anarchy of violence from your own people, and no successful judgment in your own States would rally thousands around the standard of free labor, free schools, and free soil. See the once proud State of Virginia laying her hands on the mails and authorizing some prejudiced justice to sit in judgment and condemn to the flames all publications that excite his ire. And this, beyond all things, shows the outrage and enormity of the system, which cannot be sustained, except upon the destruction of all those rights which should be the boast of a free people.

A few years ago a self-naturalized Hungarian was seized in Smyrna by Austria, and claimed as a criminal against her laws. This nation was

aroused, and American cannon would have echoed along the classic shores of the Mediterranean, and American blood crimsoned her waters, had a hair of Martin Kosza's head been injured. Mr. Buchanan is begging for the Army and Navy to reduce the rights of American citizens in Mexico and Central America; yet here, within the States, upon the citizens thereof, outrages are committed which should mantle the cheeks of barbarism with shame, and no lamentation comes from the notorious Executive. This system of outrage, this reign of terror, you seek to extend over all the land.

You charge upon the North an occasional outbreak of disorder, for which the guilty are duly punished, while you, who would violate the laws of your State and the natural rights of the white man, condemning him without trial, and inflicting barbarous punishment without judicial judgment and sentence. Some men of South Carolina arrested a free white laborer, mobbed him in the streets of their city, subjected him to stripes at the hands of a slave; all in violation of the laws of the State. You may boast of your chivalry, but such men are dastards, whom it would be "base flattery to call cowards." The stranger lands in the cargo of merchandise from Africa, and you jurists refuse to punish the pirate. A few months ago, a woman with a sick child was driven from a village of Georgia, because she had written to her friends at the North her impressions about slavery. A whole community, the Bereans, were exiled from the soil of Kentucky for no crime; they were only obnoxious in entertaining the opinions proclaimed by Washington and Jefferson. Are such the men you propose arming to defend the Capitol and archives? Rest assured, braver men than they fled from the British in 1811.

Mr. CRAWFORD. The gentleman—
Mr. VAN WYCK. The gentleman must excuse me.

Mr. CRAWFORD. The gentleman has stated a fact—
Mr. VAN WYCK. The gentleman must excuse me.

Mr. CRAWFORD. I understand the gentleman to state as a fact, that a woman was driven from Georgia with a sick child, I desire to say that I never heard of it before; it is new to me; and I do not believe a word of it.

Mr. VAN WYCK. The gentleman does not read the papers, then; he has to answer.

Mr. CRAWFORD. Will the gentleman give the authority for his assertion?

Mr. VAN WYCK. I will furnish it some other time.

Mr. CRAWFORD. Then you have no authority with you.

Mr. BINGHAM. He says he has it not here.

Mr. VAN WYCK. Your despotism is as galling upon the whites as the shackles. Slavery must prescribe what books they shall read. Your population is about eight million; yet you control their destinies, and compel their opinions. How many men from the South on this floor are non-slaveholders? How many in the Senate, and among the foreign appointments? Your soil was invaded by Brown and a few followers, and Virginia is convulsed from center to circumference. In violation of all law, your citizens were shot down, and you had a right to feel outraged and indignant. Governor Wise heard the Virginia militia, the Federal Executive sent sixteen marines, who captured Brown; about the same number, I believe, Jackson sent, in 1832, to conquer South Carolina, and place her in her proper orbit in the political heavens. Innocent women and children were murdered; her virgin soil was moistened with the blood of free-State men, and the light of her burning dwellings flamed against the midnight sky. The Executive was implored; but Pierce, upon looking through the Constitution, could find no authority to interfere; and the darkest page of our history was written in blood. A slave gets loose, and is committing grand larceny by running away with himself; no necessity for consultation then; the lightning flashes the message to us: the land and naval force to recover the fugitive, and the court-house of a free Commonwealth is surrounded by bayonets and chains. Your homes in Virginia were invaded; we regret and sympathize with you; but have you no regrets or sym-

pathies for the homes, just as sacred as yours, invaded in Africa? Had you tears for the children that were rendered fatherless and the wives widowed and driven shelterless, upon the open prairie in Kansas, by men having no claim to manhood but the color of their skin?

You reproach the North because, while we condemn the crime, we admire the noble qualities of manhood which Brown possessed. Your own Wise did as much; he said he was "lame, lonesome, and old," and it is no consolation to see such noble traits should be wasted in a reckless enterprise? You think it impossible that the man can be separated from the crime. Do you not remember, in the darkest hour of the Revolution, when the cause was lost, and it no longer remained in the young, the brave, and accomplished English officer descended to the character of a spy and, after Arnold's treachery, well-nigh eclipsed the rising sun of our independence? Can the mind conceive a greater crime, not only against America, but freedom and the world? He was arrested, tried, and executed; and notwithstanding the enormity of the offense, Washington and his generals, and the American people, sympathized with a hero being executed for gallant action against the enemy; they overlooked the crime, and thought of the grand utility of his manhood; and had it not been for the exigency of the public service, would gladly have pardoned the offender. And at this day, no American child reads the history of his country, but drops a tear on the page which records the fate of André.

You ask the men who are born amid the free institutions of the North, whose repose is given to their cradled hours in songs of universal liberty, whose limbs are strengthened by the air from the bold mountains, and whose hearts are warmed to all mankind by the lessons of the Revolution and the teachings of the Saviour, to restrain their anti-slavery sentiments, and believe, with you, that slavery is a Divine institution. No, no! There is no attribute of the Almighty, no command of His word, no spirit of His gospel, that can tolerate such a sentiment. "Ye shall not respect persons in judgment; ye shall hear the voice of the great God, ye shall fear the face of the face of man," was among the bill of rights God gave to the Jewish people. "A new command gave I unto you, that ye love one another; whatsoever ye would, that men should do to you, do ye even so to them," was the golden rule of the man of peace, given by the Saviour in *John* and *Gentile*; to all the world. A necessary corollary of these great principles led, in many years, to the emancipation, in the Declaration of American Independence, that man is created equal, and that each has an inalienable right to life, liberty, and the pursuit of happiness.

While you eclipse the mind and dwarf the soul, you concede to the slave, both in prohibiting to him all means of knowledge by reading, and admitting him to be subject to the swing of power; the atonement; you say that slavery is a great missionary institution, redeeming from heathenism and converting to Christianity; you say that slaves become Christian men; that the Bible teaches them to be free; then, do you not understand that Bible, so they may comfort the unfulfilled longings of their souls, by a full realization that their lot is in the will of the Almighty, and "thus saith the Lord" hath enjoined it.

The distinction drawn from South Carolina, [Mr. KERR, after averring to the South all the glory of arms, and arms, and literature, according by the nation, then adds, speaking of the North: "What achievements of arms have illustrated their records? Sir, if a northern army should come down to subjugate the South, it will be the first one in our history that would be defeated by the Southern militia. Will it come now, or will it come in the trials of the Revolution? In 1781, when all the forces of the British were gathering upon the southern Virginia, the British had the advantage of the North."

The gentleman is evidently alarmed at his own shadow. Sir, it has never been thought or intimated that we are to subjugate the South. "What achievements of arms have illustrated their records?" Has the gentleman forgotten the battle of Gettysburg? Has he forgotten the war of 1812? I will not charge that he willingly seeks to cast an imputation on the patriotism and courage of our fathers. While I honor the memory of his ancestors, I would rescue that of my own from unjust

aspersions, and hurl back the calumny in the face of its author. I regret that, in the blindness of fanaticism, and a reckless sectionalism, the distinguished gentleman should malign the northern patriots of the Revolution.

Sir, I will indulge in no unkind remark to wound the feelings of any man; but the charge must be met, and history vindicated; let the consequences fall where and as they may. One other gentleman spoke of Massachusetts burning witches in the ancient time. Does he suppose that your own people burn slaves at the stake, and it seems to awaken no horror in your minds?

Mr. DAVIS, of Mississippi. I pronounce the gentleman a liar and scoundrel. I pronounce the gentleman a liar and scoundrel, and he false.

Mr. VAN WYCK. My time is short, and I hope not to be interrupted.

Mr. DAVIS, of Mississippi. You have no right to utter such foul and false slanders.

Mr. GARRETT. I rise to a point of order. It is that no member upon this floor has a right to libel the people of any section of this country, and then deny to the Representatives of that people the right to reply. I pronounce the assertion made by the gentleman false and unfounded. [Cries of "Order" and "The Republics, &c."]

Mr. VAN WYCK. I have heard such words before, and I am not to be disturbed or interfered with by any blustering of that sort. I am not here to libel any part of the Union.

Mr. DAVIS, of Mississippi. If you go outside of the District of Columbia and test the question of personal courage with any southern man?

Mr. VAN WYCK. I travel any where, and without fear of any one. For the first eight weeks of this session, you stood upon this floor continually libeling the North and the people of the free States, charging them with treason, and all manner of crimes, and now you are thrown into great rage when I utter a few facts.

The CHAIRMAN. The gentleman from New York cannot be interrupted, except by a point of order; and the Chair appeals to gentlemen of the committee not to violate the rules of the House.

Mr. DAVIS, of Mississippi. I shall observe them, sir, if others do; but I certainly will not permit southern people to be slandered.

Mr. VAN WYCK. If gentlemen are so sensitive in regard to their feelings, I shall permit them to register their feelings, if others do; if they were, we would not have had such wholesale denunciations of the people of the North as we had during the first eight weeks of this session.

Massachusetts has able sons to defend her reputation; but I do know she was first to light the flames of the Revolution; and I believe she will be the last to desert the watch-fire of the Union. The eloquent gentleman from Virginia, [Mr. HORTLEA,] this endeavor to fasten an unkind charge upon the North, in my judgment misconceived history when he said Virginia, in 1775, sent succor to Massachusetts. There was no narrow sectionalism in those days. When the militia of his State were ordered to the aid of Massachusetts to fight the battles of Virginia; it was to vindicate the rights, and strike down the enemies of Virginia. The battle for your rights, gentlemen, was fought on northern soil; your homes, for a long time, were untouched by the foreign invader; for many years your builders were safe from the torch of the Hessian incendiaries; your women from indignities, and your helpless children from a cruel death. All this was sustained in the North; her commerce dismantled; her fields laid waste; her towns and villages laid in ruins; her offending children and women massacred. Could the men of the South do less than rush to the aid of their own cause by succoring Massachusetts? The impulse of freedom was equally strong in Virginia and Massachusetts. It was the crisis of the United Colonies; but Massachusetts then, as now, for her hatred of tyranny, was specially designated as the victim, and led the van in freedom's army. Your fathers were not the men to repose in inaction in the face of the war of 1812, or to come to fight, they were willing to spill their blood and lay their bones on the cold hills of the North. Let him be anathema, maranatha, who is not willing to do justice to you and them.

The glory of the men of the Revolution, from whatever section, belongs not to the North or the South. It is a union of glory which can never be dissolved. It belongs to the world, where liberty is worshipped, and Freedom receives the incense of her struggling millions. Sir, no country, however malignant, can blot out their memory. They are as far above your reach as the bold and heaven-defying eagle is above the earth-crawling and hissing serpent. You boast, and you have a right to boast; that you gave us a Washington; that the Moses of old, he led our armies to the promised land; but can Joshua and Aaron be gathered from the North. Because you gave us a Washington, and his bones rest on southern soil, we mean to preserve the Union forever. Mount Vernon and Monticello shall long be the Mecca and Medina of northern pilgrims.

Washington was clothed with absolute power over the Army. When he thought you wanted a general, he sent you Lincoln, then Gates. At Camden you had a sufficiency of troops. Your army numbered four thousand, and the enemy two thousand; yet you were overborne. I would come to charge it to a lack of courage. Then he sent the old Quaker of Rhode Island, General Greene, and he saved the men of Carolina.

After the attack on Charleston, in 1776, you were free from a foreign foe until 1779. Then the enemy invaded a part of his fort on the coast, because he expected sympathy and succor from the Carolinians and Georgia, on account of the great number of Tories in those States; and he did receive it. At the battle of King's Mountain, in the same rank of fifteen hundred, probably thirteen hundred were Carolina and Georgia Tories; hence the opening of a new seat of war in the South. I speak not to your injury. No country ever produced truer, braver patriots, than the Carolinians and Georgians. They had a stern conflict. They tried to fight the South on its own soil, and their Tory countrymen at the hearthstone.

The greatest cruelty and spoliation you suffered was at the hands of your native Tories, and from threats of rebellion and violence. I conclude their descendants are numerous on that soil. With their bloodmen to be descended on the soil of the South. But your brave men and women of the Revolution we can never forget. You may proscribe, imprison, and subject to stripes, our countrymen; distract and divide this great Confederacy; divorce your wives from their husbands; you may have passions of brotherly hate; yet the memory of your dashing Marston, and impetuous Sumpter, the heroism of your women at Charleston, will be cherished as long as freedom has a shrine in the hearts of the American people.

Would Washington, the son of Virginia, see his mother in jeopardy, and not rush to her relief? In 1781, when Cornwallis appeared in Virginia, although Clinton had a large fleet in the bay, and a large army in the city of New York, with brave impetuosity he marched his northern army, composed of men of all sections of the North, and with their tents, they "encamped on southern soil"; and the evening of the 18th day of October, 1781, drew its mantle over the mangled and lifeless northern soldier on the field of Yorktown. Virginia was visited and her towers and her towers were the bones left whitening on your sunny plains. Will gentlemen talk of northern courage? Where were fought the battles of 1812, 1813, and 1814? Whence came the seamen that humbled the proud navy of England, and gave us dominion on the seas? It is true you had your splendid victory at New Orleans; but that did not conquer a peace, for the treaty was signed before that battle was fought. Still, that did not detract from the glory of Jackson, or the valor of his troops. In all our wars, the North and the South were the victors; the victory, and are equally entitled to the glory.

Sir, in reading of the men of the Revolution, I have not been wont to limit their patriotism by State lines, or estimate their valor by the country they were born. Whether the rough blasts of the North rendered their courage more valiant, or quickened their blood, to me, whether from the North or South, like the men whom Zebah slew at Tabor, "each one resembled the children of a king."

Notwithstanding he now claims for the South all the glory of the past, the same distinguished

gentleman, in his own State, in 1856, lamenting that South Carolina had no history, said:

"Where is your history? It is yet in tradition. The struggle is coming, the future is gloomy and lowering, and it is a sad business. Now is the time. Every memorable people, at all times, have had a history written on their monuments, on their pyramids, or in books. The nation mourned, and Clay and Webster wept down from their seats. Finally, he came in a ship and the State mourned, but no monument rises to mark his fame."

Such was the mournful condition of South Carolina, as faithfully portrayed by one of her most eloquent and earnest defenders. Why had South Carolina no history? Why had Calhoun no monument? You will find a ready answer in the acts and declarations of your fathers. Now, such as South Carolina is, do you wish to make the States hereafter to be added to the Union? Do you wish to entail upon them an inheritance, which, in after years, will compel from one of her sons so mournful a eulogium?

Gentlemen on this floor have been dolorous in their lamentations as to the heavy burdens they have suffered since the adoption of the Constitution, and that they have now become insupportable; and they have not the philosophy to say they can—

"Rather bear those ills they have,
Than fly to others that they know not of."

As we have had Democratic Administrations most of the time of their oppression, now, in order to relieve the miseries, real or imaginary, I know of no other remedy but a change of rulers; and for their sakes we must make a vigorous effort to restore the Republic to the principles of Madison and Jefferson, so that their troubled spirits may find rest.

You show a certain remnant of northern Democracy is a faithful ally. It has bent and bowed at your command. No doubt the old Free-Soil leaders believe as they did in 1848; but you must now allow them to assume any disguise, adhere to any standard, if they can only be camp-followers of the glorious legion. But you have determined, if they enter the Charleston convention, it must not be erect and with banners flying; but as the serpent when he entered the garden. You mean that the only entrance shall be through a hole in the wall; but when they enter, they will find the absorption of the serpent in the vision of Ezekiel's vision. They will find "that the bed is shorter than that a man can stretch himself on it, and the covering narrower than that he can wrap himself in it." Treat them kindly, for they speak "in the speech of Abaddon," and will have to lie, for they "cannot manage to pronounce" your shibboleth.

You taunt us with cowardice; that we have not the courage to do as Brown did. May it long be our boast, as it is now our pride, that we have not the courage to do wrong.

"I dare do all that may become a man;
Who dares do more, is none."

Why this boast of courage? Are you not aware that bravery is an instinct of the man and brute creation? You see it in the gentle wren and the bold eagle, in the tiniest insect and the king of all nations; in every spot of the world, in all climates, and under all forms of society.

You never heard of a nation lacking bravery. It is not the result of education or religion; but the nearer you reach the barbarian and uncivilized, the stronger the instinct, the more stubborn the bravery, the greater the difference to torture and death. See the Goths and Vandals, as they poured out of the cold and gloomy recesses of the North and overran the polished Roman empire. See the Russian hater stand nyrviding before the science-directed missiles of the Allies. See the North American savages, with bows unsheathed, ready to brave all dangers in battle. Your knowledge of history will teach you that the most unconquerable bravery comes from the cold climates and rough regions of northern countries. Again I ask, why do gentlemen thus talk? Mark the first and second wars with England. Go home and ask the remnant of the gallant Palmetto regiment, who received the shock of battle on the plains of Mexico, who stood the New York volunteers, who, with them side by side, were in the hottest of the fight, at Churubusco, Cerro Gordo, and Chapultepec; and when your gallant

Bulwer fell at the head of the regiments of my State and your northern warriors joined yours to carry him from the field, and regret that you so brave had fallen. Ask your own regiment what they think of northern bravery?

In the history of the country you provoked and incited a controversy in which you met northern bravery face to face on the plains of Kansas, and you quailed before it and fled. Ask your border-ruffian banditti what they think of northern courage? After the fight at Osawatomie, where Brown received his cognomen, your men cowered at the very thought of meeting the stern warriors of the North, sustained by right, in laudable array, and they made a precipitate flight, not waiting for the morning dawn, in spite of just such vaunts and boasts as you daily make on the floor of this House. Talk no more of northern courage. You have felt their steel and seen their spurs. They went not to meet in bloody strife, but to carve them out homes and fortunes amid those boundless prairies; but you met them as enemies, hedged up your highways, prevented their passage over your rivers by cannon, and compelled them to toil with arms in all four directions. Every one, had his sword girded by his side, and no builded, and half of them held the spears from the rising of the morning till the stars appeared." Sir, these men went as men of peace:

"They crossed the prairie, as the old
Our fathers erred did,
To make the West as they did East,
The homestead of the free."

But, sir, while bravery is an instinct, true courage is the result of education and disciplined blood; not to delight in the exhibition of physical ferocity, for mere gratification or personal resentment, but courageous from principle, to resist aggression and defend the right, at all hazard and every sacrifice.

Gentlemen, the great State which, in part, I represent, Sir, she needs no defense at my hands. Unlike South Carolina, she has a history written in books; also in the blood of her fathers, and the battle-field of the Revolution and the second war; upon her monuments and her aqueducts; in all her industrial, commercial, mechanical, manufacturing, benevolent, and educational enterprises. It is written upon her mountain sides; by the banks of her rivers, and upon her flowing streams; in her thousands of miles of telegraph, railroads, and canals; in the light of her commerce, that whitens every coast, and floats the stars and stripes in every port of the wide, wide world. When did she ever hesitate to respond to the demands of her country, whether the call was for treasure or blood? The craven, traitorous notes of disunion are never heard in her borders, from the Canada frontier to the valley of the Susquehanna, from the inland seas to the created waves of the Atlantic.

Let me speak of my own people—the district I more immediately represent. In the days of the Revolution, her sons went forward with her conquerors, the invader, and her women and children felt the knife and tomahawk and merciless barbarities of savage warfare. Through the valley of the Manakating and by the mountains of Mininkink

"The monarch green, the for, the monster brass,
With all her heavy, deadly beams."

On the evergreen mountains and by the crystal streams of Sullivan, and in the valleys of Orange, rest the bones of those who nobly fought and fell. The graves of those brave men have never been violated by the steps of the disunionist, or their long repose disturbed by the sound of rebellion. In that district still stands the old mansion occupied by Washington; in it the same chair in which he sat, and the same table on which he wrote his celebrated answer to the malicious letter of Armstrong, and the man on this floor of your own name of an army "victorious over its enemies, victorious over itself." On the same spot, too, he disbanded his grand army.

You reproach us because we will not do the menial service of bundling down your runaway slaves. There is not a man on this floor of your own name who would thus demean his manhood or disgrace his nobility. In my district there may be two or three men who believe with you that slavery is a Divine institution, and ought to be extended. There are none who would resist the execution of your fugitive slave law; but I am

southern gentlemen have expressed a willingness to stand by the Constitution of our common country, to observe in good faith its obligations and promises. We, of the North, join hands with you here. We claim that we are not only loyal to this great fundamental law, but that we have been so in all times past. And here comes the issue to be tried: you charge us with numerous derelictions in duty; we charge them back upon you. You have arrested the great Republican party of the Union before the high court of the American people, and charged it with treason to the Constitution; we fling all special pleadings to the winds, join issue upon the merits, and go to the jury.

What is the Constitution? Is it a mere memorandum of an agreement, entered into by the States of this Union in their sovereign capacity as States, to be observed or broken at the pleasure of any one or more of the high contracting parties? Is it a great, confederated partnership, in which the several States have agreed to do business under the firm-name of "the Union," with the right reserved to each and every partner to withdraw at pleasure? Is it a compact or league between the several States, entered into, and ratified by their respective legislatures, which may be kept or broken at the will of any one or either of the parties thereto? Is this a fair interpretation of the Constitution? I answer most emphatically in the negative. The reasons for this opinion are numerous and weighty. This is not where the Constitution, then entered into, never has been formed. The thirteen original States or colonies, as far back as before the Revolution, entered into a compact; they reduced this compact to writing, and it is found in the old Articles of Confederation, framed in 1777. Acting under this compact, the thirteen colonies went forth to the world and posterity that great magna charta of Republican principles, the Declaration of Independence. Under this compact our fathers struggled and toiled through seven long years of revolutionary warfare, and achieved the independence and liberties of our common country. The preamble to this compact defines the "Articles of Confederation to be a perpetual union between the States;" while the thirteenth and last article closes by declaring "that the articles thereof shall be ratified by the States, and that the Union shall be perpetual." Why did our fathers abandon the old league or compact formed under these Articles of Confederation and substitute the Constitution? If they had been satisfied to have lived under a league or compact they would not have changed their form of government—and this is the reason that they preferred a Constitution to a compact.

Although there has been a slight conflict of opinion among American statesmen and jurists upon this subject, yet a vast majority of the authorities concur in this opinion, that the Constitution is not a league, compact, or confederacy, but a *fundamental law*. The idea that the Constitution is a mere compact between the States is completely refuted by the preamble. In the preamble, it declares the "people," and not the States, made it, in words too plain and direct to be mistaken: "We, the people of the United States, in order to form a more perfect union, do ordain and establish this Constitution." I make these remarks as the basis of my argument, and not by any manner relative to the doctrine proclaimed by certain honorable gentlemen upon this floor, that a State, in its sovereign capacity, has a right peaceably to secede from the Union.

I now turn to another point involved in this question, namely the compact which was entered into upon the slavery question between the North and the South at the formation of the Constitution. Neither the word "slave" nor "slavery" anywhere appears in the Constitution, and this omission is not accidental. Mr. Madison, who had more to do with framing the Constitution than any other man, said, he "thought it wrong to admit into the Constitution the idea that there could be property in men." (3 Madison Papers, 142.) Mr. Sherman said, he "was opposed to a tax on slaves, because it was property in man." (3 Madison Papers, 1380.) Other members expressed similar opinions. Notwithstanding our fathers carefully guarded the language incorporated into the Constitution, with a direct view to the ultimate extinction of slavery,

yet the fact is not to be denied, that the institution then existed in nearly all the States, "under the laws thereof," and this fact entered into the compromise which resulted in its formation and adoption. The first compromise agreed upon is found in article one, section two, clause three, of the Constitution, and was a direct concession to the South. This provision allows a property basis of representation upon this floor, which is not altogether without the operation which it gives to the slaveholding States to-day, as was truly remarked by an honorable gentleman from Mississippi, (Mr. LAMAR,) twenty Representatives in this House based upon property.

The members of the convention which framed the Constitution, from the North, contended that if "three fifths" of the slave property in the South was to be added to the "whole number of free persons," then the exports—the products of the slave population—should be taxed as an equivalent to the North. Mr. King expressed the opinions of the North when he said: "At all events, either slaves should not be represented or exports should be taxable." (3 Madison Papers, 1262.) The only equivalent which the North received was the connecting provision in the article and which was simply what is known to-day as the "direct taxes," they should be apportioned according to the basis of representation; and, as we raise our taxes from a tariff of duties levied upon imports, this provision is worthless to the people of the free States.

The next compromise embodied in the Constitution upon the slavery question is found in section nine, article one:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808; but no tax or duty may be imposed on such importation, not exceeding ten cents for each person."

Prior to this time, Maryland, Virginia, and several other States, had abolished the foreign slave trade. A large majority of the convention desired to abolish it at once. We have the most conclusive evidence upon this point. Mr. Ingham, in the North Carolina State convention called to ratify the Constitution, said:

"It was the wish of a great majority of the convention to put an end to the trade immediately, but South Carolina and Georgia would not agree to it."

"It is probable that all the members repudiated the inhuman traffic, but South Carolina and Georgia would not consent to an immediate prohibition of it; one reason was, that the revolution war, the revolution war, the loss of a number of negroes, which they wished to supply."—3 Elliot's Debates, 96, 97, 98.

Mr. Spaight, the same convention, said that "the limitation of this trade to the term of twenty years was a compromise between the eastern and southern States—South Carolina and Georgia wished to extend the term—the eastern States insisted on the entire abolition of the trade."—3 Elliot's Debates, 96.

General Pinckney, in the South Carolina ratification State convention, said, that while some of the eastern States were willing, for the sake of the South, to wait a little before putting stop to the slave trade:

"The middle States and Virginia made no such provision; they were for an immediate and total prohibition."—3 Elliot's Debates, 325.

Thus the fact is established and proved, that Congress was prevented from abolishing the slave trade for twenty years, as special favor to two southern States of this Union.

The only remaining clause in the Constitution relating to slavery is article four, section two, clause three:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due."

This provision was another concession to slaveholding States.

It is now so important to inquire whether the framers of the Constitution considered slavery national or local? The rendition clause just quoted is an answer to the question: "Persons held to service or labor in one State; under the laws thereof." Here they put upon record, in the great foundation of our country, the fact that slaves are held "under the laws" of the States, and not by force of the Constitution. Its framers so expressed themselves in the constitutional convention. Mr. Gerry said:

"We had nothing to do with the conduct of States as to

slaves; but ought to be careful not to give any sanction to it."—3 Madison Papers, page 1264.

They left the whole question where they found it—with the States; to be continued or abolished as they severally, in their sovereign capacities, should determine.

II. The framers of the Constitution made that instrument with the desire and expectation that slavery would ultimately be abolished in all the States; that in this country it would come to a final end. This proposition is clearly demonstrated in their openly avowed opinions upon the slavery question.

General Washington, although a slaveholder believed slavery wrong. He freely expressed himself upon this point, and has left the clearest evidence behind him upon this question.

Thomas Jefferson, in his official acts and public writings, has left to posterity a record that cannot be mistaken. In his Notes on Virginia, he boldly declares:

"I ardently wishes more directly than I, an abolition not only of the slave trade, but of the condition of slavery." (Page 170.)

Gouverneur Morris, in the convention which formed the Constitution, said:

"He never could consent to uphold human slavery; it was a nefarious institution."—3 Madison Papers, 1262.

Mr. Sherman said:

"That the abolition of slavery seemed to be going on in the United States, and that the good sense of the several States would, probably by degrees, complete it."—3 Madison Papers, 1280.

Colonel Mason, of Virginia, said:

"Slavery discourages the arts and manufactures, and brings the judgment of Heaven on a country."—3 Madison Papers, 1261.

In the Virginia convention to ratify the Constitution, Mr. Henry said:

"Slavery is detested; we feel its fatal defects; we deplore it with all the pity of humanity."—3 Elliot's Debates, 427.

The illustrious William Pinckney, in the Maryland Legislature, in 1788, said:

"By the eternal principles of eternal justice, no man in the State has the right to hold his slave in bondage for a single hour." "In the name of Heaven, can I call ourselves the friends of freedom and the inherent rights of our species, when we wantonly pass laws inimical to each; when we reject every opportunity of destroying, by slight unimportant degrees, the bondage of individual bondage, reared by the mercenary hands of those from whom the sacred flame of liberty received its derivation?"—William's Speeches of the United States, volume 5.

But I will not further elaborate a proposition which cannot be successfully denied, by quoting additional extracts from the writings of early American statesmen.

2. The hypothesis here set up is proved by the contemporaneous acts of our fathers. The provision in the Constitution relating to the suppression of the slave trade after 1808, is strong evidence to this point. The enacting of the celebrated ordinance of 1787, which abolished slavery on the west side of the States was made *force* free, is another incontrovertible proof of their intentions.

3. The opinions of the founders of this Republic were not only acquiesced in and indorsed, but when as authoritative expositions of the Constitution by nearly all the great statesmen of the country during the first sixty years of its existence.

First. That Congress has power, under the Constitution, to prohibit slavery in the Territories. The ordinance of 1787, passed by the first Congress under the Constitution, in which were twenty members of the Federal convention which framed the Constitution, is a direct exercise of this power. It passed unanimously, and was approved by General Washington. Subsequent acts, in which the same principle was evenly recognized, were passed, as follows: an act, April 7, 1798, organizing Mississippi Territory; in the Sixth Congress, an act organizing Indiana Territory; an act, March 26, 1804, dividing Louisiana into two Territories; January 11, 1805, an act organizing Michigan Territory; February 13, 1809, an act establishing Illinois Territory; June 4, 1812, an act establishing Missouri Territory; March 3, 1817, an act relating to Alabama Territory; March 9, 1819, an act establishing Arkansas Territory; March 6, 1820, the Missouri com-

promise was established; March 10, 1829, an act establishing Florida Territory; April 20, 1836, an act establishing Wisconsin Territory; June 12, 1838, an act for the government of Iowa; and March 3, 1848, an act establishing the government of Oregon.

These different acts received the sanction of fourteen different Congresses, and the official approval of Presidents Adams, Jefferson, Madison, Monroe, Jackson, Van Buren, and Polk. All these acts directly acknowledged the constitutional power of Congress to prohibit slavery in the Territories, and that it was right and expedient to exercise it.

Secondly. Until within a very few years, the opinions of the early statesmen that slavery was dependent upon State regulations for its existence and protection—a local and not a national institution—has been uniformly concurred in by Congress, State Legislatures, the judiciary of the United States, and of the several States. The proof is found in the acts of Congress, of State Legislatures, and in the numerous decisions of the United States and State courts.

Mr. Chairman, having briefly referred to the Constitution, its compromises upon the slavery question, the rules of construction applicable to it, as handed down to us by its framers, and concurred in by all the States, I now come to a material point involved in this discussion. Has the South received what legitimately belonged to her under the Constitution? and if there have been sectional aggressions, from which party have they come?

In discussing this matter, I shall deal in facts and figures, and not in inflammatory declamation and vague generalities, which have been so much indulged in by gentlemen upon the other side.

Has the North and the property representation guaranteed by the Constitution? No one denies it, and she has to-day twenty Representatives upon this floor upon a property basis, while the free States have none. Taking the census of 1850 as the basis of calculation, six million whites in the North, and twenty-one million negroes, ninety members; thirteen million in the North have one hundred and forty-seven members. A ratio equal with the South would give the North one hundred and ninety-eight members.

2. The South has always had the benefit of a fictitious slave law to restrict the slave population. Some of the provisions of the present law are extremely obnoxious to the people of the free States; yet it has been enforced with as little difficulty as any other law of doubtful constitutionality and made for the exclusive benefit of a particular section of country. It is true, slaves sometimes run away and are not recaptured and carried back; and just as long as they possess the power of locomotion, just so long more or less of their number will abscond. This very fact is a sad commentary upon the assertion often made, respecting this uncertain kind of property, that the African prefers slavery to freedom.

It would be passing strange if the whole subject of negro slavery could be discussed upon slave territory, in the midst of the slave population, by southern politicians, as they have done for several years last past, without waking up, in the minds of some of this degraded race, ideas of personal liberty. If these negroes love slavery, and are contented, of course they will remain there; but if they get a little of Bunker Hill or Yorktown into their heads, judging from the past, they will be quite likely to suffer their magnetic attractions to vibrate in the direction of the north pole. Northern people are not to blame for all this. It is one of the incidents which always did and always will connect itself with your peculiar institution. Just so long as there is slavery, just so long there will be runaways from it. All past history proves this fact.

Southern men sometimes complain that the people of the free States obstruct the due execution of the fugitive slave law; but they are mistaken in this assumption. In the first place, some of the features of the law itself, by the grossness of the people of the free States, considered cruel and unjust, and many of the best legal minds in the North think it unconstitutional. Then, again, the way and manner in which you have undertaken to execute it are highly exceptionable. Under some fraudulent, false pretense, the fugitive is often as-

saulted, knocked down, and dragged off like a dog, hurried away before some five-dollar commissioner, and by him summarily sent off into slavery, upon proof that would not warrant a magistrate in giving judgment for a claim of four or five years before a country jury.

The very first person you undertook to reclaim under this law was a free man, and when your Union-saving slave-catchers from New York landed him at the door of his alleged master, in Maryland, like an honest, high-minded, honorable man—“I am free to say many of the slaveholders are—be denied ever owning him, and the kidnappers had to let him run. A fair trial in a case which places a person's personal liberty for life in the power of a single man, and that man sometimes the corrupt tool of the power that made him, is an enough, if all conscience, for those engaged in this business undertake to make a mockery of this, do you wonder the people of the free States sometimes get a little excited?

If our southern friends expect the people of the free States to turn slave hunters, and join in the chase in running down the passing fugitive, they will be disappointed. We never agreed to any such thing, and we never will do it: it is not “in the bond.” Just give the person arrested as a fugitive the same chance to test the question of his personal freedom, just as you would a plaintiff in a suit at law to recover over twenty dollars' value in other property, and you will find no obstacle in the North to the enforcement of a judicial law for the recovery of fugitive slaves.

Bad as the law is, and as objectionable as is the manner in which it is attempted to be executed, it is enforced by the people of the free States. The honorable gentleman from Ohio (ex-Governor Cowen) has told you in this House it is enforced in the West. So it is in the middle States, and so it is in the New England. Yes, sir, Boston courts have been put in chains, and the peaceable people of that State kept out of the temple of justice by Federal bayonets, and the Treasury of the United States robbed of its thousands and tens of thousands to pay the bills for returning a fugitive.

It is easy enough to stand up and charge the people of the free States with being disloyal to the Constitution in this particular; but a fair, impartial investigation will show all such allegations unfounded. It is due to fairness to add, that individually, I believe the present fugitive slave law is unconstitutional, and if a bill were introduced into this House for its unconditional repeal, I would vote for it, and in so doing should reflect the opinions of a vast majority of my constituents of all parties.

Mr. Chairman, I do not intend to stop here, but shall pursue this subject further, and show that the people of the free States have not only kept good faith with the South so far as their constitutional obligations are concerned, but have done more than to faithfully perform other matters growing out of the relations existing between the two sections. This leads me to my third point under this division of my subject:

At the treaty of peace in 1783, the United States had a Territory of 800,000 square that we have acquired by—
The Louisiana purchase..... 809,579
The Florida purchase..... 69,990
The Texas acquisition..... 210,000
The Oregon territory..... 286,032
The treaty with Mexico..... 224,365

Total territory acquired since 1783..... 2,113,496

From the territory thus purchased, there have been five new slave States admitted into the Union, to wit: Louisiana, Missouri, Arkansas, Florida, Texas, and California. There have also been California, Iowa, Minnesota, and Oregon. The free States have ten Senators and sixteen Representatives in Congress; the four free States eight Senators and seven Representatives. And in this division of territory between the two sections, the free States have been the aggressors in the annexation of Texas has provision that the free slave States may be carried out of that territory. To say nothing of this, the South has, under territory thus acquired, one more State, two more United States Senators, and nine more Representatives, than the free States; and yet they keep up their cry of aggression! aggression! against the North.

Another inquiry here suggests itself. What has been the cost of the territory purchased by the United States, and who paid for it, the people of the free or slave States? I have spent a good deal of time and labor in collecting from the documents of the Government, from the public sources, the aggregate cost of our acquired territory—many of the items can be accurately stated, others have to be estimated. The expense of the Mexican war is given by the Secretary of the Treasury in his report in 1851. (Appendix to Globe, volume 22, page 21.) Below I give in a table, the result of my investigation, and where I have been obliged to form estimates, have been careful not to overstate them.

Louisiana Territory, purchased in 1803.....	\$15,000,000
Interest paid on same.....	8,257,253
Indian bought of Spain.....	5,000,000
Interest paid on same.....	1,420,000
Texas, for indemnity claim.....	10,000,000
Texas, for credit on Thirty-Third Congress, Indian expenses, all kinds interests (estimate).....	7,500,000
To purchase Navy, pay troops (estimate).....	5,000,000
All other expenditures not included above (estimate).....	3,000,000
Expense of Mexican war.....	\$17,175,375
Soldiers' pensions and bounty lands (estimate).....	7,000,000
Expense of Florida war.....	100,000,000
Soldiers' pensions and bounty lands (estimate).....	12,500,000
To remove Indians, &c. (estimate).....	5,000,000
Amount paid for New Mexico, by treaty, 1850.....	10,000,000
Paid to indemnify Indian title (estimate).....	100,000,000
Paid for Georgia.....	3,000,000
Paid for Arizona, purchased of Mexico.....	15,000,000

\$942,764,928

Who paid the bills? Let us see. I find that by the researches I have made from official documents, and other reliable sources of information, that from 1791 to 1850, the total revenue collected from customs and excises, turning it up to this time, an amount of my calculations, as follows: 1850: Whole amount of revenue collected..... \$1,460,599,965
Amount of revenue in free States..... 802,225,955
Expense of collecting in free States..... 38,494,928
Net sum paid into Treasury from free States..... 763,731,027
Amount of revenue in slave States..... 327,016,928
Expense of collecting in slave States..... 17,362,393
Net sum paid into Treasury from slave States..... 210,111,465
Balance paid by free States..... 673,619,562

Thus, facts and figures prove that, while the slave States have taken the “lion's share” from the territory purchased, the free States have paid taxes and borne the expenses of the same.

Third. Let us look at some of the offices under the General Government, and see whether the South has had its share. I have prepared from the official records the following table, which speaks for itself. From this, it appears that the South has six millions, have over three fifths of the important offices, and the North, with thirteen millions, less than two fifths. I have looked into the localities from which our foreign ministers, consuls, and other important officers have been taken, and find that the South have had more than double the number to which they have been entitled by their relative population.

Y	Years filled from slave States	Years filled from free States	Difference in favor of the South
President of the United States.....	48	96	92
President of the Senate, pro tem.....	60	11	51
Speaker of the House.....	40	29	11
Secretary of State.....	40	29	11
Secretary of War.....	36	24	4
Secretary of the Navy.....	36	24	4
Attorney General.....	43	27	15
Chief Justice Supreme Court United States.....	57	9	48
Associate Justices.....	285	194	61
United States.....	617	385	232

The South have not been contented with monopolizing nearly all the great offices in the country, but they make a carefully prepared list of the subordinate places. In all the Departments in this city northern men have been crowded out to make way for southerners. I find, in a speech which I made in the Thirty-Fourth Congress, the following table, which I carefully prepared from the Blue Book. From this, it appears that the North, taking their population as a basis, are fairly can-

titled to more than *two thirds*, yet they get only about *one fourth*. Oh, the aggressive North!

Departments.	Whole No. employed.	From slave territory.	From free territory.	Difference in favor of either.
House.....	20	17	13	4
Treasurer.....	45	395	107	122
Interior.....	540	349	191	158
Justice.....	10	10	10	0
Navy.....	30	39	13	26
Post Office.....	90	47	43	4
Attorney General.....	1	1	1	0
	1,062	896	441	365

Just look at the committees of both branches in the last Congress, and then cry out "northern aggression." Of the twenty-two important committees in the Senate, the slave States had the chairman upon sixteen, and the free States six. And of the twenty-five important committees of the House, the South had the chairman upon seventeen, and the North eight. Thirteen million free whites in the North are represented at the head of fourteen standing committees in Congress, while six million in the South are represented at the head of thirty-three standing committees. This pecking operation on committees to favor the South was no new thing in the Thirty-Fifth Congress; they have always had it in just that kind of a way. Still, northern aggression! It should lie borne in mind that these committees shape the whole legislation of the country.

Again; look at the Senate committees of this Congress; out of twenty-two committees, the North have the chairman upon sixteen, and the South on six; and upon every single one of the fourteen important committees, the slave States have all the chairmen. Of the eighteen free States represented in the Senate, fourteen are totally disfranchised upon the basis of the Senate committees; while twenty-four Republican Senators, representing more than *twelve million* of the people of the Union, out of one hundred and twenty-five places on said committees, get only thirty-nine, and that, and the last end of every one upon which they are needed. I call upon the country, North and South, to look at this beautiful picture of nationality, equality, *Democracy*, and *stagnation*, *generous South*. Below is the looking glass. Look into it; if you do not "see the elephant" you cannot fail to see the "negro."

Table of the fourteen important Senate Committees—Thirty-Sixth Congress.

Committee on—	Chairman from free State.	Chairman from slave State.	South American and Pacific Republics.	North American and European Republics.
Foreign Relations.....	-	Virginia.....	1	2
Finance.....	-	Alabama.....	1	2
Commerce.....	-	Mississippi.....	1	2
Mineral Affairs.....	-	Florida.....	1	2
Militia.....	-	Arkansas.....	1	2
Navy Affairs.....	-	Louisiana.....	1	2
The Judiciary.....	-	Georgia.....	1	2
The Post Office and Post Roads.....	-	Mississippi.....	1	2
Public Lands.....	-	Missouri.....	1	2
Private Land Claims.....	-	Maryland.....	1	2
Indian Affairs.....	-			
Revolutionary Claims.....	-			
The District of Columbia.....	-			
Territories.....	-			
The Library.....	-			
	14	65	97	

Fourth. In 1800 the seat of the General Government was, by virtue of a previous act of Congress, removed to the slave territory where it now stands. Washington was then nearly an unbroken wilderness; now it numbers nearly seven thousand inhabitants. Northern troops brought the seat of Government here; and it has been built up, to a very great extent, by northern treasure. These splendid massive piles of marble, which rear their lofty columns in every direction in this city, were built by Government money, which was given the benefit of laws that stretch themselves out around these buildings like some panoramic fancy sketches!

Who planted the shade trees that ornament them? Government money did this. Yes, sir, the Federal Treasury has been expending for the last sixty years of its millions and tens of millions to build up this great city upon slave territory. Who gets the benefits? Principally the slave States. Washington city furnishes a great market for southern produce, raised in Virginia, the Potomac land. The Government not only has built this city, but annually appropriates enormous sums from the Federal Treasury to support it. It grades and lights its streets, paves its walks. It sends men up to the top of the Potomac, and plundered the national Treasury of about five million dollars to furnish the city with splendid water works. It indirectly feeds and clothes a large number of its inhabitants. It furnishes their swaddling clothes from first they open their eyes upon the light of creation, and pays the section's bill when life's painful scenes are over. The North, for their Representatives, in return, get good hotels and boarding places, by paying Washington prices, subject only to occasional annoyances from some of the peculiar friends of the "peculiar institution," and "subject also to the Constitution of the United States."

But I will do no injustice to the good people of the city of Washington, but will give them an item or two, which may give me the right to make a few general allegations. It is this: they gratuitously furnish an army of patriotic men who are exceedingly anxious to serve their country, in places of trust and profit, who will, just as circumstances require, sing psalms to Douglas or Seward, to Jackson or Sumner, always pitching their key-note to the tune of the "loaves and fishes." And, as evidence of their patriotism and loyalty to the Constitution, we have heard many of their numbers, as they lay during the closing of the Congress, vociferously applying disunion sentiments uttered upon this floor, which, if carried into practical operation, would raise this magnificent Capital to the ground a heap of smoldering ruins, light up their houses with the torch-light of the incendiary, destroy their fields, murder their children in a war of strife, and make this great city only a fit habitation for the owls and bats.

Having shown that the North has been generous to the South, and fulfilled all its constitutional obligations to her in letter and in spirit, now desire, in all fairness, to examine the other side of this question; and in discharging this part of my duty, I shall "carry the war into Africa."

I. Article one of the amendments to the Constitution of the United States provides that—

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

I charge that the South has not always in good faith lived up to the above provision, inasmuch as that section of the Union, for a great number of years, by congressional action, aided by northern Democrats, refused to receive petitions coming from the people of the free States. Gag resolutions, by which the petitions of the people were treated with contempt, were from year to year forced through Congress. For years the people were up to the neck in petitions, and yet they were summarily met, and their petitions kicked out of doors in both Houses of Congress. For a long time this war of the slaveholding interest against the people was waged with ferocity, but at length, through the determined will and interference of the "old man eloquent," aided by his patriotic co-workers, the rights of American citizens were once more restored, and the Constitution vindicated against those who had rudely assailed it.

The South has undertaken, in carrying out their aggressive policy upon the North, to reverse the territorial policy of the Government, as established by its founders, and concurred in by every national Administration for more than half a century.

I shall not now stop to point out the constitutional right of Congress to inhibit slavery in the Territories, for that has been successfully done a thousand times before, upon the floors of Congress by the southern members. I have already said mainly what I desire to say upon that point.

As we have shown—from the passage of the

ordinance of 1787 to the establishment of Oregon Territory in 1848—the policy of every department of the Government was against the Congress had the right under the Constitution to prohibit slavery in the Territories of the United States. Hence it follows, that the introduction of the *Wilmot proviso* was, in no proper sense, an infringement upon the Government's rights; and it has made a great fundamental principle of the Government itself. The very converse of this proposition was true, that the resistance of the South to the application of this wholesome rule to the territory acquired by the treaty with Mexico, was, *per se*, an aggression upon northern rights.

At this juncture of affairs in this country, what right had the South to step up to the North and demand a new policy? What right had the southern States to carry their local laws into the Territories, to the exclusion of the people of the free States.

But our southern friends claim what they call an equal right in the territory of the United States. But the demand they make does not stop with an "equal" balancing of the scales. They demand more. They not only ask to carry with them into the Territories everything which the common law recognizes as property—everything as property which the people of the free States may carry with them, but they demand to establish and plant upon free territory a system of involuntary servitude, which invades the rights of the free laborer from the North, robs him of his capital, disgraces him in society, and in the end drives him away, as I shall hereafter show.

If it is said the Constitution, *proprio rigore*, establishes slavery in the Territories, I answer, that is begging the question. We deny it; and that is the very question now in issue which the people, and not the Supreme Court of the United States, have got to settle.

3. The terms upon which Texas was annexed to the United States were unjust to the North and free States; and I do not intend to notice all the plots and counterplots of the South, when Texas annexation was first agitated, nor the recent manner in which the terms of annexation were consummated, by which we were involved in the Mexican war, but simply refer to the connection of this scheme with the slavery question. This was a southern measure, and it was for the interest in this country. Its whole history shows it. The joint resolutions providing for annexation provided for the formation of four new States out of this territory; and, in fairness, the free States, at least an equal portion should have free territory; but, instead of this, they provide that all territory south of 36° 30' should be left open to slavery, and all north of that line free. Now, any one who will take pains to look upon a map of Texas, will find only a mere fragment lying north of the Missouri compromise line. It is too small ever to make a single State, and is a virtual surrender of the whole territory to slavery, under the miserable pretense of a division. Mr. Buchanan refused to receive petitions coming from the people of the free States, and yet he now turns round, in wonder and astonishment, and declares "it is strange that any one ever thought it constitutional!" and because the people of the free States refuse to turn a ridiculous sentiment like him, he insinuates that by connecting them as traitors and fanatics. Beautiful consistency!

4. The next aggression upon the North which I shall notice, was the repeal of the Missouri compromise. The history of that compromise has been so thoroughly reviewed before the country, that a repetition of it is unnecessary. It is sufficient to say that it was a southern measure. Upon the vote on the question of admitting Missouri with the restriction, twenty Senators from the South voted for it—only two from the North. The vote of Representatives, upon the vote inacting the Missouri restriction, thirty-nine southern Representatives voted for it, and thirty-seven against. We have not only the recorded vote to show this a southern measure, but the testimony of the point. Charles Pickens, of South Carolina, who was a member of that Congress, and voted

against the bill, in a letter, dated "Congress Hall, March 2, 1830, three o'clock, at night," speaking of the Missouri compromise, said:

"It is considered here by the slaveholding States as a great triumph."

Mr. Benton, in his Thirty Years in the United States Senate, says:

"This [the Missouri compromise] was the work of the South, sustained by the CRISTED VOICE OF MR. MORRIS'S CABINET, the united voice of the southern Senators, and a majority of the southern Representatives."

Mr. Monroe's Cabinet then consisted of John Quincy Adams, Secretary of State; John C. Calhoun, Secretary of War; William H. Crawford, Secretary of the Treasury; Smith Thompson, Secretary of the Navy; John McLean, Postmaster General; and William Wirt, Attorney General.

No special pleading, no circumlocution of argument, no declamation can destroy or blot out these facts. There they stand, and there they will forever stand, as conclusive proof that the Missouri compromise was a southern measure; the "work of the South," and a "great southern triumph." The consideration received by the South for the restriction, was paid down by the admission of Missouri as a slave State.

This leads to another inquiry. Has the South stood by their own compromise, or violated it? This question, too, shall be answered by study of the facts—facts which politicians neither North or South can ever dispute. In the Senate, upon the passage of the Kansas-Nebraska bill, nineteen southern Senators voted for it; two against it. In the House, sixty-nine southern members voted for it, and nine against it. And we see the costly record, because a northern man introduced the bill, it is a northern measure. It is true, members from the free States voted for the bill; but, in doing it, they outraged their constituents; who have, for this very act, sent nearly every one of them to their political graves. And we are told that which knows no waking. "Well gentlemen from the South stand up here and tell me that a bill which commanded the votes of eighty-eight southern men, with only seven against it, was not a southern measure? If it be Kansas and Nebraska, will be sent to the House, my answer is, no thanks to the South for that. I charge, then, that the Missouri compromise was a southern measure; and that the southern men went almost entirely in a body for a violation of their own compact—a compact to which they had made themselves a party."

5. My next charge against the South is, that, after it had broken down the Missouri restriction, under the pretense that the people of a Territory, under the Kansas-Nebraska bill, to be "left perfectly free to form and regulate their own domestic institutions in their own way," it undertook to force slavery into Kansas, first by violence, and secondly by fraud.

The first election held in Kansas was on the 29th day of November, 1854. The polls were then forcible possession of the words of armed ruffians from the slave States; and, out of 2,253 votes cast for General Whitfield, the Democratic candidate for Congress, 1,729 were thrown by those lawless invaders. These facts appear in the report of a committee of the Thirty-Fourth Congress, sent out by the House to expose these frauds. (See House Document No. 200, first session Thirty-Fourth Congress.)

In January and February, 1855, a census of the inhabitants of the Territory was taken, by order of the Governor, and 2,905 men were found, by this census, qualified to vote for members of a Territorial Legislature. On the 30th of March, of the same year, an election for members of a Territorial Legislature was held. At this election another armed force was made into the Territory, and 6,300 votes were cast. A subsequent investigation proved only 1,410 legal votes thrown; leaving 4,900 illegal votes cast by ruffian invaders.

The Territorial Legislature chosen at this worse than mock election, passed the infamous "Kansas code," a compilation of law worse than the code of Draco. This illegitimate Legislature passed an act providing that in October, 1856, the people should vote whether a constitutional convention should be called or not. The *bona fide* citizens of the Territory spurned the act of these "usurpers," and refused to participate in the election.

A few tools of the Administration voted; and the bogus Legislature, on the 19th of February, 1857, passed an act providing for the election of delegates to frame a State constitution. The law providing for the convention and election of delegates required a census to be taken, and the votes registered in the thirty-four counties recognizing an election districts. In nineteen of these thirty-four counties there was no census taken; and in fifteen of the thirty-four there was no registry of votes. Governor Walker, in his letter of resignation, says these fifteen dismembered counties could not vote; voters there were cast in the whole Territory at this election. This election was a mockery; and the main body of the free-State men very properly refused to have anything to do with it.

Subsequently, the people of Kansas, at their territorial election in October, 1857, achieved an overwhelming free-State victory. After this, the convention of "usurpers" assembled, and framed the atrocious "Lecompton constitution." These "usurpers" did not dare to submit this constitution to a fair vote of the people, for they knew the result; it is no longer required; and no alteration should be made to affect the right of property in the ownership of slaves, until after 1864; and then provided, in the schedule, that it should be submitted to the people, and the ballots should contain, for the constitution with slavery, or for the constitution without slavery.

At the election on the 21st of December, 1857, the pro-slavery clause was voted into this constitution by illegal votes and false returns. These frauds were investigated by the Governor of the Territory, and it was found that at Osage, where there were but forty-two votes all told, over one thousand votes were returned. At Shawnee, where there were but forty legal votes, twelve hundred votes were returned; and from Delaware Crossing, which had only forty-three legal votes, four hundred votes were returned. I have not stopped to even glance at cities attacked, peaceable citizens murdered in cool blood, public highways lined with assassins and robbers—burglaries, arson, and other crimes, committed by border-ruffian raids into Kansas—but this briefly given a sufficient history of the pro-slavery violence of the ballot-box, up to the time the Lecompton swindle was sent to Congress by James Buchanan.

Well knowing these facts, the President of the United States not only sent this constitution to Congress, with a message urging its adoption, but he also took the whole power of patronage of the Administration to force it through Congress. Is proof demanded? Let me call attention to some remarks made in this House by an honorable member from New Jersey, who was also a member of the last Congress: I mean Mr. A. C. AUSTIN. He said:

"During the Lecompton controversy, I was approached in such a manner as shows corruption on the part of the Administration. If I had given my support to the Lecompton policy, I was assured that I could secure a foreign appointment for one month and dear to me."—Daily Globe of December 13.

It is a gross and solitary case, among many others. No greater outrage was ever attempted to be perpetrated upon the people of the free States; and yet it was most emphatically a southern measure. Here is the proof: in the Senate, every southern member, with two exceptions, voted for the bill; and in the House, the only free-State member, with seven exceptions, supported the measure.

The measure finally assumed the shape of the English bill: went to the people of Kansas, and was by them rejected with scorn and contempt for more than a thousand times.

This is a "specimen article" of Democratic popular sovereignty. I leave the country to make further comments.

6. The South have undertaken to drive free labor from the Territories by force of judicial construction.

I here refer to the Dred Scott decision, in which a majority of the court have traveled out of the record to overturn the well-settled opinions of a great majority of American jurists and statesmen, agreed to and acquiesced in in all parts of the country, for more than thirty years. In fact, a majority of the judges decided Dred Scott was not a citizen of the United States, and was not rightfully in court, it was an end of the case. But when they undertook to travel out of the record and give opinions involving questions not legally before them, their opinions have no binding force

upon the people of the country. The able and conclusive opinions of Justices McLean and Curtis, upon the question of congressional intercession in the Territories, are entitled to equal respect with those of a majority of the court. Great political questions, involving masters of national policy, are for the people, not the Supreme Court. "The alien and addition laws of John Adams' day were by the court decided constitutional, and so was a national bank; but the people rebuked this attempted abridgment of their rights by the court, and overruled their decisions." James Buchanan entertained and expressed the same opinions now entertained by the Republican party upon this question, in 1841. "On the 7th of July, of that year, he made a speech in the United States Senate on the bank question. Spraying of the fact that the United States Court had decided a national bank constitutional, he said:

"Now, if it were not unparliamentary language, and if I did not desire to treat all my friends on this [Wang] side of the House with the respect which I feel for them, I would say that the idea of the question having been really decided to bind the consciences of members of Congress when voting on the present bill, is ridiculous and absurd. If all the members of Congress were to be bound to do so, it would be the affirmative, where the question is thus brought home to me as to whether I should be bound to do so. I do not see, upon such support the Constitution, I must exercise my own judgment. I would treat with profound respect the arguments of those who are in the majority of the court; but, if, after all, they fail to convince me that the law was constitutional, I should be guilty of perjury before high Heaven."

But even if the judiciary had settled the question, I should never feel myself bound by their decision while acting in the capacity of a Senator of the United States, or of Massachusetts. [Mr. Bates.] I shall never consent to play the liberties of the people in the hands of any judicial tribunal."

Now, this same James Buchanan studies himself, allows the South to back him down from the tenable position he occupied in 1841; takes the back seat, and then, in the year 1857, when the Supreme Court has "made a final settlement of the slavery question in the Territories," that "neither Congress nor a Territorial Legislature, nor ANY HUMAN POWER, can annul or impair;" and yet, because the people refuse to follow him, he briefly gives a sufficient conclusion to his judicial despotism and tyranny, the President insults their honesty and intelligence, by denouncing them as traitors and fanatics.

The *obiter dictum* of the court in the Dred Scott case, relative to congressional sovereignty over the Territories, was never brought by the South, and no attempt made by Democratic politicians to give it the authority of law. This is an assumption against right; a demand set up against the people of the North without authority. The people of the North were neither parties nor privies in the Dred Scott case, and hence they are not estopped from contesting the usurpations set up against them by the court. The sequence growing out of these premises cannot be misunderstood. This attempt to plant slavery upon free soil, and spread it over every foot of territory outside of State lines, and deprive the free men of the right taken to say so, in a matter not legally before them, is a most unwarrantable aggression against the people of the free States. It is such an unjustifiable encroachment upon the rights of the free-bearing millions of this country as they never will submit to. It is a policy of manifestly bad policy, which can never be made national in the Union or out of it. It is a demand made by less than half a million slaveholders to monopolize more than one million square miles of territory, to the exclusion of twenty-five million freemen, who have no interest in slave property. It is a monstrous aggression, and one that should be met and repelled at every hazard, and without regard to consequences.

7. The South, although numerically less by one half than the North, and with a smaller share of the General Government. Men of the South, especially her politicians, seem to have got an idea into their heads that they are born to rule and the people of the free States are born to obey. It is the boast of the slaveholders that they have ruled and governed the country from its infancy, and now to what a distinguished Senator from South Carolina [Mr. HAMMOND] said in a speech in the United States Senate, March 4, 1856:

"The Senator from New York [Mr. SAWARD] says that you intend to make the Southern Government a Government from our hands. Perhaps that he says is true—it may be a but do not forget, it can never be forgotten, it is written on the brightest page of human history, that WAS THE SLAVE-

holders of the South, look our country in her infancy; and, after gazing for sixty out of seventy years of her existence, she shall surrender her to you without a stain upon her honor, business in prosperity, and the people strong, the wonder and admiration of the world."—*Appendix to the Congressional Globe, volume 37, page 71.*

The honorable Senator says "the slaveholders of the South have ruled the country sixty out of seventy years," and he understands the matter precisely as I do, that they are ruling it now. According to the last census, the free white population of the United States was, in gross numbers, eighteen million, and while this favored class—the slaveholders—numbered less than three hundred and fifty thousand, they rule and control about a half million not possessed of slave property. African slavery has been converted into an engine of political power through the agency of the Democratic party. Under what article or section in the Constitution has an armory of wealth, combined with three hundred and fifty thousand persons, "ruled" the teeming millions of this country for "sixty out of seventy years?" It is nowhere to be found. It has been a usurpation, another aggression to which the people of the free States have too long submitted. Yes, you have ruled us, and every other interest of the country has been made to bow down to the Moloch of slavery.

If it is asked how the South, being in the minority, has succeeded in controlling the country? I answer, it has succeeded by creating and fostering a spirit of sectionalism through the agency of its machinery. Colonel Benton, who is certainly good authority in this matter, in his Thirty Years in the Senate, says, that Mr. Calhoun, in 1830—

"Went home from Congress and told his friends that the South could never be united against the North on the tariff question; that the party interested in Louisiana would keep her out; that the basis of Louisiana must be tilted to the slave question."—*Volume 9, page 10.*

This policy of "uniting the slave States" upon the tariff question was inaugurated by Mr. Calhoun. It was perpetuated by him and his followers until it entirely broke up old party lines. It destroyed the old Whig party, and completely corrupted and sectionalized the Democratic party, and placed it under the control of the slave power, where it has remained until this day. "The South," says Colonel Benton declares, in the work already alluded to, was originated to kill Mr. Van Buren, and it did its work. He had a majority of votes at the national convention, in 1844, at which Mr. Polk was chosen; but the Southern vote had been "a two-thirds rule," which enabled them to defeat him. The South in the same convention defeated the late Governor Fairfield, of my own State, for the Vice Presidency, and nominated Mr. Dallas; although the latter had but thirteen votes on the first ballot. The South nominated General Cass, in 1848, but the popularity of General Taylor, and the defection of the New York Barnburners, lost him his election. In 1852, Franklin Pierce's nomination was a southern movement, led off by Virginia; and in 1856, the South took possession of Mr. and his to had him in keeping, soul and body, ever since.

8. Another aggressive movement is now being agitated in the South, which is clearly against the Constitution and the laws. I well know distinguished gentlemen upon this fact, and they have in their places and denied any intent to make this matter a party test, or to repeal the laws which make the foreign slave trade piracy. I give them all the benefits of this disclaimer; yet it is not denied that this is a mooted question in the South. The President, in his recent message, admits that the Wandering brought over one cargo numbering three or four hundred. Again he says: "Those engaged in this unlawful enterprise have been rigorously prosecuted, but not with as much success as their crimes deserved;" an admission which shows a deep sympathy of feeling with the enterprise among the Southern people. If there is a sentiment in the South which operates to prevent the punishment of the pirates engaged in this business, it is easy to perceive how the trafficker can be continued in full bloom, even until the main stem is cut off. If the laws cannot be enforced, there is no occasion for agitating for their repeal; and I understand there has not been a single conviction in any of our southern courts of any person who has been engaged in this nefarious business.

While the people of the free States, in their

courts, enforce the fugitive slave law, odious as it is to a large majority of them, the South fails to convict or punish persons engaged in a trade declared by the General Government to be piracy. I leave the country to judge between us.

9. Another clear aggression upon the rights of the free States, a demand for congressional action to fasten slavery upon the people of the Territories against their will. Mr. Buchanan, in his message, the mouthpiece of his party, now owned and controlled by southern men, said:

"I cordially congratulate you upon the final settlement by Congress of a demand for congressional action on slavery in the Territories, which had presented an aspect so fully formidable at the commencement of my Administration. It has been established that every citizen can take his property of any kind, including slaves, into the common Territories belonging equally to all the States of the Union, and to have it protected there under the Federal Constitution. Neither Congress nor a Territorial Legislature nor any human power has any authority to annul or impair this vested right."

And here I wish to call the attention of the country to the facts here assumed—that the court has settled this question—that the Constitution protects slavery in the Territories, and that "neither Congress nor a Territorial Legislature, nor any human power has any authority to annul or impair this vested right." This is Democracy in 1860. One would think, by analogy of reasoning, that if there is no "human power" on earth that can even "impair" the right of a slaveholder to his slave property in the Territories, that ought to be the case with him, yet the South, through Federal legislation to compel the free white laborers in the Territories into a servile submission—to kiss the hand that strikes down their capital, and degrades them to the condition of menial slaves.

A great leader in the Democratic party, I mean Senator Iverson, of Georgia, in a speech in the Senate a few weeks since, said:

"He believed, and the southern people believed, that under the Constitution they had a right to emigrate in any form, and to take their slave property with them; that they have a right to the protection of the law in the enjoyment of that property, and Congress has the power to give that protection."—*See APPENDIX, page 10.*

We have here an authentic exposition of the Kansas-Nebraska bill. We now understand what the Democratic party mean when they say that "the people of a Territory should be left exactly free to form their own domestic institutions," the Constitution of the United States, first, establishes slavery in the Territories; and second, that Congress should enact a code placing ropes around the necks of the citizens of a Territory opposed to it, thereby degrading free white labor to the same level with African slave labor. Not only does the South, through its authorized agent, the so-called Democratic party, claim the right to carry slaves into all the Territories of the United States, and there hold them by judicial construction; but it demands congressional intervention, by which the iron heel of despotism shall be fastened upon the necks of all persons therein opposed to the institution—a despotism which prevents any attempt, on their part, through their Territorial Legislature or otherwise, to rid themselves of what they believe a positive evil. If the Constitution, which is the basis of all persons there, establishes slavery in the Territories, it only needs such a code as is now demanded by the South to make slaves of the whites. I know that some of our Democratic friends in the free States protest against this interpretation of the Kansas-Nebraska act; but their protest will avail them nothing. Have they not protested before? Did they not protest against the repeal of the Missouri restriction, and then came in? Did they not protest against the Lecompton bill? And have they not come back to the camp and endorsed those who voted for it?—*See APPENDIX, page 10.*

10. A fourth charge I have against the South is, the violation of article four, section two, of the Constitution, which reads as follows:

"The citizens of each State shall be entitled to all private and immunities of citizens in the several States."

Also, of article five of the amendments to the Constitution, which expressly provides, that:

"No person" "shall be deprived of life, liberty, or property, without due process of law."

Under the Constitution, a citizen of Maine on lawful business has a right to travel through any southern State without molestation, provided he interferes with none of the lawful rights of the people of that State. Southern gentlemen travel through the free States, and every where are treated with becoming respect and consideration; they are suffered every where to mingle with the people of the North, enjoying every right possessed by the people they are visiting. Not so with northern men, when traveling in the southern States. There a system of espionage is in operation, exceedingly annoying to the traveler. Strangers from the North, instead of meeting with that generous hospitality which they are always ready, when at home, to extend their southern brethren, are watched, scrutinized, questioned; their baggage is overhauled, their persons searched; and upon mere suspicion are thrust into jail. A mere expression of opinion, inadvertently uttered in some localities, is an unpardonable crime, for which they are visited with the grossest insults. Men, for merely uttering sentiments which have been taught by Jefferson and other southern men, have been dragged into prison, lynched, tarred and feathered, and their lives threatened by infuriated mobs.

I will refer to a few recent cases. The Charleston Mercury, of the 17th of December, says:—"That a man, supposed to be an abolitionist, was dark complexioned, with black hair, and a scar over the left eye, about five feet eleven inches in height, and calling himself Jambury. Rivers was arrested by the police, and taken to the common carrier, tarred and feathered, and the right side of his head shaved."

A few weeks ago an Irishman who had been naturalized, and had also a vote under Democratic ticket, as he says, a citizen of Pennsylvania, while at work on the State capital at Charleston, South Carolina, not in the hearing of slaves or any black man, but to his associate laborers, uttered sentiments not considered exactly orthodox; for which he was caught up, put in jail, stripped of his nine shillings, put upon his bare back; a bucket of tar poured upon him, and feathers applied. He was then allowed a pair of pants, and, after being imprisoned a further length of time, was put on board the cars for New York, where he arrived, and related the foregoing particulars.

A clergyman, one of the most respectable citizens of Connecticut, a bookseller, was arrested in one of the southern States a short time since; and, on suspicion, without a shadow of evidence against him, was arrested, put in jail, stripped of his nine shillings, and, on the interference of some of the citizens of his State was finally liberated; but not until he had received sufficient abuse to make him a maniac. During a speech in this House by an honorable member from Georgia, [Mr. CALDWELL], on the 15th of December last, the following colloquy took place:

"Mr. CALDWELL. Brecher said that he would preach the same doctrine in Virginia as in Massachusetts. Brown says: 'Brecher, why don't you come and do it?' I ask you why you do not do it?"

"Mr. KILGORE. I will answer the gentleman if he will permit me. I will tell the gentleman why Mr. Brecher would not preach Virginia, because he is a man who is denied in the South; and if he were to go there he would get a coat of tar and feathers."

"Mr. CALDWELL. Yes, but not only would he be denied liberty of speech, but he would be denied personal liberty also, and would be hung higher than Haman."

Not only is Brecher threatened with stripes and imprisonment if he goes South, but the distinguished Senator from New York is threatened with the halter if he is ever found in that quarter. An honorable member from Mississippi, [Mr. DAVIS], in a speech on the 8th of December last, is reported in the Globe to have said:

"Virginia has arrested, and has hung the traitor Brown, and will hang the traitor Seward if he is found in her border. [Laughter.]"

Now I put it to our southern friends, when you and we both live under the same Democratic constitution which declares, "That the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States," whether these things are not unjust toward the people of the free States? Not only are the citizens of the North threatened with stripes, imprisonment, and death, if we visit the southern States, and that under the summary process of mob law, but, from certain recent indications, peaceable, unoffending citizens in the South are to be driven out by unlawful violence, and their overt acts—not for anything they have done; but merely for entertaining opinions held by Wash-

In one of the most eloquent speeches that ever I read, the Hon. James McDowell, jr., afterwards Governor of Virginia and a distinguished member of Congress, said:

"It has been frankly and unquestionably declared, from the very commencement of this country, that the decided enemies of abolition themselves are in such a position, that this property is an 'evil,' and that it is a *noxious* property. It is, *in* fact, so dangerous that it is to be removed from those who desire to retain it, that we have been reproached for speaking of it, otherwise than in denigrating and, if reproached, not entering debate upon it in this hall."

Hon. Charles J. Faulkner, just appointed by Mr. Buchanan to the French mission, in a speech in the Virginia House of Delegates, January 20, 1853, in speaking of the slave population in that State, said:

"Sir, to the eye of the statesman as to the eye of Omnipotence, dangers pressing, and dangers that need incessant care, are alike present. The slave population of Virginia now with the elements of destruction reposing quietly upon her bosom, and Virginia lighted from the extremity to the other with the torch of servile insurrection and massacre. It is sufficient for him that the match is not yet applied. It is enough that the embers are there, and that the match will be applied."

I speak not of these things to reproach Virginia, but adduce them as *facts* worthy of serious consideration; facts not only admitted but proved by some of Virginia's most distinguished statesmen. I will repeat what has been said so many times before, that the Republic of the United States of America is opposed to any and all measures which tend to disturb the domestic relations between master and slave in those States where it lawfully exists; at the same time they are in favor of all constitutional, lawful measures which will prevent its extension *new and forever*.

Mr. Chairman, I desire to say a few words in reply to the threats of disunion which have so often been made on the Democratic side of this House, and I trust to the country at large. The fact, that should go out to the country, that all political organizations in this House, excepting the Democratic party, are willing to unite upon broad national grounds for the preservation of the Union. When the time comes for a dissolution of the Union, there are no views to be taken on the subject. The history of the past discloses the fact that the Union has often been threatened before, and as often dissolved; and yet these infatuated columns steadily maintain their places, and instead of States going out of the Union, they have all the time been coming in, until we have a glorious galaxy of thirty-three States. A serious purpose to dissolve the Union involves the grave inquiry, *how can it be done?* If I understand the theory of those who advocate this doctrine, it is this: that a State in its sovereign capacity, has a right to judge for itself, and determine, independently of the General Government or of the other States, how long it shall remain in the Union; and whenever it determines no longer to remain in the Confederacy, it can peacefully secede. Against this doctrine I enter my solemn protest. For the sake of the argument, if it were true, that the Union was a simple compact between the States, it would require the consent of all the parties to the compact to permit one of its members to go out; hence there could be no such thing as a peaceable dissolution of such Union.

But the States, as independent sovereignties, did not make the Constitution; it was the work of the people, as expressed in the preamble: "We, the people, do ordain and establish this Constitution." Every citizen is a citizen not only of his State, but of the United States; and has a right, under the Federal Constitution, to claim its protection. But how can a State secede the point that they will secede? It can only be done by a majority, acting through its Legislatures or by convention; and in such a case, what becomes of the minority, who are opposed to secession? They cannot be forced out of the Union by majorities, because they are citizens of the United States, and have a right to claim the protection the Constitution affords all its citizens. Again, so far as the several States constituted, as sovereignties, to enter into the Union, there was no right to a right to withdraw. The bond was to be perpetual. Hence it is clear that there can be no such thing as a peaceful secession. The Constitution (article one, section eight) gives Congress the power to provide for the enforcement of the laws of the United States; "to make all laws

which shall be necessary and proper for carrying into execution the foregoing powers," (in section eight), "and all other powers vested by the Constitution in the Government of the United States, or in any department, or officer thereof."

The President, before entering upon the execution of his office, is obliged by the Constitution to take an oath or affirmation, that he will, "according to the best of his ability, preserve, protect, and defend the Constitution of the United States." (Article two, section one.) The Constitution (article three, section three) gives Congress the power to "declare the punishment of treason;" and they have done it. Any attempt on the part of a State, or any of its citizens, to break up the Union, is rebellion against the laws of Congress, and against the Constitution, and "levying war against the United States," which the Constitution, in the same article, declares to be "treason." In such an event, it would be the duty of the President of the United States, by use of his oath and the authority with which he is vested by the Constitution, to put down such rebellion, and, if necessary, to use the Army and Navy of the United States, to aid in doing it. And it would be the duty of the Federal courts to punish persons engaged in such overt acts, and, if found guilty, hang them high as Haman. There is no such thing as secession without revolution—the one necessarily involves the other. The people made this Government and established the Constitution, and they can abolish it by revolution, and in no other way. Any other construction of the Constitution would make it a mere rope of sand—a Government liable to fly into fragments at the first movement, with no means to perpetuate its existence or protect itself against domestic violence, insurrection, and treason.

Sir, this Government cost too much blood and treasure to be destroyed upon any slight pretext and any one who attempts such a thing, with three millions of inhabitants, we have, in a little more than seventy years, advanced with giant strides until we have thirty-three powerful States, and about twenty-eight million inhabitants.

Our national domain has increased from eight hundred and twenty thousand six hundred and eighty, to two million nine hundred and thirty-six thousand one hundred and sixty-six square miles. It stretches across the continent from ocean to ocean, from the Atlantic to the Pacific, and from the Gulf of Mexico to the frozen regions of the North. Our natural resources are unbounded. Our waving fields not only yield a generous return to the hand of the husbandman, but furnish bread for the world. Our workshops dot every valley and encircle every hill; while the busy hum of machinery sends forth its music from almost every gurgling stream and waterfall. The plant hand of American industry has dugged down into the mine of the earth, developing our vast mineral resources, furnishing not only America, but the world, the precious metals—coal, iron, lead, and other valuable productions lying in the subterranean regions beneath our feet. All over our land, as by the hand of magic, have sprung into being the splendid cities of the interior, mighty in wealth, vast in population, abounding in munera of trade, and the bustle of mercantile life.

Along our coasts, washed by the ebbing and flowing tides of the mighty oceans, may be heard the chiming music of the oars, the creak, and the mallet, plied by the ingenious hands of American mechanics, transferring the rugged oak and the lofty pine into "ships which go down into the sea," to "whiten every ocean and every shore with their canvas, and visit every port, in the vast circle of the globe. Our institutions of learning, our colleges, our academies, and common schools, travel along *pari passu* with the advancing wave of a refined American civilization, all over the Western Territory. Our soldiers and daughters there is none too poor to tread the classic halls of lore, or climb the rugged "hills of science." From every part of our land the church spire points away to heaven, and in these same lands, with hands of the God of fathers, is adored and worshipped by their posterity. Our country is bound together by bands of iron, spreading themselves like one vast network in every direction, manifesting apathy, bringing distant cities into one view, and thus, by the thousand, we have stood and the shrill scream of the locomotive are

echoed and reechoed wherever the arts of American industry have found a home. Through the instrumentality of American inventive genius thought, with lightning speed, flashes over a thousand miles, making far distant cities next-door neighbors, while New Orleans, Boston, Charleston, and Chicago tip their beavers and shake hands before breakfast.

Where is the American citizen that can glance his eyes over this young, but mighty western empire—this beautiful island of waving to tyrants and despots in the old world—this land, where the hand of honest toil and industry reaps a sure reward, without patriotic emotions and national pride? Who can gaze upon the stars and stripes, and the beautiful marble of the White House, and not fold our brave countrymen from every section have fought the battles of a common country—and then indulge in a desire to strike it down, and trull it in the dust? We gaze upon these lofty domes, colossal pillars, and marble columns; we view these standing evidences of national wealth and greatness—then turn away to inquire, where is the American citizen that is ready to strike them down a heap of ruins? Our country in the midst of the beautiful marble of the White House, its storms. "Clouds and darkness" have sometimes hung low over our political horizon; the lightning's flash, and hoarse, muttering thunder forbode the coming storm; yet they have passed away by the beautiful marble of the White House, leaving the patriot's heart with bright visions of promise and hope. Shall we, instead of learning wisdom from the past, and in God's good time correcting the evils in the Union, rush madly out to sea?

We talk of disunion; and yet how can we do it without waking up the memories of the past? Comes there not a voice from the sequestered shade of Mount Vernon, rolling over the waters of the Potomac in triumph, and exclaiming: "Stay the rude hand already uplifted to disturb the peaceful repose of the mighty dead and desecrate the quiet home of the sleeping hero?" Will you visit that hallowed spot, just rescued from the destroying fire, and gaze with benevolence and admiration on the American nation, and daughters from the North, the South, and East, and the West, with the faithful torch-light of civil war? Shall American citizens fight over the bones of the immortal George Washington, under the very shadow of Banker Hill monument, or rush madly out to sea, to the sacred relics entombed at Monticello? Will they invade the peaceful retreats that surround the tombstone which marks the final resting place of Ashland illustrious departed statesman, or sound the direful strain of civil war over the grave of Jackson, or insult the ashes of the old hero of the Hermitage? Have we quite forgotten Banker Hill and Trenton, Saratoga and Yorktown?

But I will indulge in no dry dreary foreboding upon this subject. This mighty Republic has yet fulfilled its manifest destiny. Lives there a man, who owes allegiance to American soil, who would hazard the experiment? Roll out your rattling car of disunion from its black Democratic channel, and let it go to the bottom of the sea. Let the car of disunion, with habilitations suited with human gore, drawn from the veins of our own brethren. Mount her upon your clanking cart wheels; drive her, with all the pogeneity of an eastern monarch, through the length and breadth of the Union; everywhere exhibit her bloody hands; her eyes lit up by the fire of hell; her teeth clattering with horrid grinnings, frightful even to the king of terrors himself; then call upon the American people to fall down and worship in her image; you say that you will do this, and then you go forth to worship at her shrine? Just as soon would they cast their bodies before the merciful wheels of a Hindoo juggernaut, as pay homage to such an idol.

Sir, sir, the American people love and reverence the Union; and in a spirit of true patriotism, will they cheerfully endure the ills that are in it until they can be corrected, rather than aid in its destruction.

If the time shall come when the black flag of disunion shall be unfurled; when the tocsin of civil war, domestic strife, and servile insurrection, shall be sounded, when American hands, guided by the lawlessness of treason, shall be rubbed into the American Union; then, from the North and

the South, the East and the West; from every hill and valley; from the snow-capped mountains of the North, the sunny fields of the South, and wide-extended prairies of the West, men of brave hearts and strong hands will be seen flocking around one common standard; with steady step and solid columns advancing, shoulder to shoulder, in defense of the CONSTITUTION and the Union; fighting for their homes and freedoms; rallying to the old battle-cry of our fathers, one DESTINY, ONE COUNTRY! INDEPENDENCE NOW, AND INDEPENDENCE FOREVER!

Mr. KELLOGG, of Illinois, obtained the floor for Mr. MOORHEAD. Mr. Chairman, the CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. KELLOGG, of Illinois. I will yield if the gentleman from Pennsylvania desires to go on this evening.

Mr. MOORHEAD. I should like to occupy the attention of the committee for a short time this evening.

Mr. KELLOGG, of Illinois. Then I will yield to the gentleman from Pennsylvania.

Mr. MOORHEAD. Mr. Chairman, three months have elapsed since we assembled in this Hall. Amidst all the excitement which has existed, the members with whom I act have preserved a commendable silence, believing, as they did, that as business before the election of a Speaker was in order, and the House was organized. I will not review the scenes exhibited during the struggle for the election of a Speaker. I will not expose, in all their enormity, the hissing threats of denunciation which proceeded from the lips of gentlemen on the Democratic side of the House. I have no heart, Mr. Chairman, to undertake such a work, and would not even recall them, did I not consider it important that the people should understand the purposes entertained by the distinguished leaders of the Democratic party. They thought it was in their interest, very unwisely. If intended to prevent the election of a President who has respect for and sympathy with the interests of the free white laboring man, they will be powerless; for the people of this country know their interests, and will protect them. Let us turn our eyes inward, then, under tremendous threats of destroying the Government.

The people have always maintained, and will always maintain, the right of the majority to rule. In disregard of all this bluster, and in violation of the Republican party will, in convention, nominate a candidate, elect him if possible, and as surely install him in office as he is elected. They will not brag nor swagger about it. They do not now use the language of defiance. But they will permit no dictation of interested parties to swerve them from their purpose, or nullify the popular will. It is a slander upon the Republican party to say that they have any design against the persons or property of our southern neighbors. They are Union-loving men, and will stand by the Constitution and the laws. When they will carefully avoid attacking others, they will resist aggressions upon their rights, come they from what quarter they may. To anticipate the reverse, is in one case to charge them with perfidy, in the other with cowardice, both foreign to the character of our American citizen.

But, Mr. Chairman, I did not rise to discuss any of these topics, believing, as I do, that this Union will not be dissolved, let who may be elected President, but will continue to grow and prosper until it shall encompass the laws. What, then, is my purpose is to direct the attention of the House to the revenue policy of the Government, and to suggest what, in my opinion, will tend more than anything else to strengthen the bonds of this Union.

Mr. Chairman, the Government must be supported by revenue, which the people, in some way or other, must pay. Now, to make these contributions most equitable, least burdensome, and most beneficial to the entire community, and have their proceeds placed in the Treasury at the smallest expense, should be the object of the statesman.

Whether the revenue be raised by taxing imports, or by direct taxation, are grave questions. As the legitimate result of free trade would lead to the taxation of imports, it is well to examine, in doing so, I will refer to the doctrine laid down in the

Cincinnati platform on this subject, which is as follows:

Resolved, That there are questions connected with the foreign policy of the country which are inferior to no domestic question whatever. The time has come for the people of the United States to decide whether they will have a free and unobscured trade throughout the world; and, by solemn manifestations, to place their moral influence at the side of their successful example.

How far the Cincinnati platform may be considered authority with the Democracy, it is not for me to say. The ambiguity of its terms has caused endless disputes and dissensions, whilst a strict adherence to its doctrines has caused many an official his head. But I regret to say that, on this question of protective rates, so far as I have been able to observe, there is a very general acquiescence by that party; and thus the means and manner of supporting the Government are made, or attempted to be made, mere questions of party politics—a coupe to be won by all fair and candid men. So far as I may discuss them, I will endeavor to treat them as questions of political economy, and not of party politics.

We have an extensive country, and greatly diversified interests, all to be governed by the same law. It should, therefore, be so framed as to confer its blessings upon all; or, in other words, and to the prosperity, enterprise, industry, and value of the whole country; to make us wealthy and happy at home; respected, honored, and feared abroad. How can this be done? If I can say anything that will contribute to produce this result, my purpose will be accomplished. I will, at least, give my views upon what I consider equal in importance to any subject that will engage the attention of the present Congress.

We buy too much from abroad; and, I was going to say, sell too little; but I will not say that. We sell enough, perhaps too much; for it would greatly enhance our wealth and prosperity if we consumed our products at home, instead of sending them abroad to feed foreign labor, and then buy the product of that labor in the shape of manufactured articles, as I will endeavor to show more fully hereafter.

There has been much discussion and variety of opinion on the subject of a protective tariff, or a revenue tariff. A great difference of terms, the opponents of protection have, until recently, favored a revenue tariff, with discriminations in favor of the manufacturers of our own country. It matters not what name a tariff is called—call it what you will; but it does matter what its principles should be such as to add to the prosperity and happiness of the people.

Providence has dealt most bountifully with us as a nation and a people. We have great agricultural resources, mineral wealth of all kinds, and in immense quantities. Commerce has spread her wings from the Atlantic to the Pacific, and that upon our navigable rivers and lakes has no parallel on the face of the globe. Our free and liberal form of government is inviting to the great emigration of the world; and having the means to feed and support them, the material upon which to employ their labor, why should we not make the most of our own resources, and become the wealthiest, the happiest, and the greatest nation on the earth?

Why should we permit so huge a record to be laid before this House as that exhibited by the financial report now on your table. I say, sir, it is the result of bad legislation—miscellaneous legislation; legislation to foster and protect the manufacturers, laborers, farmers, and artisans of other countries, whilst you bring ruin, distress, and starvation upon the same classes at home. What is it? Why, here it is, sir:

Total imports, exclusive of specie	\$250,268,427
Total exports, except specie	\$202,964,378
	\$47,304,049

Yes, sir, the balance of trade against us to the amount of \$47,304,049, and that paid by draining our precious metals (which are the heart's blood of a nation) from us, at a rate equal to the output of the California mines. It requires no prophetic vision to see that this must lead to national bankruptcy, and that that point would have been reached ere this, but for the fortunate discovery of the gold mines in our own territory.

The most humiliating aspect in which this pic-

ture can be examined, however, Mr. Chairman, is that presented by the Secretary of the Treasury. We find him highly delighted with the large importations; exulting over the fact that the revenue from that source has exceeded his estimate, and congratulating the country upon this great evidence of prosperity. Why, Mr. Chairman, it reminds me of the fable of the frogs: "Whilst it is sport to you, it is death to us; and as surely in this case, whilst it may be sport to Mr. Cobb, whilst it may for the present bring money into the Treasury, and keep the wheels of Government in motion, it is death to the best interests of the country."

And now, sir, this very fact of the large amount of revenue received from these excessive importations is to be used as an argument against a revision of the tariff. No matter how the country groans and suffers, so that we have revenue to carry on the Government; no matter how little demand there is for labor, how utterly prostrate the manufacturing interests of the country may be, how many thousands of our industrious citizens may be turned idle, and driven to starvation, so that we have money to pay the obligations of the Government, and the expenses of Government, all is well. Away with such doctrines. Out upon such a policy as this. Give us such revenue laws as will foster and protect our own manufactures and give employment to labor at home. And let us have the assurance that we have in such abundance, and that are entirely without value whilst buried in the earth, but by the talismanic touch of labor become gold. Let this labor receive aid and support, by a wise and just policy, and not crush it to the level of the down-trodden foreign labor. Why require protection? is a question frequently asked. Why can you not manufacture iron as cheaply in this country as in England? I answer: it is true, we have the raw material in abundance; we have the requisite skill; we have the improving machinery; and we have the labor; but that labor should be encouraged, and not crushed to the earth. It is the glory of our country that the road to fortune and to fame is open to all, and is traveled by all. We have no special classes or grades here. We frequently find a man who has been engaged by the employer of to-morrow; and this can only be the case when labor is remunerated. We cannot employ labor at the prices paid in the old countries; we should not wish to; and when the day arrives, if it ever should, (which Heaven forbid,) that our labor should be sent abroad to be reduced to the wages paid in foreign countries, then indeed will our glory as a nation have departed.

Let us, on the other hand, encourage home products. Stop this miserable policy of forcing our provisions abroad to find a market, and having them returned to us in the shape of manufactured articles, we paying some sixty or eighty per cent., in addition to their original value, for transportation, &c., to the middle men through whom they have passed; but let us apply our own labor to our own manufactures; let us have the means to feed our own breadstuffs, for the product of our own farmers; supplying ourselves with the manufactured articles; saving transportation, commissions, and various expenses, and feeding and supporting our own labor in preference to foreigners. If the people of this country are to prosper, the country depend upon the number and prosperity of its population, then it follows, as a matter of course, that, by combining manufacturing with agriculture, you can increase the population to the extent that the product of the soil would supply with nourishment; or, in other words, you could employ as large a population in manufacturing and trade as the agricultural productions of the soil would feed, and by this policy you would bring the producer and the consumer together; you would have a market for the farmer, the artisan, who would, in exchange, receive the domestic manufacture instead of the foreign, and thus add to the wealth of our own country by developing its great natural resources.

Why should any portion of our Union object to this policy? The argument is, that the States of the Union are consumers, and not producers of these manufactured articles; hence they must buy as cheap as they can, and sell their own products as dear as possible. Let us examine this. At the formation of our Confederation, when the great experiment of a Republic was about to be tried,

provided by the treaty of Ghent, for negroes carried off by the British troops in the war of 1812; the petition of Mary A. Wise, of Virginia, praying compensation for a negro taken by the British in 1814, out of the fund provided by the treaty of Ghent for the payment of such losses; and the petition of the son and heir of Edward Rude, praying compensation for slaves carried off by the enemy during the last war with Great Britain, submitted a report, accompanied by a bill (S. No. 239) for the relief of W. K. Jennings and others. The bill was read, and passed to a second reading; and the report was ordered to lie printed.

Mr. SAULSBURY, from the Committee on Commerce, to whom was referred the petition of F. E. Haasler, administrator of the late F. R. Haasler, superintendent of the coast survey and the works for the construction of standards of weight and measure, praying remuneration for losses and expenses incurred by his father, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 21) in relation to the Louisville and Portland canal, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. No. 6) authorizing the enlargement and construction of a branch of the Louisville and Portland canal, reported it with an amendment.

Mr. POWELL, I move that the resolution reported by the Senator from Delaware, on the subject of the Louisville and Portland canal, be made the special order for Wednesday next, at two o'clock.

The motion was agreed to.

Mr. MALLOY, from the Committee on Naval Affairs, to whom was referred the petition of Daniel B. Martin, praying compensation for the use by the Government of his private vertical tubular boiler, asked to be discharged from its further consideration; which was agreed to.

AGATHA O'BRIEN.

Mr. DAVIS. The Committee on Military Affairs, to whom was referred the memorial of Agatha O'Brien, widow of Brevet Major J. P. O'Brien, praying that the amount charged against him on the books of the Treasury as assistant quartermaster may be canceled, and that she may be allowed the amount of pay found due him as captain of artillery, have instructed me to make a report, accompanied by a bill (S. No. 260) for her relief; and if it be the pleasure of the Senate, I would ask the present consideration of the bill. It is for the adjustment of the accounts of a deceased officer.

There being no objection, the bill (S. No. 260) for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. P. O'Brien, late of the United States Army, was read by its title, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to her such sums as may be found due to her late husband as captain of artillery, from the 31st of December, 1847, when he was last paid, to the 31st of March, 1855, the day of the death of her husband, on the books of the Treasury be balanced.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NOTICE OF A BILL.

Mr. GRIMES gave notice of his intention to ask leave to introduce a bill providing for the retrocession of the District of Columbia to the State of Maryland, and for the removal of the capital of the United States from the city of Washington to some other more central and convenient place.

BILLS INTRODUCED.

Mr. CRITTENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 257) further to amend an act to ascertain and settle private land claims in California; which was read twice by its title, and referred to the Committee on Private Land Claims.

POINT COUPEE PARISH.

Mr. BENJAMIN. I ask the unanimous consent of the Senate to introduce a bill with a view to its present passage, which has been prepared

by the Commissioner of the General Land Office, for the purpose of quieting the title to two tracts of land belonging to the parish of Point Coupee, Louisiana, and occupied by that parish for a court-house and Catholic place of worship and cemetery. The bill has been drawn up by the Commissioner of the General Land Office, and I trust there will be no objection to its passage now. The bill speaks for itself; it is a single section.

By unanimous consent, leave was granted to introduce the bill (S. No. 258) to grant to the parish of Point Coupee, Louisiana, certain tracts of land in the parish of the General Land Office, and I trust there will be no objection to its passage now. It provides that the tracts of land in that parish which have been in ancient occupancy as the site of a church and court-house, and which are designated on the plates of the public surveys as sections twenty-four and twenty-five, township four south, of range ten east, in the southeastern district of Louisiana, shall be granted to the parish, on condition that section twenty-four, or the church site, shall be held by the parish for the use of the Catholic congregation now occupying for public worship and as a burial-ground; but not to the prejudice of an adverse right, if such exist.

The bill was reported to the Senate without amendment.

Mr. FOSTER. I should like to ask the honorable Senators from Louisiana whether the bill comes from the Committee on Private Land Claims, or is now introduced by himself?

Mr. BENJAMIN. It is now introduced. As I stated to the Senate, it has been drawn up at the Land Office. The court-house and the Catholic church and burial-ground, in that parish, are situated upon two tracts of land embraced in the bill, and have been so from time immemorial. The titles are lost; and the Commissioner of the General Land Office, at my request, drew up the bill to quiet the title to the parish to those tracts of land is conferred on the ground of ancient occupancy, and reserving the rights of any third person that may have any title to the land. I have the letter of the Commissioner here. The bill states the facts on its face. There are no papers, and can be none if it be sent to the committee.

Mr. FOSTER. I have no objection to the passage of the bill; only it seemed to me to be rather a loose practice to grant title to the land on the basis of ancient occupancy, without subjecting the examination of a committee. However, if it is satisfactory to the Senator from Louisiana, I shall certainly waive any objection I might have to it under the circumstances.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had passed a bill (No. 44) confirming certain land entries under the third section of the act of 3d March, 1855, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending the 30th of June, 1856," in which the concurrence of the Senate is desired.

The message further announced that the House had passed the bill of the Senate (No. 26) to extend the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," to Minnesota and Oregon, and for other purposes.

The message further announced that the House had ordered this day the printing of the following documents:

Letter of the Postmaster General, communicating reports of his inspection and detection from the office of mail contractors for the preceding year—ordered at twelve o'clock and twenty minutes.

Letter of the Superintendent of Public Printing, communicating estimates for deficiencies for printing, binding, and lithographing—ordered at twelve o'clock and thirty minutes.

Resolutions of the Legislature of California, asking mail facilities for the northern part of that State—ordered at twelve o'clock and fourteen minutes.

Resolutions of the Legislature of California, asking the establishment of a Sunday mail from San Francisco to Sacramento—ordered at twelve o'clock and fifteen minutes.

ORDER OF BUSINESS.

The VICE PRESIDENT. The Chair will call up, at this hour, what he understands is the unfinished business of yesterday—the Military Academy bill.

Mr. COLLAMER. I took the floor upon a subject which was under consideration yesterday with the intent to speak upon it to-day, and with the understanding that I was to do so. I supposed, as the subject was considered before this one yesterday, it would stand before it if they were postponed until to-day; and the motion to postpone took that form. I may not have taken exactly the right form to effect my purpose; but that was my desire, and that was my expectation.

Mr. WIGFALL. Will the Senator yield to me for a moment? I believe I have as much interest in the bill which comes up as unfinished business as anybody; but I have no objection at all to waiting the precedence of this bill until the Senator concludes his speech; hoping, after he has delivered his speech, that he and his friends will leave us at least with a quorum, in order to consider other matters when they come up.

The VICE PRESIDENT. Upon what resolutions does the Senator from Vermont desire to speak?

Mr. COLLAMER. The resolutions of the Senators from Louisiana. [Mr. BROWN.]

The VICE PRESIDENT. It is moved and seconded to postpone the unfinished business and all other orders, with a view to take up the resolutions of the Senator from Mississippi.

Mr. WIGFALL. Is it understood that, after the Senator has concluded his speech, the bill which comes up as the unfinished business of yesterday will be taken up in its regular order?

Mr. COLLAMER. Yes, sir.

Mr. WIGFALL. With that understanding, of course I give way.

The VICE PRESIDENT. It must be put in the form of a motion. Things may take such a form that the Chair cannot call it up. If the understanding is that it is laid aside temporarily until the Senator from Vermont concludes his speech, then the Chair would call it up after he has concluded.

Mr. GWIN. I hope that will be considered as the understanding.

Mr. JOHNSON, of Tennessee. I understand the object is to give an opportunity to the Senator from Tennessee to report, so that this proposition will be postponed informally.

Mr. GWIN. Yes, sir.

Mr. JOHNSON, of Tennessee. Then this bill—the Military Academy bill—is considered by the President as the unfinished business of yesterday, and therefore before the Senate. I understand the motion made yesterday to be to postpone the bill until to-morrow, for the purpose of having the message and accompanying documents printed.

That motion, I understand, was agreed to; but it is not material. I do not understand, however, that that motion left it as the unfinished business before the Senate. There is a special order that comes up at half past one o'clock to-day; but for the purpose of accommodating the two contesting parties, as I hope they will get through to-day, I desire to move that the bill which I think will be acceptable to all, I move that the homestead bill be made the special order for half past one o'clock on Tuesday next. That will relieve the present difficulty.

The VICE PRESIDENT. The Chair will state to the Senator from Tennessee that the homestead bill is the special order for half past one o'clock to-day. The present occupant was not in the Chair when the Senate adjourned yesterday, and he found another bill on his table, marked "unfinished business." The Senator from Tennessee moves that the homestead bill be postponed until Tuesday next, at half past one o'clock, and that it be made the special order for that hour.

Mr. DAVIS. I think the Senate should either abandon the Calendar entirely and rely upon special orders, or put some special order in its place, to advantage to report a bill early in the session, if it is to be postponed from day to day, and week to week, by special orders. If the Senate prefer, however, to proceed in the manner of special orders entirely, and not rely on the Calendar, I am willing to give my change in this way too.

Mr. JOHNSON, of Arkansas. I am very glad that the Senator from Mississippi has called

able or general extent, it was, though somewhat modified in Mississippi and Orleans Territories, suffered to remain. The fact that it had been taken there and existed there was deemed an indication of its adaptation and local utility. Where slavery did not in fact exist to any appreciable extent, it was by Congress expressly prohibited, so that in either case the slave supply without any difficulty or doubt as to the character of its institutions. In no instance was this difficult or disturbing question left to the people who might settle in the Territories, to be there an everlasting bone of contention as long as the territorial government existed. It was regarded as a subject in which the whole country had an interest, and therefore improper for local legislation.

To illustrate this, I will not go with the history of governmental action from time to time, as Congress made different territorial governments in the country northwest of the Ohio. I need not show how they continued to repeat over and over again the utter prohibition of slavery; but I will call attention to the act which has been remarked upon by the Senator from Georgia, in relation to Mississippi. As to Kentucky, I do not know that North Carolina, in making the cession of the territory to the United States, prohibited them from doing anything tending to the abolition of slavery. In relation to Mississippi, I do not understand the action of Congress exactly, but I think it was so. Congress presented it. The truth is that the United States claimed a large part of that country, now forming Alabama and Mississippi, and Georgia claimed nearly the whole of it. When the Mississippi territorial act was passed, in 1798, it was framed in anticipation of and it appointed a board of fixing commissioners for the settlement of that dispute with Georgia. The territory was settled, as far as it was settled, with slaveholders and slaves. It was expected that Georgia, in making her cession, would do as North Carolina had done in relation to Kentucky. The territorial act of 1798 remained unexecuted until 1802. In 1802, the commissioners of Georgia made settlement with the United States, and then the United States agreed to pay Georgia \$1,250,000, for which she quitclaimed all her right, claims, and title, with certain reservations; and amongst other things, she put in a clause forbidding the extension of the anti-slavery clause of the ordinance of 1787 over that territory. They made their grant on that condition.

What does that show? The Senator from Georgia says:

"It is 1798, when Congress legislated in relation to Mississippi Territory, they did not prohibit slavery."

No, sir, it was already there; actually established, and it was expected that Georgia would insist on keeping it there, and she did insist on keeping it there. But that was not all. The United States then, in that very act, prohibited the importation of slaves from abroad, though they could not prohibit it in the rest of the United States until 1808. By what power did Congress do that? Certainly they received no power for it from the provision of the Constitution that "no State shall enter into any such compact as may be so interpreted as to annul the obligation of this compact as to any person as any of the States now existing shall think proper to admit shall not be prohibited by Congress prior to the year 1808." That did not give them any power about it except to prohibit in all the States after 1808; but they did proceed to prohibit the introduction of the slave into the Mississippi Territory in 1798. Why? Simply for the same reason that they did the rest: they considered themselves as possessing the power, in framing territorial governments, to frame them in such a way, and with such prohibitions and conditions, as they thought would best promote the interests of the nation. They derived the power, no doubt, at that time, from that clause of the Constitution called the territorial clause, by which they were empowered to make all needful rules and regulations for the Territory which they might acquire. There cannot be found a clause in the Constitution which gave them the power, unless it was that. I know that it is said, with regard to Louisiana and other acquisitions obtained by treaty with foreign nations, inasmuch as they have power to acquire, that it has the necessary incidental power to govern; but that cannot apply to Mississippi. It was not acquired by treaty from a foreign nation at all. They exercised the power there under the territorial clause.

Again, when our country purchased the Louisiana purchase from France, in the first act forming the territorial government of Orleans Territory,

now Louisiana, which was in 1803 or 1804, Congress did not prohibit slavery, because it was already there, and because it was adapted to the country, I suppose they thought. They suffered it, but they did not leave it so. They provided that no slaves should go in there except in families for settlement; and in the next place, they provided that no slave should be taken up with in any way that had been imported into the United States after 1798. Why 1798? In 1798 they passed that Mississippi act prohibiting the importation of slaves from abroad into Mississippi. They saw, I suppose, that it afforded very little security to keep out imported slaves from Mississippi, when they could be imported into Georgia and taken over into Mississippi. Congress, therefore, provided, in the act for Orleans Territory, that no slave should be taken in there in any way, in families or in any other way, that had been imported after 1798. Now, I would ask, did not the people of South Carolina, or Georgia, or any other slaveholding State—and a great many of them were such at that time—own their slaves which they had imported from Africa in 1800, and 1801, and 1802, and 1803, just before they took the slaves they held? If any of them were property, were not those slaves property? Clearly they were. Well, then, how did Congress have a right to prohibit their taking them into Louisiana? They did not, I suppose, and no man doubted it. It remained for fifty years, and no man questioned it.

It is unnecessary, in order to show what was the power, as then understood by them, that they should, on all occasions, have prohibited slavery entirely. The fact that they did not do that does not show that they had any power to do it. No, Mr. President, a power to regulate is a power to prohibit. Nothing is more fully settled, for instance, than that the power to regulate commerce is a power to prohibit commerce altogether, as was fully settled in relation to the embargo. Such is the power of Congress to regulate the Territories precisely as they pleased. If the contemporary exposition, if the usages and practices, under the Government, by those who made it, and, immediately after its formation, continued and persisted in, uniform in its operation, can prove anything, and in that case they can prove, possible proof, when any doubt exists as to the construction of a paper—then, I say, it is clear Congress had and exercised the power, both in the territory they owned at the time the Constitution was formed, and in that which they acquired afterwards, either from one of the confederated States or from a foreign country. They exercised this power of regulating, curtailing, or prohibiting, as they in their judgment believed to be best for the country.

Such is the tenor of our experience as to how this matter was originally settled. In the progress of affairs, and in thus arranging for the Territories and settling them peaceably, they brought up State after State in perfect peace and success and prosperity until, I believe, fourteen States had been admitted into the Union, and then one-half slave and one half free; they had grown up, under this patronage and this administration of the General Government, in the full exercise of this power. In the progress of this history a difficulty arose in relation to the State of Texas.

We had then a large tract of land utterly unsettled; the settlements in the Louisiana purchase had commenced upon the mouth of the Mississippi, and gradually proceeded up; but a large part of the Territory was entirely a wilderness, and Congress found themselves in difficulty as to the question of slavery and freedom in that Territory. What did they do? It occurred to the mind at once, "it cannot be slaveholding and free territory at the same time; we cannot have it both at once. I can hardly conceive of any resolution of Congress so entirely contrary to itself as to divide it. If two men own a field, and one wants to sow it with oats and the other with wheat, and they cannot have oats and wheat together with any success, I do not know any other way to get along with it peaceably but to divide the field, and let each man be cultivated with one usual advantage. This is an old lesson; it began very early—I have had occasion before to call attention to it, and will again. And Abraham said unto Lot, let there be no strife, I pray thee, between me and thee, and between my herdsmen and thy herdsmen, for we be brethren." "If thou wilt take the left hand, then I will go to the right;

or if thou depart to the right hand, then I will go to the left."

This territory was divided; Missouri was admitted; the line of 36° 30' was run, and it was declared that shall be our division. Was there anything wrong in that? Was there anything so extravagant and extraordinary in that, that we should now go to war with our fathers who made peace among themselves by it? Is not their example worthy of imitation? It certainly is by all those who really desire peace; but by politicians and other men can make themselves capital out of a constant turmoil and trouble, I suppose they will never agree to it.

Now, Mr. President, what is the proposition of the Republican party? Nothing more, nothing less than to restore that line. I do not suppose that those who obliterated it will render any assistance to again drawing it upon the surface of the earth, but that in the proposition, and that is all there is to it; for if we say that slavery shall not go into the Territories, it amounts to that, for there are no Territories for slavery to go into, but what are arranged, as things now are, to any extent, unless it is a constant turmoil and trouble, I suppose they will never agree to it. That is all. Exclusion of slavery from the Territories, and leaving it uninterfered with in the States where it exists, as in the case of Texas, and in the case of Missouri, in my estimation, but practically restoring the compromise, and I shall so call it in my remarks.

There may be other aspects of the question; but really when we dismember it, strip it of its collateral and contingencies, and present it in its naked light, there are but three things to be seen: one of those subjects that call so loudly on all parts of the country, and especially on the South, for expressions of execration of us? It seems to me not. There is not only nothing new in it, but there is nothing of the least apparent injustice in it, which has been once fully agreed to, and I think never should have been disagreed to.

Mr. BENJAMIN. I will not interrupt the Senator from Vermont by a question, if it embarrasses him at all in the course of his argument; but I would ask him if he intends referring, in the course of his remarks, to the fact that there is no man living with great interest, to the fact that the whole South endeavored, by every possible means—by remonstrance, entreaty, and every other possible means—to get the gentlemen who now compose the Senate, that which has been once fully agreed to, and I think never should have been disagreed to. Mr. Senator says is what they now want?

Mr. COLLAMER. You mean to extend it to the Pacific?

Mr. BENJAMIN. Yes; to leave that line, not only as a sacred line, as established in 1793, but to extend it to the Pacific, and the proposition now is to put it back, after you have extended the free States south of the line.

Mr. COLLAMER. What do you mean by that? California?

Mr. BENJAMIN. You took possession of a Territory, and then, after you have got that, now you say, restore the line to what it was.

Mr. COLLAMER. If the gentleman will be a little patient, he will find that I shall not blink that point at all; but I do not understand it as he does. I have, however, no desire to do so. I expect to call attention to it, and I think, in my opinion, that line should not have been obliterated. I cannot here but remark, in the first place, as to the making of it. The gentleman from Virginia [Mr. HENRY] in the course of this session spoke of that as being a northern aggression, and he made a discovery new to me, when he supposed the North made the line. The truth is the South made that line. I do not say that no northern man voted for it. There were a very few, enough, with the southern votes, to make a majority; but I regret to say, that the southern men who made it, and they made it. I actually heard with astonishment the honorable Senator from Virginia put that down as one of the northern aggressions. That is a new discovery to me. To my mind, that is very much like the man of whom I heard a story, who said to me, "I told you that he was willing to go over there and help the Canadians to fight the British any time; and when asked why, he said, 'the British are always pecking at somebody; at one time they came into Boston, and then into New York, and then into New England, and we have not got over that yet.'" [Laughter.] I think this is about as new a reading of history as

that. But, sir, what purpose had that compromise line answered? What had the South got out of it? First, the making of that line admitted Missouri; it left Arkansas to be admitted south of it, and left all the country that could be formed into States any where south of 36° 30' to be made slaveholding Territories, and so, of course, slaveholding States. In the next place, the South wanted Texas; we know that for. Undisputed was the object. Mr. Calhoun officially, as Secretary of State, announced to the world that it was to be obtained to perpetuate slavery. There was no dispute about that. They wanted that. How did they get it? One among the means by which they obtained it, was this: they provided that the line of 36° 30' should be continued across Texas. I know it would not give much even if that had been kept. It did not amount to a great deal; but I shall have occasion to refer to that again. What was north of that line in Texas, was acquiesced to the cause of freedom. That was one of the elements that entered into the obtaining of the annexation of Texas. It was one of the means by which they effected that. Afterwards, there was a further growth out of this compromise line, there was never much ground for a claim of Texas to a large quantity of land now forming part of New Mexico, and which was thus sequestered to the cause of freedom, if in Texas. The United States finally gave Texas \$10,000,000 to quit-claim all her right to that country, and she gave it up to New Mexico where it would stand a chance of being slave territory, and would not fall within the saving of this clause of the Texas annexation resolutions.

It was not necessary to trace the history of the difficulties which were attempted to be settled, and in some measure were settled, by what were called the compromise measures of 1850; but the great point which was desired to be obtained by the action of that year—professedly desired, and I do not know but really was, that Congress should settle the subject of slavery for all the country we then owned, as the compromise line of 1850 had settled the condition of the country in relation to all we then owned, and the ordinance of 1787 to all we then owned. How was it settled in 1850? It was settled by that Congress, that the compromise line in relation to Utah and New Mexico, and the other compromise measures then agreed upon, there would be no territory left about which to quarrel in relation to the subject of slavery; it would be settled and settled for ever. It was settled, as they said at that time, a finality of that topic. Those compromise measures were passed. They were passed because the Missouri compromise line had settled all the Louisiana purchase, and they took it up there and settled all beyond; and these two standing together made a perfect provision for the whole subject in the whole Union. Thus it was that the Missouri compromise line entered as a very large element into the formation of the compromise measure of 1850, and was the basis of the settlement of that settlement was in relation to a larger and more important part of the country than the other.

By means of this compromise line, the South had, from step to step, as I have stated, obtained these several advantages; and what do we come to now? This bill operates as a sort of a stock-pigeon, a decoy, to enable them to go on, step after step, with these various arrangements as they wanted. It quieted the North; it enabled them to obtain from the North these various acquiescences. But, sir, when they had gotten them all through; when there was no more expectation of obtaining anything south of the line; when they had secured every advantage it was practicable to have from it, now they must just at once take down the stool-pigeon, destroy this decoy, obliterate the line, and assert their peculiar institution as much north of it as they could. That was attempted to be done in 1854, by the legislation of that year.

Now I come to the point that the Senator from Louisiana suggests. Why we will not compromise repeated. Why was that line obliterated? I would like to say; that the more excuse a man makes for a thing, the less we are satisfied with it. A good excuse or reason is perfect in itself; it is not made by collecting together half a dozen improbable, and even untrue, reasons, and saying that what are said to be the causes of that obliteration. First, we are told by the honorable Senator

from Louisiana that the North were unfaithful to the agreement. I know the honorable Senator from Louisiana in putting the question, does not use those terms; but they are the terms that are attempted to be used in presenting this proposition to the community; that the North were unfaithful and untrue to that Missouri compromise line. What was the compromise line, being true and faithful to a compact? What is meant by it in the English language? I take it, it is the carrying out and executing the compact according to its terms, according to the understanding of it when it was made. What was the understanding when the compromise line was made? It was made in 1820? It was to run through the French purchase—the Louisiana purchase, if you please—from the Mississippi river to the Rocky Mountains. Had not that always been carried out until it was repealed? What had ever the northern people done that was untrue to that compact? Nothing, nothing. Nothing is pretended. Then that pretended excuse is unfounded. The allegation that they had been untrue to it themselves is simply untrue.

It is also said that they would not vote to extend it after the Mexican war and our obtaining from Mexico territory towards the Pacific. It is said they would not consent to extend that same line through to the Pacific. In relation to that point, I say, first, it is no matter what their reason was for it; but that there was any such obligation on them to make another bargain and extend it over other country. It never was any part of the original compact that it was to be extended over other territory; and therefore it is a matter of no use of instances when they say that that action was. I was not present at the time those gentlemen objected to that. I am not possessed of what their true reasons were. I do not think they needed any. When one man proposes to another to enter into a compact, he has simply to say, "I do not intend to do that," or "I cannot do it." Very obvious that the gentlemen who represented the free States on that occasion were in a very different condition about that territory, for the country obtained from Mexico had no slavery in it; it had been abolished while the country belonged to Mexico. It is not as if they had any such obligation, and therefore they probably may have thought, though I do not know it, that their constituents would not have approved of their making a bargain to give away and make into slave territory what they had already free, by already free. The gentlemen say they agreed to divide the new Territories that were slaveholding. Very well; you may have been generous on that occasion; that makes no demand on the other side to reciprocate it on a different occasion. But that is not the great difficulty with the thing. Suppose the North, as you say, would not agree to extend that line over the newly acquired territory: what then? You might find fault, if you pleased; perhaps you would have occasion to do so; I do not say that. But, sir, if you would or would not, that sort of excuse can be a man of common discretion make to another of a similar character, to say, "Sir, because you will not make this other additional bargain, I will break up the one I made myself." That is what you did do. You repealed the Missouri compromise line in the country covered by the Louisiana purchase, for which it was made, and to which it was confined. To my mind this is rather a lame excuse; in short, it is no excuse at all; but it is said that that was the reason why it was repealed.

The next reason is the one which is put into the repealing bill. That bill, called the Kansas-Nebraska act, which repealed the eighth section of the Missouri act, does not say that it was repealed for any such cause as that which I have just noticed. It says that it was to be declared null and void; because it was inconsistent with the principles of the compromise acts of 1850. That is the reason given in the bill. I am merely say, that those who passed it put on the record that that is the reason, and it is—I will not give it any other reason, but that is the reason. I do not resort to any other reason when he has recorded the one which he gave at the time; he is estopped from giving any others. That is an entirely different reason, and utterly inconsistent with the first reason, when they are both put on the record. Now, though it was put on record that I was in consistent with the compromise of 1850, is just as

wrong as the other. The fact is, that compromise of 1850 was made on the ground that the former one of 1820 was part and parcel of the agreement; and therefore this excuse is equally unfounded with the other.

But, Mr. President, I have now attended to three reasons for the repeal. The gentleman from Virginia found fault with the compromise of 1850, because, he said, the North made it, and it was an aggression when it was made. The next reason that is given is, that they would not extend it. The third reason is the one put into the bill, that it was contrary to the compromise of 1850; but we have this session, and perhaps within a short period before, got another reason. It is said that it is unconstitutional; that Congress was well justified in repealing it, because it was unconstitutional.

Mr. WIGFALL. With the consent of the Senator, I will ask a question. I do not want to protract this debate, because I have a little matter that I want to get up after it is over; but, just as a matter of curiosity, I should like to know what the Senator understands to have been the principle of the compromise of 1850 as to Utah and New Mexico?

Mr. COLLAMER. It was this: there had been difficulties and controversies about the forming of territorial governments in those Territories. Congress could not agree on it. At first we had California in with them—

Mr. WIGFALL. Leave California out. Mr. COLLAMER. It was in it, and we cannot help it. It was in it for a year or two, until California formed a State government. Then, when it came to the compromise period of 1850, as part of the compromise, California was added as a State. As to Utah and New Mexico, there had been bills, especially for New Mexico, pending in Congress before that. Various measures had been proposed in relation to them; the northern people insisting on the application of the provision of the other side, and the southern side, as they should never exist there. They would not pass them without it. "When Congress passed them, they were passed without that, and with a provision that the people might make them free or slave States, and that they should be admitted as they should be formed, whenever they should become States."

Mr. WIGFALL. That was the principle? Mr. COLLAMER. That was the provision in relation to them.

Mr. WIGFALL. That the Territories should settle it for themselves; and that Congress should not, in the meantime, interfere to prohibit the introduction of slavery?

Mr. COLLAMER. No, sir. When the gentleman says the Territories should settle it for themselves, he includes more than I understand it—

Mr. WIGFALL. I am not a squatter-southern man.

Mr. COLLAMER. That is a point you have got in that was not put in. It was put in in relation to Nebraska and Kansas; but it was not put in in relation to the others.

Mr. WIGFALL. Did they not have the right to regulate their own affairs, without any intervention of Congress as to slavery?

Mr. COLLAMER. There was nothing said about that.

Mr. WIGFALL. Was there any interposition on the part of Congress, either to establish or prohibit slavery there?

Mr. COLLAMER. There was none.

Mr. WIGFALL. Then the principle, if there was any principle involved in the Utah and New Mexico bills, was, that Congress should not legislate either to establish or protect—

Mr. COLLAMER. You are drawing a conclusion.

Mr. WIGFALL. I am asking for information.

Mr. COLLAMER. The bills are very plain.

Mr. WIGFALL. These are historical facts; only philosophers can give reasons. I was asking for a reason, possibly; but I want the Senator, before he comes to the point, to say that you are a new Senator yet, and do not understand these questions. Now, I understand—at least before I got here I had supposed that the Utah and New Mexico bills left this question beyond all doubt; that Congress did not, in these bills, interfere for or against slavery. Is that true, or is it not?

Mr. COLLAMER. I have stated about that. There had been a difficulty in forming those territorial governments, because a part of the country insisted on putting in the ordinance of 1787.

Mr. WIGFALL. Yes, sir.
Mr. COLLAMER. Congress could not agree to it; but when they had the making of the compromise of 1850, as part and parcel of it, these two Territories had territorial acts passed for them, which will speak for themselves, but they were passed without the prohibition of the ordinance of 1787.

Mr. WIGFALL. Precisely. Then I want to ask the Senator, when you come to form a new territorial bill as to Kansas and Nebraska, if you are not following out the precedent? I do not talk about the principle spoken of in the great speeches that were circulated in thousands and hundreds of thousands, but if the precedent was not followed when the Missouri restriction was repealed and the Kansas-Nebraska bill was passed, as the Utah and New Mexico bills were passed, without any provision either favoring or disfavoring slavery? That is the question.

Mr. COLLAMER. The gentleman has made his own speech, taking his own premises, and drawing his own conclusions. I can present very different views. I think that that whole compromise must be taken together.

Mr. WIGFALL. The omnibus was turned over, and they were passed as separate bills.

Mr. COLLAMER. They were passed as separate bills, but they all constituted a compromise, and are as spokes of in the Nebraska act. It was a compromise consisting of three or four acts passed here. That compromise put together made a whole, and I insist that it was a disintegration and destruction of the principle on which they went when you repealed the compromise line which settled the controversy between the territory, and which settlement entered into and constituted part of the very compromise of 1850.

Mr. WIGFALL. With the permission of the Senator, I will again draw his attention to the fact that the Utah and New Mexico bills were passed without any provision that established the prohibiting slavery, and that the Kansas-Nebraska bill, in order to be passed in accordance with that precedent, necessarily have repealed the Missouri restriction, or it would have recognized the right of Congress to interfere. I am sure that the Senator, without non-interposition, I call interposition. What he would call non-interposition, I call interposition. As there had previously passed a bill in 1830—

Mr. COLLAMER. The gentleman is making a speech of his own; by his own make a question. He is making up his own logic, stating his premises, and drawing his conclusions in his own way. I say all the parts of that compromise constitute a whole. They should be left to stand together, and I have already explained what I considered entered into and constituted a part of it. Now gentlemen say that when they came to pass a law making a territorial government for Kansas and Nebraska, they had to pass it like those for which they had a precedent. How was there any obligation on them to establish the same in the world. If a man had sold land for ten dollars an acre, a large tract, and should afterwards sell a similar amount to the same purchaser for twenty dollars, could he then say, "now you must give me twenty dollars for the first?" They had made arrangements all about that line before the compromise was made on that basis; and now, when they came to make a territorial government, were they obliged to make it on the basis of the Utah act, passed since the line was arranged?

I was stating that the law was attempted to be given for that repeal. The first, mentioned here by the Senator from Virginia, was that the North made it, and that it was an aggression; the second was, that it was not extended over other territories, but a new bargain made for them; the third was, that it was the result of the compromise of 1850; and the fourth is, that it was unconstitutional all the while. To my mind, this last is pretty much like Jack Falstaff's, "I knew you all the while." It is an after-thought, a new one. It is possible that these gentlemen can give that as an excuse for doing the thing which they did not explain it or state it at the time they did it?

Again, is it becoming in these people to say,

"We agreed to this proposition; we made this arrangement with you in 1830; we have had our States admitted south of the line, according to it; we have had the consideration on our part, and now we turn around on you, and tell you we never had any authority to make it, and we are now free to do as we please. We did it was a great delusion from beginning to end?" The truth is, that, in common ethics, as well as in law, when a man exercises the power to do a thing, he is estopped from saying he had not the power. If a man says to a horse, as his horse, and afterwards, after taking his pay, tell me that the horse belonged to another man. He has no right to say it; he is estopped from saying it. So with those who exercised this power. They are not at liberty, in law or in morality, to say that they had not the right to do it. It is totally immaterial whether they had the power or had not the power. With them, it should be held sacred; for they did it.

But, Mr. President, I have been unable to see what was the difficulty in this compromise line being constitutional. Was it unconstitutional because it was not long enough? Is it possible for you to say that if it had been extended to the Pacific it would have been a good and constitutional one? Here stands the honorable Senator from Louisiana, an eminent lawyer, a very courteous lawyer, he found, whatever may have been said about the Philadelphia lawyers; but he stands here and puts to me a question implying plainly that the difficulty was, we would not extend the line. Then you were willing to extend it, and forbid the very north of it to the Pacific? Yes. Then how had you a right to do it; or do you mean to acknowledge that you were then trying to play another trick on us? I do not believe anything of this notion; you did not believe it at the time; and I think that it should not be permitted to be made by any man.

But, Mr. President, how has the experiment of the repeal of the Missouri compromise, and the measures which followed it, worked? What was involved in it? What did it propose to do? If the repeal of the Missouri compromise was really declared that, being inconsistent with the principles of the compromise of 1850, that line was thereby declared inoperative and void, but it further went on to provide that Congress would neither legislate slavery into the Territory, nor exclude it therefrom; but that the people thereof should be left perfectly free to regulate their domestic institutions in their own way, subject only to the Constitution of the United States. Why did they put in that last clause? I am very apt to forget it, but I have always supposed that all we made within this nation, whether by a State Legislature or by Congress, were subject to the Constitution as a matter of course. I did not suppose that repeating that could alter the fact. Still, there was a stress laid on that. Some gentlemen, however, in the Senate, and I think that the people were invented with power to regulate this institution in their own way, constitutionally; and yet they voted for that bill, with that expression in it.

The honorable Senator from Virginia said, last week, that he did not see how Congress had power to invade the people of a Territory with the authority of legislating and settling its institutions in their own way under the Constitution; but he agreed to give it to them, subject to the Constitution, thereby subjecting to the opinion of the Congress that was enacted to vote for a law which was, in the opinion of the voter, unconstitutional, in order to leave the question to the courts! Congress did invade the people of the Territory with that power, if they could not be subject to the opinion of the courts, whether they could or not. I cannot but say, though it may be rather a harsh mode of illustrating it, that it is like the French naval officer going into battle, and praying the Lord, if there was one, to save his soul, if he had any. [Laughter.] That was the case with us, when we gave that power to give it; but we do not believe we have any power to give it. That is your position. That was a very different bill from the others.

I know it has been said since, that really and in fact nothing was meant by all that rignarole of words, except that when the people came to form a State constitution, they could make it a free or a slave State, as they pleased. Then, that action was very unnecessary. There is no doubt that if gentlemen desire to make issues for themselves, that is a matter for their consideration. No man can mistake the expressions of that bill; and those expressions were not put in there for any such purpose as is now pretended by some and used by others. That is the vision of the New Mexico and Utah act, wherein it was provided that they should be admitted either with or without slavery, as should be provided in the constitutions when they came to form a State—that very expression was already in the Kansas-Nebraska act, right sections before the other words to which I have alluded. It was all provided for before you came to the repealing provision. That was not there, then, for any such purpose. It evidently does mean, as it provides, that the people there, whether Territory, and as a Territory, should settle the matter in their own way.

I will not enter into the question whether they could or could not; but that was the power given. Were they left to form it in their own way? Certainly not. They were required to call the vote of the very first Territorial Legislature, more than four thousand men under arms from Missouri invaded and subjugated them, and made their election. They never were left free to act in their own way; and then followed the extraordinary means which were resorted to, to call the vote, which resulted, this Government saying that it would not correct anything, and those laws should be carried into effect with the whole power of the Government, together with the ravages of war, and the destruction of property, and the blood which went over Kansas Territory. These all followed your act. Did you think they were worse than other people? What were you attempting to do? You were attempting to have a Territory that should be a slaveholding Territory. The Territory at that time, I think, could not make it go through. In the nature of things it cannot. The people supposed their territorial government was to settle the question. The Missourians went over, and chose the territorial government, and then used every means to settle it. All understood it so at that time. That was an entirely different thing from the New Mexico and Utah bills. That was the experiment attempted.

How has it worked? Is anybody so much satisfied with the results and effects of that experiment that he desires to push it further? I do not believe there are many. The people of the North believe that that was all wrong; in the first place, because it was contrary to the original policy of the Government. In the next place, they do not believe it is beneficial to the country to turn it over to the people, on the plains of Kansas, to fight out a subject of this kind in which the nation is interested. It never was tried before, and I trust will never be tried again.

Mr. President, it is said great danger will result from the action of the Republican party, if they should really apply their principles; if they should reestablish the Missouri compromise line and stop the spread of slavery in the Territories, which the repeal of the line attempted to effect. We proposed to do nothing more and nothing less than restore the Missouri compromise; and if we should carry it out, does not that make a pretty fair division of this country? We have, in round numbers, about one third of our people in the slaveholding States. We have about two thirds of them in the free States. We have about three million square miles, in round numbers. It does not differ a hundred thousand from that. It is very fully shown, from the best evidence and the best information, as collected and collated by Professor Henry Jones, of the State House in Kansas, in his report, in 1856, that there is a little more than one third of this whole country that is inseparable of settlement. We may be unwilling to acknowledge that to ourselves; but that is the fact. As stated by the Senator from Georgia, and which I believe to be true, the slave population is concentrated within their territory, (and they are in the occupancy of eight hundred and fifty thousand square miles,) almost one million of the best part of the

country. They are but about one third of the people. There will be left, then, for the other two thirds of the inhabitable part of our country, one million one hundred and fifty thousand square miles. Have they not much the larger part? Have they not got the best part? Can gentlemen any now, when we declare they shall be and ought to be confined to that, as they are trying to smoke them out? It is the other side that is in trouble. The free people, with their institutions, according to numbers, are about to be restricted to less than one proportion of the country, and they are to be driven out or starved out.

What, then, should prevent us from doing this justice? What is there wrong in it? What is there unprecedented in it? What is there unjust in it? Certainly nothing. But still it will cost, they say, to have a Republic, a President chosen; it will be a cause of dissolution. Why? Because they say some of the free States have passed unfriendly laws to that provision of the Constitution about fugitives from labor. Mr. President, in relation to those laws, I would call gentlemen's attention to the fact that it is the exclusive duty and obligation, as well as privilege, of every State to protect the liberties and lives and property of its own citizens. I say it is exclusively their duty within their own territory.

I not very frequently, especially among unlettered people, hear it asked, why Congress cannot abolish slavery? and I cannot but say that I think at times there have been some mistaken notions, like those suggested by the Senator from Texas, about the best of a consolidated Government, and talk of that kind. Take the plainest case imaginable. Here is a man, if you please, in a northern State, confined as a laborer in his own cellar, chained, for years. The whole power of the United States Government cannot afford to free him. There is no power to grant any man freedom in the southern States; no matter how many men they hold in bondage, if you call it such, it is matter exclusively theirs; Congress has no power over it. If they, as some of them do, propose to release a bondman a larger number of men are free, no matter how we may look on it, it is utterly beyond the reach of the power of Congress. So, on the other hand, I take it, the right and duty to protect their own citizens in their liberty and lives is the exclusive duty and privilege of the States.

It was not true, as was properly suggested by the honorable Senator from Ohio [Mr. WARE] yesterday, that because the South have a right to pursue and take their slaves that run away, and bring them home, therefore every man in a free State is subject to being taken away. Let us think, for a few moments, of the decisions on that subject. In 1842, came the decision of the Prigg case. That case contained some pretty important things, new to the country at that time. We may have become familiarized with them now; but they called for the action of the States.

The Supreme Court decided in that case that the owner of a fugitive slave had the right to pursue him into a free State, without any process whatever, and take him and recapture him and carry him home. I take it that it is the privilege and duty of every State to so arrange the manner in which a man exercises his rights, that the rights and privileges of others may be secure. That is a matter of legitimate legislation. We have, for instance, in the State in which I live, a considerable number of free colored citizens. I do not know their number now—a thousand, perhaps more. They are just as much entitled to the protection of the laws as the white men. When this opinion was pronounced by the Supreme Court, no person could come there and take away a claiming man as a fugitive slave, and carry him away without any process whatever—for the court said he might do it, if so be that he committed no illegal violence—was it not obvious that our colored population could be in no danger? We do not get up against honest and honorable slaveholders, but against all men who might come to claim themselves as slave dealers? They could not be safe, if there was to be no process, if no court was to pass upon it, if nobody was to interfere with it. If he was to take them this right without any, I do not say without any arrangement or control, how could they be safe? It was very natural, and did happen, as the Senator from Georgia says, that in

Vermont they began as early as 1844; yes, sir, two years after that decision. When they understood the decision, they did say, "Now, this will not do. We cannot have our people subjected to this sort of arrest. If these men have the power to arrest him; if they are entitled to a man as a slave, let there be due process; let there be justice to our people some sort of security." Therefore they did provide that the taking of a slave without process should be unlawful—illegal. Was there anything extraordinary in that? Can you see anything extraordinary in that provision of the Constitution? Clearly, not at all.

That case further decided, too, that State magistrates might act under the law of 1793, if they pleased, not otherwise; but if the States forbade it, they could not. They decided another thing: that this subject of the reclaiming of fugitives from labor was peculiarly and exclusively the business of the General Government. They decided not only that the States had no right to interfere with it, but they said they had no right even to make a law to carry it into effect. I know that Judge Taney and Judge Daniels differed as to that; but I dissent on that point; but all the rest of the court, I believe—unless, perhaps, Judge McLean, certainly Judge Story and a majority of the court—decided that all laws made by the States, tending to carry into effect the fugitive slave law, or that provision of the Constitution, when they were distinctly and expressly told it was none of their business; and that all the laws they could pass about it, or in any way inconsistent with the provision of the Constitution, were simply and utterly void.

The legislation which was made on that occasion in my State provided for the security of our citizens by the act of 1844, of which the Senator from Georgia complains, though I do not understand the grounds of his complaint. The act denies to the district court of the United States power to entertain a *habeas corpus*. I do not know but that may be so; but it is out of my mind, and I think it is not the fact. But when our people said they were lawless and justifying their lawlessness, and that those people should not be taken without process of law, they further provided that nothing in that act should be considered as extending to any person that was acting as a United States judge or marshal, or anybody acting under him. It is true that other legislation has since taken place. When, in 1850, the new fugitive slave law was made, it is true that that was received in that quarter much as the Senator from Ohio says it was in his State. It was obnoxious, abhorrent; it was against the feeling of our people, and especially that part of it which related them to become aids and assistants in following and running after alleged fugitives, under heavy penalties.

It is said that this act was essentially the act of 1793. We did not view it so; we do not now. By this act, certain men called commissioners, who were appointed by the district courts, are clothed with certain powers. Those commissioners had existed before that. They existed by law, appointed by the courts for certain purposes. Those powers were to take depositions to bind over criminals, take bonds—in short, all the preparatory steps looking to a trial in some court. But they were mere ministerial officers, with no power of adjudication, no power of decision. Under the act of 1793, they were related to fugitives from justice, all that is done is to return the man and send a fugitive from justice to some other State, for the purpose of taking his trial there. It looks to a trial. It is a mere preparatory step. But when you come to this law of 1850, to all practical purposes, the commissioners are clothed with the power of adjudication, which is entirely a new feature.

I know judges might send a man out under the act of 1793, if they pleased to act; but that was all safe. So far as the courts, the district judges, the judges of the circuit courts, the judges of the acts of 1850 and 1793 are alike; but, as respects the powers with which the commissioners are clothed, they are utterly unlike. When an ap-

plication is made to a commissioner, and a man is brought before him, and to be a fugitive from labor, he hears and decides the case. He sends him, if you please, from New England to Texas. I do not know but that a man might claim another as a fugitive from labor who was an apprentice. The very first man, if you please, of the State of Virginia or Georgia, might find some one coming and claiming his son as an apprentice, for service due in California; and the commissioner must send him there. You will observe, the commissioner does not, in this case, send back the man; he does the fugitive from justice, for the purpose of taking his trial in some court. He sends him definitely; it does not look to any court. It is not a ministerial act, preparatory to a trial anywhere. It is not a step preparing him to be tried by any court. It is ultimate, definitive, to all practical purposes. Our people look upon this as different entirely.

Mr. MASON. The Senator will allow me to make an inquiry of him. I understood the Senator to say that there were powers conferred on these commissioners. No. I said which had not been conferred upon the judicial officers mentioned in the act of 1793.

Mr. COLLAMER. I did not say so.

Mr. MASON. Well, I understand the Senator to say that that power is conferred on these commissioners to adjudicate. No. I ask the Senator, power to adjudicate what?

Mr. COLLAMER. Whether the man is a fugitive from labor or not.

Mr. MASON. The Constitution of the United States says that a person held to labor or service in one State shall escape into another, he shall be delivered up upon the demand of the claimant.

Mr. COLLAMER. To whom the service is due.

Mr. MASON. Upon the demand of the claimant to whom the service is alleged to be due, or is due.

The requirement of the Constitution is, that if a person held to service escapes, he shall be delivered up to that person to whom the service is due.

Mr. SEWARD. On claim.

Mr. MASON. He shall be delivered up, not to the person to whom the service is due, because that would be that inquiry; but he shall be delivered up to the claimant. Now, I would submit to the Senator this: what does the Constitution submit to the party who is to adjudicate? Does it submit anything more than the question, whether the alleged fugitive was held to service in the State from which he escaped? Does it submit an inquiry whether he was rightfully held to service, or does it submit the single question, was he held to service, whether rightfully or wrongfully, and did he escape? Having had something to do with the law of 1850, I aver that that law submits to the judicial authority, in the inquiry: was he held to service? without inquiring whether he was rightfully or wrongfully held—was he held to service, and did he escape? If it is found that he was held to service, and did escape, the Constitution requires that he shall be delivered up, and the law says so. That is the whole of it.

Mr. COLLAMER. All that does not relieve the subject at all. The gentleman all the while seems to presume that no man can be taken up under the law, unless he is a runaway slave. That is an entire assumption. A man, and especially a colored man, in New England, who never was out of the State of Vermont, might be claimed as a slave and arrested and brought before a commissioner. Those are the people who are trying to protect, and those are the people who are bound to protect, and those are the people whom our law is meant to protect. The gentleman from Virginia may state it as formally as he pleases; after all, has not the commissioner to decide this: was John De Witt standing before me, or was he if the gentleman pleases, not *de jure*—I do not make that point, but I am putting it on his own ground—bound to service, under the laws of Virginia, to the honorable Senator from Virginia? Were you, or were you not? That is the question. I do not say that the commissioner is to inquire an inquiry of whether the law that bound him was good or not. That is not the point I am at, but when he is claimed to have run away from

Texas as a fugitive slave, and he is brought before the commissioner, the question for the commissioner is, is this man a fugitive slave? and if he decides that he is, he goes to Texas into slavery without any trial, and without a trial. That is not a preparatory step; that is not ministerial; that is not introductory to some other proceeding; it is definitive, practically final.

Our people dislike this feature of the law. It submits to the commissioner the question as to identity of the man claimed, whether he is a man bound to service or not. I do not say he is to decide whether the man was rightfully or wrongfully brought to service; but I mean he is to decide whether he was the man that engaged in the fugitive—and if he is, what then? Are you to take him back, as you would a fugitive from justice, for a trial? Not at all. That is the trial, practically the only trial. Our people look upon that as a different thing. They did indeed provide as the gentleman from Georgia charges, and I desire to turn attention to that. He complains, in the appendix to his speech, that

“Vermont pledges the whole power of the State to maintain the claim of the slaveholder.”

No more things. It does provide.

Mr. MASON. If the Senator will allow me to interrupt him—I will not unless it is agreeable to him—I wish this thing right as far as the law for the reclamation of fugitive slaves is concerned; and I do not care for any distinction, any difference between the honorable Senator and myself. The honorable Senator says now that I reason upon the law as if it was a law made to reclaim fugitive slaves, but that I do not reason upon it as if it might possibly be construed to one who was not a slave. Now, the Constitution says nothing about slaves, nor does the law.

Mr. COLLAMER. I used the shortest term, Mr. MASON. Very well. The law follows the Constitution. The Constitution says that

“No person held to service or labor under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.”

The law follows the Constitution. Its provisions are these, very briefly: upon the proofs to be adduced by the claimant, if it shall appear to the judicial officer in the State where the fugitive is arrested, that he was a slave, or laborer in the State from which he escaped, and that such service or labor was due to the claimant, he shall be delivered up on the faith of the Constitution—no inquiry whether that service or labor was rightfully or wrongfully due.

Now, the honorable Senator says that it is final; that it is not, as in the case of a fugitive from justice, preliminary only as to the guilt, but it is final. Final, how? Does that honorable Senator mean to intimate that there is a State of this Union where African bondage is recognized—and to one of those States this fugitive slave must be reconveyed—where the most ample, plenary, redemptive provision is not made to give every negro who is claimed a slave, the opportunity, without fee or reward, to have the question tried, there whether he is a slave or not? If that be true, the proceedings of the commissioner may be final or not, as the case may be. If the person is really a slave, who is considered to be his master, it is final. If he is not a slave, let him be taken wherever the sun shines upon a slave State, to make a complaint anywhere, in any village, at any cross-road, or on any highway, to the neighbors, that he is a freeman, and they will tell that honorable Senator, if he does not know it, that there would not be a voice in that whole community that would not insist upon his being remitted to all the privileges and securities which the law gives him—to a trial which is provided for at the public expense—to decide whether he is a slave or not. Those are the facts.

Mr. COLLAMER. I choose to make no issue with gentlemen from the slaveholding States in relation to the generosity, liberality, or anything of that kind, of their country. I am free to acknowledge that I think they are generally quite as frank and liberal people as any, and I think they are a great deal better than their institutions. Their intentions I regret, the goodness of the people I do not. I think the commissioner's decision was final to all practical purposes. I know Dr. Johnson said, when there

was talk of starving men, and when it was said a man was free who was in a starving condition, “So is the city coffee-house free to furnish a man with a good dinner, if he has the money.” I said this was not preliminary to any suit, I say so now. I can be easily understood in that. If you desire to understand me. When you enter a regular complaint against a man for a crime, and you send to another State to bring him, it is to bring him into court to answer to that offense charged against him in a proceeding already instituted and pending in a court. When I say the order to return such a man, for such a purpose, is preliminary; but when you come to a fugitive due labor service, it is the action of the commissioner a step preliminary to anything of that kind? I do not say there could not be a suit brought afterwards by the man who is carried away as a slave to Texas—

Mr. MASON. I will not interrupt the Senator hereafter. If I will state that quarrel upon the Constitution, I will not defend the Constitution; but I insist upon the quarrel being fastened upon the Constitution, and not upon the law.

Mr. COLLAMER. Well, I choose to make that a point. I am not like the man who when the sermon did not please him, found fault with the text. I shall not find fault with the text any. [Laughter.] Certain it is, then, that no law, preliminary in any direction, that has no preliminary proceeding, can be made so that that man can bring an action after he is carried away to Texas. I mention Texas simply because it is one of our most distant States. He is carried away to Texas, an entire stranger, and after poverty and destitution. Perhaps he could assert his rights there, but he would be much like the man getting his dinner at the city coffee-house, if he had any money to buy it. The court being open does not assist him any. Besides he is not taken to Texas, all his to there. All his to there in Vermont or Massachusetts where he was born.

The whole of these arguments go on the ground that gentlemen from the South really suppose, they have at all times on their minds, that nobody else is concerned but a fugitive. They are not safe that way, and our people have made some laws with a view to the security of their citizens on that account. They were not satisfied with leaving the question entirely to these commissioners, and the Senator is right in that; but with no judicial powers in them; who are not subject to impeachment or trial. They were not satisfied with that condition of things. They did not like the law; but that was not all.

Another crime came. Some time afterwards it was regularly decided by the Supreme Court that the descendant of an African negro was not entitled to any rights which white men were bound to respect at all. Suppose a man comes after a fugitive slave, as you choose to call him—perhaps one of your race stealers in the southern States may come North, and steal easier there—he gets a description of the man, and gets affidavits in due form, comes into the New England States, or New York State, and makes a complaint, and a man of discretion; takes him to a commissioner, a stranger, and adduces his proof. How can we be safe? How can our people be secure against such; especially, I say, when it was held, as I have said, that the rights of the man are not at issue; this; if you come and get a fugitive slave, all right; if you get a man that never was a fugitive slave at all, it is just as well, because he has no rights that you are bound to respect.

So we saw, from step to step, that there was no security for our colored population whatever, except what the State, in its utmost utter imbecility, might give. Now, I can say, that whatever statutes have been passed, so far as my State is concerned, I believe were intended with no intention to stand and break down this provision of the Constitution. They may run counter to it; they may leak, upon their face, as if they were intended to do it; but our people always expect their laws to be subject to the Constitution. They expect that the courts, in their construction, may say the United States will set aside as void any law they make that contravenes any provision of the Constitution. They expect that, if they do not put in the words, “subject to the Constitution of the United States,” in their laws, they may say further to gentlemen, that if there be any such statutes in Vermont as do contravene that provision,

they will be as readily decided to be unconstitutional, I venture to declare, by the supreme court of that State as they would be by the Supreme Court of the United States.

I know, Mr. MASON, that the supreme court is chosen annually by the Legislature, but they make no distinction amongst parties. The present chief justice of that court has been upon that bench for twenty-three years, always a Democrat; a Democrat to begin with, and is now and always has been, and I am afraid always will be, for he recently published a letter in favor of the whole programme. His sentiments are well known. We expect our laws to be decided constitutionally by the Legislature, by our own courts, and especially to abide by the decisions of the Supreme Court of the United States. We have no expectation of making any war on them. If it should happen that any of our laws are really unconstitutional, I hardly think that it lays the foundation of charging men with perjury and invecitive that the English language can furnish, because we may happen to be mistaken.

Sir, I do not think I need pass a law, that a man who resided in the Indian territory in that State, by license of the President, and by consent of the nation, as a missionary for a long time, should not be allowed to remain there without license from the United States, and that finally a penitentiary offense if he did, they took a citizen of Vermont and imprisoned him in the penitentiary. The Supreme Court of the United States decided that that law of theirs was unconstitutional. The gentleman Mr. COLLAMER says that, after all, the man did not get certified, so that the court of Georgia did not disobey it. True it is, that that man, with the other gentleman in the same position, was given very distinctly to understand that he could get out of prison in that way; but he would see that his prosecution he might be pardoned; and as the only hope to get out they did cease, and they were pardoned. Now, sir, I do not think that the court of Georgia should have impugned it, and had desired to improve on the decision of the court.

Mr. WIGFALL. I merely wish to make a suggestion. The Senator has had the floor for three hours.

Mr. COLLAMER. Since half past one o'clock we have quite two hours and a half.

Mr. WIGFALL. Three hours.

Mr. COLLAMER. Two hours and a quarter. Mr. FOSTER and others. Two hours and eight minutes.

Mr. FOST. My colleague commenced at twenty minutes to two.

Mr. WIGFALL. We shall not dispute about time. If the Senator would as soon conclude his speech at another time, I would suggest to him (of course if it be agreeable to be relieved) that he allow us to take up a bill in which I feel at least some interest.

Mr. COLLAMER. I am sorry to disappoint the Senator; but it is so late in the day, that I think it would be effected with that bill if it be taken up.

Mr. WIGFALL. I think we can dispose of it. Mr. COLLAMER. I had better finish what I have to say.

Mr. WIGFALL. I should not have made the suggestion, except that I understood the Senator to encourage it.

Mr. COLLAMER. That was some time ago. It is so late now, that I think I had better go on. Mr. President, I cannot but here say, that to my mind the fact of a State passing constitutional laws, furnishes no foundation for what gentlemen claim, even if the laws of which they complain were really so. I deny that any State in this Union has the foundation for a dissolution of the Union by passing unconstitutional laws. The doctrine of the Senator from Georgia is, that if a State, or several States, pass laws contravening the Constitution of the United States, and which, if you please, are injurious to others; in that case, the Union is broken, and the other States are at liberty to treat it as vacated wherever they please. I deny that doctrine. I deny, in the first place, that the States, as several States, entered into this compact. That, however, is repeated so often that it is almost worn out of the mind of the people. When a State acts, it acts in its organized capacity, by its organs, by its Legislature, or by

is Executive. There never was one of the States of this nation that acted in that way in the adoption of the present Constitution. The people of the United States, meeting in the conventions in their several States, adopted the United States Constitution. The States never acted on it as States. It would be a paradox that they should have acted as so. How could the Legislature of North Carolina, for instance, invested as it was, at that time, by the people with the power to levy and collect duties upon imports; how could the State, in its organized capacity, through that organ delegate that power to another body? It could not be done. It never was. It never was attempted to be done. The people of the United States had to meet in their several States in their original condition, as a people in convention, for these reasons: first, it was more convenient; next, if the people of North Carolina had invested their Legislature with the power to levy and collect duties, the people of North Carolina alone would have the power to invest that in another body; to wit, Congress. If you called the whole people of the United States, it would be a different set of people to take that power away from the one who gave it to us, as it is in fact, that this is in that sense a Confederacy. It is a national Government. I say it is a national Government, operating by its own act on individuals, and enforcing its own laws by its own executive power. The old Confederation was a failure. This is a national Government.

If these things be true, can it be possible that any State in this Union can dissolve it, or, if you please, lay a foundation for others to dissolve it, by passing unconstitutional laws? It is utterly destructive of the whole principle of the Government. There is no foundation for it at all. Then I deny that, because laws may have been passed, mistakenly if you please, that were unconstitutional, against the United States Constitution, as a foundation for a dissolution of this Government. But there is another very strange thing in all these assertions; and that is, that upon a certain contingency, the election of a Republican President, the Union is to be dissolved on account of those laws. Pray, what relationship is there between the two? It is utterly absurd. No man telling another, "If you had not caused me to-day for my insolence, I would have paid you that debt a month ago." [Laughter.]

The next point made upon us is, that it will not be good to write to the Republican party to leave the Government, because gentlemen say we are going to break down the Supreme Court. There is another principle of our party mentioned in this connection, and that is, that we are going to exclude them from the Territories. On this last point I have already said all that I wish to say. This is exactly what has been done from the beginning. It is the very thing the Government was made for. Now, in relation to breaking down the Supreme Court, I have but a few words to say.

It is always understood, as a lawyer, that the judges of a court are judges of the law, and of the law and principles—no more. It is binding upon the parties to the suit, and upon all who claim under them, who are privy to it. There it ends. The judgment of a court of competent jurisdiction is to be treated as that of a court, and there it stops. In the United States, I take it, we never were a party to the Dred Scott decision, nor a privy to it in any legal sense. Then it has no binding force, as a judgment, on the United States. Should it have any force as a precedent or authority? It is a political question as to the power of the Government to forbid slavery in the Territories. That is a question relating to the exercise of the political power of a coordinate branch of the Government. If that is not political, I do not know what is. Well, now, how has that always been viewed?

Some years since, the Supreme Court has deliberately decided that the Bank of the United States was constitutional. The Democratic platform, I believe, even in the last version, following its predecessors, contains an express resolution to repeal an unconstitutional law. Now, how is it understood, by that party at any rate, that a decision of the Supreme Court on a point of that kind is good for nothing at all, unworthy of any respect, and that their own party decisions in their platform are of higher authority, more validly, and more binding than the Supreme Court's decision about that. It is a matter, between them and

the court. I take it, however, as authority, and it seems to me that, at any rate, gentlemen who speak upon these platforms ought not to insist much on the decision of the court.

But, Mr. President, the Dred Scott decision, as a precedent—and certainly that is its only effect on us in point of law—I take it, is neither infallible nor inescapable. I hardly think any gentleman will stand away, and say that he doubts the decision of the Supreme Court, as precedent and authority, that we should bow down to it as we would to the inescapable dispensations of Divine Providence; or that we should even say blasphemously of it, "The Lord has given, the Lord has taken away; blessed be the name of the Lord." This will not be claimed, I apprehend. Then it is to be examined; and its worth as a precedent depends on the soundness of the arguments that sustain it and the principles on which it stands. If it has any weight, it is that; and, by the way, if the arguments are good to sustain the principle, they would be just as good without the decision of the Supreme Court as with it.

Now, Mr. President, I wish to examine this decision of the Supreme Court a little. They say upon the ground of expediency to show that the power of the Government over the territory before the Mississippi, territory which was not owned at the adoption of the Constitution, does not arise and exist under the territorial clause of the Constitution, and so that the Congress cannot make all lawful regulations. I care very little about that. I think it is totally unfounded in its reasons on that point. But I care very little about it for another reason. The court say that there is, after all, a power in this Government to obtain territory by conquest or treaty. They further say, that there must necessarily be, incident to that power and to the power to admit States, authority, when the Government has acquired a Territory, to frame a Government for it, so as to pass it through a congressional Constitution, and accept it as a State as States. I care very little whether the power came from that clause or not; they say there is that power, any way; and they say that, in framing the laws for that purpose, it is in the discretion of the Congress to make such regulations as they think proper to say what form of government they shall give it. They say further, that the territory being a part of the United States, "the citizens enter it under authority of the Constitution, with their respective rights, interests, and claims." But they say that Congress has power in the discretion of Congress, and that, of course, they are to frame the form of government in such a way as they believe will best advance the interests of the whole people.

They then spend some time discussing whether, in doing that, Congress can exercise any powers except some that are delegated expressly by the Constitution. I look upon all that part of the opinion as mere talk, because they say that the Constitution has not delegated to Congress any power to govern the territory obtained after the war; and, therefore, that that must be incidental to their power to obtain territory. Of course there is nothing in the Constitution by which it is said what the forms of power shall be that they shall exercise there. But they then come to the fourth question, "How do they get it?" In this way, they say, in the first place, that slaves were property, so recognized by the Constitution; in the second place, that everybody has a right to go to the Territories with every kind of property; and, in the third place, that to prohibit their doing so, is to violate the fifth amendment of the Constitution, which says that no person shall be deprived

of life, liberty, or property, without due process of law.

In making up this syllogism, each proposition in it, whether major or minor, and the ultimate conclusion, are equally important. In the first place, then, are slaves property? The court utterly disregarded their own decisions on that subject in making this. I think if anything can be established from the decisions of courts it is that slavery exists by local law, confined to the territory over which the law is operative; and if persons hold in slavery go out of and beyond that territory, they are no longer slaves; and if slaves are property by the law within that territory, they are not slaves in it in relation to this point, whether slaves are property beyond the States; recognizing them, I deny the major proposition, to begin with. I say the very language of the Constitution implies the contrary. It says that if a person holds to service under the laws of one State escape into another, he shall be returned. "Held to service"—how? Under the laws of a State. "Held to service under the laws thereof," is the language.

When that man bound to be service in one State escapes into another State, is property there? Can the master then take him there, and confine him there, and sell him there, and use him there? If he is like other property, and the Supreme Court says it is precisely the same as other property, all that would be true; but we know it is not. That provision of the Constitution to the States all laws of other States that would release him from the service void; that is all. It contemplates that such laws might be passed, but says they shall not have that effect. It does not disengage him from the service in the State where he belongs, and only provides for the man being surrendered up and taken where he belongs, and where he owes the service. The Supreme Court of the United States, in the case of *Prigg v. Pennsylvania*, decided the very same thing. They in so many words decided that slavery was a mere local matter; it will cite their very words.

"The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of territorial laws."

What did the Supreme Court do with that decision of theirs when they decided the Dred Scott case? Never said a word about it; utterly disregarded it; never even explained it; never qualified it at all. I hold in my hand the authorities, as collected by Mr. B. B. Bennett, on Colonial and Foreign Laws on the subject of the conflict of laws with regard to slavery. I will not read it at length, but here and there. I hold, first, that at common law, by which I mean the common law of England, slaves could not be held at all. They never were held lawfully in England. When the question arose, it was at once so decided in *Sommersett's case*. I know there had been an opinion given before that time, when a question arose in relation to their navigation act, whether, under the navigation act, slaves were merchandise. It was not decided by any suit, but an opinion being called for by the jury council, an opinion was given that they were, and therefore, foreigners could not carry on the slave trade with the British colonies; they wanted it all themselves. It was not decided in England, but it carried their negative on the colonial laws. They disagreed to them whenever the colonies attempted to pass laws against the slavery carried there under the Assiento contract, which the gentleman [Mr. BENJAMIN] well understands. It was a profitable business to the trade of England; and, whenever the colonies attempted to get rid of it, they immediately interfered. By the colonial charter, the King in council, had a negative on the acts of the colonial Legislature. Sometimes they were negative in that way; sometimes acts were passed effecting the same thing. In short, they carried the slave trade and the holding of slaves on the colonies by statute. By their power to regulate trade, they forced it upon the colonies when it was always against the common law. Such was clearly the case as laid down by the British courts, carried by Burke. In one case they passed a law, from time to time, statutes to aid and encourage the trade. He says:

"Sir John Hawkins was the first Englishman who, in 1602, introduced the African trade, and carried on his ships in Africa, and transporting and selling them for slaves in the West Indies. In 1609, a Dutch vessel carried a cargo of slaves from Africa to Virginia."

After that was the opinion under the navigation act. He says:

"The Legislature of Pennsylvania, when a British colony, passed, on the 17th of June, 1773, an act to prevent the importation of negroes and Indians into that province. It was disavowed by Great Britain, and was repealed by an act of Queen Anne, on the 20th of February, 1773."

"In 1763, the Governor of Jamaica informed the Assembly of that island, that, consistently with his instructions, he could not give his assent to a bill, which had three times been read, for limiting the importation of slaves into that colony. In 1773, the Jamaica Assembly attempted to prevent the further importation of slaves by an act, which was passed, and for that purpose passed two acts. The merchants of Bristol and Liverpool petitioned against their silence. The board of trade made a report against them. The agents of Jamaica was heard against that report; but upon the recommendation of the privy council the acts were dissolved, and the disavowal was an act of disavowal. The instruction to the Governor, dated the 29th of February, 1773, by which he was prohibited, 'upon some pretext or other, from his government,' from giving his assent to any act by which the duties on the importation of slaves should be augmented."

The same author declares:

"Upon the disappearance of slavery in Europe, it continued in America. The great Powers, England, France, Portugal, Spain, and Portugal, some of whose heart of the freedom of their institutions, exerted all their energies and authority to introduce and maintain it in their colonies, by means of the African trade. The colonies themselves were employed, and their subjects invited and encouraged to fill their colonies with slaves. We turn with disgust from the various expedients by which the colonies endeavored to secure to themselves the monopoly of this odious traffic, to the revenue which was derived from the sale of the slaves, and the merciless perseverance with which England and France uniformly resisted every attempt on the part of their colonies to check its progress."

"To the existence of slavery in their colonies, the parent States gave the fullest and most active encouragement. Under the sanction of their laws, the desecration of their courts, slaves became property. But within they sanctioned, encouraged, and recognized the legality of slavery in their colonies, they disavowed its existence in their possessions in Europe."

This was not peculiar to England, but extended to the other nations mentioned by the author.

Mr. BENJAMIN. Will the Senator permit me a moment? I ask him just there, whether the author cites any authority showing that the English Government discouraged slavery in England at the time these colonies were in dispute with them—whether he cites a solitary authority or historian?

Mr. COLLAMER. I will read:

"There exists, then, a *status* which is legal in the country in which it is established, and which is not so in another country in which the same may have been."

"In this conflict there has been a uniformity of opinion among jurists, and of decisions by the highest courts, giving no effect to the *status*, however legal it may have been in the country in which the person was born, or in which he was previously domiciled. If it is not recognized by the law of his actual domicile."

"This principle was adopted by the emperor's council of Mechlin as the established law. In 1631 it refused to issue a warrant to take up a person who had escaped from Spain, where he had been bought and legally held in slavery."

"Although the *Edict of April, 1635*, and May, 1635, had recognized the title of slave and of legal property. As the colonies of France, yet within that kingdom it was illegal."

Mr. BENJAMIN. The Senator perhaps does not understand the precise question I put to him. If I understand him aright, he says that that author declares that, although the English Government established slavery, and forced slavery on its colonies on one continent, it did not recognize slavery at home, and slavery was not recognized at home.

Mr. COLLAMER. I did not say disavowed.

Mr. BENJAMIN. He refused to acknowledge it.

Mr. COLLAMER. Certainly.

Mr. BENJAMIN. I ask for the authority for that.

Mr. COLLAMER. It is frequently the case in the world, that a man is wronged, and has no redress, right for the time being, until justice and the proper tribunals of justice are appealed to. That proves nothing. It is when the competent authorities are appealed to and a decision is made, that we begin to ascertain what the law is, and what the rights are. As to what the gentleman asks me, now I will read to him further from the same volume:

"In 1729, Sir P. York, then Attorney General, and Mr. Talbot, the Solicitor General of England, gave their opinion, that a slave, by coming from a foreign country, either with or without his master, to Great Britain or Ireland, did not become free; and that his master was entitled to sue for right in him was not thereby determined or varied."

That was not the decision of a court; it was the opinion of the Attorney and Solicitor General:

"This opinion was acted on. Slaves who had arrived

in England from the British colonies were bought and sold publicly in the cities of London, Bristol, and Liverpool, and in the year 1771, when the negro Somerset's case was decided, it was said there were at least fourteen thousand slaves in London."

That was without law. They got there, as the author says, by virtue of the opinion expressed by Sir Philip York, who had no judicial power whatever.

The report of King's Bench in that case distinctly and expressly recognized the principle that the status of slavery was a municipal relation, an institution, therefore, confined to a country, and that it was not a relation which existed in a country where such municipal relations did not exist. The negro, making choice of his habitation in England, did not subject himself to the laws of England, and was therefore entitled to the protection of the laws."

A few years afterwards the case of Knight vs. Wedderburn was decided by the House of Lords in Scotland. The master claimed Knight as a slave, but the court adopted the principle that slavery was not recognized by the laws of that kingdom, and was inconsistent with the principles thereof; that the regulations in Jamaica concerning slaves did not extend to that kingdom, and repelled the defender's claim to a perpetual service."

That, it will be observed, was when Scotland was an independent kingdom. In a more recent case, Mr. Burge says:

"It has been applied when the person has placed himself under the power of the country in which the status existed by law, and became subject to the law of another country whose institutions did not recognize that status."

That was where he went on board ship, and the ship carried him off. I also cite the case in the second Barneall & Creswell, decided by Chief Justice Best, where the whole subject is very fully explained, and where the same decision is in the case of Somerset's case. A next case did not merely that case, but was decided by the Supreme Court of the United States. I have already alluded to *Prigg vs. Pennsylvania*. There is also a case, *Prigg vs. Massachusetts*. There is also a case from the State of Mississippi. Mississippi had forbidden the bringing in of slaves there for sale; but if they were personal property, as the Supreme Court say in this case, the same as other personal property, the States could not regulate the trade in chattels of any kind between them. I take it, if slaves be property at all, they are personal property; for the Constitution says they are persons, and you say they are property. The States have no power to regulate trade between each other. The Supreme Court of the United States were appealed to on that subject, and they said that the power was vested in Congress to regulate trade between the other States and the State of Mississippi, and that no State could regulate the sale of the property of another State within its territory. The Supreme Court, however, sustained the right of Mississippi to do what she did, clearly because slaves were not like other personal property. The States, court said, had the right to prohibit their sale. In a case in Kentucky, *Ranckin vs. Lydin*, in second Marshall, the words of the court are:

"We view this [slavery] as a right existing by positive law, and not by natural law, without foundation in the law of nature, or in the unwritten common law."

I do not wish to elaborate this point any more. Mr. MALLORY. Will my friend from Vermont permit me to draw his attention to a single Slave Case, the case of *Wright vs. Town of Mass.* The Somerset case, and it has been referred to in great deal on the other side of the Chamber. I have not a very distinct recollection of it, but I will ask him whether, in that case, which is recognized here, Lord Stowell, the sole question before the court of King's Bench was not as to the right of any man to take another one out of the realm of England without his authority or the authority of law; and whether the principle that a slave, by coming from a foreign country, did not become a slave because he was brought to England was mooted there at all?

Mr. COLLAMER. The gentleman seems to have put together in his mind the case of the slave *Wright*, and the case of *Wright vs. Town of Mass.* The Somerset case, that was before Lord Mansfield. The Somerset case was clear and distinct enough. The fact was, if the slave was the man's property, he had a right to take him. So, when the case of *Wright vs. Town of Mass.* came on, no distinction of that kind can be made. He had a right to take him away if he was property, but the court decided he had not. It is true that, in the case of the slave *Grace, before Lord Stowell, a question arose as to what would be the effect of*

returning voluntarily into the master's service in the State where the service was legal, and in this case, where the service was not, and had been in England or France. Lord Stowell said that, if the servant *Grace* returned with her master, voluntarily, to her former status, she would be a slave still in Jamaica. I think that was the decision. That has been the case in the Supreme Court. The Supreme Court, I believe, decided that in the Kentucky case of *Graham vs. Strader*; and if the Supreme Court, in the *Dred Scott* case, had simply confined itself to the point that *Dred Scott*, wherever he was, was a slave, and went back with his master to Missouri, and thereby returned to his former status, no man would ever have made a word about the decision at all.

There is another distinction about it, made by Lord Stowell, and made also, in a case in *Pickering*, in Massachusetts; and that is, as to whether the State or country into which the man goes, forbids slavery absolutely, or whether it only forbids the master from using power, as a master, over him there. If it is the latter, and voluntarily returns, he waives that; but, if it is the former, and the slavery is declared absolutely void and ended, then the return would not affect it. That is, however, a nice distinction, which it is not necessary to go into here.

The next point in the syllogism is, that slaves, being property like any other property, their owners have a right to go to the Territories with them. What is that founded on? I have no doubt that slaves are not property, though, perhaps, they may be called such where slavery is authorized by law; but even if they were, how does this follow? What is the reason that the slaveholder has a right to take his slave there? You say the Territories are not property, and are not the property of the several States. That is not true. It belongs to the people of the United States. If it belongs to the people of the several States, each several State would have a right to a proportion of it; and if it belongs to the people of the United States, they would have a right to their proportion of the money. Clearly so, if the General Government holds it as a mere trustee for the States, as *trustee* trusts. Now, how idle is that. Here you have a man who has the right to go there with his property, because each man has his share in the land; and the next day we admit it as free State, and there is not a quarter of the land sold. Now, according to this doctrine, a slaveholder has a right to hold his property, and there it is. It is a most palpable inconsistency. The assumption that the several States have an interest in the land there, is not true. The whole theory of it is founded on a wrong doctrine.

In the next place, it is said that, inasmuch as slaves are property, and recognized as property by the Constitution of the United States, (which argument I have already answered,) if we do not allow the owner to go there with them, it is an infringement of their rights, and a breach of the fifth section of the amendments of the Constitution, which declares that no man shall be deprived of life, liberty, or property, without due process of law. It is a curious fact, that the extremes of slavery are the extremes of property. One man says he cannot permit slaves to exist in a Territory at all. Why? Because, he says, you cannot deprive any man of his life, liberty, or property, without due process of law. Now, if you permit slaves to exist in a Territory, you deprive a man of his liberty. I say you do not. I do not understand that when they allowed slavery to continue to exist in Louisiana, they deprived any man on earth of his liberty. It was a question of property, and not of liberty. It was to be taken, as they did, into Mississippi from Georgia, did they deprive any man of his liberty? No; he was deprived of it before. So the opposite extreme of the question is not only the Constitution to support their doctrine in a Territory, you prohibit slavery in the Territories, but cite the very same words. They say you cannot prohibit it, because it will deprive the owner of his property. The others say you cannot allow it, because it will deprive the owner of his liberty.

The fact is, neither is well founded. When the Missouri compromise law was made, there was not a white inhabitant, or black inhabitant, in all that vast uninhabited region, north of that line—not a settler in it. When the line was run, and

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it was provided that no slavery should be admitted, I want to know if there was a slaveholder in the United States that parted with any of his slaves? Was there a slaveholder in the United States whose slaves were confiscated? Was there a slaveholder in the United States whose slaves were set free? I do not say that the adoption of the Missouri compromise line confiscated any one's property; or, in other words, deprived a man of his property without due process of law? It does not deprive any man of his property at all, with or without process of law. You have laws in your own States—Virginia has one, said, I think, Maryland; most of the slave States, and many of the free States—against bringing in blacks, and especially slaves, for sale; they forbid it. Does that confiscate any of the property of the slaveholders of Maryland, or any other State? Not at all. Does it deprive any man of his property? Certainly not at all.

I have stated all there is in the Dred Scott decision. The only reason given in the world, the only one suggested, why Congress cannot forbid the taking of slaves into the Territories, is that it would infringe that article of the Constitution, and deprive some man of his property without due process of law. It is a mere assumption, totally unfounded; for, when the act was made, it did not deprive any man of his property, and could not, ever, ever could.

Mr. President, when we consider that this court have utterly disregarded their own decisions, have made assumptions on which they have founded their opinions, which are thus utterly inconsistent; when we examine this decision in the light of its own premises, I say it is not entitled to respect, even as a precedent; and further, in all this there is no intention to break down the Supreme Court. They have disregarded their own decisions in making this. I take it they will disregard them when the case comes another. They have certainly the power to make another.

And now, Mr. President, I will bring my remarks to a termination. The whole question is, in effect: shall we restore the compromise line? Is not that peace? Was not peace while it existed? Is not that peace? Is it not the harbinger of repose? Is it wrong? Is it outrageous? Is it any violence? It is simply to bring back things to where they were; and all I can say now, that if the Republican party is true to its purposes, and can effect them, it will effect that peace, even to the South—for I do not believe they ever asked for that repeal, or ever wanted it. I believe it was altogether the exertion of politicians and a scramble for the Presidency. If anybody, by that repeal and that Kansas-Nebraska bill, will ever get to be President by virtue of it, and succeed, in the purposes for which it was entered upon, I am inclined to think that so far from being secure, it will only add another evil to come out of this box of Pandora.

Mr. BENJAMIN. It cannot be expected, sir, that at the spur of the moment, I should undertake to review, at any length, the very elaborate speech which the Senator from Vermont has delivered this morning; but there are many of the propositions contained in that speech to which I desire to make immediate answer.

Mr. JOHNSON, of Arkansas. If the Senator will allow me, I will move to postpone the consideration of the resolutions before us until two o'clock to-morrow, with a view that they may then be taken up and be heard, with the hope that if they are done, we may dispense with the hour that has been under consideration for some time—an amendment to the West Point Academy bill, which affects the State of Texas, and of the merits of which it is unnecessary for me to say a word. With the consent of the Senator from Louisiana, I will make that motion.

Mr. BENJAMIN. I should observe to the Senator from Arkansas that to-morrow has been set apart for private bills.

Mr. JOHNSON, of Arkansas. Then say Saturday, at one o'clock.

Mr. BENJAMIN. On Saturday the Senate

will not be willing to be here. I would rather go on with what I have to say now, and then we can take up the bill of the Senator from Texas afterwards.

Mr. JOHNSON, of Arkansas. I am certain the Senator from Louisiana will do great justice to the subject on which he speaks, and I sincerely desire to hear him; and when he shall speak I hope to catch every word that falls, such is his character in speaking, and so clear are his views whenever he presents them; but I would be glad if it might be deferred to another day. If not, and he insists, of course I have not one word to say.

Mr. BENJAMIN. I have no desire to make a set speech. I merely desire, on the spur of the moment, to make answer to some of the propositions of the honorable Senator from Vermont. "I think I can get through in twenty minutes, possibly thirty, minutes, and then the other bill can be taken up."

Mr. WIGFALL. I trust that the Senator from Louisiana may be permitted to go on, and I am glad to say that I do not refer to that part of the speech in which he treated of the ordinance of 1787, or thecession of the southwestern territory by the original thirteen States. In treating of that compromise, he, in my judgment, gave a false coloring to history; and I propose, so far as I can, in the very few remarks that I am able to make, to correct what I deem to be his errors.

He tells us that slavery and free labor cannot coexist in the same Territory, though they may in the same nation. In the same confederated Union he admits that we may have free and slave States; but he says that slavery cannot coexist with free labor in a Territory; and therefore he says, what more natural or more proper than the arrangement made between the different sections of the Confederacy, for a division of the territory into free and slave States? And he says also, not only was the division natural, but it was made on a natural and obvious basis by a geographical line.

Now, Mr. President, let us look back a little at things as they stood. This Territory of Louisiana, as acquired from France, was exclusively slave territory. The gentleman himself has taken pains to read to us to-day authorities which prove that the colonial system of the French nation was to fix slavery upon its colonies in this country. When Louisiana was acquired, slavery was scattered along the whole valley of the Mississippi. They existed in Louisiana; they existed as high up as St. Louis; and at the French post of St. Louis slaves were then in the service of the whites. The slavery upon which we are depending is not large portions of it into which the white man had not yet penetrated; but, wherever he had penetrated, he had carried with him the right to own slaves; and wherever he had not yet penetrated, the supreme law of the land—of that land by which it was ceded to us—recognized his right to carry his slaves, and be protected in that property.

Now, upon the acquisition thus made, when Missouri applied for admission into the Union, the question was presented to the North, and made by the North upon the ground that the territories were the common property of the nation; and they said to the South just what the Senator from Vermont said to-day: "We are brethren. Let there be no strife between our herdmen. Go ye to the right, and we will go to the left. Let us make an equal division of this Territory." That was the language held to us when the Territory was all slave territory. The South did not say then, "Let the people that inhabit the Territory decide for themselves whether they will have free or slave institutions in the Territory." If they had answered that, the North would have treated the answer as equivalent to an admission on the right to hold it all, because slavery existed over the entire Territory. But the South yielded to northern appeal. They called themselves generous; and the North, when it suits its purpose, calls them so too; and they were equally foolish—weak, foolish, over-confiding. The answer was: "Yes, you are our brethren. If you insist upon a partition of this kind, take the half, and we will be contented with the rest. Draw your line; we have a right to the whole; but we will not burst this bonds that bind us together, on any such claim as this. It is true there is a large portion of this Territory not inhabited; it is all ours; we have a right to it all for the support of slave institutions, because that is the character stamped upon it at the time when we acquired it; but take the half, draw your line, and make the line from the State of the North, and we will retain the south, and be satisfied with it."

It was upon that basis that the South has always said that the action of the North was a northern aggression—that being the assertion that to-day so astute a man as Mr. Webster makes in Vermont. It was an aggression in this: that it claimed from the South that the South should abandon a portion of territory unquestionably slave territory, and yield it to the free institutions claimed by the people of the North.

Well, sir, as it was conceded on all hands that this territory, acquired subsequently to the adoption of the Federal Constitution, belonged to the whole Union; and as the North made this appeal to the liberality and generosity of the South, and it was responded to, what was the next step in our history? The acquisition of territory where slavery did not exist—Utah and New Mexico; and then the very men who, in 1830, had told us that the whole territory was acquired by the people of the United States, that it ought to be equally divided upon a brotherly basis, these same men, in the Congress of the United States, objected to any interest of the South in that territory; insisted upon putting in the bills for the organization of those Territories a provision excluding the South entirely from the region thus acquired. They insisted that the South should have no say in the day, that because the territory had been free before, it should remain so, and that the South should have no part or lot in a region acquired by its own contribution of blood and money. The South insisted then: "We divided with you Louisiana, acquired as slave territory, and as nothing else; you said that it was fair you should have half of that; you said that it was not right nor just that the South should insist upon retaining the whole; and now, when another tract of country, from which slavery has been excluded by the free law, is brought into the Union, you claim the whole. Not so; continue your line of 36° 30', which we drew in 1820 as a compromise; keep on and divide the territory of the Union upon the principle which lies at the base of that compromise, and every slave State we have voted to continue the line, and the northern people, in a mass, objected to it, and refused to continue the principle of the compromise. It is for that reason that the South has said, and insisted over and over again, that it was the North that broke the Missouri compromise; that it was the North that failed in its faith in relation to it, because, independently of the words of the contract to which the gentleman from Vermont has referred, there was a principle that underlaid the whole of the right to take the people of the free jurisdiction in the division of the Territories between the different sections of the Union.

Again, in 1850 you agitated, you made outcry; you attacked the institutions of the South; you took advantage of the fact that the mere agitation of the right to slave property was the focal value of the property; and you kept up such a great alarm throughout the Union that the South again foolishly yielded, and it took the principle that you insisted was the right one then, to wit: that the people of the Territory should determine for themselves, when they came to form a State,

whether or not they would have slavery. You were not willing to do that in 1820, because then it would have applied to a slave Territory, where the people were all for slave institutions, and you interfered and made a geographical line. In 1850, when the Territory was inhabited by people opposed to slavery, you refused the geographical line, and fell back on the will of the people; and then when, in 1854, we were carrying out the principle you have adopted in 1850, you said, "No; we will go back to the geographical line, because it now suits us again;" and the honorable Senator from Vermont tells us to-day. Whenever a Territory of question arises, it is to be decided exactly in accordance with the wishes and with your interests, and entirely independent of precedent or of principle.

Sir, the Senator from Vermont asks, if that line was unconstitutional, going back to the western boundary of the Louisiana purchase, if it would become constitutional by being extended to the Pacific ocean? Well, sir, the question is a witty one, and that is all.

Mr. FENDELSEN. Can you answer it?

Mr. BENJAMIN. Certainly; I could not but answer it immediately. It is a question of a witty one, and that is all. The property which was acquired from France, and the other property acquired west since, was not acquired by virtue of any express provision of the Constitution; and therefore it was that the Government could not and still maintain, that there is nothing in the principles of the Constitution of the United States that vested in Congress, as a Congress, the power to pass that compromise line, and to say to the people of the South, "You shall not, north of that line, enter with your slaves acquired by interest in the Territory." But, sir, it was well understood at the time the act was passed, that it was a compromise of our respective rights in the Territory, and that we were willing to abide by the principle contained in the compromise; and consequently, the compromise was made, without due form of law, and without express authority of the Constitution, and therefore not binding under the Constitution, had been carried out in its principle justly and fairly, as far as the people of the South, when all parties were united, bound by the compact thus made between them, would have observed it, not because it was a constitutional enactment, which Congress had the right to make, but because it was a compact binding upon the good faith of all the members of the Confederacy. Under the circumstances, in my sense, that there was no express grant of power in the Constitution to make it. Unconstitutional it was as a law enacted through the authority inherent in Congress, but perfectly binding upon the conscience and good faith of the nation as a compact or compromise. It was not a compromise alone that it ever had validity, was ever treated by anybody as having validity, and consequently, if you had carried out that principle on which the compact was based, if you had gone on in the spirit which the Senator from Vermont invokes to-day, indeed, you, Republican party and the Representatives of the northern sentiment had done nothing but that fair division of the common Territory of the country, which would do equal and exact justice to both sections of the Confederacy, and would conclude, in this sense, and this clause that patriots deplore to-day could never have arisen. Urgent were the appeals made on this floor to carry that compromise line to the western waters, and forever to put an end to the slavery agitation; but no. It was a good line when the Territory was not inhabited by slaveholders; it ceased to be a proper and correct line when applied to a Territory where the people had abandoned the institution of slavery, and had no slaves which might induce them to vote for the establishment of it!

Therefore, it is that the South has been right through the whole of this controversy. Its action has been loyal, frank, liberal, and generous. Yours has been exacting, aggressive, tyrannical, and despotic. You have not cared for your constituents, you have not had a course of conduct to suit your own interests, without regard to principle; and I have no doubt that you justify it to yourselves, all of you, upon the old ground that "the earth is the Lord's, and the fullness thereof, and that we are the people of the Lord, and therefore entitled to the earth." It is

the old ground upon which New England was taken from the Indians. Perhaps it is just as good a title to take our territory from us, as there was originally to take from the Indians theirs.

Mr. FENDELSEN. Mr. President—

Mr. BENJAMIN. I am not through yet.

Mr. FENDELSEN. I thought you were; I beg pardon.

Mr. BENJAMIN. The Senator from Vermont says, further, that the Republican party desires only to restore the Missouri compromise line, which was obliterated by want of faith on the part of the South. He says if we will only agree to the restoration of the decision of 1820, the platform will be quelled, the people of the country will be contented and happy. I want to know upon what ground it is that the Senator from Vermont makes the assertion that that is all the Republican party wants or desires. If I have read aright the platform of that party, it has inscribed upon it this principle: that there never again shall be admitted a slave State into the Union.

Mr. FENDELSEN. You have not read it right; this is all.

Mr. BENJAMIN. I think—

Mr. WIGFALL. Mr. President—

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) Does the Senator from Louisiana yield the floor?

Mr. BENJAMIN. I think I had better stop. I will not quarrel with you on this. I say I should like to inquire of the honorable Senator from Vermont where he gets the authority to make that as the declaration of the principles and platform of the Republican party. I have again and again read that platform, and I understand from it nothing but the restoration of the question on a basis of irreconcilable hostility to slavery, which it places upon the same footing as polygamy, and which, with polygamy, it calls "twice relics of barbarism." I understand that platform to declare that there shall never again be a slave State in the Union. If I am mistaken in that, I must confess that the language is so ambiguous that I have been unable to comprehend it. I have not read it within a day or two; but that is the impression remaining firmly fixed on my mind.

Mr. WIGFALL. It is to exclude slavery from all the Territories.

Mr. BENJAMIN. Well, then, how can there be a slave State? Of course that is the merest quibble on earth, if that is what is meant. It is that there shall never again be any Territory in which slavery is introduced, except of course the Territories or Territories are incorporated into the Union, they shall be incorporated as free States only. There can be no other deductions drawn from a proposition stated in those terms.

But, sir, I go further; and I want to know who are the proper exponents of the northern party on this subject; whether it be the honorable Senator from Vermont, who only wants peace between brethren, that one shall go to the one side of the line and the other to the other, or the honorable Senator from New York, [Mr. FOSTER], who has just read the platform and understands it a look of great merit. The honorable Senator from Vermont, who is no honor to the party to which he belongs, still, I believe, is not considered as its foremost leader. That post is assigned by the reputation of the honorable Senator from New York, who says just the reverse of what he does. And if we look to the action of this party in its State convention, if we look to the authoritative declaration of its leaders, we cannot mistake the purpose to be to return to what the Senator from Vermont himself has said is due to have been the policy of the fathers; that is, to hunt in and smother out slavery; and the Senator from Vermont wants the experiment tried. He thinks it is not tried yet. He says that the fathers supposed that if they did not get more expansion to the west, they would do out, and have to try that. He thinks that seventy years of experience; he thinks that a multiplication and increase in the number of slaves, by which they are now over four million, instead of four hundred thousand; he thinks that a majority multiplying, and the parallelism of any other nation in the face of the earth, and that, too, continued in almost geometrical ratio for three fourths of a century, is not yet enough of a trial; it is still an experiment; and he wants to go on experimenting, to see if slavery will die out of itself in the southern States;

and yet, in a very few moments after, he said the two systems of States would exist together for some time, and, for aught he knew, for centuries to come. There was an inconsistency in the remarks of the honorable Senator from Vermont, which I pay no particular attention to, because it is impossible to discuss this question, on his side, without unfairness and inconsistency, from the very nature of the subject, it is not possible that it should be otherwise.

Now, sir, a few words about these personal-liberty laws. Mr. President, I had supposed that, if there was a Senator in this Chamber, differing from me in political sentiment, who would give a fair and candid interpretation to the laws passed by the northern States on this subject, it was the honorable Senator from Vermont who has just closed his speech. I thought that Senator would have risen in his seat and said, "It is true we have passed these laws; it is true that their every word and every line breathes their intent in unmistakable terms; it is true that their spirit is patent to deprive you of your rights to your fugitive slaves; this is all wrong; it has been done in a spirit of pure fanaticism, at a time of extreme excitement; we will undertake to reform all that; we admit the wrong; the proper mode of remedying it is not, as you are doing, threatening to leave the Union, but appealing to our sense of justice and brotherly kindness; we will undertake to protect the liberty of every citizen to do so." Not so, sir; not so. That honorable Senator, following the lead of the Senator from Connecticut, [Mr. FOSTER], and the lead of the Senator from Wisconsin, [Mr. DECATIE], and of the Senator from Ohio, [Mr. WADE], who spoke yesterday, and every other Senator, who sits on the Chamber that I have heard speak on that subject, undertakes to defend those laws by affecting—that is courteous to say so, I will change the word—by asserting that they are passed to prevent their free citizens from being kidnapped to protect the liberty of their free citizens. Well, now, Mr. President, there might be something in that assertion if honorable Senators had brought forward a solitary case in which that legislation had ever been necessary at the North; if they had shown the impress of a single freeman of the North have been kidnapped and carried South, and retained there in slavery.

Mr. FENDELSEN. There was one case, where a citizen of Pennsylvania was taken to one of the slaveholding States, and released when he got there; the impression of a single freeman.

Mr. BENJAMIN. Exactly. My question was, point me to a case where a freeman was taken as a fugitive slave, and carried to a slave State and retained there as a slave?

Mr. FENDELSEN. That makes no difference. He was kidnapped originally.

Mr. BENJAMIN. I did not say that a man cannot be kidnapped, any more than that a man cannot be murdered.

Mr. FENDELSEN. That is what we want to prevent.

Mr. BENJAMIN. I say your laws were never passed for any such thing, and the civilized world will bear me out in the assertion. They were never passed for any such purpose; and on their face, and in every line and word of them, they were the impress of a single freeman, in which they were passed. It was to prevent the South from reclaiming its fugitive slaves. Again and again does that appear on the face of the laws. The honorable Senator from Connecticut, [Mr. FOSTER], with whom I passed a few words the other day on this same subject, asserted that I had not given the proper construction to the Connecticut law. Somebody in Connecticut has sent me, within a day or two, a newspaper, in which the editor expressed his astonishment at the denial of the honorable Senator from Connecticut, who, acting on this same subject, asserted that the Speaker of the House of Representatives of that State at the time the law was passed; the editor stating that it was known to every man in Connecticut what the object of the law was, and he was astonished to hear it denied.

Mr. FOSTER. Will the honorable Senator allow me?

Mr. BENJAMIN. Certainly.

Mr. FOSTER. The statement which the honorable Senator makes on the authority of a newspaper I can assure him is not true. There is not

a word of truth in it. I was a member of the Legislature in the earlier stages of the session, but had resigned my seat, and ceased to be a member, long before the law was introduced or suggested, and had nothing to do with it more than the honorable Senator himself.

Mr. BENJAMIN. I stated to the honorable Senator the source of my information. I will furnish him the paper.

Mr. FOSTER. I have no doubt the honorable Senator states the information as he got it. My object was simply to contradict it, and to assure the Senator that he has been deceived.

Mr. BENJAMIN. I understand that the honorable Senator from Vermont, at the same time that he says that the people of the North would be willing to restore fugitive slaves, and to carry into effect any fair law, objects to this particular law on account of its provisions; and, in spite of the perfectly lucid and satisfactory explanation of the Senator from Virginia, [Mr. MASON], in spite of the reference to the language of the Constitution, the Senator from Vermont persisted in representing the fugitive slave law as giving finality; precisely, to the decision of the commissioner, and he says that these personal liberty bills were passed at the North in consequence of the decision of the Supreme Court of the United States in the case of *Prigg vs. Pennsylvania*, which first startled the North, by the assertion of a right in the claimant to take possession of his slave where ever he might find him. That is very strange because, although the Supreme Court of the United States may have so decided, and I do not recollect that it did, in the precise words before the case of *Prigg vs. Pennsylvania*, it had been decided in several northern States, and for the further reason that, if I understand the act of 1850, it does no more so far as that is concerned, than to give the provisions of the Constitution. The act of 1850, does indeed provide that the owner may arrest his slave without process of law; that the party making claim to the fugitive from service or labor may seize him if he can; but it provides that he shall take him before the magistrate. Here the liberty is taken away from the owner, and him out of the State under the law, but if he finds the individual, bound or held to service to him, he has the right to put his hand on him, to make manumission of him, and to carry him before the magistrate, in order to have the law with authority to inquire into the fact of the escape, and of the identity of the individual, nothing more. The law is that—

"The person or persons in whom such service or labor may be due, or his, her, or their agent or attorney, duly authorized by power of attorney, in writing, acknowledged and certified under the seal of some legal officer or court of the State or Territory in which the slave may be found, may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or county-clerks aforesaid, of the proper county, district, or court, for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive, where he may be found, and detaining him until satisfied with receiving such person to be taken, forthwith before such court, judge, or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner."

What is he to "determine?"

"Upon satisfactory proof being made, by deposition or affidavit, in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony, duly taken and certified by some court, magistrate, justice of the peace, or other legal officer authorized by the laws of said State and take depositions under the laws of the State or Territory from which such person owing service or labor has escaped, and upon the oath of the person or persons of other authority, as aforesaid, with the seal of the proper court or officers thereof attached, which seal shall be sufficient to establish the competency of the person or persons with proof, also, by affidavit, of the identity of the person whose service or labor is claimed to be due as aforesaid," &c.

The Senator from Vermont asks that that is precisely a final decision, and that no man can reach his point? He says that when a person is pursued as a fugitive from justice, as a criminal, it is by virtue of some process proceeding, and that the committing magistrate must send him before the court to be tried. Well, sir, a victorious officer was made by the State of Virginia; if any negro man in the South claims his freedom, it is enough; and the laws provide him the simplest remedy, and the whites all around him will aid him. The law provides that he shall be taken by force, taken from the custody of the man who holds him, and be placed beyond the reach of any cruel process of restraint. He is protected in the assertion of his freedom. The fact that he

has run away without claiming freedom, the fact that he has escaped from the service from which he fled, without making claim to freedom, is the strongest of all presumptions, almost proof positive that he admits his being legally held to service. It was also, but notwithstanding that, if there should have been anything to prevent him making that claim, he is sent back under the authority of law, under the order of the magistrate, with all proper guards, to the place from which he fled. He is put just where he was before he fled—in no worse, in no better position; and the Constitution of the United States intended that, and that alone, that the fact of the escape should not change his condition; that the fact of his escape should leave him just where he would have been without the escape, in order that there should be no conflict between the legislation of the one State and the other—that from which he escaped and that to which he fled.

The Senator from Vermont says that the South always speaks in this matter as if anybody was ever going to be chained under the fugitive slave law but a fugitive slave. Why, sir, would there be the slightest trouble on the face of the earth, in his free inhabitant of Vermont, for whom he is so tenderly tenacious—would there be the slightest difficulty on the face of the earth for the free inhabitant of Vermont, if seized as a slave from the South, to prove before the commissioner his residence in Vermont as a freeman, and that he was not a fugitive from labor; and if a case of mistake does occur—as cases sometimes will—if it is found that the case is not a case of a fugitive from labor, but one mistake has occurred in three quarters of a century, notwithstanding the constant use of the provisions of the law? Can you find me any other classes of cases in which but one mistake has been made in three quarters of a century? Would you not say that, then I will be sure that your southern legislation is directed to the safety of your own people, and not to the intent to evade your duties to us by holding our fugitive slaves, in spite of our reclamation.

Now, sir, what I have already said comprehends very nearly all that I intended to say on this subject, until towards the close of the speech of the honorable Senator from Vermont. He gave utterance to some of what appeared to me to be the most monstrous constitutional heresies I ever heard of. The honorable Senator from Vermont absolutely denied that this Government was a confederacy of States; declared that it was a Government formed by the people as a people; said that it could not be otherwise; said that it was ratified by the people of the United States, and that they were bound to obey it, in defiance of the Constitution itself, in defiance of the language of the amendments, in defiance of the terms of acceptance of the Constitution by the State of New York, the State which acted for the State of Vermont, and that therefore it is a Constitution of the adoption of the Federal Constitution. Vermont, I believe, was not a State at that time, or, at least, was not admitted to be a State. It is well known that, in New York, there was very great difficulty in inducing the people to adopt this Constitution. Nobody will doubt that, without the adoption of it by the State, it would not have bound the State.

But the honorable Senator from Vermont draws the conclusion that, because it was adopted by the people of the States, and not by the Legislatures of the States, therefore it is a Constitution ratified by the people of the United States. The answer to that is so plain and obvious that I am astonished that the suggestion should have been made. The Constitution of the United States was not adopted by the Legislatures of the States, but by the people of the States had given them no power to part with any State sovereignty. The people of the States were themselves the ultimate depositaries of the sovereignties of the States. They had authorized their Legislatures to make laws for the States, and to authorize their Legislatures to part with any portion of the State sovereignty; and consequently, when the question arose in relation to the adoption of the Constitution of the

United States, the State Legislatures, finding themselves without any authority delegated by the people to part with any portion of the sovereignty of the States, called conventions, and it was in those conventions that the people of the different States, as sovereigns, undertook to discuss whether they were willing to give any portion of the State sovereignty in the formation of the Federal Constitution; and the people of the State of New York had great difficulty on the subject. They were nearly equally divided, even when the Convention was originally convened in the year 1787.

"We, the delegates of the people of the State of New York, duly elected and met in convention, having maturely considered the Constitution of the United States of America, agreed to on the 17th day of September, in the year 1787, do declare and make known—that all powers originally and essentially sovereignly derived from the people, and that government is instituted by them for their common interest, protection, and security."

"That the powers of government may be reassumed by the people."

What becomes of the argument of the honorable gentleman against the fugitive slave law? "That the powers of government may be reassumed by the people whenever it shall become necessary to their happiness; that every power, jurisdiction, and right, which is not by the clearest and most undeniable evidence transferred to the Congress of the United States, or the Departments of the Government thereof, remains."

Not to the people of the United States, but— "to the people of each State, or to their respective State governments, to whom they may have granted the same; and that those clauses in said Constitution, which declare that Congress shall not exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution, but such clauses are to be construed and interpreted to certain specified powers, or as inserted merely for greater caution."

Now, sir, what becomes of the pretense that the States of this Union were not parties to the Federal Constitution? Consider the Government as formed by the people in mass? Mr. President, it will be observed that this branch of the argument treats of the resolutions offered by the honorable Senator from Mississippi, [Mr. DAVIS], which were also spoken of by the Senator; and that no State will constitute pretty much all that I have to say on those resolutions. Those resolutions announce principles so plain and clear, so fully in congruity with the original intent of the Constitution, with what I have always considered the understanding of the States who joined in the General Government, that I cannot conceive how argument can be made against them.

One more word, sir, and I shall finish. The Senator from Vermont repeats what I deem the legal heresy of saying that slaves are not property. I had, some twelve or eighteen months ago, a debate with the honorable Senator from Vermont on that subject; and I do not mean to repeat what was then said any further than I can avoid; but, upon that occasion, I assumed to show that, from the time negroes were first known in Europe and America, they were considered as property. Mannfield made his decision in the *Sommersett* case, they never had existed except as slaves, as I showed that they were treated as slaves, as a matter of course, by all the continental nations of Europe, nearly all those of Asia, and even in such upon the colonies; I showed that there was no law declaring them to be slaves; but they were treated as such by the open and common consent of mankind; not merely by the tacit consent of the people of England, thus giving origin to the common law, but by the consent of mankind. I showed that negroes existed in England, and were bought and sold in the market.

If Senators will look at a number of the *Tattler*, for the year 1702 I think it is, they will find a complaint of the negro Pompey, addressed to Sirs, who are the owners of the negro Pompey. Pompey complains that his silver collar is not as pretty a one as his mistress gives her dog. The negro slaves were not only held and sold in the English markets, but they had collars around their necks, and were treated as animals, and as dogs. They were not only treated as such, but they were treated as such in every capacity that that of mental servants, subject to the will of their masters. According to the admission in the *Sommersett* case itself,

him and to the Senate, that the personal of these documents has not by any means satisfied me that this regiment ought to be put in service. I will endeavor not to repeat what I said before, but to allude a little to the points which I took.

The first objection which I made to proceeding with such intemperate rapidity in relation to this matter was, that we had no recommendation from the Executive on the subject. Well, sir, to this day, we have not a message from the President recommending the communication of Governor Houston, we have no recommendation from him. In the next place, I said we had nothing from the Secretary of War to show that there had been any such thing as a recommendation of the President, or, where, which called for putting this regiment into service. The honorable Senator supposes that the Secretary of War has really recommended this for the purpose, or from the necessity of having troops in Texas. It is not so. All he does in making his communication to the Committee on Military Affairs, is simply to state that he communicates the documents called for with his own views, or an abstract of what he understands to be their subject-matter, and that the opinion of the Department as heretofore expressed on acceding to the request of the President, in relation to the amount of troops of the Army remains unchanged; but he does not say a word or intimate that he needs any troops for Texas, or for the purpose of protecting that border against the Indians or against Cortinas and his band; and as the result of it is that on the strength and faith of this difficulty in Texas, we have renewed proposition, which we have uniformly voted against and refused to sanction, to increase the Army. That is all we have from the Secretary of War; and now the question is whether it is necessary. The Secretary of War does not say that he has no troops enough to effect all the emergencies of the case in Texas itself. He only says that he requires more troops, as heretofore stated to Congress several times, for the general—he does not use the word general—but for “the exigencies of the service.”

Now, sir, it will be remarked in regard to these papers that they communicate no sort of information, official or otherwise, of any interest, arising from Indian troubles on that border. They communicate no statement from the Department of the President in reference to the difficulties upon that frontier of such an amount that the present Army of the United States is not perfectly adequate to take care of them. Well, what have we? If Senators have read these documents they will perceive what we have said, and will call the attention of Senators, for a few moments, simply to what there is in them.

Who is the man that is making this difficulty on the border? A Mexican-Texas, it seems. How did the difficulty arise? These papers say from a private quarrel, and a private quarrel growing out of difficulties among the Mexicans and the Americans on our side and the other. They state, moreover, (and it is stated in an affidavit from the clerk of the court in that region) that Cortinas is a man who has been indicted for murder in Brownsville, and although under indictment for murder, he was suffered to go at large, going into that town and going out as he pleased, under the eye of the sheriff, and not arrested, the clerk says, and another witness says, because we were so weak in our arms and carried votes, and the officers wanted his influence and did not like to interfere with him. Subsequently he got into a quarrel, and committed outrages in Brownsville. He collected a body of men, Mexicans and Americans, such as he could get, and about the same went over to the other side, and came back again.

What has been the result of all this? It went on increasing until finally his forces were so large that it brought about a collision between him and certain troops of ours. He was beaten by Major Houston, with two companies of rangers, he fled across the border, and established himself some miles distant, in a position from which, in parties of two and three, his band makes incursions. Major Hinzelman was applied to by others, to know what troops he wanted in order to protect that frontier, and he said all he wanted, after he had whipped this fellow with five hundred men under him, was two companies of Texas rangers. Those two companies were furnished to him, and he has them there. Nobody pretended there was

any necessity for any more troops, until the letter came from General Houston, now Governor of Texas, himself.

Mr. WIGFALL. The Senator from Maine will excuse me for interrupting him. I do not wish to take up time, for I do not want to speak, but I made a motion here to call on the President before Governor Houston sent his message, and I introduced it two or three days before he got his official communication.

Mr. FESSENDEN. That is not official information for us.

Mr. WIGFALL. You said nobody had called attention to it.

Mr. FESSENDEN. I said officially; nobody who has a right to act in the business had called on the Government. Mr. Floyd himself says that the accounts have been so contradictory all along, that nobody could tell what the truth was in relation to the matter. It went along thus: Major Hinzelman having under his command all the troops that he called for, and all that he said were necessary to protect the border, until the communication was made from the Governor of Texas, stating the difficulties and calling for aid from this Government; and what has this Government done? Mr. Floyd says that, since he sent the first call upon him, he at once dispatched all the disposable force of the Army to Texas, in order to protect the Texas people; and he does not say that there were not enough of them, that he wants more; but that he has done is not sufficient for my exigency, and it is not enough to accomplish the purpose, and he does not ask us to furnish him with any more troops for that purpose.

Then, sir, we have a little curious piece of intelligence in reference to this matter which makes me somewhat suspicious. I must confess. A year ago General Twiggs withdrew the troops from two or three places in that neighborhood; and he gave as a reason for it that it was not necessary they should be continued; and that there was a great outcry there at his withdrawing them; but the truth is, that this being the first call upon them for the mere purpose of the money that is there. They like to have troops there for that purpose; and they make an outcry whenever any are removed, because they get the benefit of it so long as they remain; but it is not necessary. It was until October last, when this difficulty with Cortinas arose, according to these papers, before there was any occasion whatever to change the disposition which General Twiggs had made; there were no difficulties from the Indians, or anything of the kind. Then it went on, and I have stated, from a beginning with a private quarrel among men, and getting up to a particular point, where those men are beaten and driven over the border by a small company of United States troops, aided by a couple of companies of rangers, which are there now; and since then, on the call of Governor Houston, all the disposable force that was necessary has been sent on its way there to meet these difficulties. In the face of that, we are called upon—not by the President, not by the Secretary of War, and the other gentlemen we lately took for advice in this matter, but by a man who has a right to make the call—to make an appropriation to organize this regiment of volunteers, and to put it into the field, in addition to what has been done.

The outrages have been committed; this man is driven across the border; there is a large body of troops there; and, in the ordinary course of human experience among military men—the chairman of the Committee on Military Affairs can tell me, probably—how long will it take to organize a regiment after the first call? It has been laid waste, after the difficulty has occurred? Cattle have been driven off, the borders have been stripped, say the Senators. The troops have all been concentrated there that can be spared, and enough for the purpose, if we may judge by what the Secretary of War tells us, and yet, with all these facts, we are called upon to pass this appropriation, looking forward to a period of two or three months before these other troops can possibly be put into the field. I am constrained to regard this as a strange and the disposition we have made to raise a regiment of mounted volunteers in Texas, giving employment to men who desire employment; expending a still larger amount of money, all of which is to be added upon the Treasury of the United States; resulting in the

increase, for a time, at least, of the disposable force of the Army, for which I can see no possible necessity.

All the facts that I have stated, I derive from the documents, and there are many more that bear on the subject; but I am not disposed to detain the Senate at this late hour of the evening. I only wished to call the attention of the Senate to the facts exhibited before us before they vote away, upon such grounds, in the purchase of the Texas Treasury, millions of dollars, to be expended year by year for I know not what length of time.

Mr. WIGFALL. I promise not to take up time, but to call the Senate to take a vote, and I will say in a word or two, and that in defense of the people whom I represent here in part. The Senator from Maine has been fit to allude to a part of General Twiggs's letter, dated San Antonio, March 28, 1859. I shall read it, and my comment will be as brief as the charge:

“Having an extensive frontier to guard from an enemy who was making daily incursions upon the inhabitants, and having a few troops, I, after mature consideration, determined to abandon his posts on the Rio Grande, and place the troops on the frontier.”

Then General Twiggs, for he is good for slandering the people of Texas, is authority, at least, for the number of troops that are there necessary. I say, and I regret that the Senator from Mississippi is here present, where he is, and I regret the time that he had the administration of the War Department there were as many troops on the Rio Grande as there now are in the entire department of Texas, and in the department of Texas is included all the troops north of it, and west of it that reach to the head waters of the Canadian, the Red river, and the Witham. After he passed from the War Department these troops were withdrawn by General Twiggs. I speak not of what I have heard from him, but I know what is the sentiment of the Army. I know what is the sentiment of the Army. There was, in ancient times, a building erected; and there was one who felt that he could not do likewise, but he could destroy that which had been done; and the temple of the Ephesian Diana was burned to the ground. I do not choose to mix the private quarrels between military men, and the quarrels between the Senator from Mississippi and the Lieutenant General of the Army and General Twiggs; I have nothing to do with them; but he established the quarrel, and he very clearly broke them up, and what was the result? General Twiggs shall answer for himself, and I will put him upon the stand, as he has chosen to slander the people whom I here in part represent. He says, after he has removed these troops:

“There is not, nor ever has been, any danger of Mexicans crossing on our side of the river to plunder or disturb the inhabitants; and the outcry on that river for troops, is solely to have an expenditure of the public money.”

There is the charge. Now, sir, this philosopher, with boots and spurs and cocked hat and feathers, comes to the conclusion that there has been no invasion, and there will be none; therefore he removes these troops, and breaks up the posts upon the border, and will not choose to resume the time of the Senate in reading it; but, in his letter to the Secretary of War, in 1858, some months previous to this time, he says that his reason for removing these troops in, that there is no Government in Mexico, and therefore there is no security from the Government of Mexico to judgment.” No Government in Mexico; and therefore, says General Twiggs, there is no necessity for troops on the borders.

Well, sir, in his wisdom, he came to the conclusion that the people of Texas merely wanted the money of the Government. A second time there was no danger of invasion, and therefore he would remove the troops; and what was the result? We are involved in a war. If his judgment as to that matter fails, possibly the Senator from Maine may admit that his judgment of the motives of those people is precisely the same—a failure and an error. They knew upon the lower Rio Grande that they were in danger of invasion; that these difficulties were pressing upon them, and what would follow if these posts were broken up? Hence they were hurried to choose to draw the troops. As long as General Twiggs could put his prejudice, his passion, in his pocket, he spoke truly; he had not troops enough there; therefore he withdrew them; but he could not help making a fling at those who had gone before

Mr. DAVIS. In the document you hold in your hand.

Mr. SIMMONS. I wish some one to explain it. It may be somewhere there. I have read only half through. I do not object to giving a regiment to Texas. My principal objection is that it is hurried through before we can find out what it is about. I should like to be left until we go home to-night and read the documents, and find out whether there is any reasonable cause for it. It seems that this bill is brought up as if it were sure to be effective to-morrow, if it were passed. Every time it is brought up it is the result of a long debate, when every voice is exhausted. This document, I believe, was only ordered to be printed yesterday, and I saw it for the first time this morning when I came here and began to read it. I am inclined to vote, in some form or other, for a proper measure, and I think the suggestions of the Senator from Mississippi, the chairman of the committee, are very sound ones. I do not, however, see any purpose of Governor Houston to take this matter in his own hands. I see, as far as I have read, that two consuls of Texas were ordered to meet him in the field, and were put under Major Heintzelman, a United States officer, and fought this battle with him and drove them off; and I think I read in a note from him to somebody else that these two would be enough. Perhaps I did not understand it, though.

Mr. DAVIS. I think he morely means enough for the defense of Brownsville. Our frontier is a very long one.

Mr. SIMMONS. I do not mean to vote any money, if I can help it, without knowing what it is for, and I do not mean to object to voting money when I am satisfied it is for a good purpose; but I do not think it is quite right to force people to read documents when gentlemen are addressing the Senate who they want to hear. That is the objection.

Mr. WIGFALL. You will not get any tariff, if you reject this.

Mr. SIMMONS. I do not vote money out of the Treasury here in order to get a tariff. I think we had better look to it, and see that we have no right to hire any more money, and not willing to vote the money, if I can read the documents, and be satisfied in my own mind that it is wanted; but, if you are determined to push it through, after six o'clock, when we are all exhausted and cannot read the papers, it is in your kind of legislation. If there has been any purpose to delay this measure by any factious disposition, I have not seen it.

Mr. GWIN. Does not the Senator know that the reason the bill has not passed is because we have extended courtesy to gentlemen who had prepared speeches on a question which was not pressing at all, and have now given away two days on an appropriation bill in order to extend that courtesy to those gentlemen?

Mr. SIMMONS. I suppose that this appropriation bill had passed as it came from the House, there would be no objection to it.

Mr. GWIN. But a pressing necessity requires the amendment.

Mr. SIMMONS. Why was it not estimated from the Department and sent here?

Mr. GWIN. It has been estimated here.

Mr. SIMMONS. It came in yesterday, as I understand. Before that, this had been urged on the Senate without any estimates at all. They came in last night, and they have been printed, and we have not yet read them. If there was any necessity to print them, it was that Senators might have an opportunity to read them and understand them. The Senator says this bill has been pending three or four days; but I never heard of any estimates until last night.

Mr. GWIN. Does not the Senator report that the Senator from Mississippi reported a bill on estimates from the Committee on Military Affairs, and stated the facts to the Senate? It has never heretofore been required to have printed estimates when a committee of the House has reported a bill on estimates to it.

Mr. SIMMONS. I say as I said before, as we have these printed we should have an opportunity to read them. He reported the bill yesterday, and it was thought by the Senate better to print these communications, than to waste judgment whether the money was necessary. I agree great

deference should be paid to committees, and I generally do so; but as this is a little extraordinary, I must confess I do not exactly see through it.

Mr. DAVIS. I will say to the Senator from Rhode Island, that when I voted yesterday against the printing, it was because it was already on the table printed in the Daily Globe. Our very skillful and rapid reporters had taken it down as read at the desk, and it was in the Globe.

Mr. SIMMONS. I had not seen it at all, and did not know it was there. I should like it to go on.

Mr. HEMPHILL. Some remarks have been made here in regard to the evacuation of the forts on the Rio Grande. In justice to the delegation who have been here, as well as to myself, I feel bound to say that I understood that the delegation that was here at the time of General Henderson, protested against the removal of these posts. Last year a very strong memorial was sent by the citizens of Brownsville, addressed to the Secretary of War, and presented by myself and Colonel Ward, then Senator, in March last, to the Secretary of War, and urged with all the real arguments we could use. I did not hear then any good reason, and never heard any since for the evacuation of the posts. The object was to concentrate troops on the northern frontier. It was a very good object, but the troops ought not to have been taken from the lower Rio Grande for that purpose.

The question being taken on the amendment to the amendment, by yeas and nays, resulted—yeas 8, yeas 23; as follows:

YEAS—Messrs. Blinnham, Bostelle, Foster, Hale, Bartlett, King, Sumner, and Ten Eyck—8.

NAYS—Messrs. Benjamin, Bigler, Briggs, Brown, Cheate, Clingman, Davis, Douglas, Fessenden, Fitzpatrick, Gwin, Hammon, Hendon, Hunter, Johnson, of Arkansas, Kennedy, Lane, Latham, Mason, Powell, Sebastian, Stoddard, and Wallcut—23.

THE PRESIDING OFFICER. There is not a quorum voting.

Mr. SUMNER. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 8, 1860.

The House met at twelve o'clock, m.
The Journal of yesterday was read and approved.

FINES, ETC., OF MAIL CONTRACTORS.

THE SPEAKER, by unanimous consent, laid before the House a communication from the Post Office Department, communicating orders of the Postmaster General for fines, deductions, &c., from the pay of mail contractors, from July 3, 1850, to June 30, 1859; which was laid upon the table, and ordered to be printed.

PRINTING DEFICIENCIES.

THE SPEAKER also laid before the House a communication from the Superintendent of Public Printing, submitting estimates for deficiencies for printing, &c.; which was referred to the Committee on Ways and Means, and ordered to be printed.

JAMES S. CAMPBELL.

Mr. DUELL. I was absent the other day when the Committee on Revolutionary Claims was called for reports; and I desire now to report a bill from that committee, for the purpose of having it referred to a Committee of the Whole.

There is no objection.

Mr. DUELL then, from the Committee on Revolutionary Claims, reported a bill for the relief of James S. Campbell; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

INDIAN HOSTILITIES IN CALIFORNIA.

Mr. BURCH, by unanimous consent, introduced a bill for the payment of expenses incurred in the suppression of Indian hostilities in the State of California; which was read a first and second time, and referred to the Committee on Military Affairs.

CALIFORNIA MAILS.

Mr. BURCH also, by unanimous consent, pre-

sented concurrent resolutions of the California Legislature, praying for a Sunday mail between San Francisco and Sacramento City, on certain occasions.

Also, concurrent resolutions of the California Legislature, asking appropriations for certain mail routes in the northern portion of the State.

The resolutions were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

UNITED STATES CONSULATE AT MALTA.

Mr. MORRIS, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Foreign Affairs be instructed to inquire into the expediency of reporting a bill allowing a fixed annual salary to the United States consulate at Malta.

ELECTION OF TERRITORIAL OFFICERS, ETC.

Mr. KELLOGG, of Illinois. I ask the unanimous consent of the House to introduce a bill for the purpose of reference merely.

The Clerk read the title of the bill, as follows: A bill granting lands to actual settlers in the Territories, and for the election of all territorial officers by the people, and for other purposes.

Mr. BURNETT. I object.

Mr. KELLOGG, of Illinois. I merely want to have the bill referred to the Committee on Territories. Other than the true character have been referred to that committee.

Mr. BURNETT. Well, sir, I withdraw the objection.

The bill was then read a first and second time, and referred to the Committee on Territories.

ORGANIZATION OF THE HOUSE.

Mr. BRANCH. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire and report whether any legislation is necessary, and can be adopted consistently with the Constitution, to facilitate the organization of the House of Representatives, and to preserve its order and regulate its proceedings previously to the election of its Speaker.

[Cries of "That is right!" from the Republican benches.]

Mr. McKNIGHT. I understand that the Committee on Rules has that subject under consideration.

Mr. STEVENS, of Pennsylvania. Oh, the resolution is right.

Mr. McKNIGHT. I do not object to it.

The resolution was adopted.

Mr. SHERMAN. I call for the regular order of business.

Mr. JOHN COCHRANE. I ask the unanimous consent of the House to introduce a bill for reference merely.

Mr. SHERMAN. I call for the regular order of business.

RAILROAD LANDS FOR NEBRASKA.

THE SPEAKER. Objection being made, nothing can be done which is out of order. The regular order of business is the consideration of a bill reported yesterday from the Committee on Public Lands, granting alternate sections of public lands to aid in the construction of certain railroads in the Territory of Nebraska; the pending question being upon the motion to commit the bill to the Committee on Public Lands.

Mr. DAVIS, of Indiana. I made the motion yesterday that that bill should be printed. It is a very important bill, and has just been printed.

Mr. DAVIS. I desire to know to what time of day the gentleman desires to postpone it. I shall object to its coming up in the morning hour.

Mr. DAVIS, of Indiana. The committee will all be through by that time, and it will not interfere with anything.

THE SPEAKER. The gentleman from Indiana has a right to make the motion to postpone.

Mr. HOUSTON. I shall object to the bill coming up after the morning hour. It is morning-hour business.

Mr. GROW. What is the postponement proposed? What is the motion of the gentleman from Indiana?

THE SPEAKER. The motion of the gentleman from Indiana is, to postpone the further consideration of the bill for one week from to-day, without naming the hour.

Mr. GROW. I am opposed to the postponement, unless the bill is to come up after the morning hour.

Mr. DAVIS, of Indiana. I hope the gentleman will make no objection to my motion.

Mr. GROW. I cannot permit the committee to take up more time than the rules allow it to take up; for, by these postponements, one committee may absorb the whole time.

Mr. DAVIS, of Indiana. I would take the same time to-day as it will when it comes up.

Mr. GROW. Well, I cannot agree to the postponement, so far as I am concerned. I move to amend the motion of the gentleman from Indiana by adding to it "after the morning hour." Let us have a vote on that amendment.

Mr. HOUSTON. That motion cannot be in order without a suspension of the rules, and I object to it.

THE SPEAKER. The motion is not in order. Tellers were ordered on the motion of **Mr. DAVIS, of Indiana**, for **James Graw** and **Val Laxton** were appointed.

THE HOUSE divided; and the tellers reported—**ayes 68, noes 51.**

So the bill was postponed for one week.

COMMITTEE DISCHARGED.

On motion of **Mr. HOARD**, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the petition of **Rudolph J. Shumaker**, and that the same be referred to the Committee on Land Claims.

LIABILITIES OF SHIP-OWNERS.

Mr. JOHN COCHRANE. I desire to introduce a bill merely for the purpose of reference. I hope there will be no objection.

There being no objection,
Mr. JOHN COCHRANE introduced a bill to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March 2, 1851; which was read a first and second time, and referred to the Committee on Commerce.

Mr. GROW. Was that bill reported from the Committee on Public Lands?

THE SPEAKER. The bill was introduced by the gentleman from New York, by unanimous consent, and referred.

Mr. GROW. Well, sir, I call for the regular order of business.

THE PUBLIC PRINTING.

Mr. GURLEY. I rise to a question of privilege. In answer to a resolution adopted by the House, and sent to the Committee on Public Printing, instructing them to inquire into the expediency of abolishing the present system of executing the public printing, and of substituting therefor some other system, the committee have unanimously instructed their chairman to report a bill providing for the public printing, binding, engraving, and lithographing.

The bill was read a first and second time by its title; and the Clerk was proceeding to read the bill in extenso, when,

On motion of **Mr. GURLEY**, it was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. GURLEY. I have one or two remarks to make in reference to the bill which has just been referred. This bill is offered, sir, in response to a resolution of this House directing the Committee on Printing to inquire into the expediency of abolishing the present system of executing the public printing, and substituting the "lowest-bidder" system, and to meet the demands of the country for a radical reform in that department of the public service. I will not now enter into a consideration of the multiplied evils of the present system; for they are a subject of general condemnation in both Houses of Congress, and among the people at large. The recent developments at the other end of the Capitol, the use made of the enormous profits of printing, and the facts brought out by various witnesses, have served to deepen the impression in the minds of honest men of all parties that it is our duty to adopt some plan of public printing whereby the Government shall

have its work well and faithfully done, with dispatch and economy, and to the exclusion of all speculation, fraud, and corruption.

The resolution which directs our attention to the subject suggests a plan of letting out the work to the lowest bidder. That plan has been fully and fairly tested by Government, and has failed to meet the just expectations of Congress.

It is true, there is an apparent fairness in the lowest-bidder contract system, but the records of the Government show that it has been worse cheated and swindled under that system than any other. Besides, parties who lose money on their contracts will do, and demand of Congress full compensation. Two gentlemen of the city contracted, several years ago, to do the public printing, but alleged, when it was done, that they had lost money, and came to Congress with a claim, and received, by way of compensation, the sum of \$70,000. These claims are based upon the principle that the Government must pay its agents honest wages, but I fear that, when some such claims are allowed, they receive double wages. C. Wendell received the printing by contract on the same plan; and it was so badly done that it has been the cause of the revocation of serious contracts. The Superintendent of the Public Printing whether all those works printed by him under that contract should not be reprinted. Other parties once took a contract at twenty per cent. off from the old prices established in 1819; and they came to Congress for compensation, and received \$50,000.

Boyd Hamilton took the contract for the printing of one Congress, under the system of letting it out to the lowest bidder, and broke down before the middle of the first session. Congress took the contract from him, and then was adopted the present law upon the subject of the public printing. Experience, therefore, as I have shown, has demonstrated that if persons take contracts for the public printing at a lower rate than they can afford, somebody or some parties are bound to be cheated by the Government, or those who execute the work. Ordinarily, it will be very poorly done; it will be slow of execution; and if losses are sustained by contractors, they are sure to come before Congress, and persist in a demand for compensation; and a good deal more than a fair compensation is generally asked, and often allowed.

In view of these facts, the question arises, why should not the Government do, by its own authorized agents—the principal ones already in office—the whole work, promptly and well, and at honest cost? Why should Congress be troubled and importuned every other year, for weeks and months, by scores of applicants for the place of Public Printer? Why should so much valuable time be lost in the attempt (as was the fact this year) to elect one, not only to the great injury of the public service, but of public morals also, and to the disgust of the whole country? I am confident, sir, that, on the general plan of the bill, the saving to the Government in the cost of printing will be from fifty to one hundred thousand dollars per year, and that the present system of Congress as a test, the gain in the promptitude of its execution, and the saving of time on the part of this body, will be worth half as much more. But I will not now discuss the general subject of public printing. I offer these suggestions, with a view to call special attention to the provisions of the bill before the House.

Mr. HOUSTON. I understand what the gentleman from Ohio has said is a report from his committee.

Mr. GURLEY. Not at all; they are my own conclusions.

Mr. HOUSTON. At what time it is intended that the bill shall go into operation?

Mr. GURLEY. As soon as it is adopted, so far as certain portions of the public printing are concerned.

Mr. HOUSTON. What portion?

Mr. GURLEY. The printing of the Executive Departments, bureaus, &c.

Mr. HOUSTON. I understand, then, that the bill which the gentleman has just reported proposes to change the Executive Departments from the printing of the Executive Departments is concerned. I desire to know what bill proposes in relation to the binding?

Mr. GURLEY. The whole subject can be discussed and explained in the Committee of the

Whole on the state of the Union. I do not propose to go into any discussion at this time.

Mr. HOUSTON. That is true; but the gentleman from Ohio can, nevertheless, answer my question. I understand him to say that his bill only proposes immediate action in relation to the printing of the Departments. Now, what I want to know is, when and how his bill is intended to effect the binding, the engraving, the lithographing, and the printing of Congress.

Mr. GURLEY. The bill will be printed, and the gentleman can then examine it for himself.

Mr. HOUSTON. The gentleman declines to answer my question.

Mr. GURLEY. There is no concealment in relation to the matter. The bill will be printed, and placed in the hands of every member of the House.

Mr. GROW. I call for the previous question upon referring the bill.

THE SPEAKER. The bill was referred to the Committee of the Whole on the state of the Union before the gentleman from Ohio commenced his remarks. The remarks of the gentleman would not have been in order, if any one had objected.

STENOGRAPHER TO A COMMITTEE.

Mr. HASKIN. I rise to a privileged question. I am instructed by the Committee on Public Expenditures to report the following resolution:

Resolved, That the Committee on Public Expenditures, and they are hereby authorized to employ a person to act as clerk and stenographer to said committee.

Mr. HASKIN. I ask for the adoption of that resolution, and call for the previous question upon referring the bill.

Mr. BURNETT. How does that resolution come before the House? It is no question of privilege.

THE SPEAKER. The Chair will state that the Committee on Public Expenditures were authorized to report the resolution.

Mr. BURNETT. They were authorized to report upon such matters as were referred to them; but not upon such a matter as the employment of a stenographer. Why, sir, the committee has not had a meeting, as I understand, for years, and no present session.

Mr. HASKIN. The gentleman will permit me to say, in reply, that the Committee on Public Expenditures have had the matter of the public printing referred to them, with instructions to inquire into the abuses connected with it, to propose reforms, &c. In pursuance of that special reference, the committee have, for the last week, been examining witnesses, and have had the services of a stenographer, without whom it would be impossible for them to investigate the abuses and accomplish the objects they are expected to attain.

Mr. BURNETT. I appeal to the gentleman from New York to withdraw his demand for the previous question, and allow me to offer an amendment enlarging the powers of that committee, and instructing them to inquire into the expediency of the binding by the Committee on Printing during the present session of Congress.

Mr. HASKIN. I have no objection to that, if the gentleman will propose it at some other time. I do not care to connect it with this resolution.

Mr. BURNETT. I think it will not embarrass the resolution of the gentleman. I should like very much to know how the binding for the present session has been let out by the Committee on Printing.

Mr. HINDMAN. I hope the gentleman will withdraw his demand for the previous question.

Mr. BURNETT. I appeal to the gentleman from New York to allow my amendment to come in, so that they may have the whole subject of printing, binding, and engraving before them, to be acted upon by them at one and the same time.

Mr. HASKIN. I suppose that that committee may, under the general power conferred upon it, inquire into that subject without the motion of the gentleman from Kentucky.

Mr. BURNETT. Then it will not embarrass the gentleman from New York nor will it embarrass the committee, to put it in. If he wants the country to know the truth, if he desires that they shall know whether or not there have been corruptions, why does he shrink from an investigation into this question?

contemplate the abrogation of the present contracts covering the same service? .

Mr. COLFAX. I will say to the gentleman from Alabama that the bill proposes the abrogation of no contracts whatever, but leaves that matter for Congress to determine. It may be that the present contractors may be the lowest bidders under this bill. The bill contains various proposals.

Mr. HOUSTON. It involves important principles.

Mr. PHELPS. I submit a motion that this bill be printed. It can be printed, and laid upon our tables to-morrow morning.

The motion was agreed to.

Mr. SHERMAN. I now move that the House proceed to the business upon the Speaker's table.

Mr. BURNETT. I appeal to the gentleman from Ohio to allow me to offer a resolution, which, in my judgment, will consume but a moment.

Mr. SHERMAN. I desire that I was proceeded to the regular order of business.

Mr. BURNETT. I understood that I was to have the floor when the gentleman from Indiana yielded.

The SPEAKER. It was so stated; and the Chair would suggest to the gentleman from Ohio that the gentleman from Kentucky should be permitted to introduce the resolution.

Mr. SHERMAN. Certainly, if there was such an understanding.

HINDING FOR THE HOUSE.

Mr. BURNETT then, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Expenditures inquire into the manner in which the binding of the present Congress has been let out; that they inquire into the manner of bidding for the same; the price at which they proposed to do the work; whether the contracts were made with the lowest bidder, and in accordance with existing laws; and that they have power to send for persons and papers.

Mr. SHERMAN. I now insist upon my motion that the House proceed to the business upon the Speaker's table.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

The first bill on the Speaker's table was an act (H. R. No. 216) making appropriations for fulfilling treaty stipulations with the Ponca Indians, and with certain bands of Indians in the State of Oregon and the Territory of Washington, for the year ending June 30, 1860, with amendments of the Senate; which were taken from the table, and referred to the Committee of Ways and Means.

NEW LAND DISTRICT.

An act (S. No. 90) to create an additional land district in Washington Territory was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

ARMY APPROPRIATION BILL.

Mr. SHERMAN, by unanimous consent, reported, from the Committee of Ways and Means, a bill making appropriations for the support of the Army for the year ending June 30, 1861; which was read a first and second time.

Mr. SHERMAN then referred the bill to the Committee of the Whole on the state of the Union, and that it be printed.

Mr. STANTON. I move that the bill be referred to the standing Committee on Military Affairs.

The SPEAKER. The question will be first upon the motion to refer to the Committee of the Whole on the state of the Union, unless it be waived.

Mr. SHERMAN. I do not waive my motion.

Mr. STANTON. The motion is in order; and, debatable. I suppose the House might as well settle now, for the residue of the session, what are the legitimate duties of the respective committees of this House. A number of variety of other reforms I desire to see introduced, as that of distributing the business of the House to the respective committees to which, in my judgment, it belongs; and not allow it to be monopolized by one committee, who must of necessity be physically incapable of understanding it.

If there is any use in a Committee on Military Affairs, any Committee on Naval Affairs, any Committee on the Post Office and Post Roads, it

seems to me it is for the purpose of inquiring into the necessities of these various branches of the public service. Under the practice which has prevailed during the last fifteen or twenty years, all the annual appropriation bills go to the Committee of Ways and Means. It is utterly impossible for that committee to investigate the details of the public service. It is a vast business, and the result has been that the Committee of Ways and Means has become a mere organ of the executive department, to report its estimates. Of necessity they are roused to take these estimates upon the credit of the various Departments of the Government. Now, sir, I believe, if you will distribute these appropriation bills, after they have been made up by the Committee of Ways and Means, upon consultation with the Executive Departments, to the various standing committees of the House which have charge of the various branches of the public service, who are supposed to be acquainted with the respective branches of service with which they are charged, and who are supposed to be competent to investigate the details of any particular branch, we would be enabled to determine with greater accuracy and more certainty what the necessities of the service may be. There is no necessity for this Government spending \$80,000,000 annually, as it has done for the last four years. If the Committee of Ways and Means have, upon an investigation of their own, undertaken to reduce this amount \$30,000,000, I undertake to say that they have done it without understanding the basis of that reduction. If the service is to be reduced, it is now.

Now, as a member of the Military Committee, I desire to have authority from this House to investigate the expenditures of the military service. I desire an opportunity of looking into the details of the estimates, and comparing them with the various bureaus of the War Department, to know how the appropriations for that Department have been expended during the last year. I want to inquire into the necessities of this service, and to know the expenditures reported by the Committee of Ways and Means are, in fact, necessary. I desire it in the consideration of retrenchment and economy. I desire to for the purpose of reducing the expenditures of the Government to the lowest practicable point.

I am glad, Mr. Speaker, that I have the authority of my colleague, (Mr. SHERMAN,) as the organ of the Committee on Naval Affairs at the last session of Congress, for the policy which I now propose to adopt in the distribution of the business of the House. This whole subject was discussed in the House at the last session, on the motion of my colleague to refer the annual naval appropriation bill to the Committee on Naval Affairs. My colleague thought it exceedingly unwise, and so I am still of the opinion that I am then entertained. My colleague convinced me by his arguments then, and I have not changed my mind yet. I hope to have my colleague's aid now in sending these bills to the proper committees.

Now, after the refusal of the House to send the naval appropriation bill of last session to the Committee on Naval Affairs, the Committee on Military Affairs took the responsibility, without an order of the House, of examining into the Army appropriation bill. Taking a simple printed copy of the bill, the chairman of the Committee on Military Affairs went to the War Department, and, by personal interviews with the various bureaus of the Department, ascertained that the appropriations for the Army service might be reduced by \$1,872,000. Amendments to that effect were proposed in the Committee of the Whole on the state of the Union, by the chairman of the Committee on Military Affairs. They were rejected by the Chairman of the Committee of Ways and Means, I think, almost uniformly. But the House sustained the Committee on Military Affairs, made these reductions, and saved this \$1,872,000; and now there is no complaint of any deficiency in the branch of the public service.

Mr. PHELPS. Will the gentleman allow me to interrupt him?

Mr. STANTON. Certainly.

Mr. PHELPS. I am satisfied that the gentleman from Ohio does not desire to do any injustice to the Committee of Ways and Means. The estimates submitted during the last session of Congress for the support of the Army were examined by the Committee of Ways and Means, and that committee made considerable reduction on them. The Committee of Ways and Means, which the chairman of the Committee on Military Affairs desired to reduce. Some of the proposed reductions were resisted by Mr. The Quartermaster General had informed the House of the Committee on Military Affairs that his estimates for a portion of the expenditure in his department were made under the expectation that there would be a continuous war with the Navajo Indians in the Territory of New Mexico. At the commencement of the session of the Congress, information reached us that peace had been restored with these Indians. In consequence of that fact—not known at the time the estimates were submitted; not known at the time the Committee of Ways and Means acted on these estimates—a reduction of nearly four hundred thousand dollars was made, and made by the sanction of both committees. I am willing to concede that there was a reduction of \$1,800,000 on the estimates as submitted by the Secretary of War. Do I not understand that the gentleman from Ohio understood him to say that the Committee on Military Affairs recommended a reduction on the estimates of about one million eight hundred thousand dollars?

Mr. STANTON. No, sir. They recommended that reduction of \$1,872,000 on the bill reported by the Committee of Ways and Means, which had been already reduced below the estimates, and the reduction was made through the instrumentality of the Committee on Naval Affairs. I understand him to say that there is no complaint of any deficiency in the military service. That is not all, sir. The Committee on Naval Affairs, with my colleague as its organ, having acquired information, through his agency as member of a special committee to inquire into naval expenditures, moved amendments for the reduction of the bill for the support of the Navy for the coming fiscal year, amounting to \$1,575,000. That reduction was proposed to the Committee on Naval Affairs, not on the estimates, but on the bill reported by the Committee of Ways and Means, which the House refused to refer to the Naval Committee. The House sustained the Committee on Naval Affairs, and reduced the appropriations to \$3,500,000. I have heard of no complaint of a deficiency in the naval service. These, sir, I believe, were the only two standing committees of the House that took any special charge of the bills reported by the Committee of Ways and Means, making appropriations for their particular departments. By the action of these two committees, and through the instrumentality of service which the House refused to confer on them, and to require of them, nearly four million dollars were saved in these two annual appropriation bills.

The effect of the present system of transacting the business of the House is, to subordinate all the other committees of the House, and to leave them room to do with the essential legislation of the country.

Now, I make this as a test question. If the House choose to commit this Army bill to the Committee on Military Affairs, I take it for granted that it will follow, upon the principle thus adopted, and send the naval appropriation bill to the Committee on Naval Affairs, the Post Office appropriation bill to the Committee on the Post Office and Post Roads, and the diplomatic and consular bill to the Committee on Foreign Affairs, so that each committee will have an opportunity of investigating the bill for its department of the public service.

What has the Committee on Military Affairs done to-day? I certain gentleman has a claim for horses lost in the service of the Government, for one hundred dollars—and that goes to the Committee on Military Affairs. The Committee on Military Affairs is charged with the investigation of private claims arising out of the military service of the country. Now, I hold that the Committee on Military Affairs ought to look into the necessities of the military service.

I ask the Clerk to read the speech made by my

necessary to carry out existing laws, and I think the gentleman cannot allow a single instance in which the Committee of Ways and Means have reported appropriations in any general appropriation bill which were not in pursuance of existing laws, or such as were in conformity with the rules under which they act. The appropriations which are reported for the Judiciary are appropriations for the continuance of public works authorized by law. But in no case, so far as I am aware, has the Committee of Ways and Means, while in the discharge of their specific duty of providing the appropriations necessary to carry on the Government, recommended the passage of independent laws. All such laws come within the legitimate jurisdiction of other committees of the House. All such laws relating to the Army should come from the Committee on Military Affairs; all such matters referring to the Navy of the country come properly from the Committee on Naval Affairs; those relating to the postal service of the country from the Committee on the Post Office and Post Roads; those relating to the judiciary of the country from the Committee on the Judiciary; and so on. Other committees are charged with the duty of inquiring into and reporting such laws as are necessary in the particular branches of Government to which, by the rules of the House, their attention is directed.

But, sir, Congress has the right to enact laws when laws are passed, it is necessary that means should be provided for executing the laws of the land. In order to accomplish that purpose, it is proper, it is necessary, that there should be some one committee which should be in constant communication with the Departments, which should receive from them estimates of the appropriations necessary to carry on the Departments of the Government under the existing laws, and to report to the House the appropriations necessary to accomplish that object. Suppose now, if I am to propose the plan of the gentleman from Ohio [Mr. STANTON] were to be carried out—the Committee of Ways and Means, as the organ of the House, receives communications from the Departments, reviews and corrects their estimates, and reports to the House the appropriations necessary; but suppose, I say, that as soon as these bills come into the House they are parcelled out among the various other standing committees of the House—those referring to the military affairs of the Government, to the Committee on Military Affairs, those referring to the Navy, to the Committee on Naval Affairs; those relating to the Post Office service, to the Committee on the Post Office and Post Roads; those making appropriations for carrying on the judiciary of the country, to the Committee on the Judiciary; those relating to Indian affairs, to the Indian Committee, and so on; suppose these bills are thus parcelled out amongst the various committees, and they come here each struggling for the floor, no one having the precedence under the rules; how would you get along with the business of the House?

One word in reference to the argument of economy which the gentleman from Ohio [Mr. STANTON] has made. Does not the gentleman know that the complaint almost universally made against the Committee of Ways and Means is, that their tendency is to reduce the estimates of the Departments rather than to increase them? The Committee of Ways and Means is, and of necessity must be, a conservative committee. They have a general view of all the appropriations asked for to carry on the Government, and they see the whole subject before them, they look around to see in what Department reductions can properly be made. You, Mr. Speaker, know, every member of the House familiar with the course of business here knows, that appropriation bills are almost always increased in the Committee of Ways and Means, and almost always on the motion of the separate committees.

Now, Mr. Speaker, let the plan of the gentleman from Ohio [Mr. STANTON] be carried out, and what will be the result? The Committee of Ways and Means now have the whole responsibility and care of the estimates; but let the Army appropriation bill be referred to the Committee on Military Affairs, and that committee will take particular care that the branch of the public service of which it has exclusive charge shall not suffer for want of liberal appropriations; and so it will be

with every other committee. Is not that the necessary and inevitable result? Sir, if you will have economy in the public service, you must place all these bills in charge of one committee—a committee which has no more one branch of the Government under its especial care than another.

Again, sir, when these bills, reported by the Committee on Ways and Means, have been referred to the Committee of the Whole on the state of the Union, they are printed and placed in the hands of every member of the House; and it is not only the right of the gentleman from Ohio, [Mr. STANTON], but it is his duty, as chairman of the Committee on Military Affairs, to examine the military appropriation bill in his committee, and see what reduction, if any, can safely be made in the estimates of the Departments, or in the amounts reported by the Committee of Ways and Means. I say it is the duty of that committee to ascertain where reduction can be made; and when the matter comes on in the Committee of the Whole on the state of the Union, it is the duty of the gentleman from Ohio, as the organ of the Committee on Military Affairs, to rise and propose his reduction, his amendment, his vote. That he may do so, under the rules; and he will have to further authority under the rules to reduce the expenditures provided for in this bill if his motion prevails, and it is referred to his committee.

Now, sir, if I am to inquire of the gentleman from Maine, who seems to know more about the rules than any one else here, if the Military Committee has any right to propose any amendment to an appropriation bill, as a committee? Have they any power to report an Army appropriation bill? None in the world. As chairman of the Committee on Military Affairs, or any other member of that committee, chosen voluntarily to perform labor not devolved upon him by the House, which the House refuses to require at his hands, and which, under its rules, are in the hands of the Committee of Ways and Means, then, it is true, he may incur that labor, and he may, not as the organ of the committee, but the same as any other member of the House, propose amendments in the Committee of the Whole on the state of the Union. As chairman of that committee, I do not intend, as a subordinate of the Committee of Ways and Means, to go out of my way to perform a labor which the House refuses to allow me the responsibility and credit for.

Mr. WASHINGTON, of Maine. Then the gentleman from Ohio will not discharge his entire duty. By the rule which has been read, and by the rules of the House fixing the duties of these different committees, a certain class of the public business is placed in the charge of each. Now, Mr. Speaker, if these committees perform fully the duties assigned them, they will ascertain what reductions in the estimates for the particular service over which they have charge can be safely made, or what increase of appropriation may be made, and they will report to the Committee of Ways and Means, or some other member of the committee, when the bill is in the Committee of the Whole on the state of the Union, to offer amendments carrying out their views. It is true, he will not be permitted to offer them as the organ of a committee; he will not be permitted to report to the gentleman from Ohio who is the constant practice, stating that he has been instructed by his committee to offer the amendments.

Mr. CURTIS. I would like to say a word on this question.

Mr. WASHINGTON, of Maine. I am under obligation to renew the call for the previous question, and will now yield to hear what the gentleman has to say.

Mr. CURTIS. Mr. Speaker, if it were true, as the gentleman from Ohio has said, that the Committee of Ways and Means, and by the gentleman from Maine who now holds the floor, that the purpose and powers of the Committee of Ways and Means are merely to bring into this House bills appropriating money for the execution of existing laws, it might be well to consider the propriety of the position they assume, and would admit that the appropriation bills should not be referred as proposed by the gentleman from Ohio, [Mr. STANTON.] But the Committee of Ways and Means is not limited to carrying out existing laws. In point of fact, that committee brings

in appropriations which are tantamount to the enactment of new laws. The rule of the House is—

"General appropriation bills shall be in order in preference to any other bills of a public nature, unless otherwise ordered by a majority of the House."

And further:

"No appropriation shall be reported in such general appropriation bill, or in order as an amendment thereto, for any expenditure not previously authorized by law, unless it shall be shown that such expenditure is authorized by law, and that such law is already in force, and that the objects are already in progress, and for the continuation of carrying on the several departments of the Government."

You will perceive, Mr. Speaker, what may be the effect under that rule. It is not whether there is a previous law, but, under the latter clause of the rule, "whether such public works are already in progress." If, many years ago, a public work was commenced for the improvement of the Red river, for instance, and no appropriation of \$10,000 was made for that purpose, and the work is once put "in progress," the year after the Committee of Ways and Means might bring in an appropriation for the same purpose for \$20,000; the next year for \$30,000; and so on, till the first appropriation being made, and the work once "in progress," the committee afterwards, at each Congress, taken the initial step, and by attaching an appropriation, really enacts a new law; and if not a new law, then a new appropriation, the effect of which is to continue the public work which may have become perfectly useless, or was never intended to be prolonged. In that way the so-called improvements upon the Mississippi rapids have been carried on for twenty years, prolonging efforts on erroneous plans, and expending hundreds of thousands of dollars which, in my judgment, are entirely useless. I cannot believe the appropriations would have been made to carry on a fallacious plan, if a new and careful examination of the matter had been entered into by a competent standing committee. The appropriations have been made from time to time, without such reference; because, under the provision of the rules of the House which I have referred to, the Committee of Ways and Means may each year, or at any time, bring in upon one of their bills an appropriation of \$10,000, without any knowledge of a previous law or plan, but merely on the fact of the work having been "in progress," and on a general supposition that progression must be perpetuated. I mention this as an instance, not to give particulars, but to show how error may be perpetuated. If, after a careful examination inquired into, it might be ascertained that the appropriation was entirely needless. That committee initiates these new appropriations under estimates from the several Departments.

This is especially dangerous as it applies to appropriations for military duties. If, twenty or thirty years ago, a fortification were commenced, that committee, under estimates from the Department, may from year to year bring in appropriations to carry it on toward completion, although the necessity for it has long since passed. The money would materially change the necessity. The committee, then, does not only provide for the execution of existing laws; for, sir, if an appropriation for a certain thing was made twenty years ago, it would seem that they have power to renew it from year to year, without any appropriation, and new works may be started and carried on without limitation or due consideration. Congress may make an appropriation for some road to-day, or for some bridge, supposing that ten or twenty thousand dollars would be sufficient to accomplish their duty. Afterward, the Committee of Ways and Means may from year to year bring in different additional appropriations for the same work. They may prolong expenditures of the Government, and sometimes to a ruinous and unfortunate extent, in my opinion.

Mr. Speaker, I would now say to the gentleman from Maine who now holds the floor, and proper that all of these bills should be referred, each to its appropriate committee. That course may protract the proceedings of the House, but, sir, we are here to legislate for the country, and it is the duty of the House to see that the legislation of that purpose ought to have our approval. If these bills are referred—the Indian bill to the Committee on Indian Affairs, the Army bill to the Committee on Military Affairs, and so on—and the appropriate committees are required to examine into the separate items of appropriations, I think, sir, that there would each year be a large saving

of Congress, he must allow the Executive himself to exercise his discretion as to the being printed, and not require it to be delivered by him to any one other than the two Houses of Congress; and then he may communicate it to Congress, having kept it under his own control. The message cannot be taken away from him, by any law we may pass, in advance of the delivery to the two Houses. We have no authority, under the Constitution, to require him to deliver his information, whether in a written message or otherwise, to the Secretary of the Senate or the Clerk of the House.

Again, it is suggested to me, by a friend upon my left, that it is not really, and cannot be, a message of the President of the United States, until it is communicated to the House.

There may be, and often will be, other grave reasons why the contents of the message itself should be withheld from the public, and remain in the exclusive possession and under the sole control of the Executive, until the Senate and the House are ready to receive it.

Again, Mr. Speaker, we have, at this session, adopted a principle which, I presume, is a good one, in ordering the accompanying documents to be printed. The principle is, that statistical matter should be omitted in printing certain documents. But who must judge of the matter to be omitted? Your Printing Committee, I judge of it. Are you willing to pass a law by which you will take from the Committees on Printing the supervision of the documents, and allow the Clerk of this House and the Secretary of the Senate to say what shall be omitted in the President's message and accompanying documents, and what shall be printed? It appears to me that this is a dangerous and very extraordinary innovation on the practice of the Government.

Mr. SHERMAN. I desire to correct a misapprehension into which the House has fallen. The bill itself defines what documents shall be printed; that is, the message of the President and the reports of the heads of Departments and bureaus, without any statistical information. The bill provides, just as the resolution of my colleague (Mr. GREGG) provided the other day, what documents are to be printed.

Mr. HOUSTON. That is one objection which I have to the bill, that it does so provide; because it may be important that some of the statistical information which accompanies the President's message should be printed for the use of the two Houses; but this bill refuses all such information. That seems to me to be a fatal objection. Much of the statistical information which accompanies the President's message might be omitted, and I think should be omitted, in the extra numbers; but much of it is essential, and ought to be printed. But again: I suppose the gentleman from Ohio does not intend to include within the operation of this law the report of the Secretary of the Treasury. That is generally the most important document.

Mr. SHERMAN. The estimates themselves are printed and published under just such a title.

Mr. HOUSTON. Yes; the estimates are printed; but the report of the Secretary of the Treasury, which contains information of the state of the finances, is not printed; and this bill does not provide for it.

Mr. SHERMAN. That report is sent to us directly.

Mr. HOUSTON. That is true. It is sent to us directly; and therefore I say that this bill does not include it, and under its provisions that document will not be printed. That is the most important information connected with our legislation at the beginning of a session of Congress, for the reason that we need, and that document gives us, information of the state of the Treasury, of the finances, of the condition of the public debt, of the revenue, of the annual and current receipts. We want all this information as soon as we commence our session's legislation. It seems to me, therefore, that this bill omits the most important part which ought to be printed, if it may be printed. But I believe it is all wrong, and the bill ought not to become a law.

Again, sir, the Postmaster General does not, as I understand it, send his report to the President. It is sent to Congress, so that the report must be included expressly, if it is to be included at all. It is not included in the gentleman's bill. And

thus we see that the bill applies to but very little of the public business about which we need information, and which is material or important for Congress to have at an early period. It is important that the estimates should be printed, so that the House and the Senate may take them up early and examine them; and, under a joint resolution, the estimates are to be printed and on our table at the beginning of each session. Then, if there is to be any improvement at all, it seems to me the greatest improvement would be to have the report of the Secretary of the Treasury, which is the most directly important Congress, printed as a report which is to be read and laid on our table at the beginning of each session. We have the power to change the existing law which thus directs and causes it to be printed, yet I doubt the wisdom of even that change. But when you propose to make the President of the United States submit his report to anybody except to the two Houses of Congress, you undertake to do what, in my judgment, you have no constitutional power to do. If you desire it to be printed, you must authorize the President of the United States to lay it on the table, and retain it until Congress assembles. That the President can now have his message printed, if he desires to do so, before he sends it to Congress, and may make its contents as public as he may choose; it is his document until sent to Congress; the public has a right to be informed of its contents—and is no longer under his control.

Mr. TAYLOR. I understand that the object of the bill is simply to provide a means by which the information necessary for the action of Congress may be printed, so that members may have it before the assembling of Congress. Under the action of this bill, it strikes me that it ought to be modified in one particular, to meet the objection which my friend from Alabama has spoken of. The bill begins by declaring that "it shall be the duty of the President" to do so and so. Under the Constitution, the President is directed to give information to both Houses of Congress with regard to the state of the Union; and it is his peculiar privilege to discharge that duty in accordance with the decision of his own judgment. It strikes me that the suggestion made by my friend from Alabama deserves consideration; that the bill should be changed, so that, instead of making use of the word of command, it shall declare that the President is authorized to make such a publication, or have such a document printed, as, in his judgment, will be useful in the management of the public business. With that modification, I cannot see any objection to the bill. I therefore suggest that amendment.

Mr. SHERMAN. I have no objection to the gentleman proposing that amendment. I have no authority to do it myself, as the bill is the unanimous report of the Committee of Ways and Means.

Mr. TAYLOR. Then I propose the amendment, that the words "the President be authorized and requested" be inserted in lieu of the words "it shall be the duty of the President."

The SPEAKER. The motion to commit the bill must be withdrawn before it will be in order to amend. Does the gentleman from Ohio withdraw his motion to recommit?

Mr. SHERMAN. I do, Mr. Speaker.

The SPEAKER. The gentleman from Louisiana now offers an amendment.

Mr. BRANCH. I have hastily prepared an amendment, which I will read. It may, perhaps, meet the views of the chairman of the Committee of Ways and Means:

That so much of the documents accompanying the President's annual message as he shall deem proper to deliver to the Secretary of the Senate and the Clerk of the House of Representatives, in advance of the meeting of Congress, and the annual and current receipts, now prescribed by law for the printing and distributing of documents ordered by Congress.

If that amendment meets the views of the chairman of the Committee of Ways and Means, I think it will be acceptable to the House. I think that it is a very proper amendment, altogether too peremptory. It might cause information to be divulged which it would be proper to divulge. My amendment only refers to the documents accompanying the message; not to the annual and current receipts. I do not refer to this House or for Congress to call on the President to cause his message to be made public in

advance of its delivery to the two Houses of Congress.

In addition to that, it would be an assumption of power on the part of Congress to prescribe the manner in which the President shall communicate with Congress. The Constitution says he shall give us, from time to time, information on the state of the Union. He has a right to communicate that information to us in such form as he may think proper. In the early history of the Government, we know that the President came to Congress, and communicated to Congress in person. Forty years ago, the President has been in the habit of communicating in writing. He has a right to communicate in whatever way he thinks proper; and I think that any bill which undertakes to prescribe the manner in which he shall communicate with us, which requires that he shall do so in writing, and that his message shall be printed in advance, will be, to say the least of it, a violation of good taste, if not of principle. I therefore now, with the consent of the gentleman from Ohio, offer this as an amendment.

Mr. CLEMENS. I am in favor, Mr. Speaker, of the amendment proposed by the gentleman from North Carolina; and, if I can have the attention of the House for a few moments, I would like to satisfy the chairman of the Committee of Ways and Means that the amendment ought to be adopted. I have no objection to the amendment, clearly the views that strike me in regard to the original proposition and to the proposed amendment.

Now, Mr. Speaker, the language of the Constitution is, that the President shall, from time to time, give to the Congress information on the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. It is not necessary for me to elaborate the points which the gentleman from North Carolina has presented.

The great objection in the first clause of this bill, it strikes me, is, that it prescribes the mode in which the President shall communicate to Congress; and it goes still further than that—it prescribes that he shall communicate at the command of Congress.

Now, we know, from two remarkable examples, that there may be no Congress of the United States, constitutionally organized, for months after the session commences. And in what condition do you place the affairs of the country, if you suspend the President's power to communicate to Congress, in advance, before the country and the world, the most delicate questions of foreign and domestic policy.

The framers of the Constitution contemplated the English mode of communicating with Congress—that is, by address in person; and the gentleman from North Carolina has well remarked, that in the early period of the Government that mode was adopted. It was Mr. Jefferson who, for the first time in the history of the Government, communicated with Congress by message.

He did it for his own convenience, because he had none of the graces of the orator, while he had the graces of the pen; and he preferred to communicate to Congress through the pen, instead of that ready instrument, the tongue. It was the first instance in which Mr. Jefferson introduced into the Government, and it certainly was not the best.

However that may be, sir, I am opposed to the original provision of the bill, for the reasons given by the gentleman from North Carolina, as well as that which I have indicated, and which is, in brief, that we possess no constitutional power to prescribe the mode in which the President shall communicate such considerations of public policy as he thinks proper to this body. I shall therefore, in favor of the amendment of the gentleman from North Carolina.

Mr. SHERMAN. I think this discussion has gone far enough; and I call the previous question.

Mr. JOHN COCHRANE. I think this is a bill of such importance in its principles and in its effects, that it should be written into the record under the previous question at this speed. I wish to submit a few remarks in regard to its bearings. I do not intend to protract the debate, nor do I intend to submit an elaborate argument.

Mr. SHERMAN. Well, I will withdraw the demand for a previous question, and I will recommit the bill, so as to give the gentleman

from New York an opportunity of being heard; but I do trust that we shall pass the bill this evening, and go into the Committee of the Whole on the state of the Union.

Mr. JOHN COCHRANE. I will renew the demand for the previous question, if it is desired.

Mr. FLORENCE. I trust not. I trust I shall have an opportunity to discuss the merits of the bill. I should like to say a word or two.

Mr. BRANCH. Do I understand that my amendment has been received?

The SPEAKER. The gentleman's amendment has been received.

Mr. JOHN COCHRANE. Mr. Speaker, I deem that the bill and all the amendments offered to it are offensive to reason and open to constitutional objection. It is not every evil that exists that can be perfectly corrected. The corrective, if it exists, is not always readily to be found. As many evils are created by attempts at reform as exist before the efforts to create it; and it is well known that in the track of reforms—nominally such—follow more evils, more oppressions, than those which they are instituted to remove. If, sir, in this instance, circumstances arise which create an evil the mode prescribed by the Constitution for the President to communicate to Congress, unless that evil can be readily and constitutionally corrected, a greater one will be inflicted by the attempt to remedy it than by submitting to the original. It is necessary that we should know it is often equally necessary that we submit to them; and where they are irremediable, it is the part of wisdom to submit with patience.

Now, here, in the first section of this bill, it is made the duty of the President to cause his message and the accompanying documents, as far as practicable, to be printed, and copies of the same to be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in time for distribution at the commencement of each session. It is also made the constitutional duty of the President to communicate the message here contemplated to "the Congress." Now, sir, Congress may not be ready to receive that message at the beginning of the session. The House was not ready at the commencement of the present session. What, then, under the provisions of this bill, would have been the duty of the President of the United States? Why, evidently, to communicate the message to the Secretary of the Senate and to the Clerk of the House of Representatives. What has been a constant complaint of "the Congress"? Certainly not. It follows, then, that the President would not, in such case, have been performing his constitutional duty.

I am unwearied that, in such a case, under this bill, he would have been performing his duty under the law of the land. But how, sir, can we place in conflict with the Constitution the law of the land? That is an objection which I should like to hear answered by the gentleman from Ohio. It is unanswerable, sir; and I take the position here, in fact, that this bill, and the constitutional section of the bill is unconstitutional, and should be declared, by our judiciary, void.

But I am answered by the gentlemen who propose these amendments, that this difficulty will be obviated by adopting a different phraseology for the bill; and that, in the interest of the President—making it his duty to communicate to Congress—it may be placed at his option. What, sir, shall we place it at the option of the President of the United States to perform his constitutional duty, or not? If the Constitution has decided that it shall be his duty to communicate to "the Congress," shall we give him the option or choice of communicating to a Clerk? Why, no, sir; it is as clear as light that this is an unconstitutional provision; and change your phraseology as you may, declare your principle as you may, you cannot escape the barrier which the Constitution has erected in its path; so that, when the President of the United States performs this high function of his office, he shall perform it to no body less than himself, and that body either the Senate or the House of Representatives of the United States.

But gentlemen claim that because such evils are entailed, because of differences of opinion upon the floor, because of an impossibility, at times, to organize this House, so that gentlemen then cannot and do not comfortably complete the message and documents in time for the dispatch of

its business, therefore they will override the barrier which the Constitution has erected; therefore they will elevate to the dignity of the House of Representatives and of the Senate one or more of their subordinate officers! Why, sir, upon what times have we failed? Where shall we look, in the course of events, for the remnants of our Constitution, if this course of legislation is to prevail?

Sir, there is not a letter, there is not a colon, there is not a dash of the pen in that instrument that should be violated by any action of this House, lawfully premeditated, or under whatever deliberation it may be considered.

Am I told, then, sir, that, for the public convenience, the President of the United States shall be at liberty to construct a message, that he shall couch that message in writing, that he shall commit that message to print, and from that print that he shall be empowered to communicate to certain officials here?

I can well understand how, when an individual author composes, his pen is held in strict confinement by his mind. In this mental engagement the author is so completely absorbed that he is almost assistants to his aid; but when he invokes the instrumentality of type, the inviolability of this confidential relation is destroyed, and the message goes to the printer; it goes not to the House, but the printer is erected into the representative of the President and the House is subordinated to the type-setter.

But I am told that it will be in order to print the documents accompanying the message, and that thus the difficulty will be avoided. Why, sir, the circle of clerical action necessary to the completion of the message is not perfect till the paper has arrived at this House. Till then it is not entitled to the dignity of message. Should the messenger from the White House stumble in his course through the avenue to the House, and the documents tumble with him, would it be the message of the President of the United States? Think you that would lie covered with the dirt and filth of the street? [Laughter.] Why, no, sir; it would not be the message of the President until delivered; and then delivered to the coordinate branch of the Government—"the Congress." It is then that the President's message goes forth to the country. Goes forth, how? As an essay of a professor, as the opinion of a public officer? No, sir; it goes forth under the sanction of a truth told by the Constitution to a high representative body, and it is clothed with the sanction and authority not only of the President, but also of the body to which it is addressed. You cannot disrobe the message thus delivered of its authority. It then becomes a record of State; and a record of State alone is that the people of the United States contemplate and receive it. The message of the President before delivery is of no more authority than a newspaper article, subject, if you please, to committees of investigation of fifteen members, to the most unscrupulous charges of fraud; but who ever heard of a message of the President of the United States received by a House that was investigated, save in Committee of the Whole? Now my friend from North Carolina seeks to exempt from the operation of this argument the documents accompanying the message.

Mr. BRANCH. The gentleman has misunderstood the purport of my amendment, which proposes to exempt from the operation of the bill the message only, and allow it to apply to such accompanying documents as the President shall see proper to communicate. I stated expressly that I did not think it would be proper for the House to make it imperative on the President to communicate his message, and therefore my amendment was so drawn as to exclude the messenger from the operation of the bill.

Mr. JOHN COCHRANE. Certainly; so I understood the honorable member; but my argument is directed to the point that my friend from North Carolina can accomplish nothing by the distinction, and which depends upon the consideration that there is no constitutional line of separation between the message and the documents that accompany it.

Mr. TAYLOR. Will the gentleman from New York allow me to say one word at this point?

Mr. JOHN COCHRANE. Certainly.

Mr. TAYLOR. The gentleman from New York has taken what seems to me a most ex-

traordinary position. He raises the matter now before the House to the dignity of a constitutional question. Does not the gentleman remember that it has been the practice, during at least a quarter of a century, for the President of the United States to have his message printed before Congress meets, and not only that, but to have it placed in the course of transmission to all the important points in the United States? That, sir, is the practice on the part of the President; and what is the object of the House aimed at at this time? It is not to compel the President to discharge his duty; it is not to impose upon him an obligation to do this or that; it is simply to confer upon the President of the United States the authority to have a certain amount of printing done at a particular time, for the convenience of those who act with him in the transaction of the public business. We all know that printing is to be done at some period, and we know that the public affairs inconvenience in consequence of the delay to which it is now subjected, for the President has not now the discretionary power to have it done at the public expense, at a period which would suit the convenience of members of Congress. I do not see how any constitutional question arises. To my mind, it presents merely one of expediency. It proposes merely to confer an authority, which it is within the discretion of the President to exercise or not, as his views of the public interest may dictate. It is a measure of expediency which must be done at some time, may be done, if he sees fit to direct it, at a time which will enable the Representatives of the people to go into the discharge of their duty from the very moment in which the assembly in Congress.

Mr. JOHN COCHRANE. My friend from Louisiana declares that he is unable to appreciate the manner in which this rises to the dignity of a constitutional question. I am sorry that my friend from Louisiana is unable to appreciate his own able argument, and is unable to see the facts more than the facts he has so clearly presented, to show that it is indeed a constitutional argument which I am addressing to the House, and which erects its formidable front in opposition to the bill now before us. Sir, the message of our President, the President of the United States, is undivided. But it is printed under the sanction of Congress. It is distributed to certain points, but under an inviolable promise that it shall not be disclosed; and it is only when the electric spark conveys the fact to all parts of the Union that the President's message, as the House of Representatives, or to the Senate, that the word "delivered" authorizes it to be disclosed to the public.

Mr. TAYLOR. Will the gentleman from New York allow me a word?

Mr. JOHN COCHRANE. Pardon me now. I hope my friend from Louisiana will allow me to proceed with my argument continuously; at this point, in answer to the views which he has presented. Sir, there is a moral in his argument, and that moral is, that the President, under the Constitution and laws of the land, the President of the United States does not deem that he is authorized to disclose the contents of his message, or that he is authorized to publish it as a message, till delivered; and if he here considered that the President's message is a communication upon his constitutional duty, I call upon my friend from Pennsylvania, [Mr. COVOC], and upon my friend and colleague from New York, [Mr. HOAR], to raise each an investigation upon his conduct, and let us ask him for an unconstitutional disclosure of his duties. Sir, he is not liable to this objection. He is liable to this praise, and entitled to this applause, that he has done, and that he continues to do, his duty strictly under the Constitution and the laws of the land. I will now listen to no friend from Louisiana.

Mr. TAYLOR. I merely wish to ask the gentleman from New York a question. He has said that the practice which has obtained with the Presidents of the United States to have their messages printed was justifiable, because the Chief Magistrate of the Union authorized those who printed them to print them under an injunction of secrecy.

Mr. JOHN COCHRANE. One moment. Let me set my friend right in his premises. I did not say that it was justifiable. I was saying that the practice of the President, as alleged in support of the argument he advanced.

Mr. TAYLOR. Allow me to proceed. It has, sir, certainly been the practice, almost since the commencement of sending written messages. The gentlemen from New York, I have no doubt, has hitherto approved it. We know, however, that occasionally he changes from. He has treated us to evidences of that fact frequently.

Mr. JOHN COCHRANE. Now, sir, since the change from the Buffalo platform. [Great laughter.]

Mr. TAYLOR. I had not the slightest allusion to that change.

But to proceed. [At practice, Mr. Speaker, which the whole country expects to be continued; that practice heretofore justified by the whole country; that practice which the Presidents of the United States have all adopted, and up to this time without censure; if that practice which is commended for the mere gratification of the public appetite for an early communication of the message, can be adopted with propriety by the President, I should like to know from that gentleman why Congress may not furnish the means to the President of adopting a similar practice for the public interest, which is the early publication of the particular documents in question?]

Mr. JOHN COCHRANE. My answer to that is simply this: my friend from Louisiana misunderstands or overlooks the distinction I take. The point to which I address my remarks is to the constitutional position of an officer of the Government in the discharge of his duty. That which my friend has been addressing his remarks to, is as to the discretion of that same officer in the discharge of that same duty. In this case we are authorizing the officer, and ordering him how to discharge that duty. In the case put by my friend from Louisiana, we have an instance of the discharge of a duty according to the individual discretion of the officer upon whom that duty devolves. I may, or may not, justify the practice which has hitherto existed; but it is justifiable or not, commendable or to be praised, is not a question which rises to the level of the consideration which we have before us. The consideration we have here is this: whether we, as the law-making power of the Government, will declare that the President is discharging his constitutional duty when he is delivering his message to the printer; after the printer, to the Clerk of this House, instead of to the House of Representatives itself.

Now, sir, I come briefly to the consideration of that branch of the argument which has been alluded to by my friend from North Carolina, [Mr. BLANCH.] I am unable to see, and so must every one here, the distinction between the message and the documents which accompany it. A document can have no position, no sanction, except those which the message gives it. It is the appendage, the tail of the message. It has its sanction, its power, its intelligibility, only by means of the message. To divide the accompanying documents from the message, would be to deny to them as it would be fatal to rupture the ligament which binds the Siamese twins together. [Laughter.] That disposes of the argument of my friend from North Carolina.

Let the House well consider, let it ponder upon the work which is put before it to do, to treat, to have, sir, seen the Constitution wounded; I have seen it down-trodden; I have seen it torn piece from piece; but these were done in the hour of excitement done by the heedless masses, or by the violence of instant passion. I trust, I am said that the House of Representatives, in its cool reason and dispassionate judgment, deliberately decided, for a mere convenience, a mere saving of hours, which might well be bestowed upon the official work of those who stand upon the patient lamb to permit the Constitution to be oppressed, and the pillars upon which the privileges of this people rest be shattered by a ruffian blow.

Mr. FLORENCE. Mr. Speaker, I submit to the judgment of the gentleman from New York. With meekness and with fear, I would not approach this subject. I confess that I cannot, however, evoke, as the gentleman has done on this occasion, "gorgons and hydra and chimeras dire." I see in this bill, when amended as I shall suggest, one of those salutary reforms which, I believe, will pervade the whole body of our legislative duty. The practice proposed by the bill, is

so far as my experience extends, the one now pursued. The message of the President of the United States is printed in advance of the meeting of Congress. The documents accompanying that message are all printed in advance, and I think, made public in advance. I think that as soon as Congress assembles, those documents are placed in the hands of the Senate and printed for the use of the Departments. Even, sir, in advance of the delivery of the President's message, it is easy to procure a copy of any of the documents accompanying it, from a head of a Department. We are not, therefore, abandoning any principle, we are giving the hands and brains of the nation long usage. Hence the charge of unconstitutionality which the gentleman makes falls to the ground, "unwarranted, unhonored, and unsound." [Laughter.] Mr. JOHN COCHRANE. Repeat that, Tom. Mr. FLORENCE. I said, sir, that if my argument is truthful, and I believe it to be, the constitutional objection of the gentleman falls to the ground, "unwarranted, unhonored, and unsound." [Great laughter.]

Mr. JOHN COCHRANE. I am unable to appreciate a hand or a friend's argument.

Mr. FLORENCE. He was not listening to it. If he had heard it all, he would surely have appreciated it. He now only wants to criticize the poetry, and not the facts or arguments.

Mr. JOHN COCHRANE. I am not sure my friend not only that his arguments are above and beyond criticism, but his poetry is above reproach. I do not appreciate his argument, but I do feel his poetry. [Laughter.] And sir, though I cannot yield to his logic, I yield to his blank— [The gentleman recited a verse, which he has here recited.] [Laughter.]

Mr. FLORENCE. There is a deal of force in the gentleman's intimation—in that airy, sarcastic manner which is so strikingly characteristic of him. I am much obliged to the gentleman that he has made the case and not the verse. I take that commendation as a personal one, and permit the verse to run along to take care of itself as it best may.

Now, I suggest that this section may be retained, in order of requiring the President to communicate these documents. If it is offensive, unconstitutional, and illegal, to require the President to do so, let us request the President to cause his annual message and accompanying documents, so far as practicable—and I think generally so, to be printed in advance of the meeting of Congress, and with this further fact, patent and known to every one, that the President of the United States did communicate these documents to this House a month before it was organized.

Now, Mr. Speaker, in reference to that branch of the argument I have no more to say. But there is, in my judgment, a fatal objection to this bill which gentlemen have not looked at, I think, as statesmen ought to look at it, and I am of this kind. Under this specious and, unfortunately, popular cry of economy, there has been a provision inserted in this bill to emasculate those important documents, which ought to be published and distributed all over the land, in order that the people might be informed of the doings and transactions of the Government in this metropolis—a provision to deprive the people of this valuable statistical information. I briefly referred to this fact when the bill was introduced by the Committee on Printing. I am sure that the time of the House was to interpose an objection to that feature of the bill. I am in favor of the general principle of the bill. I believe its adoption would be a great saving of public time and money, and would be a great saving of the dignity of the executive department, or of its constitutional privileges. But I would extend to the people all

the information I could in relation to the workings of this Government of ours. We have done away with the extravagance of the public printing, so called—though I never participated in objections to it, or to any means of distributing information to the people—and all those documents which produced so large an expenditure of the public money have been printed, and the bills paid. Now the only documents of any size we print are the President's message and accompanying documents, and the mechanical and agricultural parts of the Patent Office reports. Now if we were to distribute one hundred thousand copies of the message and accompanying documents in full, so that every one in the land might be informed of the workings of this Government, it would, in my judgment, be true economy. Hence I have an objection to this emasculation of these documents. But yet, while the amendment I have suggested to the first section of this bill, I am willing to take it, with the documents intact and complete. I believe it will be a great saving of public time. I believe if we had the message and documents before us earlier in the session, commencing with the first Congress, I believe I would have an opportunity to study them more thoroughly, and would be better prepared to perform their duties, and to act more intelligently upon the appropriation bills, and other matters which demand their consideration.

I trust the House will give consideration to the suggestion I have made, in reference to depriving our constituents of that information which we ought to communicate to them. I trust there will not be an abatement of a single line of the documents which accompany the message. I would be willing to vote for the bill if it could be made what I desire it to be, and I, indeed, shall be willing to vote for it, if it cannot be made such, on the ground that it would be the inauguration of a salutary reform, if the gentleman's constitutional objection could be waived in the construction of the first section of the bill.

But I trust the documents may go out to the people full and complete, and not a compilation of them, which might deprive our constituents of just information, which ought to be communicated to them; which might communicate to them that which has no practical value, to inform them fully of the operations of the Government.

Mr. DOCKOCK. Mr. Speaker, I shall not detain the House but a few moments in explaining the reason why I can vote neither for the bill, as presented by the chairman of the Committee of Ways and Means, nor for the amendment offered by the gentleman from North Carolina, [Mr. BLANCH.] The Constitution of the United States, Mr. Speaker, says that the President of the United States shall, from time to time, give Congress information in relation to the state of the nation. Custom has brought it about, that at the beginning of each session of Congress the President of the United States deliver a message. He is not bound to do so. There is nothing which makes it incumbent on him to deliver his message on the opening of each session of Congress. It is within his discretion. The Constitution of the United States does not require him to do so. The President shall give us information in relation to the state of the Union. I will do nothing, sir, which shall say to the President of the United States, "We recognize this custom as the common law of the land, which you are bound to conform to. You must give us a message on the opening of each session, whether you think it necessary or not." Neither will I, Mr. Speaker, dictate to the President of the United States to whom he shall send his message. I will not say to him in his message to send to the Clerk of this House, or the Secretary of the Senate. On the contrary, I would say that the President should be in conformity with the spirit of the Constitution. The message must be made to us. I will do nothing, I say, to mar it of its fair proportions, and change it from a message to Congress, into a communication to one of our officers. I say that the arguments submitted by the gentleman from New York [Mr. JOHN COCHRANE] have, in my opinion, a great deal of weight in them, and they go as well to the bill itself as to the amendment offered by the gentleman from North Carolina.

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What, sir, are these accompanying documents? They are matters constituting a part of the President's message in fact; giving information in relation to the state of the nation. The President of the United States calls upon the heads of the different Departments to furnish him with information as to the condition of those Departments. He can keep these communications to himself. He chooses, however, in conformity with the spirit of the Constitution, and in order to give us information, to communicate those documents to us, and thus they become a part of his message. I say I will not change the character of them from being a part of his message into a communication to the officers of this House. I will not require that they shall go forth under the sanction of the officers of this House before the character of the message is stamped and declared by its being pronounced in this House. It must be a message to Congress. It must be a communication to Congress, and therefore it must be made in the official way to the House of Representatives.

I say, then, that I will not go for anything which requires the message to be distributed before it is communicated in the usual way to this House; nor will I do anything that requires the accompanying documents, what in my opinion constitute a part of the message, to be distributed before they are laid before the House of Representatives. I am perfectly willing to do this; and this is as far as I will go: I am willing to authorize the President of the United States, if he should think proper, to have in his hands the accompanying documents, or the accompanying documents themselves, or any portion of the accompanying documents, printed in advance, so that when the message is sent to the House, the charge of the communication of a message to Congress shall be stamped and declared by its being here; and that then those things may be distributed more speedily.

It is an evil, as gentlemen declare, that we cannot have these accompanying documents printed sufficiently early in the course of the session to make them as useful as they ought to be in getting up the business of the House. That is an evil; and I would desire to remedy that evil as far as I could, in a constitutional and sensible way. I am willing to give to the President of the United States authority to have printed, by the Public Printer, his message and the accompanying documents, as he may think proper; keeping them all the time under his control, and giving them neither to the Secretary of the Senate nor to the Clerk of the House; distributing them to nobody; but keeping them as he now keeps his messages which he has printed at his private expense, under his own control, and which is distributed to nobody; so that, when the message is delivered here, when it becomes a message, when it becomes a communication to the House of Representatives, the Senate of the United States, the printing might be in an advanced condition, and that the message and the accompanying documents might be speedily delivered. In conformity with this idea, I have drawn up an amendment in this form:

Resolved by the Senate and the House of Representatives of the United States, That the President of the United States be authorized to cause his annual message and accompanying documents, or, if he thinks better, the said documents alone, to be printed, in advance of any part of the session of Congress, so that, on delivery of said message, any, with the accompanying documents, be more speedily delivered among the members in the manner now prescribed by law.

That resolution, I believe, conforms to the views of my friend from Ohio.

Mr. SHERMAN. I now move the previous question.

Mr. GROW. Will the gentleman withdraw his motion for one moment, to enable me to propose an amendment? I propose to amend the amendment offered by the gentleman from Virginia by striking out the words "or any part of them," so that it will read, "may print the said documents alone." I will agree to the gentleman's amendment with that modification.

Mr. SHERMAN. I will hear the suggestion of the gentleman from Pennsylvania.

Mr. GROW. It is, that the President may print the message, or, if he thinks it advisable, the documents accompanying it; but not allowing him to print a part of them. I prefer that the documents should be all printed, or none of them. I would leave it to his discretion to print all of them, or none.

Mr. SHERMAN. I now renew the previous question.

Mr. BARKSDALE. In order that the bill may be perfected, I move to recommit it to the Committee of Ways and Means. Half a dozen amendments have been offered to it.

Mr. VALLANDIGHAM. I ask the gentleman from Ohio to withdraw the previous question in order that the report of the Secretary of the Treasury may be also included.

Mr. SHERMAN. I understand that it is included.

Mr. VALLANDIGHAM. I understand that it is not.

Mr. SHERMAN. I must insist on the previous question.

Mr. GARTRELL. I move to lay the bill upon the table, and on that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BURNETT. I move that the House do now adjourn.

The motion was not agreed to.

The question was then taken on Mr. GARTRELL's motion; and it was decided in the negative by yeas 107, as follows:

YEAS—Messrs. Ashmun, Avery, Bonham, Boutwell, Briggs, Church, Burnett, John B. Clark, Clemens, Clifton, Cobb, John Cochran, James Craig, John G. Davis, Dr. John Edmundson, Garrett, Hamilton, Harbison, John T. Harris, Houston, Howard, Hughes, Jackson, Jenkins, Kilgore, Lamar, Lawrence, Locke, Logan, Love, Robert S. McLean, McQuinn, McQuinn, McQuinn, Miller, Montgomery, Lohan T. Moore, Sydenham, Moore, Knott, Peyton, Pryor, Rogers, Rutledge, Scott, Simon, William N. Smith, Seward, Sherman, Underwood, Vance, Walcott, and Wright—54.

NAYS—Messrs. Charles F. Adams, Green Adams, Adamson, Alexander, Anderson, Bingham, Blair, Blake, Bockee, Boyce, Buchanan, Chase, Britton, Bullfinch, Burlingame, Burroughs, Carey, Case, Collins, Cocking, Cusack, Crawford, Curry, Cutler, H. Walter Davis, Deane, Deland, Dodd, Dunn, Eliot, Eldridge, Perry, Florence, Foster, French, Garrett, Gresham, Grove, Gayley, Hale, Hall, J. Morrison Horne, Harkin, Hutton, Hiram, Howard, Hottel, Homan, Humphreys, Hutton, Irvine, Junkin, Francis W. Kellogg, William Kellogg, DeWitt C. Leach, James M. Leach, Lee, Leomin, Lovejoy, Mallory, Marston, Maynard, McKean, McKnight, McPherson, Millard, Moorhead, Morrill, Edward Jay Morris, Morse, Nelson, Noble, Noyes, Olin, Pennington, Perry, Pettit, Foster, Potter, Pugh, Reynolds, Rice, Rice, Christopher Robinson, Ross, Sevier, Sevier, Sherman, Simpson, Spenser, Stokes, Tappan, Taylor, Thayer, Thacker, Tompkins, Train, Trimble, Vallandigham, Van Wyck, Walton, Eliza B. Washburn, Leroy Washburn, Webster, Wells, Wilson, Woodson, and Woodruff—107.

So the House refused to lay the bill upon the table.

During the call,

Mr. HAMILTON, when his name was called, said: Not being one of the favorites who can obtain the floor at any time, however many of our gentlemen may get it, I avail myself of my name being called to say that I have nothing to expect from the magnanimity of those favorites who can get the floor whenever they please. I simply wanted to make this statement. I vote "ay."

Mr. SHERMAN. If the gentleman refers to me, as I obtained the floor—

Mr. HAMILTON. You obtained the floor after I was upon it.

Mr. SHERMAN. I simply desire to say that I am not a favorite. I am here on equal of any gentleman on the floor. I claim no superior rights, and do not allow gentlemen to—

Mr. HAMILTON. You cannot help it, so far as I am concerned.

Mr. SHERMAN. If the gentleman intends to interrupt my speech—

Mr. HAMILTON. I said exactly what I meant. I say I had the floor before you had it.

Mr. SHERMAN. It became my duty to call the previous question; and I was urged to do so

by friends upon the other side of the House. I did my duty, and I intend to do so.

Mr. MILES stated that Mr. KURTZ was paired off with some gentleman on the other side.

Mr. MARSTON. He is paired with Mr. Edwards.

Mr. LARRABEE, when his name was called, said: I shall vote to lay the bill upon the table, for these reasons: first, that it is mandatory on the President, and secondly—

Mr. BINGHAM. Debate is not in order, and I object to it.

The SPEAKER. Debate is not in order during the vote.

Mr. LARRABEE. I am not debating. I am only giving the reasons for my vote; [cries of "Order!"] and one of our men who was fit to be President could obey such a mandate.

[Renewed cries of "Order!"]

Mr. BINGHAM. I insist that that is debate, and I object to it.

The SPEAKER. The gentleman from Wisconsin is not in order.

Mr. LARRABEE. If I am out of order, I do not desire to proceed.

The SPEAKER. The gentleman is out of order. There can be no debate pending the vote.

Mr. LARRABEE. Very well, sir; I vote "ay."

Mr. POTTLE stated that he had paired for the remainder of the day with Mr. ENGLISH.

Mr. MOORE, of Alabama, stated that Mr. DAYTON had paired with Mr. STEWART, of Pennsylvania.

Mr. COX stated that his pair with Mr. ESKRATOR would not expire until to-morrow morning.

The result of the vote having been announced, as above recorded, the question recurred upon securing the yeas and nays for the previous question.

Mr. VALLANDIGHAM. I think this bill ought to include the finance report. As it does not include it, I hope the gentleman from Virginia [Mr. BARKSDALE] will accept an addition to his amendment.

Mr. FLORENCE. I think there is a provision of law now governing the printing of the finance report.

Mr. VALLANDIGHAM. I understand that the amendment of the gentleman from Virginia is pending as an amendment to the amendment of the gentleman from North Carolina, [Mr. BRANCH].

Mr. BARKSDALE. I cannot imagine why it is important to pass this bill now; and, as several amendments have been offered, it strikes me that the best plan to adopt would be to recommit the bill to the Committee of Ways and Means.

Mr. SHERMAN. Let the previous question be seconded.

Mr. VALLANDIGHAM. I believe I had the floor.

Mr. BARKSDALE. I supposed the gentleman from Ohio had finished his remarks. I did not intend to interfere with him.

Mr. VALLANDIGHAM. I want first to have the previous question withdrawn, so that my amendment may be introduced in order.

Mr. SHERMAN. Let the previous question be seconded.

Mr. BARKSDALE. An amendment to the bill cannot be offered after the previous question is seconded.

Mr. SHERMAN. I will withdraw the demand for the previous question, to enable my colleague to get in his amendment.

Mr. VALLANDIGHAM. The amendment I desire to offer is as follows:

And also, that the Secretary of the Treasury shall cause the report on the finance, made by him, made by act of May 10, 1850, to be printed, and copies thereof delivered to the Secretary of the Senate and the Clerk of the House of Representatives, in time for distribution at the commencement of each session, in the manner prescribed by law for the distribution of documents ordered to be printed by Congress.

The estimates are already so printed, and this covers the finance report.

Mr. BRANCH. I can simplify this matter. I

have offered an amendment, and the gentleman from Virginia [Mr. BOCKOCK] has offered an amendment to mine. The only essential respect in which his amendment differs from mine is, that mine directs the manner in which the printing shall be done, and his does not. If he will not withdraw his amendment, I will withdraw mine. It is useless to have votes upon both.

Mr. BOCKOCK. If I understood the matter as the gentleman from North Carolina does, I should have no difficulty in withdrawing my amendment. But, as I understand it, my amendment provides that the documents accompanying the President's message shall be printed and delivered, in advance of the delivery of the message here, into the hands of the Secretary of the Senate and Clerk of the House of Representatives. Now, that is what I object to. I want the President authorized to have the documents printed, and keep the whole matter under his own control until the message is delivered to the House, and so stamped as a communication to the House, and then let it go forth to the country.

Mr. BRANCH. My amendment provides that so much of the documents accompanying the message as the President shall think proper to deliver in advance of the session shall be printed in the manner now prescribed by law for doing the congressional printing, and that the documents are now required to be distributed. The gentleman's amendment authorizes the President to have it done, not in the manner now prescribed by law, but in such manner as he shall select.

As the gentleman shows an indisposition to withdraw his amendment, and the matter is too small to consume the time of the House with, I will withdraw my amendment.

Mr. BOCKOCK. I will accept the proposition of the gentleman from North Carolina.

The SPEAKER. The Chair understands, then, that the gentleman from Virginia withdraws his amendment, and that the amendment of the gentleman from North Carolina stands.

Mr. BOCKOCK. No, sir; as I understand it, the question now stands upon my amendment, as modified on the suggestion of the gentleman from North Carolina and the gentleman from Ohio.

Mr. SHERMAN. I now demand the previous question.

Mr. FLORENCE. In order that there may be no misapprehension, let the amendment be read. I think the two amendments may be taken together. The amendment of the gentleman from North Carolina does not include the message at all.

Mr. BRANCH. The President's message was purposely excluded.

Mr. FLORENCE. I so understood; but there seemed to be some misapprehension.

The amendment proposed by Mr. BOCKOCK, as modified by him at the suggestion of Messrs. BRANCH and VALLANDIGHAM, was then read, as follows:

Strike out section one, and insert in lieu thereof the following:

That the President of the United States be authorized to cause his annual message and accompanying documents, or, if he thinks best, the said documents alone, to be printed in the manner prescribed by law, in advance of the meeting of Congress; so that, upon the delivery of said message, it may, with the accompanying documents, be more speedily distributed among the members in the manner now prescribed by law. And that the Secretary of the Treasury shall cause the report on the finances, made by him in pursuance of the act of May 10, 1890, to be printed to the manner prescribed by law, and copies thereof delivered to the Secretary of the Senate and Clerk of the House of Representatives, in time for distribution at the commencement of each session, in the manner prescribed by law for the distribution of documents ordered to be printed by Congress.

The SPEAKER. The question is upon conceding the demand for the previous question.

Mr. FLORENCE. Will the gentleman from Ohio withdraw the demand for the previous question, to enable me to offer an amendment to provide that the documents shall be printed complete, as I suggested.

Mr. SHERMAN. I insist upon the demand for the previous question.

Mr. FLORENCE. Well, I will look to the Senate.

The previous question was seconded, and the main question ordered to be put.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time.

Mr. BURNETT. I ask for the reading of the engrossed bill.

The SPEAKER. The Chair is informed that the bill has not been engrossed.

Mr. CLEMENS. I ask if the bill, at this stage, is susceptible of amendment?

The SPEAKER. It is not.

Mr. SHERMAN. I move to reconsider the vote by which the bill was engrossed; and I hope that motion I demand the yeas and nays. I will state that my object is to give time to engross the bill. I suppose it will not require more than five minutes.

Mr. BURNETT. I move that the House adjourn.

PERSONAL EXPLANATIONS.

Mr. ADRIN. I ask the gentleman to withdraw that motion for a moment. I rise to a question of privilege. The gentleman from Texas, [Mr. HAMILTON], in his remarks to-day, impugned the conduct of the Speaker in not giving him the floor. I wish to say, in justification of the Speaker, that I distinctly heard him recognize the gentleman from Texas, and assign him the floor; and I wondered at the time that the gentleman did not avail himself of the right awarded him.

Mr. HAMILTON. The gentleman from New Jersey states, and I am told by others, that the Speaker refused to give me when I sought the floor. I was perfectly confident that the Speaker saw me as I rose, and that I rose before the gentleman from Ohio, [Mr. SHERMAN]; but I was not aware that the floor was assigned to me. If I had heard the Speaker, I should not have made the remark which I did, and which I now withdraw.

The SPEAKER. The question now recurs on the motion that the House adjourn.

Mr. JENKINS. I rise to a question of privilege. I send to the Clerk's desk a paragraph which I never read.

The SPEAKER. The motion to adjourn is not debatable.

Mr. BURNETT. I did not insist on the motion when the gentleman from New Jersey [Mr. ADRIN] wished to explain, and of course I cannot insist on it now.

The Clerk read from a dispatch of the Associated Press, stating that Mr. JENKINS had addressed the House in favor of a protective tariff.

Mr. JENKINS. That dispatch appears as having been sent by the agent of the Associated Press. The error was made, I presume, in the gentleman from Pennsylvania, [Mr. JENKINS]. I wish to say, that mistakes of that character have been very frequent. My name has been published in the papers of the country even in connection with the gentleman from Ohio [Mr. SHERMAN] as Speaker. I refer to the matter now simply for the purpose of calling attention to it, hoping that similar mistakes will not occur in future.

Mr. MORSE. I rise for the purpose of making a personal explanation. I was in my committee-room, attending to business of the committee of which I am a member, and was sent for to vote on the reference of the Army appropriation bill, when that was before the House. I came into the House, and was told that the question was on referring the bill to the Committee on Military Affairs. I voted "no." My intention was to vote in such a manner as to keep that bill in charge of the Committee of Ways and Means. I wish to make this explanation now, because I voted to accomplish the same purpose in the last Congress, and because I expect to do so hereafter; and I do not wish this vote to be referred to as indicating any other purpose.

Mr. BURNETT. I now renew my motion that the House adjourn.

The motion was agreed to; and thereupon (at a quarter past four o'clock, p. m.) the House adjourned.

IN SENATE,

FRIDAY, March 9, 1890.

Prayer by the Chaplain, Rev. Dr. GRELEY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate the report of the Secretary of the Treasury, communicating a report of the Superintendent of the Coast Survey, showing the progress of that work during the year ending November 1, 1889,

with a map, prepared in obedience to an act approved March 3, 1853; which was ordered to lie on the table; and a motion of Mr. PEACE to print the report was referred to the Committee on Printing.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles, and referred as indicated below:

An act (No. 44) confirming certain land entries under the third section of the act of 3d March, 1855, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1886," to the Committee on Public Lands.

An act (No. 63) to regulate the mileage of members of Congress—to the Committee on the Judiciary.

ORDER OF BUSINESS.

Mr. HUNTER. I present the petition of W. H. Vespy, United States consul at Havre, praying to have refunded to him money paid by him on account of the default of bankers in Paris, with whom he had deposited funds of the Government; and I move its reference to the Committee on Foreign Relations.

Mr. IVERSON. Before that petition is received, I wish to present a question to the Senate as to the power of gentlemen to present anything to-day, inasmuch as the whole day is assigned for the Private Calendar.

Seventeenth. We have the morning hour. Mr. IVERSON. I wish the Senate to decide whether morning business is to be taken up in preference to the Private Calendar, or whether that is not the first business in order immediately after the reading of the Journal.

Mr. HUNTER. I hope the Senator will allow the petition which I have presented to go.

Mr. IVERSON. If I let that go, I may have to let a hundred go. I wish the question decided. I call for the execution of the order of the Senate, setting aside the Private Calendar.

The VICE PRESIDENT. The Secretary will read the resolution under which the Senate is acting.

The Secretary read the following resolution, adopted on the 21st of February:

Resolved, That, for the residue of the present session, after the reading of the Journal, each day, the Senate be kept apart for the consideration of private bills, in the order in which they stand upon the Calendar.

The VICE PRESIDENT. The Chair was disposed to regard it as in the nature of a special order, and to allow the morning hour to be occupied in the morning business; but he will submit the question to the Senate, if the Senator from Georgia desires it.

Mr. IVERSON. The reason why I object to it to-day is, that there is a matter set down for two o'clock, and I should the morning hour to be consumed with the reception of petitions and reports, there will be no time for the Private Calendar; because the question which is assigned for two o'clock will probably occupy the remainder of the day. The argument or excuse of Mr. Ives will be of no benefit. It will spring up a discussion, undoubtedly, and I do not suppose that matter will be got rid of during the remainder of the day. I desire, at least, to have some time appropriated to the Private Calendar to-day. Therefore, I make the question, and I hope the Senate will decide it. I will appeal from the decision of the Chair, as a matter of formality, so as to let the Senate decide the question whether the Private Calendar has precedence from the reading of the Journal, or whether the morning business is to be decided.

Mr. DAVIS. I think the Senate is clearly entitled to the morning hour.

Mr. IVERSON. I do not wish to appeal, but I desire to have the question presented to the Senate in some shape.

Mr. DAVIS. The Senate is clearly entitled to the morning hour, and the decision of the Chair is evidently correct; otherwise, every special order might take effect from the reading of the Journal, and shut out the current business of the Senate.

Mr. IVERSON. It will be remembered that whenever a special order is set down, the hour is designated; but this is a general order, made by

the Senate, setting apart the whole of Friday for the consideration of private business.

THE VICE PRESIDENT. The Senate having by resolution set apart Friday for the consideration of the Private Calendar, the Senator from Georgia makes the question that it must be taken up immediately after the reading of the Journal. The impression of the Chair is, that it is in the nature of a private order, and to be called up at the hour when other special orders are called up, and hence that the morning hour, as heretofore, may be occupied in the presentation of petitions and reports. The Chair, however, will submit the question to the Senate—it is indifferent to him—that the Private Calendar on Friday stand in the position of a special order, or shall it be taken up the moment the reading of the Journal is concluded?

MR. PEARCE. I suggest that the ordinary form is to propound the question thus: Shall the decision of the Chair stand as the judgment of the Senate?

THE VICE PRESIDENT. The Chair proposes to submit the question to the Senate.

MR. PEARCE. I understood the Senator from Georgia to take an appeal.

MR. IVERSON. I withdraw that.

THE VICE PRESIDENT. Perhaps, after all, that is the simpler form. The Chair will decide that he will call for petitions and reports during the morning hour, and the Senator from Georgia will appear on a matter of form.

MR. IVERSON. Very well.

THE VICE PRESIDENT. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The question being put, the decision of the Chair was sustained.

THE VICE PRESIDENT. The petition presented by the Senator from Virginia will be referred to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS.

MR. CRITTENDEN presented the petition of **Mrs M. Alexander**, praying to be allowed a pension on account of the military services of her father, **George Madison**, in the war of the Revolution, the Indian wars, and that of 1812; which was referred to the Committee on Pensions; and motion by him to print the petition was referred to the Committee on Printing.

MR. PEARCE presented a memorial of **Thatcher Perkins** and **William McMahon**, praying an extension of their patent for an improvement in the manufacture of locomotive engines; which was referred to the Committee on Patents and the Patent Office.

MR. BIGLER presented a memorial of merchants and citizens of Philadelphia, relative to life-saving stations on the coasts of Long Island and New Jersey; which was referred to the Committee on Commerce.

He also presented a memorial of the Philadelphia Board of Marine Underwriters, relative to life-saving stations on the coasts of Long Island and New Jersey; which was referred to the Committee on Commerce.

MR. SEWARD presented the memorial of the Chamber of Commerce of New York, in relation to the life-saving stations on the coasts of Long Island and New Jersey; which was referred to the Committee on Commerce.

MR. WIGFALL presented the memorial of **Loomis L. Langdon**, a lieutenant in the Army, praying remuneration for baggage carried off by the Mexicans under Cortina; which was referred to the Committee on Claims.

MR. CAMERON presented eight petitions of manufacturers and others of Schuylkill county, Pennsylvania, praying such a modification of the tariff as will protect the industrial and productive interests of the country; which were referred to the Committee on Finance.

He also presented a petition of citizens of Pennsylvania, praying that pensions may be allowed to the surviving soldiers of the war of 1812, and the widows of those deceased; which was referred to the Committee on Pensions.

MR. BINGHAM presented the petition of **Theron Hamilton**, of Burlington, Michigan, praying Congress to have five thousand copies of the Declaration of Independence and Washington's Farewell Address printed together and distributed; which was referred to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of **MR. GRIMES**, it was

Ordered, That the letter of the Delegate of the Territory of Utah, in Congress, inclosing the memorial of delegates of the Utah assembly at Great Salt Lake City, and adopted a constitution with a view to the admission of Utah into the Union as a State, together with a copy of that constitution, on the files of the Senate, be referred to the Committee on Territories.

On motion of **MR. MASON**, it was

Ordered, That the memorial of **C. E. Anderson**, late secretary of the Treasury, praying to be allowed additional compensation during the time he acted as chargé d'affaires at that court, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of **MR. MASON**, it was

Ordered, That **Frederick A. Beebe** have leave to withdraw his petition and papers from the files of the Senate.

On motion of **MR. NICHOLSON**, it was

Ordered, That the petition of **James C. Jewett**, praying that the Government of the United States will demand from the Government of Peru the tonnage he sustained in consequence of the failure of the Government of Peru to comply with the terms of the agreement between the two Governments in relation to the Lolo Islands, on the files of the Senate, be referred to the Committee on Claims.

On motion of **MR. IVERSON**, it was

Ordered, That the memorial of **H. B. Schoolcraft**, praying compensation for the collection of the facts and materials embodied in the history, statistics, condition, and improvement of the United States, be referred to the Committee and published by him, on the files of the Senate, be referred to the Committee on Claims.

A. A. LOCKWOOD.

MR. HEMPHILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the papers in the case of **A. A. Lockwood** be returned to the Senate by the Court of Claims.

REPORTS OF COMMITTEES.

MR. CLAY, from the Committee on Commerce, to whom was referred a memorial of the Boston Board of Trade, praying that a better description of life-boats, and other improved means for the preservation of vessels, may be required, and that they be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial of the Philadelphia Board of Trade, praying the adoption of more efficient measures for the saving of life-boats, and other improved means for the preservation of vessels, and that they be discharged from its further consideration; which was agreed to.

MR. FITCH, from the Committee on Printing, reported a bill (S. No. 362) providing for a reduction in the prices allowed for the public printing, and providing for the binding of the public documents, reports, and Journals; which was read, and passed to a second reading, and ordered to lie on the table.

MR. DURKEE, from the Committee on Revolutionary Claims, to whom was referred the memorial of **Haym M. Salomon**, praying indemnity for moneys advanced and losses sustained by his father, **Haym Salomon**, during the war of the Revolution, submitted a report thereon, and introduced a bill (S. No. 263) for the relief of **Haym M. Salomon**. The bill was read, and passed to a second reading; and the report was ordered to be printed.

BILLS INTRODUCED.

MR. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 361) to authorize the levy court to issue warrants and other licenses in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

MR. DURKEE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 364) to provide for the appointment of a judge for a district of country within the Territories of Kansas and Nebraska, and for other purposes; which was read twice by its title, and referred to the Committee on Territories.

THE CAPITOL GROUNDS.

MR. BRIGHT, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 365) to enlarge the public grounds situated in the Capitol; which was read twice by its title.

MR. BRIGHT. Were it not, Mr. President, that there are already so many special orders, I should ask the Senate to make this bill a special order for some day not far distant; but I am unwilling to embarrass gentlemen who have special

orders. I will state, however, that I shall take occasion at an early day to call up the bill, believing it is important that we should settle the question whether we will open the Capitol grounds or not. It is proper that I should state, further, that the Committee on Public Buildings and Grounds, both of the Senate and House of Representatives, have had a meeting and unanimously agreed upon this bill. We have caused a map to be made showing the shape, size, and location of the ground we propose to take within the enclosure around the Capitol, and have caused the map to be placed in the Senate Chamber, with proper explanations upon it, and a mark drawn around the end which we propose to include. I hope Senators will, in their leisure moments, examine it with a view to being able to vote upon the question when it comes up. Let the bill go on the Calendar or lie on the table; I have no choice.

THE VICE PRESIDENT. It will go on the Calendar, if no motion be made.

MILITARY ACADEMY BILL.

THE VICE PRESIDENT. If there be no further petitions and reports, the Chair will commence calling the bills on the Calendar.

MR. CLAY. I submit a motion to postpone the Private Calendar until we dispose of the bill which has been the subject of debate for several days in succession, making appropriations for the West Point Academy, and the other bills we can now dispose of in a short time. I think there will be no further discussion on it. In my opinion, we had better try to do one thing at a time. We have a great deal of unfinished business before us. I submit the motion to the Senate.

The motion was not agreed to. There being, on a division—ayes fourteen, noes not counted.

BILL BECOME A LAW.

A message from the President of the United States, by **MR. BREWSTER**, his Secretary, announced that the President had approved and signed, on the 8th instant, an act (S. No. 217) for the relief of **William B. Herrick**.

WIDOW OF GENERAL SMITH.

THE VICE PRESIDENT. The first bill on the Private Calendar is the bill (S. No. 73) for the relief of **Mrs. Anne M. Smith**, widow of the late **Brerret Major General Persifer F. Smith**. That bill is now before the Committee of the Whole, the question being on the amendment of the Senator from Georgia, [**MR. IVERSON**], as amended, to add to the bill:

And that the Secretary of the Interior be directed to place the name of **Mrs. Harriet B. Macomb**, widow of General **Alexander Macomb**, deceased, late commanding general of the Army, on the roll of pensioners, and to pay her a pension, at the rate of fifty dollars per month, from the date of the approval of this act; and also, that the Secretary of the Interior be directed to place the name of **Mrs. Arabella Riley**, widow of **Brerret Major General Benoit Riley**, deceased, late of the Army, on the roll of pensioners, and pay her a pension, at the rate of fifty dollars per month, from the date of the approval of this act.

The amendment was rejected.

The bill was reported to the Senate without amendment.

MR. HUNTER. Is there any report with that bill? If so, I should like to hear it.

MR. THOMSON. There is no report.

MR. IVERSON. There was done with the amendment in favor of **Mrs. Macomb**, which I offered the other day?

THE VICE PRESIDENT. It was rejected. The question now is on ordering the bill to be engrossed and read a third time.

MR. IVERSON called for the yeas and nays; and they were ordered.

MR. CAMERON. This is a bill allowing a pension to the widow of General **Persifer Smith**. There has been no report made by the committee, but if Senators require any information on the subject, the Secretary of the Interior, who investigated the case, will make a statement.

MR. THOMSON. Mr. President, this case was referred to the Committee on Pensions in 1858. It was supposed at that time that the case of General **Persifer Smith** was a well known fact that it was not necessary to make a special report, but I find among the papers, in my own handwriting, quite an elaborate brief of the case, made at the time; and for the information of the Senate I will read some of the papers, for the purpose of showing that General **Smith's** death was caused by

disease contracted in the line of his duty—as much so as if he had been shot by a cannon ball on the field of battle.

Mr. IVERSON. Will the Senator from New Jersey allow me to ask him what he means by disease contracted in the line of a man's duty? Every man who dies in the service dies from disease probably, and from disease contracted in the line of his duty, unless he is hung, or some casualty happens to him. I want to understand the meaning of the phrase "disease contracted in the line of duty."

Mr. THOMSON. The Committee on Pensions has never reported a bill in favor of any applicant, unless the death could be traced very distinctly to some disease contracted in the service—not as in the case of General Macomb, who died at a very advanced age, and of no disease whatever at the time. I find among these papers a certificate from Louis A. Edwards, a surgeon in the Army, which states what was the disease and how he contracted it. It is endorsed by Dr. Wood, who concurs in it, and also by Dr. Wright, an Army surgeon. Then there is a very important document, under oath, from Lieutenant Gibbs, of the rifles, a brevet captain, and he says that he was continuously in the society of General Smith from March, 1847.

Mr. HALE. With the consent of the Senator from New Jersey, I want to move in the Senate the amendment which was rejected in committee.

Mr. THOMSON. I give way for that purpose.

Mr. HALE. I do not know how it was with the other members of the Senate, but for myself, I was not aware that the amendment had been rejected in committee, and I now move in the Senate the amendment for Mrs. Macomb and Mrs. Riley.

The VICE PRESIDENT. The Chair will state to the Senator from New Hampshire that the question was upon the amendment in reference to Mrs. Macomb and the amendment to the amendment embracing Mrs. Riley. The Senator can arrive at what he desires by asking for a division of the amendment.

Mr. HALE. No, sir; I do not wish a division. The vote was taken when I was not attending to it; and some other Senators, I think, were in the same condition.

The VICE PRESIDENT. Then the question now is on the amendment which the question is in the Committee of the Whole, which is now renewed.

Mr. IVERSON called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 33, nays 15; as follows:

YEAS—Messrs. Anthony, Benjamin, Bigler, Bingham, Briggs, Cameron, Chandler, Claiborne, Crittenden, Davis, Dixon, Durkee, Fitch, Fols, Green, Hale, Hammond, Harlan, Humphreys, Iverson, Kennedy, Lane, Latham, Foster, Rice, Seward, Simmons, Sumner, Ten Eyck, Thomson, Wilson, and Wilson—33.

NAYS—Messrs. Briggs, Clay, Clingman, Fitzpatrick, Foster, Grimes, Hamlin, Harts, Johnson, Johnson, Mason, Nicholson, Powell, Sibley, Trumbull, and Yale—15.

So the amendment was agreed to.

Mr. IVERSON. As I announced the other day my determination to vote against the bill, even with the amendments, although I voted for them in order to put all on the same footing, I now ask for the yeas and nays on the bill as amended, in order that the question may be settled in that way.

The VICE PRESIDENT. The question is: Shall the bill be engrossed and read a third time? on which question the yeas and nays have already been ordered. The Senator from New Jersey was entitled to the floor. Does he desire to renew his remarks?

Mr. THOMSON. I have nothing further to say.

Mr. DAVIS. I was waiting for the Senator from New Jersey to explain the bill. The first case which is presented is that of General Smith, and I think it comes strictly within the law. I think he died of disease contracted in the line of his duty, and I think it is covered by the spirit of the law as fully, as any other pension case. It is known to most of those who hear me that General Smith, after his gallant service in Mexico, returned suffering from disease contracted in the result of the climate and his exposure to it. He was very much thereafter put on duty in Texas, where similar causes produced like results. When relieved from duty in Texas, his health to

a great extent recovered, and he was offered the command of the expedition to Utah; and, with the high pride and energy of a soldier, which had characterized him through life, he started on that expedition. The only way he could possibly have been relieved of the duty would have been to expect him to die when he got upon the plains, where he must drink water impregnated with lead. He died sooner than they expected, struggling to perform a duty which was strictly professional. I think he is thus brought within the spirit of the law, and that there should be no objection to allowing his widow a pension.

In the case of General Macomb, it has been stated, and truly, that he died of advanced age; but the years of his life had been passed in the honorable service of his country. He was stationed at Washington in the later part of his life, because he was selected to command the whole Army of the United States, and this became his station. He had rendered brilliant service during the war of 1812, and rendered good service in every station he occupied. He died without a fortune; and his debts, as it appears by a letter read some days since in the Senate, were paid from the private property of his wife. She now appeals to you for a pension; and those who know General Macomb better than myself, will be represented to you that she needs it. I trust the Senate will grant it.

The other case is the case of the widow of General Riley. General Riley, after more fatiguing marches than were, perhaps, performed by any other officer of the Army during the Mexican war, returned to the United States in the same day of his country and of those who saw him in many scenes of danger. He was one of the few who took part on both sides of operations during the war. He was distinguished in several engagements which turned the scale of the campaign in the valley of Mexico. To him, all admit, is mainly due the capture of Contreras. He displayed there not only his skill, but his gallantry, in the most signal manner, defying a charge of cavalry by troops drawn up in line, and then, under a fog which covered the fort, taking it by a coup de main, being one of the first who entered the fort. On every occasion his patriotic and his military zeal was exhibited. After the close of the war he went to California. Trained from his youth as a soldier, with very little other knowledge than that which was necessary to military affairs, he was suddenly charged with civil functions; and the balls of the enemy, which had so often spared him, were exchanged for trials to which he was less equal. He returned from California prostrated. The trials of civil life had broken a constitution which had borne the fatigues of so many campaigns. He died, and left a family with nothing but the good name he had won by so many years of valuable service. His widow appeals to you for a pension. Shall she have it?

These cases are like others which have gone before; instances in which we are called upon to show the gratitude of the people for services rendered in their behalf; occasions when it is in the power of Congress to stimulate the youth to such deeds as their sires have done. They are cases like those of General and Worth, and equally, for the same reasons, their appeal to you for pensions ought now to be granted. I trust the Senate will not refuse them. I honor the spirit of economy manifested by the Senator from Georgia, who has voted for amendments upon a bill which had special claims, in order that he might thereafter defeat the whole together. I may wish, however, that that economy was exhibited in some other point. Let us take \$1,800 from our own expenditures, rather than strip the needy widow of good soldiers of that pittance, when they ask it on their hands.

The question being taken by yeas and nays, resulted—yeas 36, nays 13; as follows:

YEAS—Messrs. Anthony, Benjamin, Bigler, Briggs, Cameron, Chandler, Claiborne, Crittenden, Davis, Dixon, Durkee, Fitch, Fols, Green, Hale, Hammond, Harlan, Humphreys, Kennedy, Lane, Latham, Nicholson, Powell, Rice, Seward, Simmons, Sumner, Ten Eyck, Thomson, Wilson, and Wilson—36.

NAYS—Messrs. Bingham, Briggs, Clay, Clingman, Fitzpatrick, Foster, Grimes, Hamlin, Harts, Johnson, Johnson, of Tennessee, Mason, and Trumbull—13.

The bill was ordered to be engrossed and read a third time. It was read the third time.

Mr. GRIMES. Is the bill still open to amendment?

The VICE PRESIDENT. It is not.

The bill was passed.

On motion of Mr. COLLAMER, the title of the bill was amended, so as to read: "A bill for the relief of Mrs. Anne M. Smith, widow of the late Brevet Major General Persifer F. Smith; and Mrs. Harriet B. Macomb, widow of Major General Alexander Macomb, deceased; and also Mrs. Arabella Riley, widow of Brevet Major Beuret Riley, deceased."

ADJOURNMENT TO MONDAY.

Mr. CRITTENDEN. I move that when the Senate adjourns, it be to meet on Monday next.

Mr. DOLITTLE. At twelve o'clock, and every day thereafter at that hour.

Several Senators. At one o'clock.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) One o'clock is named. The longest time will be put first. The question is on the motion that when the Senate adjourns, it be to meet on Monday next, at one o'clock.

The motion was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. FOSTER, its Clerk, announced that the Speaker had signed an enrolled bill (S. No. 26) to extend the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits" to Minnesota and Oregon, and other States, which thereupon received the signature of the Vice President.

The message further announced that the House had ordered, this day, the printing of the following documents:

Letter of the Secretary of the Treasury, communicating the report of the United States Coast Survey—ordered at twelve o'clock and thirteen minutes.

Letter of the Secretary of War, communicating, in compliance with a resolution of the House, a report of the progress of the wagon road from Fort Smith to the Colorado river—ordered at twelve o'clock and fifteen minutes.

Letter of the Secretary of War, communicating the report of the art commission—ordered at twelve o'clock and fifteen minutes.

CONTUMACIOUS WITNESS.

The VICE PRESIDENT. The hour fixed by the Senate has arrived within a few seconds for the answer of Mr. Hyatt to the questions proposed to him by the order of the Senate.

Mr. MASON. I move that the witness be brought into the Chamber, in pursuance of the order of the Senate.

The VICE PRESIDENT. The Sergeant-at-Arms will fulfill the order.

The Sergeant-at-Arms appeared at the bar, having in his custody Mr. Hyatt.

The VICE PRESIDENT. Mr. Hyatt, are you prepared now to answer the questions which I asked you by order of the Senate?

Mr. HYATT. Yes, sir. I have my answer here. I am unable to read it. I hope the Clerk will read it for me.

Mr. MASON. I propose that the document which the witness tenders be received at the desk of the Secretary, and examined, to see if it contains answers to the interrogatories put to him, and whether they are under oath.

The motion was agreed to; and the Sergeant-at-Arms took the answer to the Secretary's desk.

The VICE PRESIDENT. The Secretary is informing the Chair that it purports to be an answer to two interrogatories, and that it is under oath.

Mr. MASON. I observe, by a cursory look at the document, that it is a very long one. A great deal, or a portion of it at least, is apparently printed matter. I do not know how we can ascertain even the substance without reading it, or at least so much of it as to see its character, so that we can determine whether to receive it, or to refer its consideration to the committee or not. I propose, therefore, that it be read for the present, in order to see if it contains any material, the reading can be stopped at any particular point.

The VICE PRESIDENT. If there be no

objection, the Secretary will proceed with the reading of the answer.

Mr. MASON. The witness may take a seat. The Sergeant-at-Arms conducted him to a seat behind the bar.

The Secretary proceeded to read the answer, as follows:

At the honorable Senate of the United States:
The undersigned, Thaddeus Hyatt, of the city of New York, by your resolution, adopted March 6, 1860, received, under oath, to answer the following questions:
1. When you excuse have you not assumed the office of committee of the Senate, in pursuance of the summons served on you on the 9th day of January, 1860?
2. Will you be ready to appear before the committee, and answer such proper questions as shall be put to you by said committee?
3. In response to the first question, the undersigned would respectfully observe, that while admitting the justice and propriety of investigating committees, named by legitimate purposes, he is constrained to regard such a committee as one raised upon the resolution of the 24th of December, 1859, to investigate the Harper's Ferry matters, as a tribunal with powers such as were never before known or contemplated in this Republica Government; powers that are inconsistent with freedom, subversive of liberty, and in violation of the fundamental law of the United States; and to be resisted, because,

First. Contrary to reason.
Second. Contrary to the Constitution; contrary to both, because it reveals the legislative branch of the American Government in the attitude of invading the rights of the citizen, and by coercive processes compelling citizens to produce matter for legislation; a function that is clearly and solely by the Constitution, and that cannot be the subject of things be thrust upon him against his will. Contrary to both, because the mode of inquiry in obliging witnesses to answer their questions is not that of a judicial proceeding, but of a "unreasonable seizure," in the sense of the fourth article of the Amendments to the Constitution, inasmuch as testimony may be "coerced" as well as by the exercise of the jurisdiction of the United States as another. In the argument his learned counsel, which he herewith introduces as a portion of his answer.

Mr. MASON. It is very apparent that the paper purporting to be an answer to the first question—that is, what excuse he has to offer—is an argument, I suppose, tending to show that he is not bound to answer. In order to save the time of the Senate, I propose that the Secretary be directed to read the answer to the second question. The second question is, whether he is now ready to answer, after having given his excuse. If he is now ready to answer, I shall then proceed to read the answer to the first question, and let him proceed to answer. If he declares that he is not ready to answer the questions of the committee, then we can take further action.

Mr. SUMNER. If I understand the two questions propounded by the Senator to the witness, one is, whether he is ready to answer, and the second is, whether he is willing to answer. If I understand the Senator from Virginia aright, he proposes to arrest the answer of the witness to the first question, to pass that over as unnecessary, and proceed at once to the answer to the second question. Now I must submit that that is unfair to the witness. The witness is here responding to the order of the Senate; he is before you to answer two specific questions; and it is now proposed to stop him midway in the answer to the first question without hearing what he has to say. I would say, sir, that that is so unjust that the Senate will not agree to it.

Mr. SAULSBURY. Yesterday the answer which is now put in was placed on our desks; but it is not an answer to the questions put. It is a denial of the jurisdiction of the Senate to cause him to appear. Now, sir, this witness is here, after the Senate of the United States have solemnly decided that they have the right to call him here. He appears, because he is bound to appear under oath, and to answer an excuse. He offers no excuse. He simply denies the jurisdiction and the power of the Senate of the United States to summon him here; and he enters into an argument to show that this body has usurped powers which do not belong to it, and is disrespectful to the Senate of the United States? I submit to the Senator from Massachusetts that there is not one word in that whole answer, as printed and laid upon our tables, which acknowledges the jurisdiction of the Senate of the United States. It is a total denial of the power to summon him here, and to cause him to appear. The Senator from Massachusetts will say that, in any part of that answer to the interrogatories propounded, it is stated that he is willing now to be examined before this committee. I will be perfectly willing to hear what he has to say in that long written argument—not an answer, but an

argument. But there is nothing contained in it which now shows that he is willing to answer the interrogatories propounded to him under the order of the Senate. It is a denial of your jurisdiction; and I agree with the Senator from Virginia that we ought not to hear it.

Mr. FITCH. The answer is what in advance I expected, as a member of the committee, it would be long and what purporting to be legal argument, which is only adding to the contempt heretofore evinced on the part of the witness for the Senate. He was asked to state his reasons for having before declined to appear before the committee. Instead of contenting himself with merely so doing, he appears to have entered into a lengthy argument, in advance of his reasons, and closes by a summary of his reasons, which latter were all the Senate and all the committee desired. That summary, brief in itself, is all which properly ought to be read to the Senate. In answer to the second interrogatory, he says that he is now ready, and has been at all times, to voluntarily appear before the committee. I leave that answer to be compared with facts known to the committee; but that answer is all we really need to know. I presume that the Senator from Mr. SUMNER. The Senator from Delaware made an appeal to me, and asked me if I could assure the Senate as to the contents of that document. Most assuredly I cannot. It is precisely because I cannot, and because I do not care here, that I think I ought to be read at the desk, and how the Senator from Delaware can undertake to anticipate what is in that document, I do not understand. It is there under oath, in response to your order; and without knowing what it contains, you propose to stop its reading—that is all.

Mr. SAULSBURY. I do not presume to stultify myself; and I presume no Senator means to stultify himself; but, sir, from hearing the answer of the witness read, it is apparent to every member of the Senate that the answer which was laid on our tables yesterday. The Senator from Massachusetts cannot deny that he believes the very answer in manuscript offered at your table is the printed answer which was read to the Senate yesterday. The words of the language, everything, indicates it to be the same. Now, sir, I say, in that printed paper which was placed upon our tables, and which reads, *verbatim et literatim*, precisely as this manuscript reads, there is no acknowledgment of the jurisdiction of the Senate of the United States. There is a total denial of the jurisdiction of this body, and a refusal to answer and place himself upon the justice of the country. It is an appeal to the great jury of the country for your jurisdiction, which the Senate has solemnly affirmed. I say, it is unbefitting of the Senate of the United States to allow a witness, when he is called upon to say what is his excuse, to question your jurisdiction, to deny your authority, to refuse to answer, throw defiance in your teeth, and set the Senate of the United States at defiance. That is the reason that I interposed an objection.

Mr. HALE. I do not mean to take up the time of the Senate unnecessarily. I suppose it is pretty clear what will be done. But I wish to make a suggestion as to a matter of fact. The honorable Senator from Massachusetts said that the witness did not, probably, a Senator on this floor that knows what is in that answer.

Mr. SUMNER. I do not.

Mr. HALE. The Senator from Delaware thinks so. Now, sir, I am willing to say, for I have no concealment about this matter, that I do know what the answer is. A friend of the—do not know whether to call him prisoner or witness, but a friend of that individual there, [laughter]—called upon me this morning with his argument, which that gentleman, the Senator from Delaware thinks, is not that printed argument which was laid on our desks. It embodies that in it. I told the friend of the individual then, that I thought, in arguing his case, his counsel had yielded altogether too much. The argument of that individual, in certain cases, the Senate may exercise this power. I think not, in any case; but I want to go further, and say, as a general fact—and then I will sit down and leave it to this body is generally composed of men who call these lives lawyers, and are reputed lawyers, and I have no doubt are very good lawyers—having

all the virtues and a few of the vices incident to that profession.

Well, now, sir, in practice in courts, and I have attended some, it is generally the case, before a prisoner is sentenced, that the court ask him if he has anything to say why sentence of death should not be pronounced upon him. I know that question is not put on the idea that he can say anything which will prevent the sentence; for sentence is generally written and in the judge's pocket, or the clerk's hand, ready to be pronounced, before the speech is made. But, sir, I put it to you, that, is a court of justice—for a great many States seem to think we are a court, and if we could get that out of our heads, we should do a great deal better; we are no court, and are no part of a court, and bear no semblance to a court—but, in a court, when you put a question to a witness or a prisoner, it implies that while you have the right to question, he has the right to answer, and, provided his answer is not disrespectful and insulting, you are bound to hear it. I do not mean to say that this is the law. I cannot turn to any part of the Constitution and read there that every person who is so brought up shall have the privilege of answering questions. I think you put the question propounds that he has a right to answer, if he answers respectfully. Now, sir, if he answers as becomes an American citizen, denying your right, I appeal to the candor of the Senator from New Hampshire, if he is disrespectful to the Senate, I should be very anxious to do a thing, to say a word, or to omit to do a thing, or to omit to say a word, from either of which anything disrespectful to this body, on my part, might be imputed to me.

Mr. SAULSBURY. Will the Senator from New Hampshire excuse me for a moment?

Mr. HALE. Certainly.

Mr. SAULSBURY. I wish to propound a question for his candid answer. Is there anything contained in the manuscript answer that is not contained in the printed answer which was laid on our tables yesterday? I ask him whether he knows that fact or not?

Mr. HALE. I should say, from a moderate calculation, there are at least twenty pages, and I should think, three pages; but I have that settled right in the arithmetic, if necessary.

Mr. SAULSBURY. If the Senator will excuse me a moment, then I will say this: from the similarity of the reading of this answer with that put on our tables yesterday, I supposed it was the same. I have not now the printed answer of the Senator from New Hampshire. Does the witness acknowledge the jurisdiction of the Senate of the United States? Does he agree to answer any question? The Senator knows, I presume. If it is an argument against our jurisdiction, my point applies.

Mr. HALE. The Senator said he wanted to ask one question. He has asked two, and I shall answer both. He asks, does the individual admit the jurisdiction of the Senate? He does not. I should be very anxious to know whether he has up here to say a word in his behalf; you might do as you pleased to him, if he did admit it. He denies it entirely; but he denies it respectfully. That is his conviction as an American citizen. It is my conviction. I have no doubt upon the subject; and I have no doubt that he will be long before the Senator from Delaware, and every man who examines these questions of constitutional right and power, will come to that opinion. Sir, it would be libelous to express an opinion that the Senate, if they had committed an erroneous opinion, would not retract; and I think it would be libelous on the character of the Senate to undertake to say that they would not listen to a respectful argument from a citizen of the country in their custody, to show that it was under a misapprehension that they had put him in custody. I think this is consistent with the highest and profoundest respect for the Senate.

But, sir, he adds, at the end of the paper which he submitted, and which is something very different from the argument referred to, that, as a matter of voluntary right, he will be long before the Senate to answer, and always has been; but he denies your right to bring him here in the manner you have done. I deny it; but I should be as sorry as any man could be to say anything disrespectful to the Senate. I would not have my name here to day, and never look on this Chamber again, than

bo guilty of any wanton disrespect to the Senate, or to any member of it, or to any of its privileges, its powers, or its functions. No man entertains a higher opinion of them than I do; and it is because I entertain these opinions, and because I wish to see them entertained by the whole community, that I desire the Senate to be very careful how they exercise even a doubtful power. Now, I think I have answered the Senator from Delaware fairly. The individual does deny your jurisdiction distinctly, and, I think, places himself on high grounds that cannot be met; and I think if any of the lawyers of this body will read the argument submitted by Mr. Sewall and Mr. Andrew—

Mr. SAULSBURY. Will he answer? The question is as to the second interrogatory. Is he ready to answer now?

Mr. HALE. I cannot tell that. He was an hour or two ago, when his friend called on me, [laughter], and I presume he is yet. But let me go on. I shall be very short. The Senator from Virginia, however, intimates to me that he would rather hear that paper than my speech. [Laughter.] Very well.

Mr. MASON. When I suggested that we should arrest the reading of the paper, and look to see what answer was given to the second question, it was from no purpose in the world to suppress this paper, if it is a respectful one. I had no knowledge of its character; but I had seen, I fear, a long paper, and, as I read, a great deal of it was an argument. My idea was simply this: there were two questions put to him. The first was, "What excuse have you for not obeying the summons of the committee?" And the second was, "Are you now ready to answer?" The first part of the paper was setting up his excuse, I presume; but it is a very long excuse, and I suppose an argumentative one. What its character is, I am utterly uninformed; but the suggestion I made was this—to do no injustice to the witness or anybody else; look to the response to the second interrogatory, and if he now agrees to answer the questions of the committee, release him from custody and bring him before the committee, and let him excuse go to the world for what it is worth. We have nothing to do with his excuse, if he is going to answer the questions. If he says he will not answer the questions, then I propose to do one of two things: to save the power of the Senate, and leave the witness in custody, and refer the paper to the committee, or let it be read in the Senate. I have very much to say in support of the Senate, as well as elsewhere, that in the attempt to save time we fail in it, and consume a great deal more. I ask that the answer to the second question may be read; and after that, if the Senate shall desire to hear the answer to the first question, I have no objection.

Mr. TRUMBULL. I think that we had better dispose of the matter in the easiest and simplest way. It seems to be a very long document. The idea of sitting here to hear it read, it seems to me, will not be very judicious, or, at least, I do not think it advantageous to any one; and I think the better course would be to refer the paper to the committee, and remand the witness into the custody of the Sergeant-at-Arms until they have had time to examine it, and see whether it is an answer or not. I do not wish to sit here for an hour or two, and hear a very long argument read. We cannot well dispose of it, it seems to me, while we are in session here. I make the motion to refer the paper to the committee, and remand the witness to the custody of the Sergeant-at-Arms until they shall have had an opportunity to examine it, and see what further action is necessary. It seems to me that that would be the better course.

Several Senators. Print it.

Mr. TRUMBULL. No; I do not want it printed, and I will not have it printed. I must say that, for one, I do not think it is very respectful to the Senate to come in here with an argument covering three or four quires of paper, in answer to a question as to what excuse he has for not appearing before a committee of this body. I do not think that any one would listen to it. I know my friend from New Hampshire says that this is not to be compared to a court; but I apprehend there is not a court in America which, when it had sent out its process against an individual for contempt, would listen to an argument of three or four hours from the

witness, disputing its authority to send out its process. They would hear a statement of any matter of fact going to excuse the witness. But, sir, I do not wish to take up time. My object is to get rid of this thing with as little parade as possible; and I think the easiest way to get rid of it is to refer it to the committee, and let them determine whether it is going to be taken out of the court.

Mr. DAVIS. I wish to make a suggestion to the Senator from Illinois on this point. Whilst I concur with him in nearly everything he has said, there is a difficulty which he seems to overlook, that referring the paper to the committee would be in the custody of the Sergeant-at-Arms. If he states in this paper that he is ready to answer the questions of the committee, I think it is but right he should be discharged; and that, the Senate alone can do.

Mr. MASON. Will the Senators indulge me a moment? If they will read the answer to the second question, they will find that the witness does not propose to answer.

Mr. TRUMBULL. In reference to the suggestion of the Senator from Mississippi, I think it will do no great harm for the witness, who has been put in custody here, that it will be read or two to read, to remain in custody until there is time to examine it. I think he would have no right to complain.

Mr. KING. The object stated by most of the Senators who spoken seems to be to save time. While I have no disposition that any more time shall be occupied with this matter than is necessary, I think there is something of principle involved in the question of whether the respondent has the right to have his answer read. I will state the Senate that he desires to have it read as the answer to the interrogatories that were propounded to him. While my opinion is clear, without doubt, as to the authority of the Senate, I still think that the respondent has the right to present his answer; and for this reason, without any question as to who shall be the first of having that answer read, and having the answers to the two interrogatories read in the order in which they are placed. In my opinion, that is the easiest and shortest mode for the Senate to proceed in this matter, and I think I should announce finally upon it. If this subject goes to a committee, it must come back to the Senate; and the question will then be, after it has been brought from the committee, precisely what it is now; and the Senate must hear that paper, in order to be able to state the case to the court. I hope that the paper will be read straight on, without reference to what may be contained in it.

Mr. MASON. I think we shall save time by reading the paper. It will take an hour or two.

The VICE PRESIDENT. The question is on the motion of the Senator from Illinois.

Mr. MASON. I did not hear his motion.

The VICE PRESIDENT. It is to refer the paper to the select committee.

Mr. FESSENDEN. Unless my friend from Illinois will consent to my reading it, I feel that I must enter my protest to the doctrine which he has laid down. This man is brought before the Senate to answer for contempt, and the honorable Senator from Illinois seems to agree with the idea advanced on the other side of the House, that in order to get rid of him, we are to undertake to defend himself. Why, sir, what is the shape in which these questions are put? Rather out of order, I think. The first question should have been whether he was willing to answer. If he said no, his reasons should have been demanded of him; he would not answer; but they are placed in a different position.

Now he comes in here, and taking the questions precisely in the order in which they are put to him; he undertakes to give his reasons. The objection is made that it is a case to the jurisdiction; that is to say, he denies that we have any authority to bring him before us or to put questions to him; and my friend, the Senator from Illinois, seems to sustain the idea of the Senator from Delaware. Why, sir, it is a very bad notion to me that any one should be so contempt to plead to the jurisdiction, and I have yet to learn that any court so considers it.

My friend speaks of it as an induction upon us, that this man should have undertaken to argue his own case in writing and under oath, on account of the length of his argument; and he pro-

poses to refer it to the committee to inquire. Why, sir, the committee is not the judge. The committee was reported the fact to the Senate, that the man did not appear and answer. The Senate ordered him to be brought—not before the committee, but before the Senate—to give the reasons why he did not answer the committee, the organ of the Senate. Now, if the committee has a right to answer to that body which he has offended—for I take it the committee is not the dignified court that has the right to arrest men and bring them here, from different sections of the country, to the Senate—when he comes before us to argue his own case, as every man has a right to do, under any circumstances, who is arraigned and whom it is proposed to punish, the answer is—from both sides of the House it would seem—that it is a gross contempt of the court—if you choose to regard the Senate as a court—to take up its time in telling the reasons why he is not willing to answer; and my friend observes that there is no court in the world that would submit to it. I apprehend that if my friend was on the bench, which he once dignified and adorned, and a man was brought before him under the same circumstances, he would say, "Sir, before I adjudge upon your case, I am ready to hear all you have to say, not only with regard to the thing itself, but with regard to my power to bring you before me." If he did not, he would deny him justice.

Now, if the committee has the word of this answer has been published and laid on our tables, it is not known that we have all read it.

Mr. MASON. I never saw it.

Mr. FESSENDEN. The Senator from Virginia never saw it.

Mr. MASON. I never saw it, except on the outside of the paper. I did not see it on my table.

Mr. FESSENDEN. I have seen it and read it; but, from the very nature of the case, I was obliged to read it hastily. This man, who is now before the Senate, has a right to consider him innocent in present—undertakes to say in writing, if he has taken the course he has, and in respectful terms. Shall not his defense be read, no matter how much time it may take? It is not unfrequently the case that men appear by counsel, and defend themselves, and the counsel on the subject, in defense, where a man cannot answer properly for himself. Such a proceeding as is now suggested here would overturn the very first principles of law and justice everywhere, to undertake to say that he shall not be heard, and fully, too, especially when he is brought before the court, and is writing and under oath, and as well to our jurisdiction as to any other question that can be brought before the Senate. I am very glad that the Senator from Virginia appears to perceive the entire propriety of the thing, and to understand that we, as a body, judging in our own case, claiming to have been offended, should at least hear before we strike, and hear all that the man is disposed to say.

With regard to myself, I have gone along with the course that the Senate has pursued in this proceeding from the beginning. I took it for granted that we had the jurisdiction, that we had the right to enforce obedience to our summons; but, sir, I will say, that since I have read that argument, and more particularly since I have thought and reflected more than I have done on the subject, I tell Senators that there is doubt, and in this particular case a very serious doubt, whether we are not exercising a jurisdiction that we have no right to exercise; and it is as well for us to hear. Senators must know that in every question with regard to the power of Congress, or of either branch, in such cases, is a question that has been mooted heretofore in this country, and it is a question upon which the greatest minds in this country, that have gone before us, have been divided. The question is, whether the Senate, in such cases, always maintained in cases of a particular description; but I have been unable to find a precedent in this country, in Congress, where, in a case of this kind, (where we make the case and then summon the witness, and where it has not been made for us and forced upon us,) just as it has been claimed here has been exercised. I do not say it does not exist. The inclination of my mind is still that it may be defended, that it may be sustained; but I tell Senators that everything that can be said on that subject is worth hearing, especially in a question involving the liberty of one of our

follow-citizens. We are a great body, to be sure, sir; but we are not greater than the people that make up, and the liberty of those that sent us here is not to be trifled with, particularly from considerations of our own personal dignity. At any rate, we are bound to give men all the time they reasonably require to make their defense, before we judge them.

MR. MASON. I was not aware that the Senator from Illinois had proposed to refer this paper; but I would submit to him, very respectfully, that if the Senate were to refer it, the only effect would be to have us go over again the same thing on the report of the committee. If the committee should report the answers sufficient, there would be a debate on it; if they should report them insufficient, there would be a debate on it and the Senate must know what the answers are, to determine. I submit to the honorable Senator, to save time, and to attain the same end, that he withdraw his proposition to refer, and let the paper be read. After it is read, then the question will be, what shall we do with it?

MR. TRUMBULL. I am not willing, sir, to be placed in a false position, or that a false issue should be made here in regard to the witnesses which I have made. This seizure, which is manifested in defense of the citizen and of liberty in all very well, and I like to see it on a proper occasion. But what is the motion? The motion is, to refer a voluminous paper to the committee having charge of the matter, and to the witnesses which I have made. I see what course to pursue in regard to the matter for the future, or what the next step ought to be; and this is magnified into a case of a man not being defended. Is anybody proposing to take from a citizen his liberty? He is in custody now.

MR. FESSENDEN. I do not understand that my friend desires any such thing. I only say such is the effect. I hope he will not understand me as imputing any wish of that kind to him.

MR. TRUMBULL. Well, Mr. President, I take it that it is depriving him of his liberty no more than he has been deprived of it the last two days. My friend from Maine admits that he voted to put this witness in custody and deprive him of his liberty. He has already been enjoying of which he is complaining. It is not the intention of anybody to condemn a citizen without a hearing. That is not the purpose.

Nor do I think that the remark I made in regard to the proceedings of a court is obnoxious to any objection which was made to it. I take it, if a person was summoned before a court on an attachment for a refusal to obey the process of a court, the court would hear from the witness any excuse he might have to offer for not having obeyed the summons of the court; but I apprehend if, in making that excuse, he were to file forty volumes of law books and reports of cases decided, as an answer, the court would not receive that as an excuse. I suppose that the excuse he is to make relates to matters of fact. If we have no authority to issue this process, that is one question.

MR. FESSENDEN. May not his excuse consist of matter of law, as well as matter of fact—matter to the jurisdiction, as well as any other matter?

MR. TRUMBULL. I suppose that his excuse must consist of a matter of law. I suppose there might be such a case, and he might object to the jurisdiction to summon him as a witness. He has a right to make that objection, doubtless; but I do not think it is compulsory on the Senate to listen to an argument from him on that subject. We certainly should listen to an argument of the honorable Senator from Maine in regard to it. This is a matter to be settled by the Senate. He may make his argument; but I think it is a very curious thing to allow an argument to be made by a private body to make arguments in regard to their cases, even upon questions about which there is no dispute as to the jurisdiction. On the passage of clama, or anything of the kind, we act on the rights of parties, but we do not necessarily hear arguments here in argument. We are here to give do. So the business of legislative bodies will generally not admit of the delay which would follow from such a course of proceeding.

But, sir, my object was simply, as I remarked before, to get rid of this matter with the least cer-

emony and the least parade, and I think that will be accomplished by referring the paper to the committee which has charge of the subject. Let them take it and examine it. If the answers are such as to require no further action of the Senate, except to discharge the witness, it will be very readily disposed of. If the answers are such as to require further action, the committee, after looking over the answers, will be prepared to suggest some course of action. That was my object in making the motion. I still think it would be the speediest way to get rid of the whole subject. The chairman of the select committee, I observe, objects to the reference, and prefers that we should let the answers be read to the Senate in this document. If it be read, I apprehend it will be very difficult for any Senator to understand so long a document from the mere reading of it, so as to be prepared to act on it at once.

MR. MASON. Will the Senator allow me to interrupt him? I have looked at the paper, and at its commencement it proposes to be an answer to the first question, and then it introduces an argument of counsel, so declared to be in the answer. Now, I should propose to strike that out, and let the body of the answer be read for the benefit of the argument of counsel, let him submit it in the proper form before the Senate; but to put the argument of counsel into his response to a question which he has to answer—what were his reasons for not appearing—would seem to me not to be respectful to the body which the question is addressed. So much as is in print is declared in the paper to be the argument of counsel. I shall propose, not to strike it out, but to omit it in the reading, and to read that which is really an answer to the question. If he wants to be heard by counsel, let him submit it in writing, or in print; and, therefore, the Secretary will go on and read the paper, omitting the printed argument.

MR. TRUMBULL. I will not insist on my motion to refer it to the committee, against the wishes of the chairman of the committee; but I do maintain that when the Senator from Virginia makes his motion to omit reading a part of it, somebody will call for it, and we shall have the same thing. I really think the motion I have made would get rid of it in the speediest way, and with the least ceremony. That is what I desire.

THE VICE PRESIDENT. Does the Senator from Illinois withdraw his motion?

MR. TRUMBULL. I will, if the Senator from Virginia desires it. I will not press it.

THE VICE PRESIDENT. When the question is on the motion of the Senator from Virginia.

MR. BENJAMIN. It really seems to me we are giving this matter a great deal more consideration than it deserves, or than is at all consistent with the dignity of the Senate. An individual is asked here to answer two questions. His answer is too long to be read conveniently. Why not pursue the course suggested by the Senator from Illinois—refer it to the committee to look at it, commit him again, and let the committee tell us what his answer is? I hope to hear of it having not time to read them in open Senate? If the witness undertook to quote twenty, thirty, forty, fifty, sixty, one hundred decisions at length, should we be bound to read them? If he chooses to incorporate long printed arguments of counsel, are we bound to hear them? I hope to hear of there is no such constitutional obligation on me. I do not want to read them. We have committees here to do that part of the duty of the Senate which it is not convenient for us to do in mass. If I understand, from what the gentleman has just said, superintending this matter. This man comes here with a volume as an answer to a question of fact. We have not time to sift out his answer out of his argument. Let the committee do it, and let us know on Monday what his answer is.

If I understand, from what the gentleman has just said, the answer is simply this: "my excuse for not answering is, that I do not think that you have the power to make me answer; and based on that is my second response, that I do not intend to answer." It may be that this is not really the answer, but it is here to pick out a grain of wheat from the mountain of chaff. Let us refer the matter to the committee, and let the committee tell us what his answers really are. We cannot go on here as in a court of justice, examining into legal arguments, before we know what is really

before us. In a court of justice an argumentative plea would not be allowed.

MR. GRIMES. Will the Senator from Louisiana allow me to ask him a question? Suppose this committee should report that Mr. Hyatt had been guilty of contempt, and that he ought to be punished for that contempt; would the Senator from Louisiana vote, or would he expect that any other Senator would vote, in favor of that report, without a thorough investigation of the whole of that answer?

MR. BENJAMIN. Not at all; and I am proposing nothing that looks that way. I am proposing simply this: that the committee should read the answers, and let the Senate decide what it is, instead of having it read here at length.

MR. GRIMES. Then the question will come up again as it is now. Suppose it should turn out, on an investigation of the answer, as has been stated by the Senator from Virginia, that Mr. Hyatt has declined to answer the questions that may be propounded to him; the committee would then probably report that he should be punished for a contempt of the Senate; and we should have to pass upon that. We will not now be expected to pass upon that. We will adopt the report of the committee without a thorough sifting of all the testimony that tends to convict him of the contempt.

MR. BENJAMIN. The Senator is running ahead quite too fast. I do not propose anything which could give rise to the question which he suggests. I do not propose to refer it to the committee, for them to report to us whether this person is to be punished or not. I propose that somebody, whose business it is to attend to this matter, read the answers, and report to the Senate what the answers are. When that is done, then we shall determine what further steps we shall take. I do not wish the entire Senate to be at the mercy of any individual who is brought up here on a question of contempt, on the demand of anybody, to have an answer which he chooses, if the person brought to the bar chooses to answer to read it. When we know what the answers are—that is to say, when our committee shall tell us that the excuse offered is that there is no jurisdiction; and that, to the second question, the witness says he has no answer, and that the questions—when that is brought before us, and we know that those are the answers, then the committee may make some proposition on the subject. If the committee think we have jurisdiction, the question will arise, whether we will allow that point to be urged. The witness offers his answer, now undertakes to argue that point. We may determine that we have already decided it, and will hear no argument on it, or we may determine that we will hear his argument. We may determine that we will hear it argued by himself, or counsel, as we please; but we cannot be compelled to sit here and listen to anything that a witness chooses to say, when a question is asked him. We want an answer to the question, not an argument; and if he chooses to make an argument when he has no answer, we will hear it, and he will be compelled to listen to it. We asked that it be put in writing for that very purpose, that our time be not taken up with an argument for an answer. Let the paper go to the committee, and then they will report, and see what is to be done. I repeat the motion to refer it to the committee.

MR. FESSENDEN. I am really so obtuse that I cannot understand the honorable Senator's argument. If there is anything in it, I cannot see it. The Senator from Louisiana objects to an argument by way of reading. He objects to a categorical answer. Well now, sir, is that the way we treat a man when he is brought to the bar under such circumstances? I say he has a right to make an argument, and you have no right to close your ears to it. His excuse is argument, or his argument is excuse, just what you would please to put it. If you ask a man to give you an excuse for doing or not doing a thing—

THE VICE PRESIDENT. Will the Senator from Maine pause for a moment?

MR. FESSENDEN. I will with pleasure, for I cannot hear my own voice.

THE VICE PRESIDENT. There is so much confusion on the right and left that the voice of the Senator on the floor is inaudible.

MR. FESSENDEN. You ask a man to give an excuse, and you undertake to say that that

shall not be argumentative. In its very nature it is argumentative. The question put to him is: "What excuse have you?" Now, according to the ideas of Senators, it can be said: "I think you have no jurisdiction;" but is not it liable to go on and tell you why. Is he to take for granted that you know everything that he has to say that he cannot imagine anything that you have not in possession of? Is he to take for granted as high an opinion of the intelligence of this body as any one, and yet, upon my soul, I think it is not quite infallible. Sometimes we make mistakes, and sometimes we find that other men know more than we do, on some subjects at any rate; and yet the idea that it properly and simply is when this man comes to answer that question we ask him, to give his excuse, all he is to say is: "I deny your authority." He may say that if he please; and then it is to be referred to a committee to find out whether they are of the same opinion, and then they are to come to us. That is a curious mode of proceeding. I take it, it makes no difference to the gentleman who is accused here—for I understand he is a gentleman, and I shall treat him as such, although he is not bright to me—and I understand that he entertains the opinion—and counsel, eminent and learned, whom I know personally, and for whom I have the greatest respect, for their opinions as lawyers as well as for their characters, say that, in their judgment, he is right, and they believe he is right. I know enough to believe that opinion on the subject, apart from their position as counsel.

Are we not to hear what they have to say? Are we to refer this matter to a committee? Sir, we cannot get rid of the responsibility. We are judges ourselves; he is brought to our bar; it is before us that he appears; and now, as a mere matter of time, if he is willing to remain in custody, it makes no difference to me whether we hear him to-day, or on Monday, or Tuesday. We ought to hear him as speedily as possible; as speedily as we desire to be heard by the committee of writing, and shows that he designs to manifest any contempt for us, that is one thing; but if he presents a written argument—much shorter, I will venture to say, than hundreds that have been made by the honorable Senator from Arkansas, and that I have heard by myself and by my honorable friend from Illinois—I do not see that he is guilty of any great disrespect, when this matter involves his own personal liberty and a question of his own punishment.

I see no propriety in sending this to a committee at all. If it were sent to the committee, there might be a propriety in printing the document, so that we might consider it, and have it before us; and then, I presume, there would be no application to have it read here in public; if there was a desire to save time, but when we undertake to bring a man before us for an offense against us, and to try him, with reference to punishing him, I apprehend it does not lie in our mouths to say that we have not time to hear what he has to say on the subject, although it does interrupt the course of our ordinary business.

Mr. FOSTER. I always feel discouraged, Mr. President, when an attempt is made in this body to show how we may economize time. It always takes longer to demonstrate the manner than it does to go through with the thing that is objected to, on account of its taking up time. My only object in rising was to ask if it be not the right and privilege of every member of this body, when a paper is introduced here, and he is asked to vote upon it, to hear it read before he can be called upon to vote? I would ask myself, if the Chair should say it is not a rule of the body, or a parliamentary rule, that before we can be called upon to vote on a paper here, we are entitled to hear it read?

The VICE PRESIDENT. Every resolution upon which the Senate must act must be read, if required, and every question must be read, as stated upon which a Senator is compelled to vote.

Mr. FOSTER. The motion now is to refer this paper to a committee. In order to know how to vote, in order to vote understandingly, I must know what the paper is, and I ask that the paper be read; and I ask, if the gentleman has a right to hear it read before I can be called upon to vote, either upon its sufficiency or insufficiency, or to vote upon its reference.

Mr. SAULSBURY. The Senator from Connecticut and the Senator from Maine are lawyers,

eminent in their profession. Now, let us look at this question in the light of the facts. Mr. Hyatt was summoned to appear before a committee appointed by the Senate of the United States to investigate certain matters. What was his duty as a good citizen? *Prima facie* his duty was to appear and answer the questions. He did not appear. His non-appearance was reported to the Senate by the committee. A resolution was then passed to compel his appearance by the highest power known to this body. Upon that question a test vote was taken. The Senate of the United States decided, not unanimously, but by a very large majority, that they had jurisdiction, had the right to call him a witness, had the right to compel his appearance. They sent their Sergeant-at-Arms, commanding him to bring this man before the body. He is brought here. He is asked, in the very language which is put to a witness under such circumstances in a court of justice, what excuse he has for not appearing. How is it proposed to answer that question? I submit now, both to the Senator from Connecticut and to the Senator from Maine, as lawyers, if they, sitting as judges in a court, had issued a summons requiring the attendance of a witness, and he failed to appear, and then, as judges, they had ordered an attachment against that witness, and he was brought before them under it, would they listen to an argument showing that they were unworthy of power, showing that they were exercising power which they had no right to exercise, that in language disrespectful to them as a court? Would they hear such a witness?

Mr. FOSTER. Does the Senator wish an answer to the question? So far as I am concerned, if the Senator will allow me, I will answer very briefly the question that he put.

Mr. SAULSBURY. Certainly.

Mr. FOSTER. I would say that if I were sitting as a court under such circumstances, and the witness was brought in on an attachment, and if such circumstances occurred as he has just mentioned, and answering as a witness on the summons, I would hear his answer. If he proposed to answer under oath, and that answer contained an argument, I would hear that just as readily as anything else; and I should suppose I was not doing more than to hear a just answer.

Mr. SAULSBURY. Then, Mr. President, all I have to say is, that the Senator from Connecticut would make a most amiable judge. I have been practicing law for some fifteen years, and I have never seen a witness appearing in a court-house when the question was asked, what excuse have you for not appearing in obedience to the summons? being indulged in reading a long argument which would take an hour, to show that the tribunal before which he appeared were usurpers of authority, which they did not legally and rightfully possess. I say that the very denial of authority is contumacious. The Senate of the United States have asserted their authority. If he was an honest witness, if he had nothing in him that he did not wish to disclose, if he had no secret, if he had no guilty conscience, if he appeared before the committee and answered.

Now, sir, I am not going in this case to assert the dignity of the Senate; because I do not suppose the dignity of the Senate is injured at all by the contumaciousness of Mr. Hyatt; but I mean to say that a court of justice, the Senate of the United States, that every tribunal owes something to its own character. This man has been summoned to appear. Instead of answering simply, "I deny your jurisdiction; I say that you had no authority to call me a witness for me; I say you had no authority to issue attachments;" what does he propose to do? He does not content himself simply with a denial of our jurisdiction; but he presents a long written argument, to show that the Senate of the United States are a set of usurpers of authority, and that the Senate of the United States are a power dangerous to civil liberty and to the personal liberty of the citizen. Mr. Thaddeus Hyatt, a contumacious witness, is introduced to the Senate of the United States; now, sir, I am not going to say how to answer that question, but I think the Senate may affect the Senate of the United States, but to say that it is a duty which we owe to ourselves, it is a duty which every tribunal owes to itself, not to be insulted, not to allow insulting answers to be made to questions propounded by them when

they are in the legal exercise of their rights, whether as a legal tribunal or as a legislative body.

Mr. HALE. Mr. President—

The VICE PRESIDENT. Will the Senator from New Hampshire pause for a moment, until the Chair states the condition of the question before the Senate? The Senator from Louisiana moves to refer this paper to a select committee; the Senator from Connecticut demands that the paper be read, upon the ground that the paper must be read before he can be compelled to vote on the question of reference. The Chair stated to the Senator from Connecticut and to the Senate, that a paper which has to be voted upon, a resolution which has to be voted upon, must be read. That is the general parliamentary law; but he does not suppose it to apply to every class of papers. For example, if a motion were made to refer the report from the coast survey, or the Patent Office report, to a committee, and the reading should be called for, under the 14th rule of the Senate, "if the same shall be objected to by any member, it shall be determined by a vote of the Senate, and without debate." The Chair considers that a paper of that class, under the general head. He does not think it the right of a Senator to call for the reading of a lengthy paper on a motion to refer, if the desire of the Senate be that it shall not be read. The Chair, however, will direct the paper to be read, as called for by the Senator from Connecticut, unless objection be made.

Mr. DAVIS. I rose for the purpose of making that objection, in order that we might dispose of a subject which seems to be endless.

The VICE PRESIDENT. In which event the Chair will put the question to be read without debate. The motion is, to refer the paper to the select committee. The Senator from Connecticut demands that it be read. Objection being made, the question is, Shall the paper be read? Is the Senate ready for the question?

Mr. FOSTER. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. HALE. Is it ruled that that question must be decided without debate?

The VICE PRESIDENT. The Chair will refer the Senator to the 14th rule of the Senate.

Mr. HALE. I was going to suggest, may it please your Honor—

Mr. BINGHAM. You think it is a court, too.

Mr. HALE. I have got the same heresy, too. [Laughter.] I began to say, under the rule, I want to suggest a single difficulty, and not to make an argument. It seems to me that it would be improper to decide the right of the person to be heard upon a collateral question whether a paper shall be read. I have nothing to say.

The VICE PRESIDENT. The yeas and nays have been ordered upon the objection of a Senator to the further reading of the paper; and the Secretary will call the roll.

Mr. HAMLIN. How is the question put? The VICE PRESIDENT. The motion is to refer this paper to the select committee. The Senator from Connecticut calls for the reading of it. Objection is made by a Senator. The Chair puts the question to the Senate, Shall the paper be read? Upon this, the yeas and nays have been ordered, and the Secretary will call the roll.

Mr. MASON. I would say, in a single word, that I am perfectly satisfied that the refusal to read the paper will rather prolong the matter. If it is referred to the committee, when it comes back again gentlemen will say, "Let us have the paper read," and I would we have it read."

Mr. WIGFALL. I do not intend to join in this debate; I want really to end this matter—

Mr. COLLAMER. I do not wish to interrupt the gentleman; but I believe the question is not open.

Mr. WIGFALL. I do not intend to debate it.

The VICE PRESIDENT. It is not debatable unless by unanimous consent.

Mr. WIGFALL. I do not intend to debate it; but to state merely a simple proposition. It appears to me that the question presented to the Senate is one easy of solution—

The VICE PRESIDENT. The Chair must interrupt the Senator from Texas, if objection be made, as, under the rule of the Senate, the question is to be determined without debate.

we are sure they desire to protect the persons who are examined against all injurious consequences from their examination. But it is in vain to deny that this new tribunal has some of the worst features of the Inquisition and other secret tribunals. Such must ever be the case when the legislature nourishes the functions of the judiciary.

"The greatest danger to liberty among us, is the encroachment of one department of Government upon the powers of another, especially of the legislative upon the executive and judicial. This was foreseen by the framers of the Constitution, and ardulously guarded against. If a committee of the Senate can be made a court to try criminal offenses, they can also be invested with power to punish offenders. The next step is as easy as the first. And if the Senate does not now resist, a great stride will be taken towards erecting a great central tribunal in Congress, which will absorb all the reserved rights of the States and of the people.

²² We conclude this division of the argument by stating, what cannot be disputed, that if the resolution vests an unconstitutional power in the committee, the Senate can have no power to enjoin the attendance of witnesses.

If I asked legislation *per se* to inquire into who set fire to a house, or transferred a person (just a number of them) to a prison, or inquired into the whereabouts of a person, or any act of treason against the United States in any part of the country, probably there is not a member of the Senate who would object. But if I asked legislation to inquire into the shrink back from so outrageous a proposal. Yet this is exactly what the restrictions we are resister has done, *e.g.* legislation is necessary for the preservation of the peace of the country, &c. This presents the question, whether legislation is necessary to inquire into the motives and purpose of legislation, a right to make an inquiry as to who committed certain crimes? We deny the right. A lawfulness that object which are themselves unlawful and unconstitutional. A medical student has a right to study anatomy, but a legislator has no right to inquire into the motives of the Senate has a right to collect information to aid in legislation, but a right to establish an inquisition for that purpose.

" We now pass to another division of our argument, in some aspects connected with the former, yet one in which we claim the discharge of our client on a ground entirely independent of it.

"We contend that the Senate has no right to compel the attendance of witnesses, except in cases where this body is invested with judicial or quasi judicial functions. The Senate is the sole court to try impeachments, by the express words of the Constitution. Hence it can compel the attendance of witnesses on the trial of an impeachment. It can judge of the elections, qualification, and returns of its own members. Hence, when the election of a Senator is contested, it can compel witnesses to attend. So, having the power of punishing a member for disorderly behavior, and even of expelling him, in such cases the right of compelling the attendance of witnesses follows.

"But beyond these cases the Senate has no power of compelling witnesses to attend. It is the absolute necessity of the power which gives it as an incident to the trial, taken in connection with the function to which it is incidental. To compel witnesses to attend before a committee to give information in regard to proposed legislation, is a power not given by the Constitution. It is not given expressly, and it is not given by implication, because it is not necessary for legislation.

"Nothing misleads so much as false analogies. The Senate bears a resemblance to the British House of Lords, and the House of Representatives to the House of Commons. The legislative functions of these bodies are similar. Hence jurists have sometimes hastily concluded that the whole '*Lex et consuetudo Parliamenti*' applied to Congress and other legislative bodies in this country; that our Legislatures and their members had the power and privilege of British Parliament and its members; and that the rights which would be regarded as contemptus and breaches of privilege in England against the Lords or Commons, would also be regarded as such here against the Senate or House.

⁴⁴ But nothing can be more fallacious than this superficial analogy, and every one acknowledges it the instant the tests are applied. The privileges of the British Parliament and the powers of the Lords and Commons are drawn from the very nature of things. The powers and privileges of the

range and prices of ages. The powers and privileges of the Senate and House are all created by the Constitution, either in express words, or by necessary implication. Hence, that certain powers have been exercised by the Lords and Commons does not prove that such powers exist here.

[illegible]

¹¹ Acting on this idea, that the powers of the two Houses were like those of Parliament, the Senate, in 1800, committed William Duane for publishing a libel in the *Aurora*, (2 Benton *Mr. Debates*, 408 to 426,) thus not only assuming a power not given by the Constitution, but violating the spirit, if not the letter, of that sacred charter, which declares, in the first article of amendment, that Congress shall

make no law 'abridging the freedom of speech or of the press.' What is left of the freedom of the press, if the Senate, without passing a law, can decide without appeal what is a libel upon it, and punish the same at its discretion?

"The Senate, in Duane's case, did exactly what the House of Commons did in Sir Francis Basset's, whom they committed to the Tower for publishing a libel on the House. He strongly resisted this outrage, and saved the Speaker of the House and the Sergeant-at-Arms. In that celebrated case, the court considered it was well-established law in England that the House was the final judge of its own privileges, and might punish for contempts at its pleasure. (Hurd's v. Abbott, 14 East's Rep. 1.)

“The enormous length to which the powers of each House of Congress would be carried by admitting for a moment the British parliamentary law as a source of power, demands that every power claimed by either House should be strictly questioned, and, if it has no foundation in the Constitution, be rejected. No enormous were the claims of privilege of both Lords and Commons, that they have not only been restrained by express statute, but moderated in

"The Constitution of the United States not only created a new form of government for the people, but for the first time gave them an actually national Government. The powers granted by it have no other foundation than the letter of the instrument. They are limited with the greatest jealousy, and are not to be extended by implication.

"The tenth article of amendments in the Constitution says: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.' We search the Constitution in vain for any delegation of power to compel a witness to appear before a committee of the Senate appointed to investigate a subject as preliminary to legislation.

The fourth article of the amendment provides that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." If this provision has any vitality, or is ever to be applied, surely it ought to be applied in the present case. Have the Senate committee a right to drag a man one, two, or three thousand miles from his family, however inconvenient or ruinous it may be to him, and this merely to prosecute an investigation, which his trial would surely satisfy? Is it the purpose of this act of legislation? Can any seizure of the person be more unreasonable? Yet the letter and spirit of our great charter are thus to be trampled down by a constructive power.

"By the sixth article of amendment, every accused person is entitled to a speedy and public trial by a jury of the State and district where the crime has been committed. The hardship and injustice of taking a man out of his own State for trial are so apparent that the people would not submit to it. Could they have intended to allow any citizen to be taken from his home, wherever he might be, and have him subjected to an inquisitorial examination, a trial in fact, but one in which he is deprived of all the protection which the Constitution would give him in a regular court of justice?"

"The Constitution enumerates powers and privileges which the Senate enjoys independently of the House, and those which the House enjoys independently of the Senate. They are expressed with great care, with the avowed purpose of defining and limiting them, and preventing the claim of the monstrous and arbitrary powers and privileges that have been exercised by the Lords and Commons.

"The Senate has the sole power to try all impeachments" (Art. I, sec. 3). But it cannot, like the House of Lords, order a convicted party to be executed, or even fine or imprison him. The punishment ordered by the Senate cannot extend further than removal from office and disqualification for holding any office of honor or trust under the United States. And a conviction cannot take place "without the concurrence of two thirds of the members present." Everything in these provisions shows an anxiety to insure a fair trial and a moderate punishment. Can the Senate, by a summary process for contempt, inflict

a heavier punishment on a witness who doubts its authority than on a great public offender, duly tried and convicted? Each House is the judge of the elections, returns and qualification of its own members; can compel the attendance of absent members; determine the rules of its proceedings; punish its members for disorderly behavior; and, with the concurrence of two thirds, expel a member.

"Here again, is the same design exhibited to define and limit powers. Each House is the judge of the qualification of its members—that is, whether they have the qualifications required by the Constitution: But it cannot create a

tions required by the Constitution; but it cannot create an arbitrary disqualification, as the House of Commons did in the case of John Wilkes, and declare that a man who has been expelled is afterwards ineligible. A member can only be expelled by the concurrence of two thirds of the members present. A bare majority can expel from the House of Commons.

"The members of both Houses are, 'in all cases, except treason, felony, and breach of the peace, privileged from arrest during the session of their respective Houses, and in going to and returning from the same.' This is an important privilege, but is nothing compared with those which have been sometimes arrogated by the House of

The powers exercised by the Houses of Parliament have in many instances been as ludicrous as they were tyrannical. A mere enumeration of some of them, for the period of about a century after the Restoration, will sufficiently illustrate the danger of blindly following the parliamentary precedents of Great Britain. The following cases, among many others, were between the years 1660 and 1697 noted *Assurances of the House*.

- ¹ Delivering ejections to members of Parliament, fifteen cases.
- ² Entry on their estates, twenty-four cases.
- ³ Pulling down a scaffold at Mr. Butle's.
- ⁴ Lopping Mr. Scawen's trees.
- ⁵ Detaining the goods of members of Parliament, ten cases.

ment, but with powers beyond impeachment, with all the administrative powers of justice possessed by the judiciary itself, what could it do in the Harper's Ferry case? Could it, in Washington, in the District of Columbia, arrest and commit in Jefferson County, in the State of Virginia, and could it try them without a jury? But the Constitution says that the trial of crimes, cases, and controversies, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed."

What would be the use of the underground, at its end to the so-called of the proposed inquiries, but only as to the mode, in reference to the rights of witnesses, he writes in the margin the question of the safety of the witnesses.

"For the sake of the point in question, let us also write the right of trial by jury, and admit that in a case of crime like the one under consideration, this honorable Senate sitting as a court judicial with full powers, are conditioned to try this case; and that, in view of the Constitution, they are not to try it in Virginia, instead of at Washington; saving this supposed condition of affairs, what would be my rights as a witness? What would be the rights of any and every citizen of the United States and resident in the State of Virginia? Why clearly, the court, by some process, would be under the necessity of going to the witness? It could not compel any witness not of the State to come to it. For the court to attempt such a thing would be to employ its function as to a triangle down natural rights that are guaranteed by the amendments to the Constitution. And thus it would cease to pass, by the safeguards of the Constitution, that it would have received previous sanction from the people to suffer. I think no man can believe that such was the intention of the framers of the Constitution."

SENATOR MASON.—The Constitution was ordained and established to secure justice, liberty, tranquility, and the general welfare, &c. &c. In the absence of the great struggle, the Constitution established a true Government.

To carry out the design of the Constitution is the separate power of each department, and the common purpose of all.

Let the design of the Constitution should be defined, the rights of the Bill of Rights to it, called the amendments to the Constitution.

The functions of Government are limited by the amendments.

"Concrete processes of every kind and for any purpose are therein forbidden, save in connection with safeguards, nor restrict the power to legislate, nor the power to execute of safeguards promises absence of dangers; absence of dangers promises absence of power to begot them. In what sense the Government of the United States is to be maintained, there is the presumption that power to require them is wanting."

Where the liberties and privileges of the people are involved, the bill determines what are and what are not powers incident to Government.

The Constitution has established both Government and the Bill of Rights in pursuance of a single design, no antagonism between them is supposed.

"The Government being a despotic declaration of the rights, privileges, and immunities of the people; and the powers of Government being not arbitrary, but limited by the amendments, the former must not be subject to the latter."

"The Government, in its essential nature and in the nature of the being voluntary in the first place, its powers must always be construed in favor of the latter."

"For people provide Governments in the order of events, but the rights originate with them."

Inasmuch, then, as Government cannot impair, but must exercise its functions in harmony with the people's protecting summary of powers and privileges, the mode and the form of its invasion, to be constitutional, must be expressed and granted in the bill.

Hence, Government is concluded as to any "incident" power, violative of the people's rights, privileges, and immunities, as secured to them by the Bill of Rights. Such use of power used in the nature of the case for a suspension, and a clear violation of article three, of the amendments. It is not possible that an "incident" power of the Government, which Government could be more secure than the expressed powers of the judiciary.

The undersigned, having thus given his reasons for not having appeared before the select committee of the honorable Senate, would respectfully answer the

interrogatory: "Am you ready to appear before said committee and answer such proper questions as shall be put to you by said committee?" as follows:

"I have been already called upon to appear before said committee at any time, and at any place, and before any committee of the honorable Senate, and is now ready, upon his signature a name and citizen being referred to him by the people's Bill of Rights in the Constitution of his country. He regards himself as a loyal citizen, true to the Constitution because true to the people. To submit to the concrete processes of the Senate's honorable committee, and by this design, to acknowledge a power against whose constitution Washington, Jefferson, and the framers of the Constitution warned and sought to shield their countrymen, would be an act on the part of the undersigned which he could find no reason to believe in him or men. He cannot do it; his judgment does not approve it; his conscience will not permit it.

All which is dutifully and respectfully submitted.

THADDEUS HYATT.

Attest: W. F. M. ARV. —

WASHINGTON, District of Columbia, ss.

Personally appeared before the subscriber, a justice of the peace in and for the county of Washington, District of Columbia, Thaddeus Hyatt, of the said county of Washington, being affirmed according to law, acknowledged and declared the foregoing, to which he has affixed his name and seal, and be his answer to the interrogatory of the honorable Senate by the resolution of the United States Senate, adopted the 30th of March, 1860. Given under my hand and seal this 30th day of March, A. D. 1860.

THADDEUS HYATT.

Admitted and authorized before me.

JOHN D. CLARK, Justice of the Peace.

Mr. MASON. Mr. President, the Senate, at an early period of its session, appointed a committee to investigate the late invasion and seizure of the arsenal and public property at Harper's Ferry, and of the facts and incidents connected with it; and, as it always does on like occasions, the committee gave power to its members to examine persons and papers.

In the course of the investigation, among the witnesses summoned was Thaddeus Hyatt, of the city of New York. The committee reported to the Senate that this witness did not appear in pursuance of the summons; that he failed and refused to appear. Upon that report the Senate, as has been done in like cases in the House of Representatives, there being no precedent in the Senate that I could find, passed a resolution directing the President of the Senate to issue his warrants for the arrest of Thaddeus Hyatt. He was arrested accordingly, in the city of Boston, by the Sergeant-at-Arms of the Senate, and brought to the bar of the Senate. The Senate then, in pursuance of the precedents of the House, having none, as I have said, in this body of a like character, by its resolution, directed the President of the Senate, to put to Thaddeus Hyatt two questions; and further directed that these questions should be answered by him on a day given; which was to-day, in writing and under oath. The questions were these:

"1. What excuse have you for not appearing before the select committee of the Senate, in pursuance of the summons served on you on the 30th day of January, 1860?"

In answer to that question, the witness has put in a paper, the substance of which is, as I have heard portions of it read, a denial of the authority of the Senate, in the case before the Senate, to bring him before a committee for the inquiries proposed by the previous order of the Senate. He denies the authority of the Senate; and embodies in his paper an argument which he declares, in the answer, is the argument of his counsel.

He says, as his excuse for not appearing before the committee, the excuse being that, in his judgment, the Senate had no power to bring him here.

So much for the first question. In answer to the second question, which was:

"Are you now ready to appear before said committee, and answer such proper questions as shall be put to you by said committee?"

The witness replies briefly, with comparative brevity at least, that he is now, and has always been, ready to appear before any committee of the Senate, anywhere, provided his rights as a citizen are not respected. Upon this subject, the resolution—*are* respected. Upon this subject, the answer is evasive, and intended to be so. The question is: "Are you ready to appear and answer?" The answer is in direct conflict with the report of the committee, that he never did appear pursuant to the summons. The answer is that he has always been ready to appear; but he audaciously avoids saying that he is ready to answer the questions the committee shall put to him. That being the case, I move that the Senate adopt the following resolution, which I have also taken from the present of the House of Representatives in like case.

THE PRESIDING OFFICER. The Clerk will state that the motion before the Senate is the motion of the Senator from Louisiana to refer this paper to the select committee.

Mr. MASON. I suppose that is withdrawn now.

Mr. BENJAMIN. That motion was made for the purpose of preventing the reading the paper here, and allowing us to go on with our regular business; but the paper directed being read, of course I withdrew the motion.

THE PRESIDING OFFICER. The Secretary will read the resolutions offered by the Senator from Virginia.

The Secretary read them, as follows: "Whereas, Thaddeus Hyatt has refused to appear before the select committee of the Senate, in pursuance of the summons served on him by order of the Senate, and has not purged himself of the contempt with which he stands charged; Therefore, Resolved, That Thaddeus Hyatt be committed by the Sergeant-at-Arms to the common jail of the District of Columbia, to be kept there until he shall signify his willingness to answer the questions proposed to him by the select committee of the Senate, and to appear before said committee on a day to be appointed to him by said committee; and, for the contempt and detention of the said Thaddeus Hyatt, this resolution be a warrant for his arrest."

Resolved. That whenever the officer having the said Thad-

deus Hyatt in custody shall be informed by said Hyatt that he is ready and willing to answer the proper and legal questions that may be propounded to him by the said committee, it shall be the duty of such officer to deliver the said Thaddeus Hyatt over to the Sergeant-at-Arms of the Senate, whose duty it shall be to take the said Hyatt immediately before the committee before which he was summoned to appear, for a examination, and to hold him in custody subject to the further order of the Senate.

THE PRESIDING OFFICER. The question is on the adoption of the resolutions.

Mr. HALE called for the yeas and nays, and they were ordered.

Mr. HALE. I wish to ask a single question of the chairman. I see that the warrant is general; it is a detention without any limitation of time. I suppose if we had any power to commit him, the power would only exist during the session of the Senate. Does the chairman of the committee so understand the powers of the Senate?

Mr. MASON. The Senate is a continuous body. It always is in existence, not always in session; and if the witness refrained from answering the questions, I presume, under that order of the Senate, unless before the adjournment something be done with him, he will remain in custody.

Mr. WIGFALL. A habeas corpus would settle the question, if any difficulty should arise.

Mr. HALE. I suppose that would be a writ *corpus* to a prisoner that is under such a warrant as that, with such a judiciary as we have here, would be adding (if anybody else but a Senator had said it) insult to injury.

Mr. DOOLITTLE. Mr. President, this question to me, I confess, up to the time that the little discussion took place the other day, was entirely new, and for one, I am not now prepared to vote to say that I believe that, under the Constitution of the United States, we have the power to imprison a man in the District of Columbia, without a jury and testify as to any facts within his knowledge. I confess that, up to the time that question was raised, it did not occur to my mind, knowing that legislative bodies had been in the habit of appointing committees and sending for persons and papers. For myself, I should desire that the decision of the question might be postponed till Monday next, before I am called on to vote.

Mr. SEWARD. Will the Senator give way for a moment to adjourn? I move that the Senate adjourn. "Oh, no!"

Mr. CLINGMAN. I ask for the yeas and nays on the motion to adjourn. I think we had better end this question now.

Mr. MASON. Before that is done, I ask the Senator to withdraw the motion. We must make some disposition, I presume, of the witness, in the meantime.

Mr. SEWARD. I withdraw the motion.

Mr. MASON. If the Senate do not act upon the resolutions which I offered this evening, there will be no order. He does not get forward, I presume, to remand him to the custody of the Sergeant-at-Arms.

Mr. FESSENDEN. I wish to suggest to gentlemen that it is hardly advisable to push this matter too far. I have previously expressed my sympathy to vote upon the subject. I would make no suggestion in relation to it; but one Senator on this side of the Chamber says he is not prepared to vote now, and that he wishes further time for deliberation. I will say to Senators that, in the course of short examination I have been able to give to this question, I have been led to entertain some doubt myself in reference to the power of the Senate. I wish further time to examine and deliberate upon that subject. There can be no very particular reason for sending it now more than at any other time.

Mr. CLINGMAN. I beg leave to say that I took it for granted that the Senate had made up its mind on the question. It is one that has been so much discussed generally in legislative bodies, and was so much discussed in the House of Representatives in the reference to it that I took it for granted every Senator had an opinion on it; and my object was simply to have a vote at this time—nothing beyond that.

Mr. FESSENDEN. I will say to Senators, that so far as my examination goes, the subject has not heretofore been presented exactly in the shape in which it now comes before the Senate. The proceedings in the House of Repre-

mentaries were entirely upon a different class of cases; and there is a distinction to be drawn, as is contended, between this case and others—many think a serious and important distinction. At any rate, no harm can be done by deliberation, and settling it on due consideration. I will say to Senators, that I am as ready and willing and anxious to uphold all the privileges of this body as any man, and to support whatever our rights may be; but while feeling that, am anxious not to go one step further—not to make a precedent that we cannot stand by. I should like very much indeed to have the matter go over, in order that we may think of it until Monday; and I hope Senators will not, on consideration, have any objection to that course.

Mr. MASON. I have not evinced the slightest indisposition to adjourn the question until Monday. I did not know until now that we had ordered an adjournment to be until Monday; but if it is the wish of the Senate, I do not press the resolution now, though I am perfectly prepared to vote myself.

Mr. SEWARD. I renew the motion to adjourn.

Mr. MASON. This resolution, whether we act on the others or not, is necessary, and I offer it.

Ordered, That Theodore Tilton be returned to the custody of the Sergeant at Arms, there to remain until the further order of the Senate.

The order was agreed to.

Mr. MASON. I now renew the resolutions that I offered before this superseded them—to commit him to jail.

Mr. SEWARD. They will be over, I suppose. Mr. MASON. They will be left as unfinished business, if it shall be the pleasure of the Senate now to adjourn.

Mr. SEWARD. I move an adjournment.

Mr. BIGLER. Will the Senator waive the motion for a moment, to allow us to offer a resolution of inquiry?

Mr. SEWARD. Certainly.

CONTRACTS FOR MARBLE.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his judgment incompatible with the public interest, the letter of J. F. Conally to the Secretary of War, dated on or about the 16th January, 1860, in relation to his offer for marble columns for the porticoes of the Capitol extension; also all orders or instructions, and action of the Secretary of War and of the Superintendent of the Capitol extension; and also any communication that may have been made by the contractors in relation to said columns, or to the contracts or bids therefor, not already communicated to the Senate.

ADJOURNMENT.

Mr. DAVIS. I believe an order has been taken by the Senate to adjourn over to Monday. I move a reconsideration, in order that we may sit to-morrow. There is a great deal of unfinished business before the Senate. I think we ought to meet every day in the week while that state of things exists.

Mr. HALE. I simply want to inquire if the Senator from Mississippi voted in the affirmative on this question. He did not so state.

Mr. DAVIS. It is necessarily so considered, as I did not vote at all.

Mr. HALE. I suppose, if the Senator was present and did not vote at all, that is enough.

Mr. DAVIS. I was not present when the proposition was made, or I should have objected to it.

Mr. HALE. Then I raise the question that it is not in order for him to move a reconsideration.

Mr. GRIMES. It was present when the motion was made.

Mr. HALE. Well, did you vote in the affirmative?

Mr. GRIMES. I did not vote at all, but was here.

The PRESIDING OFFICER. It is moved to reconsider the vote by which it was ordered, that when the Senate adjourn it be to meet on Monday next.

Mr. CRITTENDEN. I move that the Senate do now adjourn.

Mr. BROWN. I think the motion to fix the time to which we adjourn always takes precedence. ("Oh, no.")

Mr. CRITTENDEN. I move that the Senate do now adjourn.

Mr. DAVIS. Which has precedence between the two questions?

The PRESIDING OFFICER. The Chair is of the opinion that the motion to adjourn takes precedence.

Mr. DAVIS. Over a proposition to adjourn to a given time?

The PRESIDING OFFICER. Over a proposition to reconsider the vote fixing the adjournment to a given day. It is moved that the Senate do now adjourn.

The motion was agreed to; there being, on a division—ayes 25, noes 13; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 9, 1860.

The House met at twelve o'clock, m. Prayer by Rev. R. J. COWE.

The Clerk proceeded to read the Journal of yesterday.

Before the reading was concluded, Mr. DAVIDSON moved that there be a call of the House.

The SPEAKER. In the opinion of the Chair, the gentleman's motion cannot be received during the reading of the Journal.

Mr. DAVIDSON. Well, sir, I object to the reading of the Journal in the absence of a quorum. A quorum is evidently not present.

The SPEAKER. The reading was commenced without objection; and the Chair thinks it cannot be interrupted.

The reading was then concluded; and the Journal was approved.

APPOINTMENT OF COMMITTEES.

The SPEAKER appointed Messrs. CORTIS, FAIRBANKS, PHELPS, DAVIS of Maryland, SCOTT, RICE, FENTON, SMITH of Virginia, TAYLOR, KELLOGG of Michigan, BLAIR, ABRAMS, HANCOCK, FARRIS, and SEAR, the select committee under the resolution of the House of the 5th instant, on the subject of a railroad to the Pacific.

The SPEAKER also appointed Messrs. COVODE, OLIN, WINSLOW, TAIN, and ROBINSON of Illinois, the committee under the resolution of the 5th instant, to inquire into certain alleged corruptions and abuses on the part of officers of the Government, and as to the employment of money to carry elections.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting for the use of the House, the report of Professor J. D. Bachs, Superintendent of the United States Coast Survey, stating the progress of that work during the year ending November 1, 1859, accompanied by an engraved map, showing the general progress made in the survey of the Atlantic, Gulf, and Pacific coasts; and also a manuscript map, prepared at the coast survey office, in accordance with the act of Congress approved March 3, 1853; which was laid on the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the War Department, transmitting, in compliance with the resolution of the House, the report of the Representative of the 13th district, the report of Edward T. Boale, relating to the construction of a wagon road from Fort Smith, Arkansas, to the Colorado river; which was laid on the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the War Department, transmitting, in compliance with a resolution of the House calling on the Treasury Department for a copy of the report of the art commission, a copy of that report, and stating that there were no documents accompanying the report; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

Mr. TRAIN submitted a motion to print extra copies; which, under the law, was referred to the Committee on Printing.

BILLS INTRODUCED.

Mr. OTERO obtained the floor.

Mr. CARTER. I rise to a question of privilege.

Mr. FLORENCE. The gentleman cannot take

the floor from the gentleman who holds it for any purpose.

Mr. OTERO, by unanimous consent, introduced a bill providing for the appointment of two additional Indian agents in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. OTERO also, by unanimous consent, introduced a bill providing for the payment of certain volunteer companies in the service of the United States in the suppression of Indian hostilities in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

NEW YORK SEVENTH REGIMENT.

Mr. CARTER. I rise to a question of privilege. I find stated in the Globe of March 3, that which is now made.

"Whereas a resolution recently introduced into the House by the honorable gentleman from New York, (Mr. CRAIG),"

Mr. CRAIG, of North Carolina. I rise to a question of order. The Chair has decided again and again that no newspaper articles can raise a question of privilege.

Mr. CARTER. It is not a mere newspaper article; it is a statement made in this House, affecting the character of one of the members in this House. If that does not constitute a question of privilege, I should like to know what would constitute one?

Mr. CRAIG, of North Carolina. I rise to a question of order. The gentleman from New Jersey was the other day prevented from discussing the resolution which the gentleman from New York refers, on the ground that the resolution did not constitute a question of privilege.

Mr. CARTER. I will read the resolution, and then submit to the House whether it does not involve a question of privilege.

Mr. CRAIG, of North Carolina. I call the gentleman to order.

The SPEAKER. The Chair has repeatedly decided that a mere newspaper article is not a question of privilege. If it were, the House might be continually occupied with such questions, to the exclusion of all business. Will the gentleman refer to the resolution offered by the gentleman from New Jersey, (Mr. ABRAMS), in relation to the seventh regiment, to which the gentleman from New York (Mr. CARTER) refers, the Chair will say, that resolution of the gentleman from New York was, in the first place, only read for information; and being objected to, it was withdrawn. The resolution of the gentleman from New Jersey was, in the same way, read for information, objected to, and withdrawn. That is the way the matter stands. CRAIG, therefore, nothing on the subject before the House.

Mr. CARTER. There is upon the records the statement of one member of the House reflecting upon another member of the House. Does not that involve a question of privilege?

Mr. CRAIG, of North Carolina. I call the gentleman to order. I think we have heard enough, in relation to that seventh regiment.

The SPEAKER. The Chair cannot care that the remarks of the gentleman from New York are in order. He would be very happy to hear him, if it were objected.

Mr. CARTER. I do not understand the Chair.

The SPEAKER. The Chair will say that objection is made to the gentleman's proceeding; and the Chair cannot hear him, unless it be in relation to a question of privilege.

Mr. CARTER. Well, sir, the Chair cannot prevent me from stating my question of privilege.

The SPEAKER. State your question of order.

Mr. CARTER. I will state my question of order.

Mr. CRAIG, of North Carolina. I thought the gentleman rose to a question of privilege, not a question of order.

Mr. CARTER. Well, I will state my question of privilege. I predicate my question of privilege upon the resolution which I will now read.

Mr. CRAIG, of North Carolina. I call the

gentleman from New York to order. The Speaker, I understand, has already decided that the subject referred to by the gentleman is not a question of privilege.

THE SPEAKER. The Chair has undoubtedly so decided.

Mr. CARTER. Then I will state to the Speaker, that I suppose—[cries of "Order!"] Well, I presume I have the right to state my question. The Chair awarded me the floor.

THE SPEAKER. The Chair awarded the floor to the gentleman; but the Chair has decided that what the gentleman states is not a question of privilege. He is therefore not in order.

Mr. CARTER. The Chair decided, as I understood him, that I could not read this article. I propose, therefore, to state what it is. The gentleman from New Jersey offered a resolution which reflects upon the character of a member of the House.

Mr. CRAIGIE, of North Carolina. I call the gentleman to order.

THE SPEAKER. The Chair will state to the gentleman from New York that the gentleman from New Jersey was not permitted to address the House upon his resolution, and that the Chair has decided that it does not involve a privileged question.

Mr. CARTER. The resolution of the gentleman from New Jersey, however, was read for information. I appeal from the decision of the Chair to the House.

The question was taken; and it was decided that the decision of the Chair shall stand as the judgment of the House.

CONFIRMATION OF LAND ENTRIES.

Mr. NOELL, by unanimous consent, previous notice having been given, introduced a bill to confirm certain entries of land therein named; which was read a first and second time by its title, and referred to the Committee on Public Lands.

HORSES LOST IN WAR.

Mr. NOELL, by unanimous consent, previous notice having been given, also introduced a bill to provide for payment for horses lost in the military service of the United States; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

ELIZABETH M. COCKE.

Mr. NIXON. I am directed by the Committee on Commerce to move that that committee be discharged from the further consideration of Senate bill No. 81, for the relief of Elizabeth M. Cocke, widow of Major Thomas H. Cocke, late marshal of the district of Texas, and that it be referred to the Committee on the Judiciary, to which committee it properly belongs.

It was ordered accordingly.

Mr. STANTON. What is the regular order of business?

THE SPEAKER. The call of committees for reports of a private bill.

Mr. STANTON. Then I call for the regular order of business. I do not think that it is fair that committees should get in their reports out of order.

THE SPEAKER. The report first in order, upon this day, under the rules of the House, is from the Committee on Claims, on reports from the Court of Claims. If there is no report of that character now to be made, the call of committees will be commenced where it was left off on Friday last. Reports are in order from the Committee on Invalid Pensions.

MARY ANN HENRY.

Mr. DRABSON, from the Committee on Invalid Pensions, reported a bill for the relief of Mrs. Mary Ann Henry; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN SANDEL.

Mr. MARTIN, of Ohio, from the same committee, reported a bill granting a pension to John Sandel; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ABRAHAM CRUM.

Mr. MARTIN, of Ohio, from the same com-

mittee, also reported a bill granting a pension to Abraham Crum; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EMMA A. WOOD.

Mr. MARTIN, of Ohio, from the same committee, also reported a bill for the relief of Emma A. Wood, widow of late Brevet Major George F. Wood of the United States Army; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ANTHONY W. BAGARD.

Mr. KELLOGG, of Michigan, from the same committee, reported a bill for the relief of Anthony W. Bagard, an invalid soldier of the war of 1812; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELMIRA WHITE.

Mr. FOSTER, from the same committee, reported a bill for the relief of Elmira White, widow of Captain Thomas R. White; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EXCUSED FROM SERVICE ON A COMMITTEE.

Mr. RICE, Mr. Speaker, I respectfully ask to be excused from serving upon the Committee for the District of Columbia. I should have made this request earlier, but that I was absent when the committees were appointed and for a considerable period afterwards; and in presenting it now, I trust that I do not unduly diminish the importance of that committee, and I am certainly not wanting in respect and cordiality towards the gentlemen who compose it. But the people whom I have the honor to represent have only that concern in the subjects before that committee which an intelligent and patriotic community, far hundred miles distant, may be supposed to feel in the local affairs of the Federal capital; while they have great and distinctive interests important to themselves and closely related to the welfare of the whole country, which necessarily require recognition in consulting the committees of this House, and to those interests, and others of a general character, I desire to devote my attention, through such means and opportunities as may open to me. The question was taken on excusing Mr. Rice from serving on the committee; and the motion was agreed to.

SMITH & HUNT, OF TOLEDO, OHIO.

Mr. WASHBURN, of Illinois, Mr. Speaker, the gentleman from Ohio [Mr. WASHBURN] has been called home by sickness in his family, and he has requested me to make a report for him from the Committee on Commerce. It is a bill for the relief of Smith & Hunt, of Toledo, Ohio.

There was no objection; and the bill was received, read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN H. HUNTER.

Mr. STOKES, from the Committee on Invalid Pensions, reported back a bill (H. R. No. 219) granting a pension to Major John H. Hunter; which was referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ANDREW E. MARSHALL.

Mr. HALL, from the same committee, reported a bill for the relief of Andrew E. Marshall; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

COLONEL BENJAMIN WILSON, DECEASED.

Mr. VANCE. I ask the unanimous consent of the House to make a report from the Committee on Revolutionary Claims. I was not present when that committee was called.

There was no objection.

Mr. VANCE, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Colonel Benjamin Wilson, deceased; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

REV. JAMES CRAIGIE.

Mr. VANCE, from the same committee, also reported a bill for the relief of the heirs of the Rev. James Craigie, deceased; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

PAY OF PAGES.

Mr. SPINNER. I desire to offer the following resolutions from the Committee of Accounts: *Resolved,* That so much of the resolution of the House of Representatives, passed May 17, 1856, as relates to the compensation of the Doorkeeper of the House and its employees, is hereby rescinded, and declared inoperative from the date of its passage, so far as the same conflict with any joint resolution of the two Houses of Congress, passed July 30, 1854.

Resolved, That so much of said resolution as limits the number of pages to twelve, be, and the same is hereby, repealed, and that the Doorkeeper be authorized, from time to time, to employ such persons as may be deemed necessary, not exceeding twenty pages, between the ages of ten and sixteen years, at a compensation of two dollars per day for each, during the session of Congress; and that the Committee of Accounts be authorized to allow pay to the persons who acted as pages pending the election of officers of this House, to be included in the day on which the Doorkeeper was elected, at the rate of two dollars each per day.

Mr. RUFFIN. I object to the introduction of that resolution. It is not a private bill. I make that point, and ask the Chair to decide it.

Mr. SPINNER. Mr. Speaker, if it cannot be introduced as a private bill—

Mr. BURNETT. This question is not debatable.

THE SPEAKER. It is not debatable; but the gentleman from New York can state the ground upon which he presents the resolution.

Mr. SPINNER. The ground, then, is, that the resolution relates to employees of this House—individuals who have performed their services, and are now ready to go home. We have no other mode of securing them their pay than this. These claims are private, of course, as the public have no interest in them.

Mr. RUFFIN. I desire to be allowed to make a statement, and to make an inquiry of the gentleman from New York. I wish to know whether the late Doorkeeper of the House did not put some eight or ten pages upon the floor of the House beyond the number he was authorized to appoint; and whether they are not the pages who are now claiming pay? He was authorized to appoint twelve pages. I understand some twelve have been paid, and that some eight more are claiming compensation.

Mr. SPINNER. I will state, in reply to the gentleman from North Carolina, that it is the general custom of this House to vote an additional number of pages, or pay to an additional number. The Senate to-day has twenty pages, while we have but twelve.

Mr. RUFFIN. I do not understand the gentleman. Have not twelve pages already been paid?

Mr. SPINNER. Twelve have been paid, and eight more are claiming pay. They continued in service during the disorganized state of the House.

Mr. COX. Have they rendered the services?

Mr. SPINNER. They have.

Mr. RUFFIN. There was a resolution passed last Congress authorizing the appointment of twelve pages, and no more.

Mr. SPINNER. But the House voted for the pay of eight pages at the close of the session.

Mr. RUFFIN. Has that resolution ever been repealed?

Mr. SPINNER. No, sir.

Mr. RUFFIN. The resolution of this House never authorized the Doorkeeper to employ these eight pages. He appointed them without authority of law, and against the order of the House. There never has been a law of this House authorizing their employment.

Mr. SPINNER. I desire to say that the House passed a resolution at the close of the last session by which eight of these pages were to be paid. They were continued by the Doorkeeper, supposing that they would be paid again.

Mr. RUFFIN. It amounts to this: that a resolution was passed by this House authorizing and requiring the Doorkeeper to employ twelve pages, and no more. There never had been, previous to that time, more than fourteen.

Mr. SPINNER. And twenty have been paid. Mr. RUFFIN. Yes, sir; the Doorkeeper, notwithstanding the resolution of the House, went on and appointed more than he was authorized to appoint, and now they ask pay.

Mr. CRAWFORD. I desire to say a word in reply to what has fallen from the gentleman from North Carolina. My understanding of the facts is this: that after the House reduced the number to twelve, as has already been stated, an additional number of pages absolutely forced themselves upon the Doorkeeper, and asked his permission to let them run upon the floor, taking their chance of pay from the House; that the Doorkeeper did not intend to violate the order of the House; but that he did, from the great pressure made upon him by those pages, permit them to run upon the floor, taking their chance of pay.

Mr. RUFFIN. That makes the matter no better.

Mr. CRAWFORD. I do not know of any content being given by any member of this House; certainly none was given by me. I knew nothing of the arrangement at the time it came to my knowledge subsequently. I did not approve of the conduct of the Doorkeeper in that particular; but I have said thus much in his defense. I was decidedly opposed to increasing the number of pages, and voted with the gentleman from North Carolina and the gentleman from Kentucky, who introduced the original proposition to reduce the number.

Mr. HOUSTON. The gentleman from North Carolina has been more inclined to blame the Doorkeeper than probably he would be had he looked at all the facts. I understand the facts to be, that there were more than twelve pages in the House; that the House passed a resolution establishing twelve as the number of pages, beyond which the Doorkeeper was not to go. The pages thereby excluded, and the reason they gave for the Doorkeeper to allow them to run upon the floor, and take their chance for pay.

I understand also from the Doorkeeper—for I remonstrated with him upon the subject a few days ago, and after the first effort of the gentleman from New York introduced this resolution—that nothing was done at the solicitation, in the main, of members of the House; he stating to the members that he was not authorized to receive them. But members insisted that he should allow the pages to remain here, taking their chance of pay from the House. These are the circumstances under which the Doorkeeper acted.

Mr. RUFFIN. Gentlemen will remember that the first session of the last Congress disgraced this Doorkeeper for this very thing, because he employed a larger number of pages than he was authorized by law. But immediately after that action, and in the face of it, the House having declared the number of messengers and pages to be employed by the Doorkeeper, the Doorkeeper goes on and employs twenty. Gentlemen say that has been customary. That is the object of this resolution was to prevent this thing. According to my recollection it had not been customary, previous to that time, to employ more than fourteen pages; and there never have been twenty pages until the close of the last session of Congress. There are pages here now who are actually in the way; little boys of eight or ten years old, who cannot write members' names, who cannot write their own names, and who are kept here so that they or their friends may draw the pay which they who are competent to do the business are entitled to. If we had twelve good, competent boys here, they would be amply sufficient for the use of the House. That has been tested heretofore.

Mr. UNDERWOOD. I desire to say a word or two in behalf of these innocent boys.

Mr. RUFFIN. Do not let them off the floor.

Mr. UNDERWOOD. I thought the gentleman from North Carolina had got through.

Mr. RUFFIN. I had not.

Mr. FLORENCE. Then I hope the gentleman from North Carolina will get up and say, body else occupies the floor. Let us have an equal chance for it.

The SPEAKER. The gentleman from North

Carolina has the floor, if he wishes to keep it. Otherwise, he will please to yield it.

Mr. UNDERWOOD. I thought the gentleman from North Carolina had got through.

Mr. HURNETT. I desire to ask the gentleman from New York one question.

The SPEAKER. Does the gentleman from North Carolina yield the floor?

Mr. RUFFIN. Yes, temporarily.

The SPEAKER. Then the gentleman from Georgia is entitled to the floor, if the gentleman from North Carolina yields it.

Mr. UNDERWOOD. I object to the gentleman from North Carolina farming out the floor. Let us take it in turn.

Mr. RUFFIN. I wish to learn the facts of the case, if I am not permitted to yield to the gentleman from Kentucky.

Mr. LOVEJOY. I rise to a question of order. I wish to inquire whether this debate is in order?

The SPEAKER. The Chair thinks it is.

Mr. LOVEJOY. If so, then it is all right.

Mr. RUFFIN. I wish the gentleman from New York to state—he is on the Committee of Accounts, and ought to know—how many pages there are on the floor at this time?

Mr. SPINNER. I do not know; and it is for that very reason that I desire to fix the number, so that the House may be understanding it. The Committee of Accounts are already instructed against him. We want to be disencumbered of such instruction, and it was in that view that this resolution was reported. The resolution was unanimously agreed to in the committee. A similar one was agreed to the last day but one of the last session of Congress; and on the last day of that session, the House adopted a resolution, directing the claims of these employes to be made out by the Clerk, and paid at the Treasury. Payment was refused at the Treasury on the ground that they were all included in the record. It was decided that each account should be presented separately, and each audited and certified by the Committee of Accounts.

That mandatory resolution against the joint resolution of both Houses still stands. We consider it rather directory to us, but illegal. We could now pass the accounts for the legal amount, but we prefer to have the illegal resolution rescinded by the House. It is with that view that we have presented this resolution.

Mr. HOUSTON. Then the gentleman and other question which I wish to ask. Gentlemen say that I have probably done injustice to the late Doorkeeper.

Mr. SPINNER. I did not say so.

Mr. RUFFIN. No; but other gentlemen on this side have thought so; and have said that they have done the late Doorkeeper injustice in stating that he employed, without authority, eight additional pages. It has been suggested to me that the Committee of Accounts, considering that the resolution passed last Congress was contrary to the law, had themselves authorized him to employ them.

Mr. SPINNER. No, sir; so far as the pages are concerned, the resolution does not contain anything contrary to law. It only applies to the Doorkeeper. I desire further to state to the House, regarding the compensation of the messengers of the House is fixed by law; just the same as the compensation of the messengers of the Senate. During the high state of excitement, the pay of the messengers of former Doorkeeper was reduced below what is paid to messengers of the same grade in the Senate, and to messengers of the same grade in our post office, and in the office of the Sergeant-at-Arms. Their pay is reduced some eighteen or twenty per cent., while the members have voted themselves one hundred per cent. additional compensation.

Mr. UNDERWOOD. I desire, Mr. Speaker, to say a few words in behalf of these innocent boys, who are demanding their pay through this resolution. If I understand the state of the facts, they are three—first, if I am wrong, the gentleman from New York, the chairman of the Committee of Accounts, will please correct me; I understand that, by a joint resolution of both Houses, the Doorkeeper of the House was entitled to employ twenty pages.

Mr. SPINNER. No, sir; there is no law whatever relating to pages.

Mr. UNDERWOOD. Then I understand that the resolution of last Congress restricted the Door-

keeper to the employment of twelve pages; but that, two months before the close of the session, the House provided for paying twenty pages. Am I right in that?

Mr. SPINNER. Yes, sir.

Mr. UNDERWOOD. On this page, some seven or eight, whose pay is intended to be provided for by this resolution, were appointed by the Doorkeeper of the last House of Representatives, and were paid as pages of that House. Several days before the 5th of December last, they were summoned by the Doorkeeper to attend at this House as pages. They did attend, until the new Doorkeeper was elected, and have performed the service; and I say, without reference to any technicality, without reference to any existing law or regulation, that those boys who performed the service are entitled to their pay; and the House of Representatives ought not to hesitate one moment in paying these boys who performed this service as pages. One of them I know to have served as a page during the whole of last session of Congress. He served up to the time the new Doorkeeper was elected, and he was dismissed. He served as faithfully as any page on this floor.

Now, I want to ask if the House of Representatives will allow this service to have been done, and then refuse to pay for it on the technical ground that the Doorkeeper did not have authority to appoint? I raise no issue at all as to whether or not the Doorkeeper had the right to appoint these pages. Certain it is that he did it, and that they performed the service. If he transcended his power, it simply amounts to this—nothing more; that the Doorkeeper did what he thought he ought not to have done; while these innocent boys who are demanding their pay have done what they ought to have done. They have performed this service, and, in my judgment, the House of Representatives would disgrace itself if it were to refuse to pay them.

Mr. FLORENCE. It would seem to me, Mr. Speaker, a work of supererogation, after the very clear and just explanation given by the gentleman from Georgia of the relations which these boys have to the House, to refuse to pay them. I merely desire to refer gentlemen to the practice that has existed here ever since I have been a member of the House. There has not been a single Congress—and gentlemen who have been here will justify the remarks that we have not, at the end of the session, paid the pages who were allowed to occupy places; or, in the familiar phrase, to run on the floor. The pressure on the officers of the House is very great. There is, as every one knows, a very great pressure to get these positions. The compensation paid is very considerable. There are widows here who are constantly running after these people, [laughter], and asking members to exert their influence with the Doorkeeper to permit their sons to be on the floor, and take their chance of payment. Gentlemen cannot do this without being wise.

Mr. COBB. I am required by the old Doorkeeper, to ask the gentleman from New York, who, I believe, was a member of the last Committee of Accounts, whether that committee did not authorize Mr. Wright to employ additional pages.

Mr. SPINNER. I think there was conversation in the committee-room, in which a majority of the committee consented that the additional pages should remain, and agreed to offer a resolution for their payment.

Mr. FLORENCE. That is a further justification. Now, Mr. Speaker, under the old practice, extra compensation (\$300) was paid not only to the regular pages, but to the extra pages, besides the per diem, and that is the reason why these boys are permitted to run on the floor, and the reason why they are now asking for payment. They were paid, by a resolution of the House, up to the adjournment of the last Congress; and, as all the officers held over, I put it to gentlemen, would it not be unjust now to drive away these little boys, and say they did not hold over with the others?

Mr. RUFFIN. I should like to ask the gentleman from Pennsylvania a question.

Mr. FLORENCE. Well, you may do so. Ask twenty, if you like.

Mr. SPINNER. I would ask the gentleman from Pennsylvania, and I want him to answer if he can, if the pages who were here last Congress, that he

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speaks of, were listed among the twelve who had received their pay?

Mr. FLORENCE. No, of course not.

Mr. SPINNER. I will answer the question. Here is a young lad—Todd, whom you all know. He was a regular page last session. He came on, and supposed that he was to be a page this session; but he was left off the regular list of twelve pages, and is one of the eight who cannot be paid.

Mr. RUFFIN. That is exactly what I want to get at. I believe these new pages have been put upon the floor for effect.

Mr. FLORENCE. Coming as this resolution does from the Committee of Accounts, it is almost unnecessary to say a word in relation to it. We know how rigid and just the gentleman from New York, [Mr. SEYMOUR,] the chairman of that committee, is. We know that he would not permit anything to pass the committee, if he could prevent it, that would favor of injustice. I am very well convinced of that.

Mr. SMITH, of Virginia. The gentleman says that we know the rigid character for justice of the gentleman from New York.

Mr. FLORENCE. Oh, I do not want that criticism.

Mr. SMITH, of Virginia. I want to know how the gentleman knows that.

Mr. FLORENCE. There have been opportunities enough of knowing it. I know it by his general character upon the floor, as a rigid guardian of the Treasury, who watches close any attempts to plunder it. He needs no eulogy from me.

But, sir, I will conclude. I do not want to occupy the time of the House. I know that the opinion of the House will sustain the report of the committee; and hence, I said, when I rose, that it was a work of supererogation to attempt to enlighten the House further, after the remarks of the gentleman from Georgia. But I desire to say that no resolution of this House can repeal an existing law which governs the pay of its members, and we are, therefore, bound to pay them.

Mr. MAYNARD. These resolutions bring up, as I conceive, a question that is by no means a new one in the history of the proceedings of this body. A practice has grown up—a vicious one, I conceive it to be—for which members of the House are more responsible than any one else.

We know that there is a great pressure upon the principal officers of the House for the subordinate places. They are limited to the appointment of only a certain number. Others are permitted to act, and are willing to act, in the hope and expectation that their services will be recognized and paid for by the House. Members, either with or without a knowledge of the facts—legally presumed to have a knowledge of it—see them employed from day to day, and from week to week, until the end of the session; and then they cancel, in justice to those persons, who have so rendered their services, as it seems to me, refuse to pay them. I submit whether we, knowing that there are upon the floor at this time a number of supernumerary pages, not warranted by law and by the authority of the Doorkeeper employing them day after day—knowing, as the gentleman from Pennsylvania says, that many of them are the sons of widowed mothers, who are dependent for their subsistence upon the services of these lads—whether we will acquit ourselves of their services, and then, at the end of the time, turn them adrift without compensation. I am in favor of paying these boys, and all others that have been employed, whether they were appointed by due authority or not; but I am in favor of paying the number of our officers ascertained and all other supernumeraries legally permitted to go away. So far as services have been rendered in the past, I think they ought to be paid for; and if anybody is to blame, it is the members of the House, and not the Doorkeeper or any other officer of the House, as I conceive; because their action has been known to many members of the House, and tacitly acquiesced in. So far as I am concerned, I am not interested in any page here. I have no constitu-

ent among them, nor have I the son of any constituent; but, upon principles of justice, I think compensation should be paid to those who have performed service. I am still further of the opinion that we have a great many unnecessary employes about the House.

And I may be permitted to go a step further, and comment upon a practice which strikes me with extreme pain. The very first week that I took my seat in the House, we had a change of the officers of the House, and the former Doorkeeper was not elected, but another one was put in his place. The little pages who had got familiar with their duties and with the Capitol, and were able to attend to the wants of members, were turned adrift, and others were put in their places who had to wait weeks before they were fit adequately to discharge their duties. The same thing has occurred, to some extent, at the present session; and this practice, and the commencement of every Congress, of turning out the pages who are valuable from the personal knowledge and experience that they have obtained, and for their personal qualities, on political or other grounds, and bringing in a parcel of new and raw boys, is one which, to me, is very inconvenient as well as very expensive.

Mr. BURNETT. I desire to call the attention of gentlemen, and particularly of the chairman of the Committee of Accounts, to the resolution passed by the House last session. It is as follows:

Resolved, That the Doorkeeper of the House of Representatives be, and he is hereby, authorized to employ not exceeding fourteen messengers at a compensation of \$3 a day each per annum; and not exceeding eleven messengers at a compensation of \$2 a day during the session of Congress; and not exceeding four laborers at a compensation of \$1 50 a day during the year; and not exceeding five laborers at a compensation of \$1 a day; and not exceeding twelve pages between the ages of ten and sixteen at a compensation of \$3 per day, during the session of Congress."

Mr. SPINNER. I am aware of that resolution.

Mr. BURNETT. Now, there is one thing to which I wish to call the attention of the House. This resolution which the gentleman from New York wants to pass, and which gentlemen advocate, claiming that it ought to pass, to pay eight boys, making them the means by which it to be put through this House, increases the pay of every one of these messengers—every one of them.

Mr. SPINNER. Permit me one moment. I put it expressly upon the ground that that resolution is in violation of law, and that the House had no right to pass it.

Mr. BURNETT. This House has no right to control the number of its employes, says the gentleman from New York.

Mr. SPINNER. No; I did not say that. The compensation is regulated by law, and not the number. But we had the joint resolution. It is the joint resolution of 1854.

Mr. BURNETT. Yes; I understand that, and I am going to refer to it.

Mr. SPINNER. It fixes not the number, but the compensation of the employes.

Mr. BURNETT. At the last session of Congress we remedied the evil, and now there are more employes around this Capitol, in my judgment, than there ever have been before. We passed this session a resolution here calling upon the Doorkeeper for a list of the employes under him, and the number of pages upon this floor, to which he has failed to respond. I knew that this resolution was coming. The employes round the Capitol have been appealing to members upon this floor, saying that they would come up, and that by means of it we shall put into their pockets—the men standing here holding the doors open—from two to three hundred dollars extra compensation. They did appeal to us to pass this resolution, and hence I offered my resolution calling upon the Doorkeeper for a list of the employes under him. To that resolution he has made no response, and we have no list of the employes under him. It is true, he explained to me that the reason why he had not furnished his list was, that he had been

advised by the Committee of Accounts to wait until they should have an opportunity to present a resolution, which is a new error of the House. Now, sir, whatever may have been the recommendation of the Committee of Accounts, it was the duty of the Doorkeeper, when a resolution of this House was passed calling upon him for information, calling upon him for a list of his employes, to have them ready to wait upon the House promptly. The Doorkeeper is authorized, under the resolution of the last Congress, to employ fourteen messengers, at three dollars per day. Will any gentleman tell me that that is not a sufficient compensation for the service required? Do not gentlemen know that if these men are not satisfied with that compensation there are a very large number of persons applying to do work at that rate? There are a plenty who want it.

But, sir, this resolution is to have a retroactive effect. It goes back in its operation to the commencement of the last Congress, and gives to all the employes under the Doorkeeper of that Congress an additional compensation of several hundred dollars for each man. Is this House going to pass a resolution that will pay full compensation to these men, and then apply the same principle to the contempt of the authority of the House. I care not who did it, or who authorized it to be done, it was in contempt of the order of the House; because they directed that only twelve pages should be appointed. They also limited the number of messengers and laborers, stating how many of each should be employed. Do you want to violate that resolution? And when the chairman of the Committee of Accounts comes here, with a resolution asking this House to pay these eight boys, does not any one know, and if so, why does he not inform the House, that the effect of his resolution will be to allow every messenger employed by the Doorkeeper during the last Congress to claim the full compensation fixed by the joint resolution of 1854? Does he know that the Committee of Accounts will then claim of every one to correspond with the rates fixed by that resolution?

Mr. SPINNER. That is begging the entire question. I said they were entitled to that rate of compensation under the law, and that the benefit of the resolution will apply to all. I have no doubt that they would get that rate of compensation without the passage of this resolution. The House, at the close of the last session, passed a resolution which would have authorized the Committee of Accounts to audit those accounts. They were, however, made up after the members of the Committee of Accounts had left the city. They were unanimous in the last Congress, as they are in this Congress, upon this subject. But these employes were not paid, for the reason that they would all put upon this proposition to repeal that resolution for the purpose of disembarassing the House, and relieving it from the false position in which it had placed itself by the passage of a resolution in contravention of law.

Mr. BURNETT. The gentleman from New York makes this singular position; but I think that these men can now be paid under the law without any action on the part of this House.

Mr. SPINNER. They can.

Mr. BURNETT. Then, where is the necessity for the adoption of the resolution?

Mr. SPINNER. It is necessary for the reason that the Committee of Accounts regarded the resolution of the last Congress, although in contravention of law, as directory upon them and upon the officers of the House.

Mr. BURNETT. That is the object of this resolution—and I say it to the House—to give the employes of the last House of Representatives a compensation in which they are not entitled, and which they cannot have under the law. As the

matter now stands, it is to extend that compensation back to the commencement of the last Congress, and not only that, but it is to authorize the present Doorkeeper to appoint an additional number of messengers as well as pages.

Mr. SPINNER. No, sir.

Mr. BURNETT. I do not understand it. The joint resolution might be for a larger compensation for a larger number of employes than was provided for by the resolutions of the last Congress.

Mr. SPINNER. With the gentleman's permission, I will state that the resolutions of the last House increased the number of messengers. The number is sufficiently large, and this resolution will not authorize the employment of any in addition.

Mr. BURNETT. This resolution is brought here under the plea of expediency. Now, if the gentleman wants merely to do that, let him introduce a resolution simply providing for the compensation of these eight pages.

Mr. SPINNER. The resolution is not only for paying the boys, but for paying the messengers, which is the principal object introducing it.

Mr. BURNETT. Exactly. I thought the object of the gentleman, as before stated, was to pay the boys.

Mr. SPINNER. Not at all. I did not say that was the principal object.

Mr. BURNETT. I have no desire to do the gentleman from New York injustice. When the gentleman from Pennsylvania [Mr. FLORENCE] spoke of the integrity and rigidity of the chairman of the Committee of Accounts, he spoke mainly, so far as I know. But, sir, if that be the gentleman's character—and I do not doubt it—the ought to have stated in his resolution the number of persons embraced in it, and the amount each is to receive. Let him bring forward his resolution in that shape, and the House can then act intelligently, and know exactly what they are doing.

Mr. SPINNER. I can give the gentleman the information he asks for; but, in the first place, let me say he is mistaken when he says that this resolution extends back to the commencement of the last Congress. Why, sir, the resolution of the last House was not adopted until May, and, of course, this cannot extend back beyond that time. Up to that time they received the compensation allowed by law. But, sir, if this resolution be adopted, the clerk will be paid \$100 per day; the Doorkeeper \$160 for about eighteen months; to pay the superintendent of the folding-room \$300; to pay the Assistant Doorkeeper \$100 89; to pay the messenger in charge of the Hall \$445; to pay five messengers each \$405; and night messengers \$105 each; making an aggregate of not more than \$5,200.

Mr. BURNETT. Now, sir, the gentleman from New York says, and I want this House to remember it, that \$5,200 will cover the whole amount. In my opinion, that is not more than a mistake in his calculations. I will venture my judgment, that \$5,200 is not one half the amount that will be covered under the authority of the Committee of Accounts when they come to audit the claims that will be presented, if you repeal the resolution of the last Congress. In my opinion, provided a compensation sufficient for each one to whom it applied. You increase the pay of fourteen messengers at three dollars per day; then of eleven messengers at \$2 50 per day; in fact, sir, you increase the pay of the Doorkeeper himself, and of every subordinate under him—every one.

Mr. SPINNER. The gentleman is mistaken. Mr. BURNETT. Here are the resolutions of the last Congress:

"Resolved, That the compensation of the Doorkeeper of the House of Representatives shall be \$120 per annum; and that he be, and he is hereby, authorized to employ a superintendent of the folding room, at a compensation of \$1,200 per annum; and that he may employ, under the direction of the Committee of Accounts of the House of Representatives, such number of folders and laborers as may be deemed necessary to perform the work; and that he may employ, under the direction of the aforesaid committee, two boys, during the session of Congress; and that he may receive a suitable allowance for expenses in sending messages and dispatches by messengers and pages. And it is further resolved, That the Doorkeeper of the House of Representatives shall be paid, for each year, not to exceed fourteen messengers, at a compensation of \$2 per day each per annum; and not to exceed eleven night messengers, at a compensation of \$3 each per day

during the session of Congress; and not exceeding four laborers, at a compensation of \$1 50 each per day during the year; and not exceeding twelve pages, between the ages of sixteen and twenty years, at a compensation of \$3 per day each during the session of Congress."

Now, Mr. Speaker, what was the object of this House in passing these resolutions? It was that we might know the number of these employes, and that the law might be made in accordance with the resolutions, and those men who accepted office under it knew the compensation to which they were entitled.

Mr. SPINNER. They knew they were entitled to the rate of compensation provided by the law, to the rate of compensation. The law entitled to the compensation fixed by the resolution, and they have received every dollar of it. Many of them have already left the city of Washington, and yet, by this resolution, the gentleman from New York proposes not only to increase the number of those who may be employed by the present session, but to go back and give to men who were employed at a rate of pay which they have received and which they were satisfied with, additional compensation. I believe he calls it extra compensation. I believe he calls it an increase of pay. These men are entitled by law to the compensation provided for in the joint resolution of 1854. If that be so, I appeal to every gentleman of candor to know why it is that this resolution is to be passed to give them the rights they are already entitled to, and that the law now, sir, I have been endeavoring, with others, ever since I have been here, to cut down the number of employes around this Capitol; and I submit to the House that, when we have, by our order, limited that number, the Doorkeeper has no right to go beyond that order; and if these persons hold office by appointments which he was not authorized to make, it is their misfortune, and not our fault.

I can only regret it, when they appeal to us to pass resolutions for the relief of these little boys who sit on the floor of the House, that we should be willing to go as far as he who goes the furthest towards relieving the wants of the boys who have rendered service here; but, sir, when they undertake to put a bill through for paying a boy, in that appealing to our sympathy, I do not want to include all the employes under the Doorkeeper, and enable the present Doorkeeper to increase the salaries of those whom he may appoint and the number of the pages upon this floor. For one, I will not vote for it.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I do not think this is a question which ought to occupy so much time. There are two resolutions; and I presume that the question can be stated separately on each, that the latter one is not to drag through the former one, unless it has merit. Let any gentleman who dislikes one resolution call for a division.

The first resolution, sir, does what? Repeals a resolution of this body, which showed its ignorance of law. There is a law, sir, which no resolution of any House can repeal, and which it is useless to attempt to repeal upon the House, and the House that they should ever have attempted to repeal it. That law fixes the compensation for the employes of this body, as well as of those of the other body; and by what authority does the House undertake, by its own single resolution, to repeal a law of the land, not respecting the joint action of the Legislature and of the Executive, and putting men out of what the law gives them? Why, sir, no lawyer would advocate such a doctrine as that. That first resolution is not in order to enable these gentlemen to get their compensation; but it is necessary to vindicate our own intelligence, and to let the country see that we do not attempt to direct the Committee of Accounts to go contrary to the law, and thereby to deprive men of this which is honestly their due. You would say well, pass a resolution to let those men who contracted to build the dome for this Capitol should not be paid more than one half of, that they contracted for; and, if hereafter the contracting parties were to go on under the old law and make contracts, say that that was valid. You would say, if it is not so, it is therefore a repeal of the law upon us, in my judgment, to say that those who have acted by authority of this House, and by authority of law, shall not receive the compensation which that law gives them, and that we should put ourselves in some branch of this legislation to cut them out of that which is their due.

It is due to us, then, sir, to repeal a nullity for the purpose of wiping it out, and preventing it embarrassing the committee. I know that the Committee of Accounts ought to pass them under the law, not under this resolution, and I have no doubt the administrative department would say it according to that law; but do not let us embarrass it.

That is the first resolution. Let us take a vote upon that. If gentlemen are afraid that the boys will drag that through, let them take a separate vote upon it, and let us see who will stand by a repeal of the law, and let us see who will not.

The second resolution, sir, is in reference to these boys. I do not make any appeal in favor of boys because they are boys. You have agents, you have adult agents employed by this Government, and they go on and employ minors; the sons of widows, the sons of poor people, to do work. These minors know not what the law is; they are not bound to know what the law is. We accept their services, permit them to remain here with our eyes upon them, looking upon them every day, and yet when they are employed by one of our agents, and we accept their services, and they come to ask for their pay they are told, "no; you should not have worked, for there was no authority for you to do so." Why, sir, if I saw a man building a house upon my land, and he tells me that he has built it, and he has done nothing, and he goes on and finishes it, cannot I be compelled under the law, as a *quantum meruit*, to pay for it? I ought to have objected to it if I did not want it. By consenting, in looking on and seeing my agent employ these boys, I think, sir, do not mean any reflection upon any gentleman—that I could never agree to vote against paying lady who have been here spending their time; perhaps dressing themselves to appear decently, when their mothers at home were hardly able to supply them with the necessaries of life, when they come to, to turn them out, and say there was no authority for it. Not having troubled the House much, and at the request of the chairman of the Committee of Accounts, I call for the previous question.

Mr. SMITH, of Virginia. I hope the gentleman from Pennsylvania will withdraw it, to allow me to say a word or two.

Mr. MONTGOMERY. I hope that it will not be withdrawn, for I think that we already have heard enough of this question.

Mr. BURNETT. I raised the question of order I raised? I raised it at the beginning of this matter.

The SPEAKER. The Chair decides against the point of order.

Mr. STEVENS, of Pennsylvania. I withdraw the demand for the previous question, in order to let the gentleman from Virginia make his remarks, provided he will renew the call when he has concluded what he has to say.

Mr. SMITH, of Virginia. I will.

The SPEAKER. The Chair will say to the gentleman from North Carolina further, in reference to this point of order, that, as the question has been entertained and discussed, it is now too late to insist upon that point of order. The Chair overrules the point of order.

Mr. SMITH, of Virginia. Mr. Speaker, I desire to state to the House very briefly, what, perhaps, is known to many of the members, if not to all, that we have been trying, during several past Congresses, to control and limit the number of employes of this House. We have passed a joint resolution; we have had reform bills, and passed up to that date. We have passed subsequent resolutions, all of which were designed to restrain the discretion which the officers of this House have undertaken to exercise upon former occasions, and to confine them to the specific compensation allowed by law, or to the compensation of the usual extra allowances made at the close of each Congress; which extra allowances were generally made under the exhalation of an adjournment, when everybody was in a good humor, and disposed to be liberal to those who had been in attendance upon the House. That was the object of much of the action of the three Congresses that I have been here; and, sir, I ask whether that object is not worthy of our adoption? I ask this House to decide whether the policy I have pursued is not one of manifest prudence. Without undertaking to expand upon that sub-

jeet, and having merely stated the general purpose which has been entertained, growing out of the necessity of reforming past abuses, I now address this Congress, and bring their attention to this same consideration. I will read now this first of these resolutions:

Resolved, That so much of the resolution of the House of Representatives, passed May 17, 1858, as relates to the compensation of the Doorkeeper of this House and his employees, is hereby rescinded and declared inoperative from the date of its passage, in far as the same conflicts with the joint resolution of the two Houses of Congress, passed July 1, 1854.

Now, the resolution of May 17, 1858, is valid, or it is not. If it is valid, we cannot set it aside without having good reason for it. If it is invalid, if we cannot set upon the joint resolution of 1854, why this effort at this time?

Mr. SPINNER. I will answer the question. I have already stated that the committee considered the resolution directory upon the committee; and not choosing to disregard the order of the House, though illegal, they desire that it should be repealed.

Mr. SMITH, of Virginia. Then the committee are more obedient to law than the servants we employ.

But I have come back to the argument of the gentleman from Pennsylvania, [Mr. STAYES], that he says the resolution is a nullity. If so, then I ask why these employes have not received the compensation provided by the joint resolution of 1854. Every lawyer knows, and the gentleman from Pennsylvania knows well, that it is perfectly idle to pass this resolution if it does not obstruct the action of the joint resolution of 1854. Why pass it? There must be some reason for it. We do not do a vain and idle thing. Why, I say, pass it? That is the question. The gentleman [Mr. STAYES] has the reputation of being one of the best lawyers in Pennsylvania—and I do not say it in a mere complimentary sense—

Mr. STEVENS, of Pennsylvania. I will simply say that the committee of the House feel compelled by the resolution of May 1858 to consider entering it directory, but not binding; and they desire to be left free to act under the existing laws.

Mr. BLAKE. I am one of the Committee of Accounts, and I desire to explain one point. The two individuals who are named in the resolution are entitled to the pay they ask. This resolution only relieves the committee from the embarrassment they feel from the directory resolution of May, 1858. Now the joint resolution of 1854 could be repealed by a simple majority of this House. The persons now asking pay entered upon their employment during the last Congress under the joint resolution of Congress, and they are now before the committee asking pay under that joint resolution. The committee are of opinion that they are entitled to that pay; but inasmuch as this House passed a resolution which the committee regards as directory to them, they ask that it shall be removed in order that they may be relieved from that embarrassment.

The resolution does not apply to the present employes at all. This is another Congress; and I apprehend no lawyer will maintain for a moment, that a resolution of the last Congress can bind this House or its employes against law and justice. The joint resolution of both Houses by them and signed by the President of the United States.

Mr. SMITH, of Virginia. The joint resolution would undoubtedly control the compensation due to the employees of this House in the absence of any action of this House. If we said nothing upon the subject, the joint resolution would be the measure of compensation. I repeat, and I desire to have it remembered, that, in the absence of any action of this House, the joint resolution would be the measure of compensation to which our servants would be entitled. But, sir, I say here, in the face of this House and the country, that when this House chooses to employ persons at a specified price, and persons come into our employ under that agreement, both parties having conferred—both parties are bound by the plainest principles of common sense, common law, and equity. A joint resolution is passed fixing the compensation of the employees of this House before the House employs anybody, except to them, that, in the absence of our action, they shall be entitled to such and such compensation. But we say to them, when we employ them, that the compensation thus fixed being too high, we will

not employ them unless they agree to serve us at a specified compensation less than that set in the joint resolution. Are they not bound by that agreement? We elect a Doorkeeper. The law, as it stands, in the absence of any specification upon our part, fixes his compensation; but we set on our hands, we will not pay this high price, but we will pay him a certain sum, and no more. Can it, upon any received legal principle known to man, be said that the agreement is not a compact which can be enforced? I ask the question: what law will say that if two persons make a contract to do work for a specific sum, that the agreement is not to be enforced as between them?

Mr. COBB. I desire to ask the gentleman from New York whether the resolution of the House, which interferes with the joint resolution, was passed before the employees of the last session were employed? Or was it passed during their service? If it was passed before they were employed, then the question arises whether a resolution of this House can override the joint resolution of the two Houses. I say it cannot. I want to know these facts before I am called upon to vote against it. I believe in the joint resolution, I believe it is binding upon this House, and the employees are entitled to the pay they claim.

Mr. SPINNER. The resolution of this House was not passed until nearly six months after these persons came into the employ of the House.

Mr. SMITH, of Virginia. There is some adroitness, to be sure, in the discrimination drawn by the gentleman from Alabama, but the utmost extent to which he has expected me to go in this period anterior to the passage of the resolution of May, 1858. Bear in mind, that when we elect a Doorkeeper, or any other officer of this House, we elect him at the pleasure of the House. We can dismiss him at any moment. If we declare that we will continue the rate of compensation we have before paid, that we will pay a certain specified sum and no more, and that officer continues in our service, he is bound by that determination as completely as though the entire resolution had been passed before he commenced his service at all.

Mr. COX. I desire to know if the gentleman considers the joint resolution as having any effect upon this House?

Mr. SMITH, of Virginia. I have stated that the joint resolution governs the case in the absence of any other action by the House.

Mr. COX. Is the joint resolution still in force?

Mr. SMITH, of Virginia. I say it is, so far as the employ of this House are concerned, unless it is interfered with by a resolution of this House.

Mr. COX. The gentleman will remember that, at the last session of Congress, the Committee on Accounts brought in a large resolution, to the whole matter, and, by the joint action of the two Houses and the signature of the President, to reform this matter, and to repeal the joint resolution. That bill never passed. That was the proposition. I readily concede that I ask the gentleman from Virginia whether that was not the only way in which we could get rid of the effect of that joint resolution?

Mr. SMITH, of Virginia. One of the faults that exist in the dispatch of business here is the large number of members who are absent. I said that the joint resolution of 1854 fixed the rate of compensation of the servants of the two Houses, when there was no action by either House upon the subject. It furnished the basis here for the adoption of this resolution, and I recognize it as in force, in the absence of any specific action on the part of either House.

Mr. COX. Do I understand my friend to admit that the joint resolution is now in effect; and that, then I ask him, which is the superior, the joint resolution or the resolution of this House?

Mr. SMITH, of Virginia. Will the gentleman from Ohio give me his attention for one moment?

Mr. COX. Well, I want you to answer me that question, and to satisfy me on that point.

Mr. SMITH, of Virginia. I will answer it.

Mr. COX. Very well.

Mr. SMITH, of Virginia. I said, and I say again, that in the absence of any action by either

House upon the subject of compensation, the joint resolution is in force. That joint resolution is in force now, and is paramount, of course, as a measure of joint action. But I say this, and I repeat it, that when either House undertakes to act upon the subject, and says to a man, when it employs him, I will employ you, but we will give you no more, and I will not accept of it, that man agrees to take the remuneration specified, I say it is a contract reciprocal in character, and mutually binding on both. That is what I say.

Mr. DAVIDSON. I desire to suggest one thing to the gentleman from Virginia. It is that three officers were appointed upon the joint resolution, with the understanding that they were to get pay as fixed in that joint resolution; and it was after they were appointed that the House passed that resolution.

Mr. RUFFIN. And they accepted the pay as fixed in that resolution.

Mr. STEVENS, of Pennsylvania. Will the gentleman from Virginia permit me?

Mr. SMITH, of Virginia. Yes, sir.

Mr. STEVENS, of Pennsylvania. I merely want to know whether the gentleman contends that, after the Doorkeeper for the last Congress was elected, and elected for the whole Congress, he could be considered as having been employed by that resolution of the House?

Mr. COX. I want to ask my distinguished friend from Virginia one question more—

Mr. SMITH, of Virginia. Let me answer one at a time if you please. [Laughter.] I want the attention of the gentleman from Pennsylvania and of the gentleman from Ohio, and I will answer both. Now, I repeat this question. You know that the law in many of the States—in Virginia, in Ohio, in New York, and elsewhere—fixes the rate of compensation for the use of money. Well, gentlemen listen—I do not wish to be asked another question. [Laughter.] I say, the law in Ohio, as it does also in Virginia, fixes the rate of interest at six per cent.; in New York, I believe, is fixed at the rate of seven per cent. Now, while that is the law, cannot I ask, in an agreement between themselves, agree to take five per cent.? Now, I put that question. I ask, would not such contract be valid?

Mr. COX. I will not say whether or not whatever between such a case and this. I think I will convince my distinguished friend that he is mistaken. He says that the House, by its separate action, can repeal the joint resolution. He must, also, by the same action, repeal the law of the State, by its separate action, could also repeal this joint resolution. Now, if so, what is left to President Buchanan to do, in carrying this legislation into effect?

Mr. SMITH, of Virginia. Will the gentleman from Ohio bear in mind that I concede the joint resolution of 1854 to be in force in the absence of all action? But I ask the gentleman, and I ask the House, with confidence, whether, while this is so, and while the law of the State fixes the rate of compensation of the servants of this House by itself, or the Senate by itself, cannot enter into a new compact with the servants whom they choose to employ?

Mr. SPINNER. Will the gentleman from Virginia permit me to ask him one question?

Mr. SMITH, of Virginia. Certainly.

Mr. SPINNER. I ask the gentleman from Virginia whether, if he considers the resolution of the House as not binding upon this House, this effect would not be that the present employes would get the old compensation, while the old ones would be cut off?

Mr. SMITH, of Virginia. I would consider the joint resolution as binding until it was repealed, and I am of that opinion.

Mr. SPINNER. I mean the resolution of this House.

Mr. SMITH, of Virginia. I am speaking of the resolution of this House.

Mr. SPINNER. You say the joint resolution.

Mr. SMITH, of Virginia. I say that when this House fixed the rate of compensation—

Mr. SPINNER. Against the law?

Mr. SMITH, of Virginia. I deny that it is against the law. I will not say, again, that the legal rate of interest is fixed at six per cent., to give but five per cent.

Mr. SPINNER. But if you bargain for six per cent. can you cut it down to two?

Mr. SMITH, of Virginia. Certainly, if we bargain and agree to do so; it is done every day in New York.

Mr. ASHMORE. Will the gentleman from Virginia permit me?

Mr. SMITH, of Virginia. Certainly.
Mr. MONTGOMERY. I rise to a question of order. I insist that the gentleman from Virginia be allowed to go on and conclude his speech, and that we vote upon the question. I am opposed to these interruptions; they are out of order. I think that there are not twenty members in this House who will not support this report of the committee. I am glad that this is the state of sentiment in the House, and I hope that the gentleman from Virginia will be permitted to conclude his remarks.

Mr. ASHMORE. I would have been through by this time if I had been allowed to go on. I ask the gentleman from Virginia how he gets over the Constitution here in reference to this question of law. I will read the clause of the Constitution:

"Every order, resolution, or vote, to which the concurrence of the Senate or the House of Representatives may be necessary, (except on a question of adjournment), shall be presented to the President; and he may, on his objection, the same shall take effect, and shall be approved by him; or, being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, in the rules of limitation prescribed in the case of a bill."

In 1854 a joint resolution was passed, receiving the signature of the President. It was not vetoed, and consequently not returned for a two-thirds vote; but because a fixed salary was made it was irrepressible but by the joint action of the House and of the Senate. This House, at its last session, undertook to render that resolution nugatory and void, and of no effect, by passing a resolution which would affect the pay of many of its employees. This was not only a violation of the law, in my judgment, but it also makes a very serious and unjust discrimination between the employees of this House and those of the Senate; and that is what this House has no right to do, unless the Senate will unite with them in the repeal of the act of 1854, which I assume, the Senate will most decidedly refuse to do.

Mr. SMITH, of Virginia. I suppose, Mr. Speaker, it is not necessary for me to elaborate this question further. But I will repeat, and I trust that I will be understood; and whether I am right, or whether I am wrong in my position, I shall at all events have common sense to back me. There is a law which regulates the compensation of the employees of the two Houses in the absence of any particular agreement; and if nothing is said by either House, then that law stands in the rule of compensation. Well, sir, I agree to that part. Now comes the question. I repeat it, that this House and the Senate may either, of themselves, deal with their employees, and enter new stipulations for modified compensation. I say, sir, that it is just as much a right to enter into a compact of that sort, not interfering with the law, as it is for two parties to agree to take less than the interest, which the law says shall be paid, where nothing is said about it. That is what I say upon that subject; and I say that there is not a plain man in the country who would not support this joint resolution as simply intending to make a rule of compensation in the absence of the specific action of either House, and as not designed to diminish the rights and powers of this House to deal with its servants, and to fix a modified rule of compensation.

I have said this much on that resolution. I understand the gentleman from New York to take the ground that this resolution, that he seeks to repeal, does not bind this House. These great gentlemen, these great statesmen, these great men are to watch over the Treasury, are already beginning to open the sluices to let the Treasury flow out. Yes, sir, this retrenching gentleman, the chairman of the Committee of Accounts, has already made up his mind that, although he asks that this resolution of the House shall be repealed, he, as one of the committee, will pass the accounts of the officers of the House under the joint resolution of 1854. Here are these economists commencing a system of extravagance at once. I call attention to it; and leave it to the gentleman from New York to deal with the question as he may see fit.

Mr. STEVENS, of Pennsylvania. Allow me to say that, although we are for economy, we do not mean to steal to fill the Treasury.

Mr. SMITH, of Virginia. The gentleman, I suppose, thinks it necessary continually to talk about his honesty; otherwise it might not be remembered.

Mr. STEVENS, of Pennsylvania. I never spoke of my honesty.

Mr. SMITH, of Virginia. You boast of not stealing.

Mr. STEVENS, of Pennsylvania. The gentleman has said I had better not talk of these small things. [Laughter.]

Mr. SMITH, of Virginia. Gentlemen are perfectly willing to pay these liberal rates of compensation in order to pamper persons around this Hall. That is it.

Let me dwell upon that subject, but as follows will proceed to the next resolution. It is as follows:

Resolved, That as much of said resolution as limits the number of pages to twelve, be, and the same is hereby, repealed.

Why repealed? I ask the question.

Mr. SPINNER. I will answer it. In the old Hall we had twenty pages, though everything there was compact, and the committee-rooms close around the House; but now they are scattered around the Senate is far from us, and we only ask that the same number may be appointed that we had then.

Mr. SMITH, of Virginia. Well, I expected that these economists would begin to make us sit upon ourselves, pretty much. In the last Congress twelve pages were thought to be sufficient to perform the necessary duties that members called upon them to perform in this Hall. The gentleman will recollect that when that number was fixed it was after this Hall was occupied, or in view of its occupation.

I say, then, that here we see a beginning of that "economy" which works backwards. But I have yet to learn that twelve pages are not sufficient. I say that they are amply sufficient; and that even twelve pages are unnecessary. They have been such a very frequent "Twelve," however, in an abundance, at my rate. Let this House commence its career of reform by doing a little for themselves, and at least trying the number of pages that a former Congress—a Democratic Congress—fixed as sufficient.

Mr. SPINER. They paid twenty pages.
Mr. SMITH, of Virginia. Well, if they did, they did no more than you are attempting to do now.

Mr. BLAKE. The gentleman from Virginia seems to be under a misapprehension in regard to this whole matter. The pay sought now to be given to these employees, is to employees of the last Congress—men who went to work under the joint resolution passed by both Houses of Congress; and the pages who are now asking for their pay are pages who were employed by the Democratic Doorkeeper of the last Congress; and so clearly just did their claim appear to the Committee of Accounts, that they unanimously agreed that they ought to have their pay. So much for economy!

Mr. RUFFIN. I wish to ask the gentleman if it is not a fact, that after the resolution which has been referred to, specifying the number of these employees and fixing their pay, was passed by the last House, the appointments were made anew, and were accepted with the compensation fixed by that resolution?

Mr. BLAKE. I am unable to inform the gentleman.

Mr. RUFFIN. I can inform the gentleman that that is the fact, and he will find it so if he will make matter.

Mr. BLAKE. I wish to say to the gentleman that those men who were employed under the joint resolution during the last Congress, are now before the Committee of Accounts, asking their pay; and so clear and just did their claim appear to the mind of every gentleman who had given the subject consideration, that the committee unanimously agreed that they ought to have their pay.

Mr. SMITH, of Virginia. That thing has been said so often that I suppose the House certainly will not mind it now; but it is very singular that gentlemen occupying the position of the majority of the Committee of Accounts should have a livelier appreciation of justice to Democrats than Democrats themselves have.

The resolution goes on:

And that the Doorkeeper be authorized, from time to time, to employ, under the direction of the Committee of Accounts, not exceeding twenty pages, between the ages of ten and sixteen years, at a compensation of \$9 a day for each, during the session of Congress.

How many pages are there here now? They have not waited for the adoption of this resolution. No, sir; there are at least twenty on this floor now.

Mr. CRAWFORD. Will the gentleman allow me to ask a question of the chairman of the Committee of Accounts?

Mr. SMITH, of Virginia. Certainly.
Mr. CRAWFORD. The second resolution offered by the chairman of the Committee of Accounts provides for an additional number of employees under the Doorkeeper—an additional number of pages. I would like to ask the gentleman if he can tell how many employees there are now under the control of the Doorkeeper of the House?

Mr. SPINNER. I cannot.

Mr. CRAWFORD. I ask if he can tell how many employees there are under the Clerk, under the Sergeant-at-Arms, or under the authority of any other connected with the House of Representatives?

Mr. SPINNER. I cannot.

Mr. CRAWFORD. I presumed that he could not, and I apprehend that there is not a member upon any one of this House who can get up and place now and state how many employees there are in the various departments of the House of Representatives.

Mr. SPINNER. The information is within the reach of every gentleman, and can be obtained in five minutes.

Mr. CRAWFORD. I doubt it. I question whether a man could in one day ascertain the number of employees under the various officers of this House.

Mr. SPINNER. I want to say one thing to the gentleman. I have looked into this matter, and I find that the pay of employees amounts to but \$300 for each member of the House, while it is over a thousand dollars in the Senate.

Mr. CRAWFORD. I want to say that the number of persons employed under the different officers of the House of Representatives is one hundred and twenty-three. One hundred and twenty-three persons are absolutely employed in the various offices of the House, excluding the number in the folding-room below; and before I resume my seat, I will state the number employed in each department.

In the Clerk's office there are forty-six. The Sergeant-at-Arms has four. The Postmaster of the House has ten. The Doorkeeper has now, with the number of pages at twelve, forty-eight persons under his control.

Mr. MAYNARD. I would ask the gentleman from Georgia, whether that number in the Clerk's office, does not include those called "land clerks" who are not properly connected with the service of the House?

Mr. CRAWFORD. No, sir. And then there are fourteen clerks to committees, making in all one hundred and twenty-three besides those engaged in the folding-room.

Now, I for one, never will vote for the second resolution, as reported by the Committee of Accounts, for the reason that I think they have employees enough. I thank the gentleman from Virginia for yielding me the floor.

Mr. SMITH, of Virginia. The gentleman from New York says that the expenses are over the House, and that it is not as much as in the Senate. Do I understand that gentleman, then, as inclining up to the standard of the Senate? Does he wish to put the expenses of the House upon that high standard? The gentleman says not at all.

Mr. SPINNER. Gentlemen on the other side of the House have instituted comparisons between the two political parties, and it was for that reason I made reference to the Senate. Every one knows which party has the control of that body, and which of this.

Mr. SMITH, of Virginia. Now, Mr. Speaker, so far as these little boys are concerned, I know exactly how they are got upon this floor. Members of the House are in the habit of getting them permission to run upon the floor, and they are

then regarded as having a preemption right. I had the chance of getting out here myself in that manner, but I would not do it. The reason why they wished to secure this preemption right, at the commencement of the present session, was that they did not expect the House to be organized in such a manner as it has been. Their reverence for the conservative sentiment of the country was too great to allow them to believe that the House would be organized as undoubtedly it has been. They wanted, therefore, this preemption right, in the expectation that they would be paid for it some day by the House.

But, Mr. Speaker, I have no desire of detaining the House longer. I promised the gentleman from Pennsylvania that I would call the previous question before sitting down. Before doing so, however, I will present the following resolution, which has been handed me by the gentleman from Georgia, [Mr. CRAWFORD], and offer it as a substitute for the resolution reported by the Committee of Accounts.

Resolved, That the Committee of Accounts be authorized to audit and allow to the paymaster as each of the eight extra pages, lately employed on the floor of the House, for the time they actually served.

I now call the previous question.

Mr. SPINNER. It was my understanding that the gentleman from Virginia obtained the floor for the purpose of submitting some remarks with the promise to renew the demand for the previous question, but not with the permission to offer any amendment.

Mr. STEVENS, of Pennsylvania. When I withdrew the demand for the previous question, at the request of the gentleman from Virginia, it was certainly with the understanding that it was for him to make a speech and then renew the demand for the previous question, but not to move any resolution.

Mr. SMITH, of Virginia. Well, I have read the resolution for information, and if the gentleman thinks it is in violation of the understanding, I will not offer it.

Mr. GARRELL. Will the gentleman withdraw the demand for the previous question, to permit me to offer it?

Mr. SMITH, of Virginia. I have certainly no objection, so far as I am concerned.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will not. I insist on the demand for the previous question.

Mr. SMITH, of Virginia. Very well. I will not offer the resolution, or withdraw the demand for the previous question, if the gentleman does not give his consent.

The previous question was seconded, and the main question ordered to be put.

The first resolution was then read, the question being on its adoption.

Mr. SMITH, of Virginia. I call for the yeas and nays upon that resolution.

Mr. BURNETT. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The resolution was then adopted.

The question recurred on the adoption of the second resolution; which was read.

Mr. RUFFIN. I hope the House will give as the yeas and nays upon that resolution. I call for them.

The yeas and nays were not ordered.

The second resolution was then adopted.

Mr. SPINNER moved to reconsider the vote by which the resolution was adopted, and also moved to lay this motion to reconsider on the table.

The question was upon the latter motion.

Mr. BURNETT. If gentlemen are not afraid of being placed upon the record, I ask them to give us the yeas and nays upon this resolution. I call for the yeas and nays.

The House divided; and there were—yeas 38, noes 106.

Mr. TAPPAN demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. BONHAM and TAPPAN were appointed.

The question was taken; and the yeas and nays were not ordered, the tellers having reported—yeas 38, noes 109; (one fifth not voting in favor thereof.)

The question was then taken on the motion

that the motion to reconsider be laid upon the table; and it was agreed to.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 26) to extend the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, and for other purposes," to Minnesota and Oregon; when the Speaker signed the same.

CODIFICATION OF THE REVENUE LAWS.

Mr. GURLEY. I rise to a privileged question. I am instructed by the Committee on Printing to report the following resolution:

The Clerk read the resolution, as follows:

Resolved, That there be printed five hundred extra copies of the bill of the House (No. 13) entitled a law for the codification and compilation of the existing revenue laws of the United States, for the use of this House.

Mr. GURLEY. I demand the previous question on the adoption of the resolution.

The previous question was seconded, and the resolution was adopted, and under the operation thereof the resolution was adopted.

Mr. GURLEY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HOUSE PRINTING.

Mr. GURLEY. I am directed by the Committee on Printing to report to the House a joint resolution authorizing each House of Congress to employ its own Printer to execute its own work.

The joint resolution was read a first and second time by its title.

The resolution was then read *in extenso*. It provided for the third section of the act entitled

"An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1860," approved March 3, 1859, be repealed; and that the Printer of the Senate and the Printer of the House and its Representatives be directed to cause to be printed such regular and extra number of copies and reports as may be required by their respective Houses of Congress; provided that the Printer of each House shall be allowed one half the rate now allowed for composition, and no more; and that compensation in no case shall be paid for without satisfactory evidence is furnished to the Superintendent of Public Printing that said composition was necessary to the printing of the documents and reports, and that it has actually been executed.

Mr. GURLEY. I demand the previous question on the joint resolution.

Mr. SMITH, of Virginia. We cannot be asked to put a bill of this sort on its passage, without having time to consider it.

Mr. NOBLE. This is a bill to all intents and purposes, and does not come here, I think, as a privileged question. The joint resolution, I understand, comes here as a privileged question, and that it gets before us alone in that way, and I have therefore raised my question of order.

THE SPEAKER. The Committee on Printing have a right to report at any time, and this joint resolution comes before the House as a report from that committee.

Mr. MAYNARD. I want to put a question to the gentleman from Ohio.

Mr. GURLEY. Let me first make an explanation of the objects designed to be accomplished by the joint resolution.

Mr. CURRY. I object to any explanation of the bill, unless the demand for the previous question be first made.

Mr. BARKSDALE. The object of this resolution seems to be to plunder the Treasury for the benefit of the Printer of this House. That is my understanding of it.

Mr. GURLEY. I demand the previous question on the resolution.

THE SPEAKER. Discussion, then, is not in order.

Mr. MAYNARD. I want to put a question to the gentleman from Ohio.

Mr. GURLEY. I withdraw the call for the previous question to hear the gentleman's question.

Mr. MAYNARD. Is not the third section of

the law of 1859, which it is proposed to repeal, the section that provides that the Printer of the House shall not underlet the work of the public printing to other parties, but that he shall do it himself?

Mr. GURLEY. It is.

Mr. MAYNARD. That was the act passed at the last session of the last Congress?

Mr. GURLEY. Yes, sir, I so explain.

Mr. MAYNARD. And is not the section that it is proposed to repeal, the section that provides that the first House, whether Senate or this House, that orders the printing of a document, shall do the printing of all the copies of that document to be ordered by both Houses? It does that, I understand, and it does furthermore provide that no member of either of these Houses shall underlet the work given to him to be done by other parties.

Mr. GURLEY. I will explain.

Mr. CURRY. I insist on my point of order, that the gentleman shall not proceed unless he call for the previous question as withdrawn.

Mr. GURLEY. I have already withdrawn my call for the previous question.

Mr. Speaker, the object of my resolution is this: it is to give the House the control of its own printing, and to enable it to place in the hands of its own Printer the work which properly and legitimately belongs to him. That is the main object of this joint resolution. As the law is now, the Printer of the House is ordered to print a document to be printed does the entire work on this document for both Houses; and the result is, this year, that the Senate Printer has nearly all the printing to do. That body has ordered the printing of the President's message and the accompanying documents, the Patent Office report, and various other documents, and the printing for this Congress so far has become a complete monopoly with the Senate Printer. What has been the effect, so far as the members of this House themselves are concerned? That this House cannot get its documents at the proper time, or as required by high authority from the Senate last week that the President's message and the accompanying documents, although they have been ordered to be printed for forty-five days, are not yet one half in type. Members every day want these documents to enable them to transact the legitimate business of the session.

There is, sir, no extra expense incurred by this resolution. It provides that the Printer of the House shall be allowed only one half the price for composition, and the work that is done by the House, and the printing has first been ordered by the Senate. It simply gives each House the control of its own printing, and it does not add one dollar to the present printing expenses of the Government.

Mr. STANTON. Will it impose upon the House the necessity of paying for double composition?

Mr. GURLEY. No, sir. It is specifically set forth in that joint resolution that the Printer of this House shall only have one half of the price for composition upon a work that may have been already ordered to be printed by the other House. It does not affect the amount which is now paid at all; it does not, as I have already stated, add one additional dollar to the present expense of the Government. One printer has been ordered by the Senate.

Mr. STANTON. By what warrant can the House Printer be entitled to half the price for composition of matter which has been set up by the Printer for the Senate? I do not understand how that is, and I would like to have it explained.

Mr. GURLEY. The resolution does not direct what is paid; but, on the contrary, has only a prospective operation.

Mr. BARKSDALE. I desire to ask the gentleman a question. Is not the law, as it now stands, so that the Printer of the House as it is for the Printer of the Senate? In the event the House first orders the printing of a document, does not the Printer of the House, under the present law, get all of the work on that document which may be ordered by both Houses, and does he not receive full compensation for the whole of that work?

Mr. GURLEY. He does. But the result this session has been, that the Printer for that body has the printing of nearly all the reports and documents to be done for both of the House and Congress. Of course, he has very little to do; and the members of this House, sir, are now waiting.

finds that he has nothing to do; that the Printer of the Senate, who is a Democratic official, has anticipated him, and that, in truth, he will have but a very small proportion of the profits of the public printing. In that state of the business, the gentleman from Ohio comes forward, and proposes a bill, the effect of which is this: that the Printer of the Senate, although he acts under existing law, and in pursuance of law, shall be compelled to divide his profits with the Printer of the House.

That is perfectly apparent. But, Mr. Speaker, there is another objection to this bill. As I understand it, this joint resolution repeals the law by which the public printing is now conducted. One provision of that law is, that the printer and jobber of Public Printing shall be transferable. Well, sir, it so happens, that these gentlemen on the other side have elected a Printer of this House; a statesman, perhaps; an ex-governor; probably a man of large influence in the politics of the country, but who knows nothing about public printing, and who is, as I understand, destitute of the capital with which to establish a printing office in this city. Under these circumstances, he is anxious to transfer this job and business to a Public Printer, and to enjoy the profits; and this bill is in motion to repeal the law which forbids such transfer, so as to give the Republican Printer of this House an opportunity of securing a portion of the spoils monopolized by the Printer of the Senate.

Mr. WASHBURN, of Maine. Will the gentleman from Virginia permit me to say a word here?

Mr. PRYOR. Certainly. Mr. WASHBURN, of Maine. I wish to say that there was not in the House when this joint resolution was introduced and read; but hearing from some gentleman that it contained a provision repealing the law which forbids the transfer of the public printing, I moved to recommit the bill. My object in that motion was to refer it to the committee so as not to interfere with that portion of the law.

Mr. PRYOR. We tried to have the bill re-committed, but the gentleman who introduced it refused our request.

Mr. WASHBURN, of Maine. I did not know anything about that.

Mr. PRYOR. Well, I am speaking directly and pointedly to the merits of the bill. Permit me to say that the bill which has been thus covertly introduced into the House this morning, is in keeping with the bill that was introduced in the House yesterday. The gentleman who is, in fact, the author of the measure now under discussion, brought forward yesterday that bill with a pompous and taking tide. It was a bill professing a radical and complete reform of the enormous abuses of the public printing business. For myself, I confess that I was captivated by the title of the bill; captivated by the principle and policy of the bill; and would have given it my hearty concurrence and support. But let what revelation was made in the progress of the discussion? Why, that this bill, thus proposing this radical and complete reform of the abuses of the public printing, is operative only in so far as it destroys and cuts down those things which might be the basis of the Democratic Printer. That is to say, that so far as the bill touches abuses in the executive printing—the Democratic printing—it goes into effect with remorseless and immediate operation; but so far as it affects the interests of the Printer of this House, its operation is postponed until March 1861. Now, I appeal to the candid gentlemen on both sides of the Chamber, if they will connive at any covert attempt of this sort, under the specious name of reform and retrenchment, to inflict not only a personal injury, but an illegal and most unwarrantable injustice.

Mr. HOUSTON resumed the floor. Mr. STANTON. Will the gentleman from Alabama yield to me for a few moments?

Mr. HOUSTON. Certainly. Mr. STANTON. I desire to say a few words in regard to this bill. I do not precisely understand the effect of it, so far as it proposes to change the mode of making payment for the public printing. It operates on the money already ordered, and already in the hands of the Senate Printer, it is most manifestly unjust. As a matter of course, nobody would ask the Senate Printer to divide the profits of the work which he is already engaged on, with the House Printer, who has done

no part of it. If it is intended to operate only prospectively on such printing as may be hereafter ordered by either House, I cannot see that it to have any very serious effect on the business of the printing for both Houses; for it may be taken into consideration by this House, and be as ready to order its printing speedily as the Senate; and the House Printer will thus receive his fair share of the work.

I know it is said that the executive department is inclined to dispose to favor the Democratic Printer of the Senate, makes its communications of documents to be printed first to the Senate, and that therefore the Senate Printer ordinarily secures the first of the public printing. Now, if that be so, let it be so. I would not, for a moment, be so indiscreet as to propose that the House Printer be changed with the next presidential election, change an existing law. If the law is sound in principle—that the Printer of the House who first orders documents to be printed shall have the printing of them—I would not change it for any convenience it may create during the existence of the present Congress. I hope to elect a Republican President, and if there is to be any such favoritism, why the next President will send his documents first to the House, and the House Printer will get the printing. These are accidental and occasional effects of the operation of a general law that cannot be changed to meet temporary exigencies, and I think it is wrong to attempt it.

Let it be so, by any means, before the protest to the law of last session which prohibits any man from transferring the office of Public Printer, because I believe it to be a sound principle that who shall elect no man as Public Printer who is not first prepared with means to execute the public printing, and if we have got our foot into it on this occasion, let us get it out the best way we can. That is all there is to be said about it. I would not authorize the Printer to transfer the printing, no matter what his circumstances or qualifications.

Why, what gave rise to this law of the last session? The other side of the House elected a gentleman, in the last Congress, very similarly situated, with no means of doing the public printing. He got out the job, pocketed the profits and left for parts unknown. I believe he went to Ohio. The House believed that that was an improper mode of disposing of the offices and patronage of this Government, and they passed a law to prohibit it in the future. Now, I would not repeat that law for the purpose of giving another Printer, similarly situated and of different politics, an opportunity to accomplish the same purpose.

In regard to this motion to recommit, if the gentleman from Maine had made the motion before the third reading of the bill, I should have thought it exceedingly proper, in order that the joint resolution might be amended; but if it is now re-committed, after it has been engrossed and read a third time, I should think it would be better to let it be, because an amendment is in order.

Mr. WASHBURN, of Maine. I would inquire of the gentleman from Ohio, if the committee could not report a recommendation to the House that the bill should be amended so that it would be engrossed as recommended?

Mr. STANTON. Certainly they can report such a recommendation; and the House can reconsider without the recommendation of the committee, just as well as with it. If the gentleman from Maine will move to reconsider the vote by which the bill was ordered to be engrossed, he will accomplish the purpose he seeks now to accomplish. I shall vote, therefore, against the recommendation. But I can see no good object to be accomplished by the resolution now proposed, either as it now stands or as it may be amended. I am opposed to the whole scheme. Let the House Printer take such printing as is ordered by the House, fairly and legitimately, and have that business done with it, and let the printer who is scrambling here after a little matter of public plunder.

Mr. COLFAX. I desire to ask the gentleman from Ohio a question. I would ask him if he has forgotten the fact that at the last session of Congress he, with me, voted against the adoption of this very section, now sought to be repealed, and that it was carried by a party vote?

Mr. STANTON. I do not remember anything of the kind.

Mr. COLFAX. I do.

Mr. STANTON. I know that they did not carry many things by a party vote. We generally beat them.

Mr. COLFAX. The gentleman voted against it, and if he desires to be consistent he ought to vote now to repeal it.

Mr. HOUSTON. I will yield now to the chairman of the Committee on Printing.

Mr. GURLEY. I wish to say a few words in reply to the gentleman from Virginia, [Mr. Parva.] The object of this joint resolution is precisely what I stated it to be in the beginning. It gives to each House the control of its own printing, without regard to profits or plunder, as you call it. So far as we are concerned, we are simply looking to the interest of this House, in securing these documents for the use of members at an early day. I care not for the profits of the printing. [Derisive laughter from the Democratic benches.] I consider that any party which receives its profits is earned by them. I consider that any plunder that belongs to the public printing, or any other department of the Government, is an incus upon any party, and I would be willing to transfer all the profits and plunder to the other side, to the House of Representatives. I know they may be able to use it to advantage temporarily. They may be able to use it to advantage for electioneering purposes. Not so with the Republican party. We cannot use money in the sort of way the Democrats use it in the Democratic benches. We do not want plunder at all; but we do want our work well done, speedily done, so that members can have the President's message and accompanying documents before them when preparing their resolutions and bills.

I deny that the object of this resolution is to divide plunder. It is not so. The simple object is as I stated it in the beginning, and I think that, although parties may suppose that they gain something by plunder, or the profits of the public printing, or of other departments—and they may do so temporarily—in the long run, every party is injured by such plunder or profits. The best illustration you can have of this is now in the Senate of the United States. The development now being made there, and going forth to the country, as to the use made of the profits and plunder of the printing, are showing to the country the corrupt practices of the Democratic party, and injuring the cause of reform more, perhaps, than any other single consideration now before the public.

I simply wish, sir, to repel the insinuation that the object of this joint resolution is to divide plunder. We do not want plunder. We want our books and documents at the proper time. We want the President's message and the accompanying documents; and you will not have them till next session, unless you pass this resolution, or something like it. As to the last part of the third reading of the law, providing that the printing shall not be transferred or sold out, I have no objection to its being retained; let an amendment be made to that effect.

Mr. HOUSTON resumed the floor.

Mr. PENDLETON. With the permission of the gentleman from Alabama, I desire to ask my colleague a question.

Mr. HOUSTON. Well, as there seems to be a little Ohio controversy, I will yield to the gentleman from Ohio.

Mr. PENDLETON. Not at all. I simply desire to ask my colleague for an explanation in reference to the clause of the resolution which provides for half pay for compensation to each Printer. Is the object of that provision to make the printer who is to be retained half pay, while the man who does no work shall receive half the pay also?

Mr. GURLEY. Each Printer receives half pay for type-setting. We have a right to reduce the pay.

Mr. PENDLETON. Then I desire to ask if the price now paid for composition is too high?

Mr. GURLEY. Certainly; with half pay for type-setting, the profits will be abundant, and much more than sufficient.

Mr. PENDLETON. Is the price now provided by law to be paid for composition to the Printers of the House and Senate too large?

Mr. GURLEY. I think it is.

Mr. PENDLETON. Well, then, why do you

not introduce a resolution or embody a provision in this resolution by which the price shall be cut down one half, instead of dividing it only, by providing that the man who does the work shall receive half the amount now allowed, while another person who does none of the composition, receives the other half?

Mr. GURLEY. We are perfectly willing that each Printer shall receive half pay for composition; and we go further, and say that we are willing to cut down the present price of composition. The present Printers of the House and Senate were elected subject to the decision of Congress on this very subject.

Mr. PENDLETON. As I understand my colleague, he is willing to do that which I say is a great abuse. This resolution provides—and I understand him to admit that my interpretation of it is correct—that the price for composition, now provided by law to be paid to the Printer who does the work, shall be divided between the man who does the work and the man who does not, each taking half price.

Mr. GURLEY. As the law now stands, the Senate Printer gets full pay. The Senate monopolizes the printing of both Houses of Congress, and the Printer of the House receives no pay. I propose to divide the pay by dividing the work.

Mr. PENDLETON. I understand that the Printer of the House gets pay for all the work that he does, and the Printer of the Senate gets pay for all the work he does.

Mr. GURLEY. But the Senate have ordered nearly all the work, and the House Printer gets nothing, so far as reports and documents are concerned.

Mr. PENDLETON. Does the gentleman propose to correct the abuse of which he complains by giving that which ought to go to the Printer who does the work to the man who does not do it? If the Senate has monopolized all the printing of the two Houses of Congress, there ought to be a means of preventing that abuse.

Mr. GURLEY. The joint resolution is prospective; it does not look to or affect any printing already ordered.

Mr. PENDLETON. I understand that.

Mr. GURLEY. It is solely prospective in its operation, and simply allows the Printer for each House to do the work ordered by that House, independent of the other.

Mr. PENDLETON. I do not understand that the resolution of the gentleman proposes to divide the work—not at all. What the gentleman proposes, as I understand it, is, that the Printer of the Senate shall, as he does under the present law, do the work ordered by both Houses upon such documents as have been first ordered to be printed by the Senate, but that the Printer of the House shall receive half compensation for such work.

Mr. GURLEY. The resolution provides that, when documents are ordered by both Houses, each Printer shall have half pay for composition.

Mr. PENDLETON. Does the Printer for the House do half the work?

Mr. GURLEY. I repeat, that the work ordered by each House is done by its own Printer, and each receives half pay for composition.

THE SPEAKER rose. (Mr. JAMES COCHRAN in the chair.) The Chair must beg gentlemen not to indulge in this colloquial debate.

Mr. PENDLETON. I desire to understand the effect of the measure proposed. Now, sir, I do not understand, by any means, that, under this proposed change in the law, when a work is ordered to be printed by both Houses, the Printer of each House is to do one half the work and receive half the pay, but the effect will be that the Printer of one House will do all the work, although both Printers are to have the pay. It is plainly not contemplated that the work shall be set up two or three times.

Mr. GURLEY. I say to the gentleman, what I have already repeated, that the Printer of each House is to do the printing ordered by that House, and to receive half the pay now received for composition.

Mr. PENDLETON. Mr. Speaker, I understand very well what the object of this measure is. It is to compel a partnership between the Printers of the two Houses.

Mr. GURLEY. It provides that each shall have half pay for composition, but it does not compel or favor any partnership.

THE SPEAKER *pro tempore*. The Chair must again request gentlemen not to indulge in this colloquial debate. It is the duty of every gentleman, when he rises, to address the Chair. The gentleman from Ohio [Mr. PENDLETON] is entitled to answer.

Mr. PENDLETON. Well, Mr. Speaker, I was going on to say that I think I understand perfectly the object and effect of this joint resolution. It is to compel a partnership between the Printers of the two Houses; because it is not to be supposed that the Printer of each House will perform this work of composition. The Senate orders a document to be printed, and the Printer for the Senate proceeds to put it in type; the House then orders the same document to be printed; it is not to be supposed that, with the document already in type, the Printer of the House will proceed to re-set it. No, sir; the effect will be to compel a combination to be formed between the Printers of the two Houses, by which the work will all be done by the Printer of the House, which first orders the document to be printed, although the other receives half the pay for composition.

Mr. GURLEY. The resolution certainly does not contemplate a combination, whatever may be the effect. The object of the resolution is stated in its title. It is, that the Printer of each House shall, by himself, do the work ordered by that House, and receive half pay for composition. The Printer of the House is not to do the work of the Senate, nor the Printer of the Senate to do the work of the House; but each is to be independent of the other.

Mr. PENDLETON. Then why do you propose to give each Printer but half pay for composition, if he is to do the whole work?

Mr. GURLEY. Because we think that is sufficient.

Mr. PENDLETON. I do not say the object contemplated in drawing up this resolution was to compel the Printers of the two Houses to form a combination or to enter into a partnership. I do not say what was the object in drawing up the resolution, but I say that what will be the effect, do not we know, if the price now paid for composition is legitimate and reasonable, the Printers of the two Houses can afford to set up the type for half pay. No, sir; the effect will be that one Printer only will do it. If the price is too high, reduce it. Let the Government divide the work, and let the advantage of the change, and not the House Printer.

Mr. HASKIN. As a member of the Committee on Printing, I desire to be heard on this joint resolution.

Mr. HOUSTON. I yield to the gentleman.

Mr. FLORENCE. Do I understand that the gentleman from Alabama is retaining the floor indefinitely, with power to assign it to whom he pleases? Because, if that is the understanding, I desire to occupy myself for a very short period, if he will graciously consent. If he will give me five minutes, I am willing to be limited to that time.

Mr. HOUSTON. I am willing to give the gentleman from Pennsylvania five minutes when the gentleman from New York [Mr. HASKIN] shall have finished.

Mr. HASKIN. I desire to say that I concurred with my colleague on the Committee on Printing [Mr. GURLEY] in the joint resolution which is now before the House. Since I have heard the discussion which has taken place to-day against the measure, I have become satisfied that its provisions are not understood by the House. The design of this resolution—for I desire to be frank in my statement—is to give to this House, in organization, the patronage that is now divided between it. It is dragged by this joint resolution that the Printer elect of the House shall have the power to do the printing which the House itself may order.

It will be recollected, Mr. Speaker, by the House, certainly by the members who were present during the last Congress—that at the last session, and near the close of it, a bill was passed, the effect of which was to give to the Printer of the Senate a virtual monopoly of nearly all the printing of Congress. That bill provided that the Printer of the House first ordering a document to be printed should do the work for both Houses so far as that document was concerned. Well,

sir, under that law, the Senate being the smaller body, much more a close corporation than this House, and being always on the qui vive for patronage, will get almost the entire amount of the public printing.

Now, I suppose this subject of the public printing, permit me to say, as a member of the Printing Committee, that I will vote most cheerfully for the erection of a Government printing office, or for any other plan which will immediately disengage with the infamous amount of plunder connected with the public printing, instead of corrupt as well the Democratic party as the Republican party.

Mr. MCCLERNAND. I wish to ask the gentleman from New York whether, under the existing contract with the Printer of the House and the Printer of the Senate, it is within the jurisdiction of the House to fix the rates of compensation for the public printing; and whether, under this joint resolution, if it shall become a law, the rate of compensation will not become settled, and that advantage yielded?

Mr. HASKIN. The advantage is not yielded; and for this reason: the Senate having elected its Printer, and having elected as such Printer General George W. Bowman, the editor and proprietor of the Constitution newspaper, any bill proposing to alter the rates of printing, or to give the public printing, certainly would not pass the other branch of the national Legislature.

Now, sir, the great profit connected with this corrupting system of public plunder growing out of the public printing, consists in the printing of the executive documents of the Government. There are about one hundred thousand dollars a year. It is performed by the Printer of the Senate, and yields, as I am informed, a profit of about seventy cents on the dollar. General George W. Bowman, the Printer of the Senate, as I have said, has the printing of these executive documents. He also has the printing of the other branch of Congress, and under the law passed at the heel of the last session of Congress, he has also virtually a monopoly of the printing of this House.

Now, sir, in such a system, I say that this House ought to have its own work given to, and executed by, its own Printer. I do not mince matters. I am frank in saying what is my opinion; and I repeat that I think this House is entitled to dispose of its own patronage. But when I say that, I say it with a view to the correction with any and all parties in correcting this system of public plunder, which I think ought not to exist under any civilized Government. It is a fond, sir, which has been used by the Democratic party to control congressional elections in Pennsylvania, to sustain a Government organ here, and to sustain the Pennsylvania, and the Evening Argus newspapers, in the city of Philadelphia. I am opposed to it because it has been used for such purposes.

Mr. HINDMAN. I ask the gentleman to yield to me that I may put a question to him.

Mr. HASKIN. Certainly, sir.

Mr. HINDMAN. The gentleman has referred to the printing fund for the purpose of sustaining party newspapers. I ask him now whether, in the House, the caucus system was not made, and favorably listened to, by one of the Republican candidates for the office of Printer of this House, to divide off a part of the printing apportion for a purpose similar to that referred to by the gentleman from New York?

Mr. HASKIN. Yes, sir; and that proposition defeated the individual whose friends made it for him.

Mr. HINDMAN. Was not that man thereafter nominated by the Republican party?

Mr. HASKIN. He was; and he was not elected because of the caucus proposition.

Mr. HINDMAN. Did not the gentleman vote for his nomination in the Republican caucus?

Mr. HASKIN. It was not called a caucus; it was called a conference.

Mr. HINDMAN. I am not particular to know by what name it was called; and, further, did not the gentleman vote for that man in this House?

Mr. HASKIN. I did vote for him in the House, because I felt bound by the action, not of the caucus, but of the conference, where I was treated as an ally, and not as one belonging to the Republican party.

Mr. HINDMAN. Is the gentleman now ad-

dressing this House in his capacity as a party man, or in that of an ally.

Mr. HASKIN. My position is that rather of an ally, than of a party man.

Mr. Speaker, I want to go on with my remarks where I left off, and to say that during the Thirty-fifth Congress, just as they have disgusted me during this Congress, as they have existed upon all sides of the House. It is a known fact—it was testified to by Mr. C. Wendell, before a select committee of this House at the last session, of which committee I was chairman—that he was the Printer of the House *de facto*. Sir, this House should never recognize printers *de facto*, but only printers *de jure*. I, for one, will very willingly vote for any resolution, whether moved by a gentleman from Ohio [Mr. STANLEY] or by any gentleman upon this side of the House, providing that the man who shall be the Printer of the House shall do the work ordered, and not undertake it, trafficking upon the legislation of the country, by selling out, as Mr. Stedman did during the last Congress, for thirty thousand dollars and so on.

Now what are the other facts in relation to this matter? The Printer of the Senate and the Printer also of the executive printing has nothing to do with the execution of that work further than to receive his thirty-three and one third per cent. The man whose work is done by Mr. John C. Rives, the printer of our daily sayings here, which, in too many instances, I think, were better unsaid, or, when said, unsupported. The whole system is rotten, and, for one, I am agreed to displace it by a better one.

Mr. FOUKE. And as upon this subject, I have a resolution prepared which I should like to have read for the information of the House. I would like to introduce it, and to see it adopted by this House. It touches all the matters to which reference has been made. As the other side introduced resolutions, I have introduced one, and fully voted, I hope that there will be no objection to the introduction and adoption of my resolution. I hope that it will pass by acclamation. It has been suggested by the remark which have been made by the gentleman from New York. It has reference to these subjects and to the organization of this House. [Cries of "Read it!" "Read it!" "Mr. BINGHAM. I object to the introduction of any such resolution at this time. It is entirely out of order.

Mr. HASKIN. I will yield to the gentleman from Illinois to introduce his resolution, when the proper time arrives for that purpose. I want now to finish what I have to say. The gentleman from Illinois knows that I would not be wanting in any aid to the gentleman from New York. I have referred to these subjects and to the organization of this House. [Cries of "Read it!" "Read it!" "Mr. BINGHAM. I object to the introduction of any resolution whatever.

Mr. HASKIN. Mr. Speaker, this joint resolution now before us is not retroactive, but prospective in its operation. It has reference exclusively to the printing for this House hereafter to be executed. It provides, that hereafter the printing of this House shall be done by its Printer, and that the printing of the Senate shall be executed by its Printer, General George W. Bowman.

Mr. NOELL. Does not the resolution provide that all the printing ordered, in the past and for the future, shall be divided up between the Printer of the House and the Printer of the Senate?

Mr. HASKIN. It does not, as I have already declared. The effect of the provisions of the resolution will begin with the introduction of the resolution, and it does not have any effect upon the printing already ordered.

Mr. NOELL. My understanding was, that it authorized the payment to the Printer of the Senate for the work which he has given him, and then, upon that, that the Printer of the House should receive pay for the printing ordered by the House.

Mr. HASKIN. That is a mistake, for the resolution intends to do no such thing. The subject of the resolution is simply to restore the House to its former rights; to give the Printer of this

House the printing ordered by the House, and the Printer of the Senate the printing ordered by the Senate. That is the resolution, nothing more and nothing less. It has for its effect to destroy a monopoly of the public printing, which has been given to the Senate Printer by the operation of the act of Congress passed before the adjournment of the last session. I say that the House ought to have the control of its own printing.

Mr. PRYOR. I think that the gentleman misapprehends the object and the policy of the existing law. Before the present system was adopted the Government had to pay for double composition; that is to say, if a document was ordered to be printed by the Senate, the Government paid for composition there, and if, then, it was ordered to be printed by the House, the Government paid for composition here. Hence the adoption of the law. There was no motive for the adoption of the law such as that intimated, for then the Printer of the House was a Democrat, as was the Printer of the Senate.

Mr. HASKIN. In answer to the gentleman, permit me, sir, to say that I know something about the printing of the law, and the matter used to influence its passage. I know that, anticipating just the result which has taken place in reference to the organization of this House against the Democratic party, the men who control the patronage connected with the public printing pushed it through. They are always on the watch.

Mr. VALLANDIGHAM. I want to remind the gentleman that this act originated in the Senate, as an amendment to the legislative appropriation bill.

Mr. HASKIN. That may be so; but I will guaranty that some of those who had something to do with the public printing, had something to do also with that amendment in the Senate.

This resolution, sir, proposes that hereafter there shall be no double composition. It only repeals the third section of the act of 1846, which gives this monopoly of the printing to the Senate Printer, shall be repealed, and that the Printer of the House shall have the legitimate patronage belonging to the House, and that the Printer of the Senate shall be the legitimate printer belonging to the Senate.

Mr. HOUSTON. I regret very much, Mr. Speaker, that gentlemen upon the other side of the House cannot agree among themselves as to the objects they have in view, in passing this resolution. The gentleman from Ohio says that the House does not want the patronage and plunder which others think he and his party seek out of such legislation as this—he says he would rather throw it all over to this side, if he could do so. I suppose the gentleman from New York [Mr. HASKIN] did not hear the remarks of the gentleman from Ohio, for he enters into the debate, and speaks candidly, doubtless, and does not hesitate to admit that he seeks for his party the spoils, and says that one object of this resolution, and I have no doubt the printing, if not the subject, is the spoils. He says that, under existing laws, the House Printer does not get his share, and this resolution is intended to give him a larger share.

Now I regret, Mr. Speaker, that the professed disinterested patriotism of the gentleman from Ohio [Mr. STANLEY] is so soon and so thoroughly exposed and proved not to exist, as it has been by one of his own friends and colleagues on the committee. The confessions of the gentleman from New York [Mr. HASKIN] fall with crushing force upon the gentleman from Ohio. They should have based their proposed legislation upon principle, and such exposures could not have been made. The gentleman from Ohio says this resolution is to enable us to get our documents at an earlier period. Is that correct? Can it be so? Is it possible that intelligent, sensible men should be brought to that conclusion, and then they get them sooner? You propose that the Printer of the House and the Printer of the Senate shall each receive one half of the charges for composition. And how? If your House Printer should have the printing of the House, the Printer of course, unless your charges are higher than they should be, he cannot afford to set up the document for half pay for composition. Nor can the Senate Printer do it. Then the result will be that the Printer first receiving the order will print it, and the other will be left out, and you cannot get it sooner than you do now.

If the object of this bill be what the gentleman from Ohio [Mr. STANLEY] states it to be, it will, if passed, force a partnership or association between the Printers of the two Houses; they will have to do so in self-defense, unless the pay for composition is double as much now as it should be, and your documents will be even more delayed, in my judgment, than before the printing of our tables. The documents for half price. If the present price is reasonable and just, and if the present price will enable them to do the work for half of it, we should at once reduce it. We cannot expedite the printing in that way. We know the reasons why the documents are not now upon our tables. The gentleman from Ohio [Mr. STANLEY] knows that it has resulted from the fact that we did not organize until very recently, and did not pass an order to print our documents. The Printer of the Senate was ready and willing to print them, but he did not know how many we wanted or ordered. He had no authority to print them for the House. I heard one of the gentlemen said to be associated with the Senate Printer in doing the printing say, that he was very desirous that the House should make its order for printing its documents, so that the Printer could enter upon the work, but the House failed to do so, and that is the reason why they are not now upon our tables. It is our own fault, and not the fault of the law. They were scrambling about the spoils which the gentleman from Ohio says is a place of honor, which the gentleman from New York says he is exceedingly anxious to grasp, and which the conduct of the members of that side of the House shows is a leading idea with them.

Mr. GURLEY. I wish to refer to the gentleman from Alabama that I was informed last week, on good Democratic authority, that the work the Senate ordered some forty-five days ago—the President's message and accompanying documents—was not one half in type yet, even for that House. That being the case, I think it would be very wise in this House expect to receive our work?

Mr. HOUSTON. Gentlemen on that side of the House seem very happy in obtaining Democratic information; and I must confess, that Democrats who propose to communicate their opinions to the public through the press, are anxious to have their Democracy, if not their political integrity, somewhat questioned. [Laughter.] Gentlemen may laugh; but I repeat, that a Democrat will get very little credit for his Democracy who selects a printer from the other side, which makes his communications with this House or the public.

I would like to know of the gentleman from New York what has become of the binding of this Congress? Why is that not included in these bills, or some of them, which gentlemen say are designed to reduce the expenses, and prevent the corporations growing out of the public printing and binding? Will the gentleman tell me?

Mr. FOUKE. I ask the gentleman from Alabama to permit me to withhold this question until before the House, to introduce a resolution.

Mr. HOUSTON. I will hear it read.

Mr. OLIN. I object.

Mr. FOUKE. The gentleman from Alabama can adopt it as a part of his speech.

Mr. HOUSTON. I will; and ask the Clerk to read it.

The resolution was read, as follows:

Resolved, That a committee of five members be appointed, with instructions to inquire whether any corrupt combination was made or proposed, or whether any不正当 means used or proposed to be used, by any of the present officers of this House, or with the knowledge of any of them, to secure the printing of the documents of the House; and whether any of the present officers of this House have been guilty of official corruption or malfeasance, as subordinate officers of the House of Representatives, during the previous session; and whether any of the present officers also inquire whether the expenses of the House of Representatives may not be reduced, consistently with the public interests, and report in what respects and to what extent. And for the purposes aforesaid, said committee shall have power to send for persons and papers, and to report at any time.

Mr. FOUKE. That resolution has been suggested by the course pursued by gentlemen upon the other side of the House. It is the resolution I desired to introduce when my friend from New York [Mr. HASKIN] was speaking, and which was objected to by the other side of the House. The SPEAKER pro tempore. The Chair does

not understand that the resolution is before the House, and therefore debate is not in order.

Mr. COYODE. I want it brought before the House.

Mr. MAYNARD. Is not the gentleman from Alabama mistaken in supposing that the binding is not also included in these proposed amendments of the law?

Mr. HOUSTON. I understand that it is not to be affected until by the resolution before the House. It does not touch the binding, as I understand it.

Mr. MAYNARD. Does the gentleman know whether or not the binding of the miscellaneous documents—a very large and heavy job—has been contracted for by the present Congress?

Mr. HOUSTON. The gentleman from New York [Mr. HASKIN] can better give that information. I understand that the binding for this Congress has been let out; and a charge is floating about in responsible newspapers—one published in this city, and of the Republican party—that it was let out by the Committee on Printing, or a portion of the committee, after they had received a bid from a responsible party, proposing to do the binding for a much less sum than that for which it was let out. And now the gentleman from New York [Mr. HASKIN] comes up and vents himself to-day as an advocate of reform. He tells you that the patronage and plunder are what corrupt all political parties. I would like to know from the gentleman whether the charge is true; whether it is true that he is out of the binding to a pet of his, and to a gentleman from Ohio, as it has been charged in the papers? I would like to know at what price it was let; whether there were any other bids for it before the committee than the one accepted; and whether it was not contracted to favor a set price higher than others proposed to take it?

Mr. HASKIN. I will state to the gentleman from Alabama that there is not a word of truth in the charge; that the Committee on Public Printing let out the binding to bidders of responsibility, who were the lowest bidder.

I will state, also, that subsequent to the letting out of the binding, a person connected with a small newspaper in this city endeavored, as I am informed, to levy black mail upon those to whom the binding had been given. The subject, however, has been referred to the committee introduced yesterday in my absence, by the gentleman from Kentucky, [Mr. BURNETT], to a committee for examination.

Mr. HOUSTON. Will the gentleman tell me where the parties were made so fortunate as to get this binding contract?

Mr. HASKIN. One in Ohio, and one in New York.

Mr. HOUSTON. What portion of New York? In the gentleman's district?

Mr. HASKIN. Yes; but doing business in the city of New York.

Mr. HOUSTON. When were the bids sent in from those who desired to levy black mail? He admits that bids came before the committee proposing to do the binding at a price lower than that at which it has been contracted for; and now I want him to tell this House how that matter stands.

I do not wish to entrap the gentleman; but, so far as the matter is now before the public, and so far as it has reached me, that bid was in before the contract was made with the parties who contracted to do the binding. I may be mistaken. If I am, the gentleman from New York can correct me; and I want to know of him, and if he refuses to speak out, then from some other member of the committee, when the other bids were received by the committee.

Mr. HASKIN. Appreciating, as I do, the extraordinary colloquial ability of the gentleman, [Mr. HOUSTON. That does not answer my question,] and the clearness with which he states all his propositions, I am surprised, upon an occasion like this, when we are discussing a bill in reference to the public printing, that he should interpolate into the discussion a subject which has already been referred by the House, for special investigation, to a committee. I believe he is one of the oldest members of the House, familiar with its rules, great on points of order, [laughter,] and on calling persons to order; and so believing, I refer him, for information upon this subject, to the report of the committee which has that matter in charge.

Mr. HOUSTON. That is the answer that I might have been satisfied I would get from a member who is a little inclined to shun letting the whole of the transaction come to light.

Mr. HASKIN. Never, sir.

Mr. HOUSTON. Now, sir, I will ask the gentleman the question again. When did those other bids, offering to do the printing at a lower price, reach the Committee on Printing? I want to know the day, because then we can determine something ourselves.

Mr. HASKIN. Perhaps I had better refer you to the chairman of the Committee on Printing on that subject; but I think the proper course is to refer you to the committee who has the investigation in charge.

Mr. HOUSTON. The gentleman says that a little newspaper in this city, or parties connected with it, have endeavored to levy black mail.

Mr. HASKIN. So I am informed.

Mr. HOUSTON. I understand that the paper referred to is the Republic. I am informed that the editor of that paper charges boldly and clearly, and without question or doubt, that the Committee on Printing, or the gentleman from New York, or whoever had the matter in charge, did let out the binding to a pet of his, and to a gentleman from Ohio, at a lower price; and that, while the committee had his bid before them, they let out the job to parties, one of whom is living in the district of the gentleman from New York, [Mr. HASKIN,] as he has admitted; and the other, I am informed, who lives in the district of the gentleman from Ohio, [Mr. SUGARMAN.]

Mr. HASKIN. I desire to know, from the distinguished gentleman from Alabama, whether he has become the champion here of the newspaper called the Republic, and its editors and proprietors?

Mr. HOUSTON. No, sir. I am on the side of the country, and against malpractices. I am the champion of truth, and of a disclosure of all the facts implicating parties in these transactions.

Mr. COX. I wish to say a word right here. It is the charge, as I have heard it, that the gentleman from New York that there was an attempt to levy black mail on the men who got this binding. That charge involves the integrity of Mr. J. J. Coombs, the proprietor of the Republic newspaper, who makes the inducements of corruption to the men who live on the other side.

Mr. Coombs is well known in Ohio, as he is in this city. I have in my eye gentlemen on the other side of the House who know Mr. Coombs to be an honest, irreproachable man in every respect, as honest as any man who lives in this city. He is a Republican. He was a Republican Senator in Ohio. He has never, to my knowledge, had his character impeached by any man; and I am only surprised that his friends should sit here and hear this impeachment made of his character—a charge of an attempt by him to levy black mail on those men who seem to have been the favorites and pets of this Printing Committee. I hope this thing will be thoroughly investigated. Mr. Coombs calls for this investigation; and I think that it will not appeal in vain to the fact that gentlemen on one side of the House, as a matter of personal right to him, that his reputation shall be cared for when it is assailed by gentlemen on the other side of the Chamber.

Mr. STANTON. I desire to say to my colleague, [Mr. COX,] that in order all he has said in regard to Mr. Coombs. I failed to say anything about it before, because I thought the introduction of that binding subject into this debate exceedingly inappropriate and uncalled for. When the proper time comes, I will be prepared to go into the matter, and will be prepared to vindicate Mr. Coombs.

Mr. HOUSTON. I desire to ask the gentleman from Ohio whether he has not seen the charge to which I have referred in regard to the binding?

Mr. STANTON. I answer the gentleman from Alabama that I know all about it; and when the subject comes properly before the House, I am prepared to state what I know about it. But I will not interpolate it into a debate on another subject unconnected with it.

Mr. HOUSTON. I would read the floor.

Mr. GURLEY. Will the gentleman from Alabama yield to me for a moment?

Mr. HOUSTON. Certainly.

Mr. GURLEY. I wish simply, as I say chairman of the Committee on Printing, to say that the

committee, in letting out the binding, did nothing that they are not willing to have presented to this House in sunlight. I never read the article referred to in the Republic. I have heard that it made certain charges against the committee, and if what I heard is true of the charge, then I say that the charge is false, and I will demonstrate its falsity before the committee raised to investigate the subject. I want it discussed and understood that we did nothing but what was done unanimously.

Mr. HOUSTON. That may have been.

Mr. HASKIN. With the permission of the distinguished gentleman from Alabama—

Mr. TAPPAN. I rise to a point of order. My friend of order, is that the present debate is entirely foreign to the question before the House.

I was in the hopes of having this day devoted to the consideration of private business, and I called for the regular order of business when the gentleman from Ohio put in his report from the Committee on Printing; but I understand it to be a privileged question. I shall now insist on having this debate confined within some proper limits, so that, if possible, we may after some time get through with it. I insist that gentlemen shall be confined to the subject.

The SPEAKER *pro tempore*. Objection being taken, the debate, in the opinion of the Chair, is out of order. The time of the gentleman from Alabama has expired.

Mr. GROW. I move the previous question. Mr. FLORENCE. I trust my colleague will withdraw the call for the previous question for a single moment. [Cries of "No!" "No!"]

The SPEAKER *pro tempore*. No debate is in order. The question is on seconding the previous question.

The previous question was seconded, and the main question was ordered; which was on recommending the joint resolution.

Mr. STANTON. I move to lay the joint resolution on the table.

Mr. BARKSDALE. I call for the yeas and nays.

Mr. STANTON. I withdraw the motion to lay on the table.

Mr. BARKSDALE. I renew the motion to lay the bill upon the table; and on that motion I demand the yeas and nays.

Mr. KELLOGG, of Illinois. I ask that the resolution be read.

The Clerk again read the joint resolution.

Mr. KELLOGG, of Illinois. I ask for the reading of the third section of the law referred to in the resolution. I desire to see if the provision is in that section that the office of Printer shall not be transferred or sold.

Mr. VALLANDIGHAM. It is.

Several Members objected to the reading.

The SPEAKER *pro tempore*. The reading of the section is not in order. It would be in the nature of debate, if there were no other obstacle to it.

Mr. WASHBURN, of Maine. If the motion to lay on the table fails, will not the next question be upon the motion to recommitt?

The SPEAKER *pro tempore*. It will.

The motion was seconded and ordered.

Mr. BARKSDALE. I want it understood that if the bill is recommitted, it cannot be amended.

Mr. WASHBURN, of Maine. Certainly it can.

The question was taken on Mr. BARKSDALE's motion, and it was decided in the affirmative—yeas 94, nays 65; as follows:

YEAS—Messrs. Green Adams, Adams, Thomas L. Anderson, Ashmore, Avery, Beecock, Benham, Bondiger, Brabson, Briscoe, Buffington, Burt, Burnett, Cox, John B. Clark, Cleveland, Coffey, Conner, Cox, James H. Cowley, Burton, Cramer, Crawford, Curry, John J. Davis, Reuben Davis, De Janette, Edmonstone, Edmonds, Ferry, Fieser, George, Hamilton, Harlan, Harris, Hutton, Hill, Hindman, Holmes, Houston, Howard, Hughes, Kilgore, Jenkins, Jones, William Kellogg, Kilgore, Killen, Lester, Lindsay, Larnache, Leake, Lewis, Lewis, Mackay, Charles D. Martin, Elbert S. Martin, Maynard, McCardell, McPherson, McQuinn, McKee, Miles, Moore, Montgomery, Morrison, Nathan, Nathan, Moore, Morrill, Nelson, Olcott, Noyes, Pendleton, Peyton, Price, Rice, Reagan, Rogers, Russell, Russell, Scott, Thomas W. Smith, William N. B. Smith, Russell, Russell, Stevenson, William Stewart, Stokes, Stuart, Tompkins, Underhill, Van Dusen, Vinton, Wallcut, Walcott, Edwin B. Washburn, Webster, Webster, Wilson, and Wright—94.

NAYS—Messrs. Charles F. Adams, Atchison, Ashler, Babbitt, Dingham, Estey, Blake, Burlington, Burnham, Campbell, Curry, Coffey, Conkling, Corcoran, Curtis, Del-

both Houses, and affirmed by the President, so that the citizen shall be surrounded with certain safeguards.

Mr. President, I confidently submit that a power so entirely without support, and also so unobnoxious to criticism, at the same time that it is so vast, is not to be carelessly exercised. You cannot make the witness to prison without establishing a new precedent and commencing a new class of cases. You will declare that the Senate, at any time—not merely in the performance of its admitted judicial duties, but also in the performance of its mere legislative duties—may drag a citizen from the distant village of the remote State, and compel his testimony, involving the guilt or innocence of absent persons, or, it may be, of the witness himself. This is a fearful prerogative; and permit me to say, that in assuming it you liken yourselves to the Jesuits, at the period of their most hateful supremacy, when it was said that their power was a sword whose handle was at Rome, and whose point was in the most distant places. You take into your hands a sword, whose handle will be in this Chamber, to be clutched by the arbitrary majority, and whose point will be in every corner of the Republic.

If the present case were doubtful, which I do not admit, I feel that I cannot go wrong when I lean to the side of liberty. But, even admitting that you have the power, is this the occasion for using it, upon the subject of Harper's Ferry? The object to be accomplished worth the sacrifice? Is it well to have a giant's strength; but it is tyrannous to use it like a giant.

For myself, sir, I confess a feeling of gratitude to the witness, who, knowing nothing which he owes to Congress, and being anxious that the liberties of all may not suffer through him, feeble in body and broken in health, hardly able to endure the fatigue of appearing at your bar, now braves the prison which you menace, and thrusts him as a bolt to arrest an unauthorized and arbitrary proceeding.

THE VICE PRESIDENT. The Secretary will call the roll.

Mr. HALE. What is the question?

THE VICE PRESIDENT. The resolutions of the House from Virginia, on which the yeas and nays have been ordered.

Mr. FESSENDEN. I wish to say a few words on this subject before the vote is taken; more because, on Friday last, I expressed a doubt with reference to the power of the Senate, than for any other reason. I suspect that the expedient which induces the respondent here—if he may be called so—to take the course he has taken; but, however much I may respect it, it cannot influence me, of course, in the discharge of my duty, if I do not agree with him in the supposition that we are exercising a jurisdiction which we have no right to exercise. Let me call the attention of the Senate back, for a few moments, to the consideration of the course which this question has taken.

When the original resolution for the appointment of this committee was introduced, there was a time of very considerable excitement, and when many intimations had been made in the newspapers, and were not wanting here, that the political party with which I act had been part and parcel, in some degree at least, of the difficulty which had arisen at Harper's Ferry. The proposal was made to raise a committee, with power to send for persons and papers, to inquire not only as to the facts of the transaction there, but also to inquire who in other States had been connected with it. So far, on this side of the Congress, we had no disposition to interpose any objection whatever to the inquiry as proposed, but every desire to afford the utmost scope to it, in order that the facts might be elicited. The question was not raised at that time whether the Senate had the power to appoint this committee; nor was the term of the resolution itself very strictly scrutinized, to see whether it did not go further than it ought to have gone; and that, because of the disposition which I have stated on this side of the Chamber to afford every facility, and to give the broadest scope to the inquiry proposed.

Having no doubt myself of the general power of the Senate as a legislative body to make the inquiry, I voted for the resolution, as did we all. Having voted for the resolution, I have voted also without hesitation for the measures which have been taken since, with reference to the witnesses.

I have done so, having no doubt whatever of the power which has been spoken of. It had been my conclusion during my legislative life that this power, to a certain extent, existed in all legislative bodies of this description; and seeing no objection to the exercise of it, desiring that it should be exercised under the circumstances in which the inquiry was presented, I have voted readily for all the subsequent proceedings. Here, however, we come to a point; the question is at last raised, and raised distinctly, by a person who is brought before us to respond, whether the Senate has the power, in the first place, to make the inquiry; and, secondly, whether it has the power to proceed against a witness who refuses to testify, and to proceed in the ordinary method by imprisonment until he shall be willing to afford the information that is sought for.

I cannot agree with my friend from Massachusetts that the original resolution directing the inquiry is rendered void, if otherwise we have the authority for it, by the circumstance that it includes within it a power of inquiry beyond our legislative capacity, or judicial capacity, if that be the case. The original resolution directs an inquiry, in the first place, into the facts of the transaction at Harper's Ferry. It then goes on to contemplate several other things; among others, what my friend from Massachusetts has mentioned, in relation to what other persons were concerned there had afforded aid in men and money. I have very serious doubt whether the Senate has any such power as that; but, as I said before, individually I, and collectively my friends on this side of the Chamber, did not examine that question, from the desire we had to afford the largest liberty of inquiry on the subject. Suppose the resolution had read simply "that a committee be appointed with power to inquire whether any further legislation is necessary in order to protect the property of the United States at Harper's Ferry or elsewhere, with power to send for persons and papers," and nothing more: can it be doubted that this is a legitimate subject of legislation by us as legislators? Not at all.

Then, that being contained in the resolution, as it is, the inquiry, like the subsequent proceedings, or like some legal proceedings, rendered void by the fact that it introduces also a proposition for its inquiry into a matter over which we have no control? I think not, very clearly. Why? Because no objection to an inquiry of that kind is to be taken, unless it is shown to be unconstitutional. We may summon a witness. The witness may go before the committee. He does not know that the matters of inquiry put to him will be such as he wishes to make a point upon, or such as are improper in themselves. On the contrary, the presumption should be, in his mind, that the matters of inquiry will be confined to those things which are proper to be inquired into. If they are not, when he comes before the committee he may make his point on the questions which are put to him. He may object to the questions, and, if he does, in reference to a subject about which we have no right to inquire, he may object to that question, and then the point thus raised will come before the Senate. If, on the contrary, the inquiries put to him be confined to subjects proper to be inquired into under the resolution, there is no reason why he should not answer. It is his duty to answer under such circumstances. For that reason I say that, although I think now, on examination, that the original resolution went too far, beyond the limits of our power, as to the inquiry, for a reason that I shall give hereafter, yet I think it includes manifestly matters into which we have a right to inquire, and upon which we have a right to legislate, and therefore that the resolution is good, so far as the witness is concerned; and that he cannot object to the resolution, or to the questions put to him, before he can object to the jurisdiction on that account.

Then, sir, comes the question about which I stated that I had some doubt, and which I rose to explain. My doubt arose not at all from any objection to the power of the Senate to send for anybody over the subject. The argument of my honorable friend from Massachusetts is founded upon the idea of a broad distinction between the British Parliament and the Congress of the United States, the origin of both, and the derivation of their powers. I concede that they are widely different.

The Parliament is very different from the Congress. The Parliament exists, as it is said, by its own laws and usages. It is almost omnipotent. It has hardly any limit to its powers. It is called by the law the highest, most honorable court in the realm; and it is that most high and honorable court from the usages and laws which itself has made for a long series of time, running far into antiquity, the times to which, by the law says, the memory of man runneth not to the contrary. We are constituted very differently. We live under a charter—constitutional provisions to which we owe our existence—and we stand on very different grounds; but do not share of powers. In fact, none of the powers of the British Parliament, which are not expressly granted to us; and why? No one knows better than my honorable friend that the law of the British Parliament is a branch of the common law of England; it is so defined in the books. That law is as much a part of the common law as any other—has always been so considered and so held. Had we no interest, at the time our Constitution was formed, in the common law of England? We adopted the whole of it. All the common law, as defined to the Constitution, then State becoming State independent governments—had recognized the common law as a part of the law of the land. All of it that was applicable to us, that was fitted to our position and Constitution, was adopted by us.

Under these circumstances, when our constitutions, and the people of the United States made the Constitution of the United States. They made bodies similar in form—similar in powers; not having the same extent of powers, because the same extent was not applicable or necessary; but they had the same kind of powers. It is not to be presumed that, when they instituted legislative bodies of this description, perfectly well known to the common law, which existed among themselves, so much of the parliamentary law as was the common law of this land, it being all common law in England, so much of it was applicable to our position and necessary for our purposes, was transferred as a matter of necessity and as a matter of common understanding to the bodies thus constituted? Why, sir, if I had any doubt on the subject, I would refer to the fact that it has been a matter of common construction and admission from the earliest days when we had legislative bodies in this country down to the present. The power has always been exercised when these bodies were independent of all others, and under the same law, this our Constitution, parliamentary law, so much of it being adopted as was necessary for our situation and condition.

The Senator objects, as I understand him—and others have objected in relation to this matter—that the Constitution confers only specific powers upon us. That is true; but did the Constitution do nothing more? When it made us a Congress—when it made us a Senate and House of Representatives, and left undefined powers that we might exercise in the future, it gave us no powers for which we were created—did it mean that we should have none of those powers, because it had not defined them? What did it do? It defined the matters upon which we could legislate. In that sense it defined our jurisdiction. It told what subjects we were to legislate upon, and it did not undertake to tell us the form and manner of proceeding by which we should accomplish the purposes of that legislation. Why? For the simple reason that there was an existing law on that subject, known to every citizen; and that was the common law with regard to bodies of this description; for the simple reason that it was impossible, in the nature of things, to make such a definition; because no specification in the Constitution could possibly reach all the cases in which it might be proper to exercise any of those powers known to the common law as parliamentary powers, and which were applicable to and necessary for our use.

Senators undertake to tell me that there are certain powers which we have that are necessary and essential, and that those are what are essential to our own existence as a body. They are not defined. They arise from the necessity of the case. If one arise from the necessity of the case, let me ask them why not another? Where will you draw the limit? Your argument fails, because by your own showing, you must go outside the point which

you fix, and that is, the point of a specific designation of the powers which may be exercised. Certain powers are given. Under those we may act judiciously. But so far as it is necessary that we should exercise powers for our own protection, for the accomplishment of the purposes for which we were created, no one denies that we may exercise them. Can we exercise them in deference to be cleared? By what authority? By the authority of necessity, in some cases. If a disturbance is made in the galleries, can we not order the offender out? Certainly we can, and for the same reason. If we are attacked from the outside, and we take the offender into custody, no one doubts that.

Where, then, will you draw the line of distinction? You go outside of the Constitution. Where do you go? You go to the parliamentary law, which is recognized as part of the common law. Where will you stop? Stop, I say, just at that point where we have gone far enough to accomplish the purposes for which we were created; and these purposes are defined in the Constitution. What are they? The great purpose is legislation. There are some other things, but I speak of legislation as the principal purpose. Now, what do we propose to do here? We propose to legislate upon a given state of facts, perhaps, or under a given necessity. Well, sir, proposing to legislate, we want information. We have it not ourselves. It is not to be presumed that we know everything; and if anybody does presume it, it is a very great mistake, as we know by experience. We want information on certain subjects. How are we to get it? The Senator says, ask for it. I am ready to ask for it; but suppose the person whom we ask will not give it us; what then? Have we not power to compel him to come before us? Is this power, which has been exercised by Parliament, and by all legislative bodies down to the present day without dispute—the power to inquire into subjects upon which they are disposed to legislate—lost to us? Are we not in possession of it? Are we deprived of it simply because we hold our power here under a Constitution which defines what our duties are, and what we are called upon to do?

Congress have appointed committees after committees, time after time, to make inquiries on subjects of legislation. Had we not power to do it? Nobody questioned our authority to do it. We have given them authority to send for persons and papers during the recess. Nobody questioned our authority. We have not done so during the session, with power to send for persons and papers. Have we not that authority, if necessary to legislation? Who is to be the judge as to our duties necessary to legislation? Who is to be the judge of the necessity? Sir, Senators may say there is danger in it; they may object that we are judges in our own case. Well, we are judges for the good of the nation, for the good of the people. They have made us their Legislature; they have told us what to do; they have told us how far we may go with relation to us; they have said we must stop; but as to the mode by which we are to accomplish the great purposes for which we were created, and do the great things which we were appointed to do, they have left that to us—no undefined rule; not to wander over a space of which we know nothing; but go back to the common law, study the parliamentary law, and see what are the powers we have under that, and exercise them judiciously and well; and where is the danger? One body returns to its constituents every two years; the other body every six years. The people have power over us. There is no danger connected with it; we can do no harm; and, therefore, I say, sir, it is as well that we should rid ourselves of all these ideas that we are simply a body under a written Constitution, appointed simply to legislate and do certain other acts, and obliged, in the first place, to inquire every step we take, whether we have any one power which we may deem and may find absolutely essential in order to accomplish the purposes for which we were created. Sir, with regard to myself, all I have to inquire into is, whether I have any proper object, committed to me under the Constitution; and then, as to the mode of accomplishing it, I am ready to use judiciously, calmly, moderately, all the power which I believe is necessary and inherent, in order to do that which I am appointed to do; and, I take it, I violate no rights,

either of the people generally or of the individual,

by that course. The point that labored with me was nothing in relation to the question which I have been discussing; but whether we were not bound, in the first place, to legislate—a point suggested by my friend from Massachusetts. Certain powers are given to Congress, and also powers to pass all laws which are necessary to carry them into effect. The query is, whether we are bound to pass a law giving power to each body of the Congress, in the first place, to summon witnesses; and then, if they do not appear, to punish them as that law provides; and if it did occur to me, it was no trouble; but reflection has satisfied me that there is nothing in it after all. That clause was intended merely to meet the specific powers granted. We have power to raise an army and navy, establish a mint, and do many other things, for which there is specific power in the Constitution; and out of greater caution, having thus given us those powers over certain subjects, it says specifically that you shall have power to pass all laws necessary for carrying into effect these things. It did not assume to give us, over and over, the power of discharging our duties, the mode of getting at subjects, of acquiring information, if you please, of protecting ourselves against aggression, of preserving our own existence; I will say nothing of our own dignity, for, until we become careful of ourselves, we are not worthy of anything in relation to that matter. We have not been very careful of our own dignity, and therefore it is not worth while to talk much about it. But it is advisable, in my judgment, that we should protect ourselves and secure to ourselves—and that we may safely do so—these powers in relation to us in as a constitutional legislative body to effect the objects for which we were created.

Sir, I see no distinction in this respect between this body and the House of Representatives, though one is attempted to be drawn. "The common law have rather more power than the Lords; they are a great body of themselves, and may make inquiries which the Lords cannot make; but we are not Lords; we are simply one branch of the Congress of the United States, with nearly the same legislative powers except the suspension of revenue bills, and a little difference in regard to impeachments—one body impeaching and the other trying. Apart from these, we have power of initiating legislation. We must do the same things in the same way; and, from the consideration of our own dignity, and of our own power, we must have, in my judgment, the same powers.

Then I see no objection to the proceeding at all. I have examined the last answer which has been made by this gentleman to the question whether he is ready to testify, and it is substantially that: "I am ready to testify, if you will charge me from arrest, and allow me to come voluntarily as a citizen before you, on my own motion, and I will not object to it; but if you force me, and say that I must testify, and attempt to coerce me, under threat of imprisonment, I will not do so." The substance of his answer. Well, sir, I hold that to be no answer at all. He should have come originally on the summons—that certainly could not have hurt him—and have testified, and then he would not have been in this difficulty, and this question would not have been brought up.

I close as I began, by saying, that while I respect the principle upon which Mr. Hyatt acts, and his adhesion to it, and recognize at all times the power of all men brought to our bar, as to any other, to make a full defence, and place themselves under their own ground, yet we must exercise our power to protect ourselves; and, while doing it calmly, and moderately, and wisely, I think the citizens will not be injured if they have the same recognition of their duties that we have of ourselves.

Mr. HALE. Mr. President, I am sorry to be under the necessity of troubling the Senate; and if either of my honorable friends who have addressed the Senate had expressed my views, I should refrain from adding a word to what they have said; but they can say it much better than I; but I differ with both—more widely with the Senator from Maine than with the Senator from Massachusetts. I must, however, do the Senator from Maine one credit: I think he has stated the precise grounds upon which we have got to act before we pass these resolutions, and

that is, to get rid of the idea of our living under a written Constitution with certain restrictions. I think that is well put.

In the first place, what is it that you propose to do? You propose to sentence to imprisonment for life—because he may be imprisoned so long, by the tenor of your resolutions—a citizen of the United States, on a mere presumption of guilt. That is the whole of it. On the point of etiquette you propose to sentence a citizen of the United States to perpetual imprisonment; and to sustain me in that, I will read this answer:

In answer to the second question, the *undisputed* has been always ready to voluntarily appear, at any time and at any place, and before any committee of the House or Senate, and is now ready, upon his rights as a man and a citizen being respected in accordance with the people's bill of rights in the Constitution of his country."

Which bill of rights he has alluded to in the answer, to consist of the amendments to the Constitution; but he says he will not be forced there. In other words, he says, with a character in one of Shakespeare's plays, that if reasons were as plenty as blackberries he would not give them a consideration. That is exactly the point upon which he stands; and you say that you will not hear him voluntarily, but you will hear him by force; and because he comes here and offers to go voluntarily before you, and says he will not be dragged, and he says he will not be persecuted, and he says it is not the penitentiary, but the common jail of the city, which is a more filthy and disgusting place than the penitentiary. You propose to send him there for and during the term of his natural life, unless he reverses the ground on which he stands. That is what you propose to do; because, when I put the question to the honorable Senator from Virginia, he says the Senate is a perpetual body, and that this order runs forever, or until the man recants. I think you may search the history of this country, and you will find no precedent for such a proceeding in this country; at least, ever undertook to imprison a witness for contempt beyond the period of the session when the order was made. I may be mistaken in that, but I think I am not. I think that is the question.

The mistake that has labored in a great many minds labors in that of the honorable Senator from Maine, that we have all the powers—if not all the powers of the British Lords, at least a considerable portion of them, and that we inherit just as much of them as they; and that we are ourselves are to judge of the necessity. Now, sir, with all respect for that Senator—and I have as much respect for him as I have for any man whose mind has not been warped by a judicial education—I ask him if there ever was a despotism on earth that could define its position more satisfactorily than that? We have got all the powers that are necessary, and we have to judge of the necessity: If Louis Napoleon has more than that, I think he would be willing to give it up readily.

I think if there is any despotism on the face of the earth, that is certainly more powerful than any body would be willing to give it up at once, and it would not occasion any revolution at all. We have everything that is necessary, we ourselves being the judges!

The British House of Lords, from which we imbedded the idea of life and imprisonment, and put to death. We to-day only judge that it is necessary, for the vindication of our powers, to imprison a man for life. Our successors next year, or the year after, themselves being the judges—that is the doctrine, may think it necessary to put a man to death for the vindication of their privileges; and they, judging that it is necessary, and being themselves the ultimate and final judges, determine it, and that is an end of it. The Senate, not very long ago, since its existence, adjudged that it was necessary to punish a man for libel; they were named to do the grand inquest to accuse, and the witnesses to prove, and the jury to find guilty, and the court to pronounce judgment; and it is a part of our history that the Senate actually imprisoned a man once, not for any contempt, but for libel, and they were justified in the argument they were perfectly justified, because they thought it was necessary, and they were the judges of the necessity, and they executed it; and there you have it: *quod erat demonstrandum*.

Mr. FESSENDEN. The Senator, I presume, does not mean to misrepresent me.

Mr. HALE. No, I mean to put it plain, though.

Mr. FESSENDEN. I see the Senator does not understand what I did say, and therefore I want to set him right. I said we had all the powers necessary to accomplish the purposes for which we are created, and within that limit we had the power to take the means to accomplish that end. Of what was necessary to accomplish that, we were judges. In the first instance, we certainly are. If the Senator has any point on any way in which that question can be settled, I should think very highly of his legal capacity.

Mr. HALE. Well, sir, I understood the Senator, but he did not understand me. I understood him perfectly. He says that within what is granted to us, we have the power to do everything that is necessary, and we are the judges of that necessity. I do not misstate him now, I know. Then, who is to judge what is granted to us? Are we not the judges of that? Here is the instrument before us. What is granted to us? Who is to say that? We, unless the Supreme Court of the United States sends a Dred Scott decision up to us; but in the first instance, until we are Dred Scotted, we are the judges of what is granted to us. I think that is the instrument of the honorable Senator from Maine; and I have stated it fairly. There are certain grants in the Constitution, and we are to judge what they are; and then we are to take what is necessary to carry them out, we being the judges, and we being the people of us. I put it to my honorable friend from Maine, that a more perfect despotism never was inaugurated since government was talked of. He did not mean it; but it was the legitimate consequence of what he said.

Mr. FESSENDEN. I mean just what I said. As to your oratorical consequences, I have nothing to do with them.

Mr. HALE. I like your pluck better than I do his pluck. The Senator says he will be obliged to me if I point out any other rule. I have one before me, and one perfectly applicable to this case, and it is in these words:

"The powers not delegated to the United States by the States, nor prohibited by them to the States, are reserved to the States respectively, or to the people."

There is an all-sufficient talisman, before which every despotic power of necessity must crumble and fall. That is the magician's wand, which touches this tyrant's argument of necessity, and it reverts before the irresistible majesty of this constitutional prohibition on despotic power, found in this amendment of the Constitution.

Now let us go back a little. Mr. President, this is an important era in the history of this Government, and you are engaged in a contest in which you are bound to be beaten. This is one of those cases spoken of by the inspired penman, when he says, "one shall chase a thousand, and two put ten thousand to flight," because he stands on the avowed basis of constitutional liberty. He stands here to-day to vindicate that great inheritance of constitutional liberty, the birthright of an American citizen, purchased by the blood that has been shed on all the battle-fields of liberty away back in the sixteenth century. He stands here to-day, so that he says, you may imprison him; you may lock him up; you may make his bars and his bolts fast, and turn your key upon him; but I tell you the great *habeas corpus* of freemen, the ballot, will reverse your judgment, and pronounce sentence of condemnation, not on him, but on you; and the advocates of this power, though they may fortify themselves with the learning and the genius and the logic and the sophisms of my learned friend from Maine, cannot stand before the irresistible logic of every pleader every freeman's breath in this arbitrary exercise of despotic power. Yes, sir, we must indeed get rid of the idea of a written Constitution, before we can do any such thing.

There is another limitation besides that which I have referred to, and I put this ground; I stand upon it, and I call gentlemen to scan it, and see if it is not right: the whole scope and force and limit and extent of this power of necessity is well stated, both in Latin and English, in the argument of the learned counsel from Maine. I stand upon this argument to us on this power; and it is substantially this: that where any claim is made from necessity, it goes to this extent and no further; that if the power granted can be exercised without the thing claimed, then the necessity does not

exist; but if the power granted cannot be exercised without the necessity claimed, then it does exist. That is the whole of it; and that is as far as any republican—and I do not use that word in any party sense, but in its broadest sense—any man that is in favor of popular liberty, will go. Whoever carries the doctrine of necessity any further than that, steps over the ground of the Constitution on to the ground of tyranny.

Mr. DOOLITTLE. If the honorable Senator from New Hampshire will allow me, I wish to inquire, right there, whether that is a question of law or a question of fact?

Mr. HALE. What? Whether there is a necessity for it?

Mr. DOOLITTLE. Yes. Is that a question of law, or of fact?

Mr. HALE. Both combined; and it is a question that addresses itself to the common sense of mankind; but it is of very easy solution. It is to be strictly confined, and the amendment of the Constitution which I have read will help to construe it; that is, that all the powers not delegated are reserved to the States and the people respectively. Going on with that idea in view, that every power which is not conferred is reserved to the States, no difficulty will be found in your restriction. It is always to be construed most strongly against the Government, and in favor of the citizen. It is only to be resorted to in extreme cases, and the case that I put, and no other, is the only one in which I can see any such restriction. It is always to be construed most strongly against the Government, and in favor of the citizen. It is only to be resorted to in extreme cases, and the case that I put, and no other, is the only one in which I can see any such restriction. It is always to be construed most strongly against the Government, and in favor of the citizen. It is only to be resorted to in extreme cases, and the case that I put, and no other, is the only one in which I can see any such restriction.

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."

What have you done? You have sent your warrant into the State of Massachusetts, without any accusation of crime, without any indictment; you have torn him from the protection of that sovereignty, and brought him to this; bar and before any of the forms of a trial such as the Constitution prescribes, you propose to sentence him to perpetual imprisonment. But, as I said when I was inquired of by the honorable Senator from Wisconsin, let me go back. At the origin of the Constitution, there was no power on earth upon which to seize out of the protection of the Constitution into another. Now I am going back beyond the Senator from Massachusetts, or the Senator from Maine, either. The Senator from Massachusetts made a good argument on the ground he stands on, but he did not go back to first principles. He is incited a little with that heresy of necessity, in his argument; and it is strange to see how it seizes on some of the clearest minds in the land.

At the time of the formation of the Constitution, there was no earthly power that could take a man out of one State and carry him into another. Within the limits of that sovereignty where he stood, he could rightfully defy the exercise of any power that would carry him beyond the territorial jurisdiction of the State in which he lived. Then if there is any power existing any where on God's footstool to take one man out of the protection of any State sovereignty, and carry him elsewhere, it is to be found in the Constitution of the United States; and such an alarming power as that is not to follow as an incident or a necessity to the grant of some other power. I happen to live near the borders of a neighboring State, and I know something of the preferences and inconveniences of coming near to one another's line. I live within four miles of the State line. It is frequently the case that it becomes convenient to send over into the State of Maine, and under the provisions of the Constitution, get a prisoner over into New Hampshire to try him; and I want to be just and fair with the State of Maine, they sometimes find the necessity of sending over into New Hampshire. Under the provisions of the Constitution we get the prisoner, and he is not sent over. These cases are not frequent. Living near the line, I know it to be frequently the case that deprivations are committed, and parties go over into the other State. We have no sort of difficulty in getting the prisoner back, because there is an express grant in the Constitution of the United States that

we shall have him; but we sometimes find it a very difficult matter to get witnesses. Why? Because, while the Constitution of the United States gives us the power to get criminals, it gives us no power to get witnesses, and sometimes it is of the utmost necessity to have witnesses come from Maine to testify in our courts, and sometimes some of their own citizens that have come over into our State and committed offenses. But the State is powerless; New Hampshire has no right to ask, and Maine has no right to give, under the Constitution, my such power; and what do we do? The prosecutor goes down and makes the very best bargain he can with the witnesses. He says, "if you will come, I will endeavor to accommodate you so that you shall stay as little time as possible, and we will pay you what will reasonably compensate you for your expenses and services." Does not that show—and I am almost ashamed to put a case so plain—that the Constitution confers no power to take a witness out of a State? There is no such power.

Mr. DOOLITTLE. How would it be, I ask my honorable friend from New Hampshire, on a trial for impeachment? Could we not summon witnesses from Massachusetts or any other State here to testify?

Mr. HALE. I will answer that in a minute. I see that my friend from Wisconsin has the same complaint that my friends from Massachusetts and Maine labor under—necessity. In the case of which I speak, I see the necessity of summoning witnesses; and it is very inconvenient, and sometimes prisoners fail of justice. Now, the honorable Senator puts the question—it is a pertinent question, and I am glad he put it, because it shows us that he is reversing the subject in his mind, and he may come out right, [laughter]—and we are not the power in case of impeachment? Look to the same book that prescribes trials for impeachment and these other trials. There is the same doctrine applied to the one as to the other, and the application of that doctrine. If you will find it written in this book, you can have it. This right does not apply in the case of impeachment any more than in the case of criminals; and it is no more necessary to impeach an unworthy member of the body of the people than to impeach a chief. There is a violation of law in both cases; but we sometimes have to let criminals go unwhipped of justice, because the Constitution gives no power to take witnesses from another State; and I am an officer that stands before this body, and I am unwhipped of justice, because there is no power to compel witnesses. You can issue your subpoena within this District, where you have exclusive jurisdiction, in cases of impeachment, and in the cases which are expressly confided to the jurisdiction of the Government. Beyond that you cannot go, because the Constitution has not given you the power to go, and says, in express terms, you shall not go. It may be necessary. How necessary? The Senator from Maine is not a just judge. No, sir; the Constitution judges.

You can exercise the power of impeachment without the power of compelling witnesses to appear from other States; and, inasmuch as you can exercise your power of impeachment without compelling witnesses, it will be convenient to compel the attendance of witnesses, because the Constitution gives you no such power. Practically, there would be no inconvenience. The patriotic sense of duty which renders in the breast of our citizens would induce them, upon a fair compensation, to come before the Senate and testify. I think that nine hundred and ninety-nine out of every thousand would be glad of the opportunity to pay a visit to the Federal capital on such an occasion. [Laughter.] It is a difficulty, possibly, in the worst case, not the slightest; it is all imaginary; and this argument of necessity cannot be built up on any such supposition, because such a state of facts as that never has existed, nor probably never will exist.

Mr. President, it is true that we are done with this odious plea of necessity. Our fathers thought that they had exploded it, and exploded it altogether. Ours was the first attempt to define by written instrument, by grants, by limits, by restrictions, and by limitation, the exercise of power, and to preserve the individual rights of the citizen; and it is a departure from the spirit of the Constitution for us to break over these wholesome restraints, which the wisdom of our fathers imposed upon us, and then justify our-

elves on the doctrine of necessity and the precedents of the British constitution and the British House of Lords and the idea that we are a court. Sir, if we could get rid of everything that has been brought into this discussion but what legitimately belongs to it, and that is the rights of this individual under the Constitution of the country and our rights over him, it strikes me there would be no difficulty. But, sir, you are about to take an alarming stride of power. You are about to take a stride of power of evil example in all time to come. You are about to take a stride that will awaken the jealousy of this people in every part of this land justly. It is the first time in the history of the Senate that the attempt has ever been made. I know it has been made, and it has been sustained in the House of Representatives. Sir, I will speak with no feelings but those of respect of the House of Representatives, because I entertain all the respect for them that a loyal citizen is bound to entertain; but it is no impeachment of their character to say that being the Representatives of the popular mind, coming, by frequent elections, fresh from the people, and filled with the impetuosity of that popular element of which they are the representatives, it is to be expected that they would not so carefully, so calmly, so considerately, and so judiciously weigh these great questions of constitutional liberty applicable to the persons of the citizens, as would be the more august tribunal which is here the representative of the sovereign States, its members holding their offices by a longer tenure, and independent of the breath of the popular will, for the very purpose that in the conscience and character of the body questions of this sort might receive a calmer and more deliberative and a more judicious consideration than they would in the other branch.

Sir, I know that I am spending my breath for naught. I suppose you will send that individual prisoner under a sentence of imprisonment in his crime, but I shall have vindicated myself in my crime, but my hands of it; and, with all the respect which is due to the body, I feel it my duty here to-day to denounce it as an act of despotism, not warranted by the Constitution, not called for by the exigencies of the case.

Mr. SIMMONS. Mr. President, I wish to call the attention of the Senate to what I suppose to be the real question before us. I do not regard this matter as involving the question of the power of the Senate to summon a witness at all. I understand, by the report of the committee, as was brought before us for an alleged contempt, and two interrogatories were propounded to him by the Senate, in order that he might purge himself of that contempt; and the proper and appropriate question for us to-day is, to ascertain whether he has purged himself of the contempt, as we gave him the opportunity to do.

I find by the examination of his answer, that he has stated, as an excuse for not appearing as a witness, that he believed the act of the committee in issuing a subpoena to him was unconstitutional, and that, so believing, he could not conscientiously appear before the committee under the requirements of the summons; but in his second answer he says that, although he cannot conscientiously appear by virtue of the summons, he is willing to submit to the answer to the questions that may be put to him. That is the substance of it. He is willing to appear there, and that is all we have a right to ask him to do. If he violates any promises there, then there will be another question; but so far as the question now before the Senate is concerned, he was called to the bar of the Senate, by a resolution that I voted for, to answer as for a contempt; and interrogatories were propounded to him to give him an opportunity to purge himself of that contempt; and I say in all sincerity, that the honor and dignity of this body will be best promoted by consulting and respecting the conscience of a fellow-citizen. If a Friend was to come here, and our rules required him to take an oath instead of an affirmation, he would go to prison and rot there before he would take an oath, and the influence of his conscience. We are not the judge of whether men's consciences are right or wrong. We ought to respect them. I see no reason in the world to doubt the sincerity of that man.

Mr. MASON. One word only, if the Senator will allow me. The committee reported to the Senate, as a fact, that the witness failed and re-

fused to appear. Now, when the Senator says he expresses himself that he has always been ready and willing to appear, it is in contradiction of the report of the committee.

Mr. SIMMONS. I stated that he said he was willing to appear voluntarily, and had always intended to appear, and had conscientiously acquiesced under the control of an order. That is what I understood to be his answer. Now, Mr. President, the question for me and for the Senate to decide is, has that man stated what is true under oath, or has he stated what was false under oath? The Senate of the Virginia Convention, by some twist of the language, he was uttering what was not true. I can see something in a man's countenance, and I can have some respect to the delicacy of his nerves. I believe that he has stated, truly and conscientiously, the very reason why he did not come; and the question for us is, is that a satisfactory excuse? I say that a witness can purge himself of contempt if he declares simply, what this man has declared, that he had no intentional disrespect to the committee or to the Senate in not coming. That purges him of contempt if he states it under oath. If contempt, as I understand it, is an intentional disrespect to the body that summons him; there is no doubt about that. If the man made a mistake, if he acted under improper advice, and states it under oath, he purges himself of contempt, and is not in any danger of being punished.

Men frequently have curious reasons. Here are learned Senators, learned in the law, disputing with each other about the power to do this very act; and do you suppose private citizens are better judges of the constitutional powers of this body than are courts? Whoever there is doubt, every rule of common sense and law would lean in favor of the citizen—lean in favor of the weak against the strong; and that is our duty. I have no more doubt that this man has stated the truth, than I have in saying that the State is at fault in the Senate; and he has sworn to it. The whole charge against him is, that he has treated the Senate's order with contempt, in not appearing before this committee.

Mr. FESSENDEN. Will the Senator allow me to suggest to him?

Mr. SIMMONS. Certainly.

Mr. FESSENDEN. I do it with great deference; but I wish to suggest to him that, to make a contempt, according to the meaning of the word, it is not necessary that the person should be guilty of any disrespect, or intentional contempt, in any manner to show disrespect. Contempt is to deny the authority of the tribunal, and to refuse to obey it. The question is, whether he has done that, and is doing it at this moment?

Mr. SIMMONS. I understand it.

Mr. FESSENDEN. The only question is, whether he denies our authority, and refuses to obey it? If so, he is guilty of contempt, if he is ever so respectful and ever so conscientious.

Mr. SIMMONS. Then there was no opportunity for him to purge himself of contempt by the questions we put to him. It was mockery to propound the questions we did to him, if he could not purge himself of the contempt by answering them. I know nothing about your definition of it; I do not care to talk about the definition for that, but I do care to say that, if you propound two questions to this man, and he answers them conscientiously, if they were such questions that he cannot escape contempt by answering them, they should not have been put to him. The act had been done before we called him here, and it is more fitting with a man's feelings to arraign him at the bar of the Senate under the idea that he can purge himself of the contempt, when the act was done two months ago, and he had refused to obey the authority before we called him here, than to say that he can escape the imprisonment, if that is the case, by the contempt, in to give his excuse for not doing it, and to state what he has done. Aside from these conscientious convictions, he is willing to go voluntarily before the committee. That is what he says.

Now, if he has stated what is not true—that in that respect, and suppose you do not believe him—suppose you believe he has, under the solemnity of an oath, stated what is not true: do you want his testimony hereafter? If you want him to go before the committee and to implicate others? If he has not stated the truth, he is not a fit wit-

ness to affect anybody's rights. If we did not intend that a truthful statement of his reasons should be an excuse for his not coming, when accompanied by an avowal of his readiness now to come, and should exempt him from the penalties of this contempt, we did not treat him fairly in propounding the questions to him. I know enough for that; I know that no citizen is to be brought to the bar of this body and have questions propounded to him, unless for some valuable end—unless for his personal security. He states that he believes this summons invaded his personal rights, and those of all his fellow-citizens, and that is the reason he would not obey it. There seem to be great doubts in the minds of Senators here, whether he is not right on that point. For myself, I do not choose to say anything that shall call the truth in question. I believe we have power, in certain cases, to summon a witness; nor do I believe that the course which I am suggesting would lower, in any degree, the rights of the Senate; but I believe this man has stated all that is necessary for us to excuse him. He has stated that he is willing, voluntarily, at any time, to come before this committee. I see no use in pursuing a man of that character any further. If I thought there was any prospect of bringing the Senate to proper action on it, I should offer an amendment, requesting the committee to advise the rights of my friend from Rhode Island, Sergeant-at-Arms to give him notice of it; and then let the committee examine him as a truthful witness.

Mr. CRITTENDEN. I have so long, Mr. President, been conscious of the purity and integrity of the Senate, and of those of all its fellow-citizens, that I differ from him with great reluctance on any question; but he seems to me, on this occasion, not to have bestowed his usual thought and reflection on the question before the Senate. I have no doubt that he is sincere, and I believe it is in matters of fact necessary to enable them to exercise most judiciously their powers of legislation. That is a proposition that cannot, I think, be successfully disputed.

Mr. SIMMONS. I believe the Senator could not have said that I did not intend to call in question that power.

Mr. CRITTENDEN. I say that is a proposition which must be admitted. Well, sir, we, in the exercise of that discretion and that power, have instituted such investigation, and have received such reports, that we are willing to go and to obtain from them proper information of the facts; and that they might do this the better and more fully, we have given them the power of summoning witnesses before them. Is not this a very clear and unexceptionable course of conduct on our part, recognized by the general proceeding of legislative bodies, and of our own particularly? No one can deny it.

Upon the summons of the committee, a witness refuses to attend. What is to be done? We have the power to punish him, and we have the power to prosecute the inquiry; and we have authority to prosecute it by means of the ordinary process for obtaining the attendance of witnesses—one with which we are all perfectly familiar, if not in this body, in judicial tribunals, established and sustained by statute, and by solemn oaths. A witness refuses to attend. Is not that a contempt, in the language of the law? Whatever may be the state of the individual's feelings towards us personally, or as a body politic, has he not refused obedience to our authority? If he has, that is contempt in legal interpretation, in law, and without its being so considered, and without the party refusing such obedience being held amenable for it, no tribunal can exercise any of its authorities dependent on information. A court cannot, therefore, the court summons a witness. The Senate cannot. We have seen the course of proceeding. Is that a course of conduct that any gentleman can justify in a citizen of the United States? Law is our great rule here, and the constituted tribunals that are to exercise the powers of Government—legislative or judicial—all their proper authority, are to be obeyed; also there is an end to the Government proper limits.

THE CONGRESSIONAL GLOBE.

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This one citizen upon his private understanding and his conscience, as it is called—and I know of no better depository for the most occult and inalienable deposit of a secret than what a man calls his conscience—in his individual person undertakes to set up a ground of opposition to the laws of his country, and to the constituted authorities of his country, and because that citizen by means of its appropriate tribunal, as in this case, attempts to enforce obedience to that law which all of us are bound to obey, the greatest sympathy is to be excited for the offender, and the Senate of the United States, by a member of its own body, is in most respectful terms to be denounced for its proceedings; and we hear of nothing but sympathy for this offending citizen who refuses obedience to the laws of the land, as adjudged by a tribunal, which, in this instance, is appointed to judge of it, and to the deliberate exercise of their authority we have no better plea than his own opinion that we have no such power. As we might as a citizen summoned to attend a court of justice make the same plea, where would the administration of law go to, if such anarchy as that could be set up by each individual who marches under the standard of an unknown conscience, and he could come triumphantly in opposition to the law and the constituted tribunals?

I am for no such liberty as that. That is not the liberty of the American citizen. It is obedience to the law, it is legality that constitutes the liberty of an American citizen—a much higher liberty than this wild sort of liberty dependent on every man's capricious whims which he shall do. His conscience does not determine the liberty of the citizen. The laws of the country determine what his duty as a citizen is, and we, in our proper place as magistrates of that common society, must judge of its duty, and he must yield obedience. That is my doctrine. It is no violation of liberty to force him to do the duty which the law requires of him. It is personally on his part rebellion to oppose it, resistance to public authority, resistance to law; and what ought the most just citizen of this land to answer to that than to say: "I think this law is an unwise and oppressive one; but it is the law of my country; and in my country nothing is to be obeyed but lawful authority; I therefore bow with submission to the majesty of the law, and reconcile my conscience and my opinions to my duty as a citizen." That is the course for him.

Yet the honorable Senator, my friend from New Hampshire, is thrown into transports on this subject; and he sees in the power to summon a witness, an unlawful, tremendous, and unfathomable power, which is its root and the whole liberty of the citizen; and for a man upon whom this terrible oppression and tyranny is imposed, he feels a sympathy that knows no bounds. Sir, the feelings which actuate the gentleman are very noble and commendable, and he has his proper application; but I think in this case, he has misjudged. I think there is no cause for his alarm about the liberties of his country. I think the individual—that I believe is the term which he has concluded is the one by which he is most properly to be described—has no particular claim to sympathy, except it be for that unfortunate contumacy and presumption to believe against the judgment of his country that his own conscience is right in a court of law. It is conscience against law; that is the law of the gentleman.

Mr. HALE. Will the honorable Senator allow me a single word?

Mr. CRITTENDEN. Certainly.

Mr. HALE. Will the honorable Senator tell me, or the individual, or the Senate, or the country, or anybody, what law he is going to institute?

Mr. CRITTENDEN. I have been endeavoring to do that, in the absence of the gentleman.

Mr. HALE. No; I have heard every word you have said.

Mr. CRITTENDEN. I will endeavor to do it myself. I thought the honorable Senator from Maine [Mr. Fessenden] had made this subject so definite, clear, and distinct, that he left nothing

more to be said. You have certain enumerated powers given to you; for what purpose? This body and the House of Representatives are each constituted a distinct legislative body; and the mode of action, the mode of cooperation is left to ourselves, and has been regulated by ourselves from the beginning. Where do you find that rule? Do you look to your joint rules for it? Each body, in exercising the powers that belong to it peculiarly, in exercising power which it can exercise without any cooperation, must adopt its own mode of action. The Constitution has given the power; but it has prescribed no definite mode in which that power is to be exercised; cannot the power be exercised because the Constitution has not given you the mode in which it is to be exercised? The Constitution, then, is all a dead letter. It has given you the power; and because it has not given you the exact mode and form in which it is to be exercised in all particulars, it is rendered, according to the judgment of the Senator, altogether impotent and useless. The Constitution says, however, further, after giving the enumerated powers, all powers that are necessary and proper for carrying these specified powers into effect are hereby granted.

Mr. HALE. I beg pardon. There is no such clause in the Constitution.

Mr. FESSENDEN. Power is given to pass laws for that purpose.

Mr. CRITTENDEN. You may pass all laws that are necessary and proper for carrying the enumerated powers into execution.

Mr. HALE. Exactly.

Mr. SUMNER. That, I understand, is the point here—that there is no law.

Mr. CRITTENDEN. Where the power may be and ought to be exercised by law, it gives you the power of making laws; but it does not raise the question where the cooperation of the two branches is not necessary. There are some things that the Senate may do. How? According to a mode of its own. Are we to ask the other branch of the Legislature to concede by law to us the power of making laws, and if we say we are not willing? Has not each branch the right to make what inquiries and investigation it thinks proper to make for its own action? Undoubtedly. You say we must have a law for it. Can we have a law? Is it not, from the very nature of the case, incidental to you as a Senate, if you, as a Senate, have the power of instituting an inquiry and of proceeding with that inquiry? I have endeavored to show that we have that power. We have a right, in consequence of it, a necessary incidental power, to summon witnesses, if witnesses are necessary.

Do we require the concurrence of the other House to that? It is a power of our own. If you have a right to do the thing of your own motion, you must have all powers that are necessary to do it. The means of carrying into effect by law all the great powers of the Government are necessary, practicable and necessary; but there are subordinate matters, not amounting to laws; there are inquiries of the one House or the other House, which each House has a right to conduct; which each has, from the beginning, exercised the power to conduct; and each has, from the beginning, summoned witnesses. This has been the practice of the Government from the beginning; and if we have a right to summon the witness, all the rest follows as a matter of course. Cannot we make an inquiry that is not a law? I cannot see how we can institute the Senate of the United States to institute this inquiry? The Constitution has given us no right to institute this particular inquiry. Some say it has not, by any fair interpretation, given us the power. The Senate has no right to institute this inquiry. The Senate has a right to pursue the inquiry. The Senate has a right to pursue it by all the ordinary means employed for such an investigation. This is reasonable. This is the necessary consequence, it seems to me, of the inquiry that is made. I cannot see how this proceeding not only by that, but by the invariable practice of both branches of the Legislature.

I hope I shall always be as respectful and as sensitive to the rights of the citizen, and as careful for their preservation, as the Senator from New Hampshire, or any other member; but the rights of the citizen is not the only question; there are rights of others concerned, and we must feel for all; and especially we must consider what is our duty. You have summoned this witness in the ordinary course of your proceeding; and how does the witness attempt to exculpate himself? A witness who has refused obedience, in a court of justice, to the summons of that court, has to exculpate himself by showing some personal reason why he did not attend. Was it ever heard that a witness thus summoned in court undertook to go back to the original cause of action and say, "This man had no right to sue that man; there is no foundation for the suit at all?" Has he a right to go into the merits of the cause in which he was summoned as a witness, and make an apology for not attending, arising from the denier of one side or the other side? Was such a ground ever taken by a witness? That is the ground here. Our witness, instead of answering for his apparent neglect of the summons which he has received, turns upon us and becomes our accuser. He says to us: "You had no right to institute this inquiry; you had no right to summon me as a witness; now answer these charges; I propound to you this question, where is your authority; where do you put your finger on the authority in the Constitution which authorizes you to institute such an inquiry, or to subpoena a witness?" But he says on Mr. Mason and his committee, and tell them, if you choose, what your conscience will permit you freely and fairly, consistent with your rights as an American citizen, and the whole matter shall be amicably compromised."

If we were trespassing on this man's rights, I think I would be as free and as ready and as forward as any man to acknowledge it, and make him whatever recompense or atonement was proper; but I do not think that is the relation exactly which subsists between us and him. He may be pursuing the dictates of his conscience; I will not question it; but that ought not to turn us aside and cannot relieve us from our duties and our responsibilities, and ought not to change our course. We may regret that any man should be so bewildered by his conscience, as to think that is a sufficient excuse for him for disregarding the constituted authorities of his country and disobeying the laws of his country. Any other offense might be committed, and if this can be justified, that other crime and offense, and any other crime and offense, might be justified. If we have a right to institute this inquiry, we have a right to render the inquiry effectual by using the means that are indispensably necessary, and these are to summon witnesses. These are the indispensable means; and there being no statute law upon the subject, we having a right to institute the inquiry, we must judge of the means of doing it upon the very same principle that the powers of Congress are enlarged by granting to them all powers necessary to carry into effect the granted powers by law. If we have a right to institute the proceeding of its own rightfully and properly, it has a right to pursue it by the means necessary to accomplish the purpose.

It is in vain to admit the power of instituting this inquiry, unless you admit also the consequential power of carrying it out. It is not sufficient to say it is necessary for that purpose; and what if it brings a man from another State? I have always remarked, with great pleasure, that the Senator from New Hampshire has always expressed himself strongly and ardently in favor of the Union, and now, it seems to me, there is a man in the right ground of mine, with whom I have ever conversed, that goes by any means as far as the gen-

teman does in his State-right doctrine. That one citizen shall be summoned out of the State in which he lives, even by the Congress of the United States, the common Government of all the States, seems to the gentleman a most offensive and oppressive proceeding.

Mr. HALE. Will the Senator indulge me a single moment?

Mr. CRITTENDEN. Certainly.

Mr. HALE. I simply want to remark that it is the dogma of the State-right school that the strictest construction of State-right is the most sure way to save the Union.

Mr. CRITTENDEN. I do not think we ought to be offended, or our pride excited, that one citizen should be summoned out of his State by the common Government of the country. We have common subjects of inquiry; we have common subjects of interest; common subjects of legislation; and this is the great body that exercises a grand superintendence over the whole; and yet the gentleman thinks that the States are sacred from the touch of authority by this Government. What does it govern? Where is its authority? The District of Columbia? Will the gentleman reduce his argument to that, and say the Congress of the United States, the rulers of the whole country, have a right to summon a witness from the District of Columbia; but, as for touching the States, which were the great object and subject of all their powers, (and it is to take care of their welfare that we were instituted,) we cannot summon one of their inhabitants to come to Washington for a purpose useful and necessary for our legislation? What is the gentleman doing? He is annihilating the power in this particular over all the United States. We might, perhaps, go into a Territory and summon a witness from there. The gentleman has not expressed a definite opinion. What, that the District of Columbia, I believe, he gives over to our power. Our supreme power may range from one extent of this District to the other; but beyond that we cannot go. The boundary of a State is like that bourn which is never to be returned from.

Sir, it is evident that gentlemen have gone very inconsiderately, to say the least, into this matter; and that they have done so in a very unbecoming and a little indelicately manner. The gentleman for liberty on this occasion. Of all the means of the approach of despotism; I never yet was put on my guard against that hazardous exercise of authority which consisted in the issuing of a subpoena for a witness to appear before the court for liberty on this occasion. Of all the means of the approach of despotism; I never yet was put on my guard against that hazardous exercise of authority which consisted in the issuing of a subpoena for a witness to appear before the court for liberty on this occasion. Of all the means of the approach of despotism; I never yet was put on my guard against that hazardous exercise of authority which consisted in the issuing of a subpoena for a witness to appear before the court for liberty on this occasion.

I think upon the whole, Mr. President, however to be regretted that we should be involved in any such conflict, the proceedings here leave us no alternative but to stand up for the gentleman, reconsidering some what, will consider something of his duties, and will be better advised than to stand in contumacious opposition to the laws of his country any longer, and endure that prison to which he might be sent. I feel that I shall certainly, as far as my voice goes, feel it my solemn duty to impose upon him this punishment, and to keep it imposed upon him until he obey the law. That is our honorable course; that is our duty. The law must be obeyed by all; and I only desire that he shall be required to submit to that law which I feel bound to comply with, and which I feel that you and all of us are bound to comply with.

Mr. SIMMONS. Mr. President, I conceive with the Senator from Kentucky almost everything he has said; but I do not think he has quite answered the suggestion that I made. I did not insist, nor do I believe that, upon reflection, he will insist that the only way out of this difficulty is, that the man must be obeyed by all. He says there is no justification for his refusal. Suppose there is none; our resolution did not call for a justification; it called for an excuse. We propounded to him the question: what was his excuse? That is a very different thing from a justification. Cannot we excuse a man when we think he may be out of the way, when we would not do as he does in the same circumstances? I certainly would not act as he has done; I would

go before the committee very cheerfully, and no perhaps would every man who is in the Senate; but here is a man who has a conscientious view of this matter. It may be very ill founded, or it may be very well founded. My suggestion was, that inasmuch as he had declared under oath that he cannot conscientiously obey the summons, that that was his excuse for not obeying it, the Senate might accept it as an excuse, not as a justification, by any means; and I had drawn a little resolution in this form:

Whereas Thaddeus Hyatt has, by his ample answer to the first question, delivered in writing to the Senate on the 9th instant, excused himself from any intentional disobedience to the Senate or to its select committee; and by his answer he has manifested a conscientious refusal to appear before any committee of the Senate, has purported to the allegation of contempt;

Suppose an excuse would have been satisfactory, or we should not have asked him for his excuse. If we had asked him for a justification, I say he has given none, because there is no justification for a violation of law. That is my ground; I cannot understand, declared with a full account from a man of his temperance that we might not take from a man of the temperance of the honorable Senator from Kentucky or myself. I should take myself, individually, a very different excuse from a man who I believed had a very tender conscience, and a very considerable temperance, and that he reasoned in the way this man has reasoned, perhaps very satisfactorily to himself and to his counsel, but it is not satisfactory to me as a justification.

Mr. CRITTENDEN. Will the gentleman read that again?

Mr. SIMMONS. Let it be read by the Secretary. There is a resolution coupled with it, putting him on the footing of other witnesses.

Mr. PRESIDENT. The Secretary read from Rhode Island proposed this as an amendment to the resolutions?

Mr. SIMMONS. Yes, sir.

Mr. VICE PRESIDENT. The Secretary will read.

The Secretary read it, as follows:

Whereas Thaddeus Hyatt has, by his ample answer to the first question delivered in writing to the Senate on the 9th instant, excused himself from any intentional disobedience to the Senate, or to its select committee; and by his answer he has manifested a conscientious refusal to appear before any committee of the Senate, has purported to the allegation of contempt by his refusal to appear; Therefore,

Resolved, That Thaddeus Hyatt be discharged from the custody of the Sergeant at Arms, and be placed on the same footing as other witnesses who have appeared before the court before the expiration of the term of the session on the subject of the insurance at Harper's Ferry.

Mr. SIMMONS. I know the Senator from Kentucky will distinguish between a justification for his refusal to appear and an excuse for it. I have no manner of doubt myself, from the personal appearance of this individual, and from his elaborate argument, and the great pains he has taken to examine this question, that he is conscientiously opposed to submitting to the order made on him.

Mr. CRITTENDEN. Will my friend allow me to interrupt him for a moment? I know the word is excuse; but the question is, has he given me any excuse? It is an excuse, I cannot say, "you had no authority to summon me."

Mr. SIMMONS. I will tell you what the excuse is. He says he could not conscientiously come under your order.

Mr. CRITTENDEN. I do not think that is new.

Mr. SIMMONS. Suppose a Friend, known as a Quaker, was to be called upon to do military duty, (we have both of us probably trained in companies sometimes when we were warned and forced to do duty,) these Friends have constitutional scruples; they cannot conscientiously do military duty.

Mr. CRITTENDEN. If he would leave out the word "conscience," and say, "according to my religious opinions, I cannot obey," I cannot agree to adopt his excuse. If this gentleman would come and say, "my religion would not permit me to travel during Lent," I might respect that tenet of his religion. I might stare at the man and say, "if this is your motive, though I do not agree with your religious opinions, I will take it as an excuse."

Mr. PEARCE. I would like to ask the Senator from Rhode Island a question. Does not the

Senator know that this party has coupled the declaration of an irresolvable condition?

Mr. SIMMONS. What is that?

Mr. PEARCE. With a condition that the Senate shall recognize his constitutional rights; and he has declared, and ready to testify on the exercise of those rights that he claims, which we have declared impossible. Such a readiness to testify is not a readiness to testify at all. The Senate will not, to the day of doom, I take it, retract what we have already, by their own declaration, done in this matter. They will not declare that they have acted without constitutional authority—that they have invaded his constitutional rights—and that is what he requires us to do before he is willing to testify. When we do that, it is willing. The gentleman's refusal to stand, as I understand, because it is not consistent with the facts, in my view of it.

Mr. SIMMONS. I am not going to keep up this sort of debate. I should like to have the attention of the Senate directed to a certain point. The resolution I have offered is, that he shall be put on a footing with any other witness. I do not propose to take any conditions from him. But what I am trying to get at is, the question of this man's conduct, and make it only a matter of record this witness to jail, it is not for refusing to answer any question; but because he is in contempt, notwithstanding his excuse. I would rather have a little broader basis for imprisoning a man. I believe myself that the Senate will be able to deal kindly with any individual, however wrong he may be; give him a chance, and put him upon the footing of all other witnesses. That does not excuse him from a further summons, and if he refused to obey that summons, we would have a fresh case before our view. Let us take that course without subjecting him to imprisonment for having refused to come before.

That is all I want to do. That is all I propose to do. I think he is disposed to make a candid and reasonable statement as he can. If the Senate think there is no excuse at all, certainly they will pursue him. I think we may overlook this simple mistake or misconduct of this witness, and give him a chance to try again. I dislike very much, however, that the Senate should be obliged to deal kindly with any individual, however wrong he may be; give him a chance, and put him upon the footing of all other witnesses. That does not excuse him from a further summons, and if he refused to obey that summons, we would have a fresh case before our view. Let us take that course without subjecting him to imprisonment for having refused to come before.

There are doubts about this matter. He certainly must have been misled, if it is clear as people think it is. He has two able counsel, it is said, who have argued the question, and really believe there is something wrong in this proceeding. I do not myself see it, but it does not follow that other people may not see it. I think we have a right to summon him here, and I so stated when he was up, so that the Senator from Kentucky should not be surprised. I do not know whether or not this man has made an excuse which we can accept, or whether we shall imprison him for not justifying his conduct, which we knew he could not justify when we called on him. I do not know whether or not this only question I intend to submit to the Senate.

Mr. PEARCE. Mr. President, the authority which we are now proposing to exercise, and which has been claimed and exercised almost from the beginning of the Government, though doubtfully by many, is the authority under the Constitution, has yet been recognized in the statute law. Some three years ago, we were troubled with a contumacious witness in the other branch of Congress, and Congress then passed an act in which the Senate could punish a witness summoned before either House, or a committee of either House, to refuse to appear and testify. They provided for their indictment and punishment by fine and imprisonment. This act alone would seem to require that the witness should be summoned by either House of Congress; but it is recognized a little more explicitly in the part of the law in which it is provided that the penalties imposed by the act shall be cumulative; that they shall not accrue until the witness has refused to appear and testify before the passage of the act. To what penalty was he liable before the passage of the act? Clearly, none, except those which might be put upon him by either House in the exercise of its jurisdiction

in punishing for a contempt. The language of the statute which subjects him to fine and imprisonment, after indictment and verdict found, leaves him liable still for the consequences of his contempt, as he was before the passage of that act. This is a legislative restriction, and, in the eyes of the right and authority of each House of Congress.

When the party was summoned in this case, he refused to obey. I do not know that he evaded the process, but, at all events, he did not obey. He was arrested, brought to this city, and then, upon the ordinary procedure being made in the Senate, two questions were propounded to him: one, what excuse he had for not obeying the summons of the Senate and the committee of the Senate? To that he refused, in a long argument, intended to show the unconstitutionality of all that the Senate had done. Does any Senator consider that an excuse? It would be, perhaps, if, after having entertained that opinion, and coming to a better sense of that matter, he had professed his readiness to testify, and had answered, accordingly, the second question which was propounded to him by the Chair. The second question was: "Are you now ready to appear before the committee and testify as required?" His answer was, that he has always been ready and willing to testify, if his constitutional rights are respected. Still, his condition is such with regard to his readiness to testify, and that is no readiness at all. What remains for us, then, but to pursue the ordinary course? We shall only do that which has been done before by our predecessors, and done, time out of mind, by the Commons of England, who are not only not content with merely committing the party to the custody of their Sergeant-at-Arms, but send him to Newgate, and that for refusing to testify in precisely such cases as this. Where Congress think it necessary to pursue an inquiry, to do so is their legislative authority, and there is a right to summon a witness according to the parliamentary law of England, which is our parliamentary law, where it is not contradicted by something in our institutions which makes it repugnant, or is not repeated by express law.

I cannot see that this party has excused himself by the answer which he has given; but his answer to the second question is, in fact, a denial. If I understand it properly, of his intention to appear before the committee. Perhaps it may be better to wait a decision. We will wait a decision. We decided upon our authority when we ordered this committee to be raised; we decided upon our authority when we directed these proceedings, and called upon him to answer these two questions; and we shall decide it a third time, which ought to be enough in all conscience, if we order him to jail for not answering. "Now he is not to be sent to jail forever, *scilicet aeternum*—not at all. The resolution of the Senator from Virginia provides that whenever he shall be ready and willing to testify and answer, he shall signify that fact, and be brought here for the purpose. If he does not, he remains in jail until the Presiding Officer of this House, whose duty it is made by the act of 1857, shall notify the fact to the district attorney, who will cause it to be presented to the grand jury, which we have already found, of course he will be released and put in the hands of the court before which he will be indicted.

Mr. DOOLITTLE. Mr. President, when this matter was before the Senate on Friday, I, for one, felt and expressed some doubt about the constitutional power of the Senate to imprison a witness who should refuse to testify before the committee which was raised for purposes of legislation. I had just read the long, and I may say ingenious and a little argument of the counsel of Mr. Hyatt. I heard, too, the other day, my eloquent friend from New Hampshire, Mr. Chase, who was brought up in the school of State-rights republicanism, denouncing this proceeding as an invasion and infraction of the Constitution; and I confess that for the moment, in my own judgment, I was a little wavering. In the afternoon, however, I was called upon to consider and act on this question—I was staggered. I then stated that I was not prepared, on that occasion, to give my vote. I, for one, desired further time to consider the question, and I desired to hear it discussed by the able and able Senator from New York, who, on reflection, arrived at the conclusion that the power does exist in the Senate to compel the at-

tendence of witnesses for legislative purposes; and, if it can compel their attendance, to compel them to testify; and I will briefly state, without going into an argument, the grounds upon which I have arrived at this conclusion.

The honorable friend from Rhode Island [Mr. SIMMONS] does not deny the power to summon witnesses and to compel them to testify; but he bases his proposition on the ground that this witness has excused himself for not appearing before the committee and testifying, in obedience to the summons of my judgment, the Senator from Rhode Island is wrong. The witness says, in effect, "I will go before the committee and testify upon condition that the Senate will renounce the power to compel me to testify." So far as this particular witness is concerned, perhaps it is not of any very great consequence; but suppose this committee, to-morrow, should resolve to summon the late Governor of Virginia, Mr. Wm. on the ground that he may have in his possession, or may have obtained, some important information, and it is said that he has lately declared in a public speech that rubies could not induce him to disclose the knowledge that he has acquired in reference to this transaction: if we to-day renounce the power of the Senate to compel the attendance of witnesses, it would be idle for us to undertake to do so in any other case. In other words, we decline to come. Therefore the case is important. If we have power to summon the witness and to compel him to testify, he must testify without our saying to him that we renounce the power to call him and to compel him to give his testimony. If he desires to change his answer, and say that he is now ready to go before the committee and testify unconditionally and without any conditions attached that the Senate are to renounce their power," then I must listen to a proposition of this kind. If I do not question the honesty or the sincerity of the witness, or of the individual himself, in this argument which has been presented here, denying the power of the Senate to summon a witness to testify.

Mr. President, a single word in relation to the argument of my honorable friend from Massachusetts, and my honorable friend from New Hampshire. The honorable Senator from Massachusetts concedes that there are five cases in which we have the power to summon witnesses, and compel their attendance; and, of necessity, to compel them to testify. One is, in the case of impeachment; another, for the trial of an impeachment; another, when we judge of the qualifications and elections of members of this body; and a third, when we judge of the disorderly behavior or conduct of any member of this body, with a view to his expulsion. He says, the power in these three cases is given by the Constitution; because we, having imposed upon us the duty and responsibility of trying the facts of the case in these instances, must of necessity be clothed with the power to bring the facts to the knowledge of the Senate, and that, of necessity, includes the power to bring and compel the attendance of witnesses. So, too, upon two other cases, which he says go to the existence of the body itself, and are necessary for our self-defense. I shall not speak of this Harper's Ferry case, which was carried out of the country, but to have been inaugurated on the part of Brown, it was an attempt to subvert the very existence of every department of the Government. It was a treasonable conspiracy got up in Canada, outside of the United States, with a constitution for a provisional government of the United States, which John Brown was to command-in-chief—going to the very existence of the Government, and every department of it.

But, Mr. President, I do not base the power in these cases upon the grounds which I have stated. At any time upon which I have stated, whether it is necessary for the purposes of legislation to call witnesses and take their testimony. I have given my thoughts to that, and I am satisfied that there are cases which even the honorable friend from New York [Mr. Chase] has admitted, I must concede to be cases of necessity for the taking of testimony for legislative purposes. Suppose there is a claim presented against the United States of \$50,000, and we are called upon in our legislative capacity to vote for it or vote against it; it is not absolutely necessary for us to ascertain the amount; and how can we ascertain the amount without taking the testimony of witnesses?

We must refer it to a committee, summon witnesses, bring them before the committee, take their testimony. How is it if you desire to pass legislation for the purpose of preventing frauds upon your revenue laws? It may be necessary for you to summon witnesses from the great mass of emigrants of the United States—from New Orleans, New York, and Boston—to call witnesses before a committee, for the purpose of ascertaining the precise manner in which these frauds are committed, so that you may be prepared, in your legislative enactments, to make the amendments which are necessary to put an end to them.

Mr. President, I maintain that the Senate of the United States, which, by the Constitution, is clothed with one branch of the legislative power of this Government, is clothed by the Constitution itself with all the power which is necessary to discharge its duty as one branch of Congress; and it being necessary in some cases, for legislative purposes, to call witnesses, it belongs to Congress to judge of that necessity. There is no one else to judge. It is not in the exercise of a despotic power or arbitrary power, but, as the representatives of the sovereign States of this country, acting, not for ourselves, but acting for the States and the whole people of the country, are called upon to act in our official capacity, and to judge of the propriety of the testimony which is called, precisely as much as a court in its capacity is called upon to judge and determine whether a given witness is or is not necessary to be called into court for the adjudication of the case in hand.

Mr. President, it therefore being necessary, in some cases, for Congress to take testimony, it is for each branch of Congress to judge for itself when it is necessary that that testimony should be submitted to it. It is a question of fact, not a question of law. It is a question resting in discretion—that discretion being wisely exercised, as increased by the exercise upon their official responsibility and their official oaths; and no feeling of sympathy on the one hand, and no threats of bringing down popular indignation upon the other, should deter or drive a Senator the duty of one branch of Congress to take testimony. It is his sworn duty, his constitutional duty, and if the Constitution has given us the power, and clothed us with the responsibility, it is a duty from which we cannot shrink if we would.

I know my honorable friend from New Hampshire says that he is prepared to come here to bring a witness from another State. Why, Mr. President, that comes back to the question of power. If we have power to summon a witness at all, we have the power under the Constitution, and that power is co-extensive with the Constitution; it covers our whole territorial jurisdiction from ocean to ocean, and from the Lakes to the Gulf. There is no limit put upon it. It is a simple question, whether we have the power under the Constitution, and that is the only question which is involved in the matter.

Mr. President, after giving this subject some pretty careful attention since the last adjournment, I have come to the conclusion, and am satisfied, that this power of calling witnesses for the purpose of giving testimony to a legislative body, and the power of compelling them to testify, is a power which is exercised, I believe, by each branch of every State Legislature within the United States. I do not know a State where it is not or has not been exercised. I therefore say, frankly, that the doubts which I felt, and which I expressed at the time of our last adjournment, have, on further consideration, been entirely removed. I was perfectly free to express them then, for I felt them. I have none of that pride of consistency or of opinion which, when I doubt my own opinion, prevents me from changing it at any time when I feel a reason can be given.

For the reason I have stated, I shall insist upon the exercise of this power by the Senate; though witnesses may say they cannot conscientiously give their testimony when the Senate of the United States is exercising this power, it is necessary. I cannot conscientiously say that a witness shall be discharged for such a reason.

Mr. SIMMONS. I have only one word to say in reference to this witness's answer. I did not understand the answer to be coupled with any condition, and I do not understand it readily understood was there without the condition. I supposed that no committee of this House would

think of interfering with the constitutional rights of a witness, and it did not take anything from his willingness to answer that he put that in, and I have suggested this method to get rid of imprisoning this man—a disagreeable task.

If my suggestion does not meet with any favor, if people think it is necessary in order to preserve the dignity of the position of the witness, and to imprison this man, I shall not press it. I believe it would be better for us to discharge the man, and to accept his excuse for his first act than that we think wrong, and place him on the footing of all other witnesses, and then proceed anew with him. That would be my way. I dislike to take a man and punish him for a thing that I think he did not do with any malicious intent; but he has acted under advice, not hastily. Besides, to decide in our own case between a question of dignity on the one side and of contempt on the other, and shut a man up—I have great dread of exercising so severe a power. I dislike it. I have made a suggestion of what I think the proper course, but I will withdraw the suggestion if Senators think it is going to give up any principle or yield any power. I should be very glad to have the man excused; but I withdraw the proposition, as it does not seem to strike others as it does me. I am excited at the prospect I believed in the power. The man has made an error that satisfies me; at any rate, that is an excuse.

Mr. DAVIS. Whilst I am ready to admit that this debate has been interesting and, if you please, instructive, I think this very little relation to the subject before us. The Senator from New Hampshire, in his new-born zeal for State rights, has explained to us what I cannot see the application of, the doctrine of State rights, and seeks to apply it in the case of a contentious witness. Of the rights of the States, he apparently has a very great confusion of ideas in his mind when they are extended to covering a witness, or any other person who is responsible under the law to the penalties which he has incurred. The Government of the United States cannot be held by States as its agent, and clothed with certain powers, possesses these powers fully. It is no invasion of the right of a State for the Federal Government to exercise any of the powers with which the States have invested it, and it is a strange confusion of terms to speak of the right of a State as involved in the summoning of a witness, and compelling his attendance for purposes which are within the scope of the Federal Government.

But, again, we are constantly presented with an argument that the witness is a witness from his State, and compelling him to answer before a committee, when he is ready to answer voluntarily; and all this is without any reference to the facts of the case. This witness came here under summons, remained here for weeks, put off the committee from time to time with reasons and excuses which finally seemed to be mere pretexts for delay, and when notified that he must testify on a particular day and hour, he then absconded; and the whole necessity of his coming here, and another State was on account of his absconding from this District when notified that the committee would wait no longer under his frivolous pretences, but would require him to come and answer. If the witness had been present before the committee as other witnesses did, and enter his protest, and then proceed to answer, he would have enjoyed all the privilege which seems to be now asserted for him, and no question would have been presented to the Senate. The Senator, however, raised a committee, invested it with power to send for persons and papers, and they have exercised that power. One witness refuses to testify. The committee have reported it to the Senate. The Senate have taken its action in accordance with its original order, investing that committee with power to send for persons and papers; and now fanciful pleas are set up for human right, for liberty—humanitarianism at last is interposed. The Senator from Rhode Island really do not know how to handle a witness, and refers to the countenance of the witness as sufficient to satisfy him, against the face of the record which the committee kept, and the report which the committee made.

Mr. SIMMONS. I said it satisfied me that he acted conscientiously; I said it satisfied me not conscientiously answer. I made no reflection on the committee whatever. I believe that, in anything I

have said, I have declared that I voted for all the propositions of the committee, and thought them to be the more proper matter of excuse I was giving him the benefit of.

Mr. DAVIS. The Senator from Rhode Island, in his vast experience and good judgment, must see how shallow the plea is, when a witness is called to testify, if his testimony is material, and should say his conscience was too tender to tell the truth. What criminal, or what man who had been in a conspiracy, criminal in all its ends and aims, would not abet his fellow, when summoned before a committee to testify, if his testimony was material, at the last hour, when striped in crime and treason, might plead against the right of a committee to know from him the truth? It must be a matter of very great indifference to Senators on this side whether the committee require the witness to testify or not. I am sure, so far as any member of the committee is concerned, I can say that, if the Senate think proper to withdraw from the committee the power they have conferred upon it to send for persons and papers, I shall consent to discharge the duties devolved on me without that power, as far as I may; and the Senate will be responsible, and those who take such a position will be responsible, for hiding a base conspiracy, a portion of which is known to the world.

Mr. SIMMONS. The amendment of the Senator from Rhode Island having been withdrawn, the question is on the resolutions of the Senator from Virginia, on which the yeas and nays have been ordered.

Mr. President, the duty devolved on me, as the organ of this committee, to vindicate the power of the Senate, which the committee has invoked, has been so far better discharged by honorable Senators around me, than I could have done. I am very much obliged to me, and to add nothing to their argument, but the Senator from Vermont, at a former stage of this discussion, and the Senator from Maine and the Senator from Kentucky, in the course of to-day.

I could not doubt the power of the Senate to vindicate its authority, and I am very much obliged to me, and to add nothing to their argument, but the Senator from Vermont, at a former stage of this discussion, and the Senator from Maine and the Senator from Kentucky, in the course of to-day.

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could find. It is a declaration that he resists the power because he believes that it cannot be exercised without being subversive of freedom and liberty, and so forth.

Now to the second question. The second question was, whether he is now ready to appear before the committee and answer such proper questions as may be put to him; and what is the answer?

"The undersigned has been always ready to voluntarily appear at any time and at any place and under any circumstances at the honorable Senate, and is now ready, upon his oath as a man and a citizen, to answer respecting his conduct with the people's bill of rights in the Constitution of his country." &c.

The substance of that is, that he is ready to appear voluntarily. Why he is not here? The first action of the committee, in all cases, of course is a summons to the witness, which is an official request that he appear. Why did he not voluntarily appear, then? There was no coercion. The committee have reported that he did not, and I assume that fact. If I were to go out here, that, it would appear by the handwriting of this witness that he came in Washington on the 1st of February; remained here until the 21st; never did come to the committee-room; kept away on various pretexts; and it is now reported that he was written to him to appear at a given day, as the honorable Senator from Mississippi says, he absconded. That is the fact; and then the committee reported that he had failed and refused to appear. Now, I take the report of the committee to be true.

The honorable Senator from New Hampshire has had some difficulty in individualizing this man. He is at a loss to know what to call him, whether a criminal, or a prisoner, or an individual; but would seem to imply that he was brought here criminal, and entitled to the sympathy of the country. Mr. President, there is not a citizen in this broad land, North or South, East or West, who will not respond to this declaration in the American Senate, and I am very much obliged to me, and to add nothing to their argument, but the Senator from Vermont, at a former stage of this discussion, and the Senator from Maine and the Senator from Kentucky, in the course of to-day.

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until at the present they occupy only a limited reservation of a few thousand acres, and are reduced to the greatest extremity.

In 1854 a treaty was made under which they received more than \$200,000. Of that money some forty thousand dollars was paid to Richard W. Thompson, of Indiana, and that is one of the matters these Indians want inquired into. They allege that the money was paid without any authority on their part, and they want to know by whose authority it was paid. This is one of the matters which this resolution contemplates shall be inquired into, and which, as I understand, the Secretary of the Interior does not propose to investigate at all. The payment of this money was arrested by the former Commissioner of Indian Affairs, Commissioner Manypenny, until this Administration came into power. But after the State of Indiana had been carried by the Democratic party, in 1856, and immediately after this Administration came into power, \$40,000 of the money of the Menominee Indians was taken and paid to Mr. Thompson. This is all the explanation I have to make, and I now call the previous question on the adoption of the resolution.

Mr. LARRABEE. I ask my colleague to withdraw his demand for the previous question for a moment.

Mr. BRANCH. I rise to a question of order. Has that resolution been adopted?

The SPEAKER. The Chair thinks it is too late now to make objection. The resolution was read and debate has ensued without interruption. The Chair thinks the proposition has been received by the consent of the House.

Mr. BRANCH. I rise to make an interruption instantly, but I never like to interrupt a gentleman in his remarks, if I can avoid it. If my objection is not in time, therefore, it is for that reason.

Mr. FLORENCE. I rose and objected to the reception of the resolution at this time.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Colonel Hickey, their Chief Clerk, informing the House that the Senate had passed bills of the following titles; in which he asked the concurrence of the House:

1. An act (No. 358) to grant to the parish of Point Coupee, Louisiana, certain tracts of land in said parish;

2. An act (No. 360) for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. P. O'Brien, late of the United States Army;

3. An act (No. 73) for the relief of Mrs. Anne M. Smith, widow of the late Brevet Major General Persifer F. Smith; Mrs. Harriet B. Macomb, widow of Major General Alexander Macomb; and Mrs. Anabelle Riley, widow of Brevet Major General Benoit Riley.

Also, that the Senate have ordered to be printed the following documents:

Message of the President of the United States, communicating, in compliance with a resolution of the Senate, information concerning alleged hostilities existing on the Rio Grande between the citizens of Texas and the authorities of Mexico.

MEMORIALS—INDIANS—AGAIN.

Mr. WASHBURN, of Wisconsin. I will withdraw my demand for the previous question, to allow my colleague to be heard, still retaining the floor.

Mr. LARRABEE. I would like to request my colleague to permit an amendment to be offered to his resolution, or to agree that the matter may lie over for a day, in order to obtain from the Secretary of the Interior the correspondence which has taken place upon this subject. I certainly do not understand the facts to be as my colleague states them. I do not understand that there is any complaint which should authorize this House to institute an investigation by a committee of five persons, with power to hire for persons and rappers to the State of Wisconsin, at the great expense which will necessarily be involved.

But, sir, I will state to the House what I understand to be the facts, so far as I have been informed upon the subject, for I think it is not the wish of my colleague, or of members upon either side, to incur the expense that will result from raising a committee of this character, unless there are good grounds for such action upon the part of the House.

I was informed, when recently in Wisconsin,

that a person by the name of Kershaw, who claimed to have some connection with this Indian tribe, had come to Washington, in direct contravention of the orders of the Superintendent of Indian Affairs, with a deputation of these Menominee Indians; that this person had procured the passage, through the Legislature of the State of Wisconsin, of a memorial to Congress making charges against this Government or its agents. That memorial was passed through both Houses in one day, without the facts upon which it was based having been discussed by any one.

Now, Mr. Speaker, I only desire that the House shall act upon this subject understandingly. I am not a member of this committee, but the measure is introduced by the House, if the facts are such as to warrant it.

When I returned from Wisconsin, I found the Senators from my State, with my colleagues in this House, had been to the Interior Department with this memorial, and that a correspondence had taken place between the Secretary of the Interior and themselves upon this subject.

It appeared that a name was suggested by my colleagues to the Secretary of the Interior, as a commissioner to make this investigation. I was asked by the Secretary whether I thought he was a proper person. I replied, that I knew about him was, that he was the late law, banking, and business partner of my colleague, (Mr. Woodman); and that a memorial had been sent the Wisconsin Legislature of Wisconsin by a party vote, and without debate; and as this man, Kershaw, had come here with these Indians without permission; and as my colleague had made these charges before the Secretary of the Interior without consultation with myself, and had suggested the late law and business partner of my colleague as commissioner, before whom the investigation was to be instituted, I thought he had better select some one who had no connection with the matter, or with my colleague, and was entirely unprejudiced upon the subject. The Secretary yielded to my objection; and he suggested the name of a distinguished gentleman from our own State, and submitted it to the rest of my colleagues. They objected to him because he was a Democrat, and they suggested the substitution of a Republican. The Secretary said to me, "If you are going to bring up this question of Democrat and Republican, it is your matter. I only desire to ascertain the truth of this investigation, and I suspect that was your wish. You object to Colonel Robinson because he is a Democrat. I cannot enter into such a question. I must, under the circumstances, select the best man I have in my Department, and send him out to investigate these charges." I have been informed, sir, by the Secretary of the Interior, that he has selected Mr. Pritchett, a competent gentleman, a man of integrity, and one who is familiar with all the duties of the Indian bureau.

That gentleman has proceeded, or is about proceeding, to Wisconsin, for the purpose of investigating these identical charges.

Now, Mr. Speaker, I submit to the House whether there is good ground, whether there is ground to go before us upon which to raise a special committee, involving, as it necessarily will, great expense in the necessity of sending out to Wisconsin for persons and papers, in order to investigate the truth or falsity of the charges made by my colleague? I have no reason why my colleague should have withdrawn his charges before the Secretary of the Interior, unless he and his friends were disappointed in not procuring the appointment of the person suggested by them. They could have justly expected that Mr. Robinson, for he is a gentleman of distinction in this House, a leading man of high integrity and fine ability. The Republicans, even, speak well of him. Indeed, sir, no man could whisper a word against his capacity or his integrity. Why my colleague objected to him does not appear. I do not believe he was for any other reason. Yet, sir, there should be no question of politics in such a case.

Mr. WASHBURN, of Illinois. If the gentleman will permit me, I will ask him a question. Will Mr. LARRABEE. I yield to the gentleman for that purpose.

Mr. WASHBURN, of Illinois. Does not the gentleman know that Mr. Pritchett is a Democrat?

Mr. LARRABEE. I do not know whether he is or is not.

Mr. WASHBURN, of Illinois. Is he not in office here?

Mr. LARRABEE. I presume, sir, that he is; I think that he is in the Indian Office. He is a man familiar with all the duties of the position which has been conferred upon him.

Mr. WASHBURN, of Illinois. Would it not have been fair to have appointed a man from each side?

Mr. LARRABEE. No, sir; it is no political question. This, Mr. Speaker, is an investigation to be made on the part of the Secretary of the Interior. One of the officers in his Department has been charged with malfeasance in office, and it was for the purpose of the House to conduct an investigation into the matter.

I objected to Mr. Woodman; and why? Simply because of the business connection of my colleague, and because, from that fact, he would more or less be under his control. There was no other reason. Mr. Woodman is a Democrat, and not a Republican. The whole matter seemed to be a family affair. When the question was submitted to me as between Judge Howe, Mr. Baker, and Mr. Woodman, I thought I should have then selected that he could safely choose either of them. It is true, sir, that they are Republicans; but they are good men and true, so far as I know; and I have objected to no man on account of his politics. The Democrats are the parties who have done it. The Secretary said to me on the other side, my colleague did not want a Democrat appointed; and that, consequently, he had already selected a man from his own Department, who was familiar with all the duties and ramifications of the Indian bureau, and who would make a fair and honorable investigation into the matter. As the charge involved the integrity of an officer in my Department, he should sift the matter to the bottom. I have entire faith that the investigation will be conducted fairly and honestly.

Now, Mr. Speaker, I would like to know if my colleague whether there is or is not ground for the adoption of the resolution before the House, and the raising of a special committee, with power conferred upon it to send for persons and papers? Is it the duty of my colleagues to resist the investigation ordered by the Secretary of the Interior?

Mr. WASHBURN, of Wisconsin. Mr. Speaker, one word in reply to what my colleague has said. I will first state under what circumstances this matter was brought up to my attention. The man, Kershaw, of whom my colleague speaks, came to me accredited from the Governor of the State of Wisconsin, bringing a letter to me from that officer, and bringing also a memorial of the Legislature of Wisconsin. He accompanied these Indians as their agent. He did not call upon my colleague, I presume, because, at the time, I understood he had gone to the State of Wisconsin to attend the Democratic convention, and the report was that he went to get elected to the Charleston convention, in which, I believe, he was.

Mr. LARRABEE. I did not hear what my colleague has stated, and I ask him to repeat his last sentence.

Mr. WASHBURN, of Wisconsin. I think that my colleague must call upon my colleague, because he was at the time absent in Wisconsin, attending at the city of Madison a Democratic convention, and endeavoring to get elected as a delegate to the Charleston convention.

Mr. LARRABEE. I was absent, that is true; but the last assertion is false.

Mr. WASHBURN, of Wisconsin. I have made no assertion, but stated my understanding merely, and what the report was. It was a false report, injurious to the gentleman.

Mr. LARRABEE. That latter statement is simply false; that is all.

Mr. WASHBURN, of Wisconsin. I have stated what the report was, without vouching for its truth or falsity, as I personally know nothing about it in this case.

Mr. LARRABEE. Then my colleague had better not have made the statement.

Mr. WASHBURN, of Wisconsin. I have merely alluded to the statements in the newspapers, which were my colleague had made, and which was his purpose. It is an immaterial matter, however, and of little consequence. I believe that the gentleman was a candidate for Charleston, and that he did not get elected. So much for that matter, and I will leave Mr. Kershaw's calling upon my other colleagues, and not on him.

Mr. SPEAKER, we thought it fair and right that these Indians should have a word to say for themselves, or that they should be heard by their friends, as to the gentleman to be appointed by the Secretary of the Interior.

The word in regard to the gentleman first named, Mr. Woodman, who my colleague alleges was formerly a business partner of mine. It is true, sir, as I have already said, that five years ago I was a business partner of mine, but he has had no business connection with me since that time. We do not reside within one hundred and fifty miles of each other. I have never had any communication with him on the subject. Knowing his eminent fitness for the position; knowing that he was, although a Democrat, not a partisan, and believing that what report he would make would be received with full faith and credit, we recommended him. My colleague objected to him; and then we said, appoint Judge Howe, or Mr. Baker, or Mr. Barbour, either of whom would be acceptable. The Secretary of the Interior had the appointment of one or more persons, and we thought that the interests of all the parties concerned would be safe, even if a Republican was selected upon the commission. The Secretary of the Interior actually refused to go into such an investigation, not contemplating, as I understand, the investigation into the \$40,000 that was paid to Richard W. Thompson. We were compelled, therefore, to bring the matter to the attention of this House. I now demand the previous question.

Mr. BRANCH. I rise to a point of order. I understand the Speaker to decide that my objection to the introduction of the resolution comes too late, and that the resolution is now before the House by unanimous consent. I raise the point of order, therefore, that, under the rules, the resolution must lie over one day, because it proposes to give this committee power to report at any time. Under the 133d rule of the House, no rule can be rescinded without giving notice. Here is a proposition to rescind a rule of the House, in giving to a committee of the House power to report at any time. My point is, that a proposition to give power to a committee thus to report is an alteration of the rules, and that it must lie over one day.

In addition, Mr. Speaker, it has been the practice of the House to do what I now urge on a point of order. I have seen, time and again, propositions that I proposed to be laid on the table to report at any time ruled out of order by the Speaker, except on a suspension of the rules.

The SPEAKER. As an original question, the point would be a good one; but the Chair conceives that unanimous consent has been given to the introduction of the resolution as it now stands, and that it is too late to make objection.

Mr. BRANCH. Unanimous consent was only given for the introduction of the resolution. My point of order is, that the resolution being legitimate before the House, the rule of the House shall lie over one day for consideration. My point does not go to the reception of the resolution; but that the resolution, under the decision of the Speaker, being legitimately before the House, it must, under the rules of the House, lie over one day for consideration.

Mr. WASHBURN, of Illinois. The gentleman from North Carolina must know that it has been the constant practice, in resolutions of this character, to propose that the committee shall have no report to any time.

The SPEAKER. The Chair decides that the resolution, as it stands, is fairly before the House by unanimous consent.

Mr. FLORENCE. At the time, sir, I expressly stated that unless the resolution was changed in its terms as I suggested, and for the reasons stated, I should object. I made objection, under those circumstances, at the moment the resolution was offered. I suggested, however, that in the mean time the gentleman from Wisconsin might state briefly what was the nature of the resolution, and the purpose that was sought to be accomplished by it.

The SPEAKER. The Chair holds that when a question is allowed to be discussed before the House, it is then too late to object to its reception.

Mr. WASHBURN, of Wisconsin. I insist on my demand for the previous question.

Mr. FLORENCE. I do not take exception to the decision of the Chair.

Mr. WASHBURN, of Wisconsin. Is discussion in order when I have called for the previous question?

The SPEAKER. It is not.

Mr. HOUSTON. My understanding was that the resolution was read for information.

Mr. WASHBURN, of Wisconsin. Oh, no, Mr. HOUSTON. But if the Chair decides that the resolution is before the House, inasmuch as it proposes to change one of the rules of the House, a two-thirds vote will be necessary to pass it. Although it was not in order to offer the resolution, two thirds of the House might have suspended the rules and let it in; but as the Chair decided to do so, the House upon the reading of it for information, then, if the House proposes to pass it now, a two-thirds vote will be required, because there is a rule which will not allow it to pass unless by a two-thirds vote.

Mr. FLORENCE. The Chair supposes that it will take a two-thirds vote to pass the resolution. The question is upon suspending the demand for the previous question.

Mr. LARABEE. I hope my colleague will allow me to say over what we can get the correspondence upon this subject.

Mr. WASHBURN, of Wisconsin. I cannot. The previous question was seconded, and the main question ordered to be put.

Mr. BRANCH called for the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 113, nays 69, as follows:

YEAS—Messrs. Green Adams, Adams, Aldrich, Allen, Wilkes, Ames, Ashley, Babcock, Benjamin, Blair, Bland, Brewster, Burdick, Burlingame, Burnham, Burrows, Campbell, Canby, Carter, Chase, Coffey, Conkling, Corwin, Cresswell, Davidson, Davis, De la Motte, Edwards, Edwards, Delano, Dwell, Dunn, Egerton, Elliot, Gibson, Edwards, Gerry, Foster, Frank, Fretwell, Gilmer, Jones, Graham, Hendricks, Hale, Hall, Hamilton, J. Morton, Kellogg, Hinton, Hiram, Hickman, Holt, Howard, Hoffman, Howell, Francis, Johnson, Kellogg, Wilson, Keating, Kilgore, Killinger, De Witt C. Leach, Lee, Loomis, Lovejoy, Manning, Maynard, McKenney, McKnight, McPhee, Miller, Mitchell, Moore, Nelson, Olin, Perry, Porter, Potter, Pease, Rice, Christopher Robinson, Royce, Schwartz, Sargent, Schuyler, Sherman, Williams, H. Smith, Jones, Foster, Stanton, Stokes, Stuart, Stratton, Tappan, Thayer, Thompson, Tinsley, Trumbull, Vandever, Van Wyck, Verree, Wheeler, Williams, C. W. Adams, C. W. Adams, J. W. Washburne, Israel Washburne, Webster, Wells, Wilson, Wood, Woodruff.

NAYS—Messrs. Thomas L. Anderson, Barkdole, Bar, Benjamin, Bosbury, Branch, Brown, Burdick, Chapin, Chittenden, Cochran, Cogges, Crawford, Farris, Garrett, Davis, De la Motte, Edmondson, Florence, Fisk, Garrison, Hamilton, Hawkins, Hindman, Houston, Howard, Hughes, Jones, Landrum, Larrabee, Leake, Logan, Love, McClary, Charles D. Martin, Albert S. Martin, McQuinn, McClelland, McClure, Miles, Montgomery, Niblack, Neill, Pendleton, Peyton, Pryor, Pugh, Reade, Riggs, James C. Robinson, Rufin, Scott, Sickles, Singleton, William Smith, Stevenson, Underwood, V. A. S. Vannoy, Vance, Whitely, Woodward.

So the resolution was not passed, (two thirds not voting in favor thereof.)

During the call,

Mr. LEAKE said: I do not want to vote for the preamble, though I can vote for the resolution.

Mr. LEAKE. The vote upon the preamble will be taken after this vote is decided, which is upon the resolution.

Mr. STEVENS stated that he was paired off with Mr. CLEMENT for some days.

Mr. DAWES stated that he had paired off with his colleague upon the Committee on Enrollment. Mr. THEASER.

Mr. FRANK stated that Mr. LAYNE was paired off with Mr. CLARK, of Missouri, until Wednesday.

Mr. LONGNECKER stated that he had paired off with Mr. HARRIS, of Virginia, for to-day and to-morrow.

Mr. LEAKE said: I stated, a short time since, that I did not vote for the preamble, would vote for the resolution. When I made that statement, I did not understand the facts. I now understand that the Secretary of the Interior is ready and willing to appoint one of his ablest officers to investigate this very thing. I therefore shall change my vote and vote for the preamble.

Mr. POTTLE stated that Mr. ELY was paired off during this week with Mr. MORRIS, of Illinois, and for the following week with Mr. ALLEN, of Ohio.

Mr. LANDRUM stated that Mr. TAYLOR was confined to his room by illness.

Mr. DAVIS, of Indiana, said: Inasmuch as the committee proposed to be raised by virtue of that resolution is to inquire into the transaction of Colonel Richard W. Thompson, of my congressional district, with the Government, and Indians, and knowing that transaction to be proper, and that he will not shrink from any investigation this committee can make in reference to that or any other transaction with that tribe of Indians, I vote "yea."

Mr. WOODSON. I desire simply to say that, understanding the subject is under investigation by the Secretary of the Interior, I vote "no."

Mr. ELIOT stated that his colleague, Mr. ANSEL, was confined to his house by sickness. Mr. BRANCH stated that he had been within the bar when his name was called, he would have voted in the negative.

The result was then announced, as above recorded.

The SPEAKER. The question recurs upon the adoption of the preamble.

Mr. BRANCH. The resolution having failed, the preamble necessarily falls with it. It is merely attached to the resolution, which is the main thing.

The SPEAKER. It might as well fall, though I do not know as it necessarily does, under the rules. If there be no objection, the preamble will be passed by.

No objection was made.

Mr. KILGORE subsequently said: I rise to a question of privilege, in regard to the resolution of the gentleman from Wisconsin, [Mr. WASHBURN.] I would inquire if the resolution is not fairly adopted? The only rule which it is necessary to suspend is the rule in reference to the right to report at any time. When the committee consents to report, they must move to suspend the rules for that purpose.

The SPEAKER. The resolution is not passed, in the opinion of the Chair.

Mr. BRANCH. The resolution came in by reason of my being too late in objecting, and the gentleman from Indiana is also too late in making this objection.

The SPEAKER. The Chair is of the same opinion.

CONTINUED ELECTION FROM NEW YORK.

Mr. DAWES, from the Committee of Elections, to which was referred the petition of Amor J. Williamson, contesting the right of Hon. DANIEL E. SICKLES to a seat in this House, made a report, accompanied with the following resolution:

Resolved, That A. J. Williamson, contesting the right of Hon. DANIEL E. SICKLES to a seat in this House as a Representative from the third district of the State of New York, be, and he is hereby, required to serve upon the said SICKLES, within ten days after the passage of this resolution, a particular statement of the grounds of said contest; and that the said SICKLES, in answer thereto, in twenty days thereafter; and that both parties be allowed sixty days each after the service of said answer, to take testimony in support of their several allegations and denials before some justice of the supreme court of the State of New York, residing in the city of New York; but all other matters in the manner prescribed in the act of February 19, 1851.

Mr. GILMER, from the same committee, submitted a minority report, accompanied by the following resolution:

Resolved, That the petitioner, Amor J. Williamson, having failed to comply with any of the provisions of the law of Congress, or the usages established by parliamentary procedure, in requiring the proceedings of parties to cases of contested elections, and not having proceeded with due diligence to establish his alleged claims, have leave to withdraw his petition.

Mr. DAWES. I move that the reports of the majority and minority, with the accompanying resolutions, be printed; and that their consideration be postponed until one o'clock on Thursday next, to be continued from day to day until disposed of.

The motion was agreed to.

Mr. DAWES, from the same committee, reported the following resolution; which was read, considered, and agreed to:

Resolved, That Amor J. Williamson have leave to occupy any of the floor of this House pending the result of the report of the Committee of Elections on the case of his contest for the seat now occupied by DANIEL E. SICKLES, from the third congressional district of the State of New York; and that he have leave to speak to the merits of said contest and the report thereon.

tee of the Whole on the case of the Union, and after many days the slaps of the House reconsider the vote and brings the bill back before the House, it is in the power of the gentleman who made the motion to commit to withdraw it at that time, or whether the House has not taken such a charge of the question as will deprive the members of the House of the motion of all power to control it in the House.

The SPEAKER. The Chair supposes that it is in the power of the gentleman to withdraw the motion.

Mr. BRANCH. I suppose my motion to commit is not received, and that the call for the previous question only takes precedence of it. So that, if the previous question is voted down, my motion to commit comes up.

Mr. LOVEJOY. The gentleman had not the floor to make any such motion.

The SPEAKER. If the gentleman from North Carolina had the floor he could make the motion.

Mr. BRANCH. I understood the Speaker to assign me the floor. There is no question pending, except a second to the demand for the previous question, made by the gentleman from Illinois.

The SPEAKER. The gentleman from Illinois has not yielded the floor.

Mr. BRANCH. Have I the floor for the purpose of making a motion? I understood the Speaker to decide that my motion to commit was not in order.

The SPEAKER. The Chair did so decide.

Mr. BRANCH. Then I move to lay the bill upon the table.

The SPEAKER. That motion is in order.

Mr. COBB. I am examining the progress of this bill, I find that it will be impossible to amend it, as the previous question is now pending.

Mr. BRANCH. I object to debate, unless the previous question is withdrawn.

The SPEAKER. Debate is not in order while the previous question is pending.

Mr. UNDERWOOD. I want to ask in favor of the gentleman from Illinois.

The SPEAKER. It is not in order. The pending motion is to lay the bill upon the table.

Mr. UNDERWOOD. I do not desire to debate the bill, I wish to ask the gentleman from Illinois to allow an amendment which I have drawn up to be read for information.

Mr. LOVEJOY. I cannot.

Mr. BRANCH. I demand the yeas and nays upon my motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 112; as follows:

YEAS—Messrs. Green Adams, Thomas L. Anderson, William C. Anderson, Avery, Barkside, Beckman, Bonham, Brubaker, Branch, Bratton, Burnett, Clayton, Cobb, Curry, H. Winter Davis, Reuben Davis, De Jarnette, Edmondson, Etheridge, Garrett, Garfield, Gilmer, Hamilton, Harbison, J. Morrison Harlan, Hutton, Hill, Houston, Jackson, Jenkins, Jones, Keitt, Lamar, Leake, Love, Matney, Elisha S. Martin, Maynard, McClellan, McKen, McMillan, Montgomery, Overton Moore, Nelson, Noell, Peyton, Rogers, Russell, Ruffin, Sumner, Sturgeon, William Smith, W. H. Smith, H. Smith, Underwood, Venable, Whitely, Woodson, and Wright—62.

NAYS—Messrs. Adair, Aldrich, Alsbitt, Barry, Bingham, Blake, Briggs, Buffington, Burr, Burnham, Canfield, Carey, Carter, Case, John Cochran, Coffey, Conkling, Cooper, Corwin, Covode, Cox, James Craig, Curtis, John T. Davis, Davis, Deland, Dool, Dunn, Edgerton, Eliot, English, Fenton, Ferry, Florence, Foster, Frazier, French, George, Graham, Green, Gurley, Hale, Hall, Harkin, Heinemann, Holman, Howard, Humphrey, Hutchins, Jinks, Francis W. Kellogg, William Kellogg, Kilgore, Kintner, Larnabee, DeWitt C. Leach, Lee, Lewis, Lester, McLean, McKen, McKnight, McPherson, Morrill, Morrill, Edward Jay Morris, Morse, Niblack, Olin, Overton, Patten, Patterson, Phelps, Rice, Riggs, Christopher Robinson, James C. Robinson, Royce, Schwartz, Scott, Sherman, Sherman, Richies, Somers, Spink, Sprague, Taylor, Thompson, Tilden, Tompkins, Tracy, Trimble, Vallandigham, Vandever, Van Wyck, Verree, Waldron, Watson, Caldwell C. Washburn, Elisha B. Washburn, Wells, Wilson, Windom, and Woodruff—112.

So the House refused to lay the bill on the table.

During the call of the roll,

Mr. MILES stated that Mr. Boyce had paired off with Mr. Adams, of Massachusetts, both being unwell.

Mr. COBB. Being a little green, I would like like some information. I want to inquire of the friends of this bill if they expect the call for the previous question to be sustained to prevent any amendment?

Mr. COBB. I object to debate

Mr. BRANCH. I object to the bill as it is.

Mr. BRANCH. I call the gentleman from Alabama to order.

Mr. COBB. Can I get the permission of the gentleman from North Carolina to vote? [Laughter.]

Mr. BRANCH. I insist that the gentleman shall conform to the rules of the House.

Mr. COBB. Mr. Clerk, my call name.

The CLERK. Mr. Cobb.

Mr. COBB. I vote to lay the bill upon the table, as I cannot get it amended.

Mr. ENGLISH. As the Legislature of Indiana instructed her Representatives in favor of a homestead law, I vote "ay."

Mr. WILSON. I was paired with Mr. Bonkewitz, but I have transferred the pair to Mr. Spowies, who, I understand, would vote the same way I do. I vote "ay."

Mr. HUGHES stated that he was called out before his name was called; otherwise, he would have voted "ay."

Mr. BURCH. I was not within the bar when my name was called. I ask permission to vote; though I do not know that my vote will change the result.

Mr. McPHERSON and others objected.

Mr. BURCH. I would have voted "no."

The result was then announced, as above reported.

Mr. ETHERIDGE. I ask the gentleman to hear a suggestion in relation to this bill, which, perhaps, I will have no power now to enforce. I certainly shall have no such power after the previous question is seconded.

Mr. ENGLISH. I must decline. I should be glad to extend the courtesy to the gentleman, but others make the same appeal to me.

Mr. ETHERIDGE. I can make the suggestion to the gentleman, and then he can adopt it or not, as he thinks proper. I know I am under his power and control, and I hope he will lend his ear to the suggestion.

Mr. BURNETT. Debate is not in order, and I call the gentleman to order, though I should have no objection to hear the gentleman from Tennessee if he were in order.

The gentleman from Tennessee cannot proceed, as objection is made.

Mr. ETHERIDGE. I did not propose to enter into a debate. My object is to make a statement, in which the gentleman from Kentucky is interested as myself.

Mr. LOVEJOY. I insist upon order.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. LOVEJOY. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question demanded.

The yeas and nays were ordered.

Mr. LOVEJOY. Before the vote is taken, I am entitled to the floor for one hour, as the member who reported this bill from the committee. I will occupy that time; but I wish to submit a few remarks.

Mr. ETHERIDGE. The gentleman says he will not occupy his whole time. He will yield to me for just a moment, that I may indicate the purpose I had in view when I asked him to withdraw the previous question?

Mr. HOUSTON. I take it for granted that this is not the kind of case in which the gentleman has a right to an hour to close the debate. There has, in truth, been no debate opened; and if there had been, it would have been closed before the third round was taken. This is not the time when the gentleman has the right to debate—if he has the right at all—when there has been no debate opened. It is not only unfair, but in violation of the rules, that the gentleman should now debate the bill.

The SPEAKER. The Chair decides that the gentleman from Illinois has a right to close the debate.

Mr. HOUSTON. When does that right attach? Will the Speaker tell me that?

The SPEAKER. At any stage where the bill is debatable.

Mr. LOVEJOY. I claim my right to the floor.

The SPEAKER. The gentleman from Alabama has a right to a portion of the debate.

Mr. HOUSTON. I desire to present this point of order, because I am satisfied that this is not the way in which the rule ought to be administered. I desire to have the rule upon the subject read.

The Clerk read a portion of the 34th rule, as follows:

"No member shall occupy more than one hour on debate on any question in the House or in committee; but a member reporting the measure under consideration from a committee, may open and close the debate."

Mr. HOUSTON. "Open and close the debate." Very well; but there has been no debate upon this bill. All debate has been prevented, and I think I am correct in saying that it is the uniform and, I believe, the universal practice, in a case where a member claims the right to close the debate, to claim that right before the bill has been ordered to its third reading, and while it is open for amendment. Before it passes from that stage, the member must claim his right; or if he does not, he loses it altogether.

The SPEAKER. The Chair cannot find any rule laying it down in that way.

Mr. HOUSTON. Well, I suppose not.

Mr. LOVEJOY. I will waive my right if we can proceed to vote.

The question was then taken on the passage of the bill; and it was decided in the affirmative—yeas 115, nays 65; as follows:

YEAS—Messrs. Adair, Aldrich, Ashley, Booth, Barr, Bingham, Blake, Briggs, Buffington, Burr, Burnham, Canfield, Carey, Carter, Case, John Cochran, Coffey, Conkling, Cooper, Corwin, Covode, Cox, James Craig, Curtis, John T. Davis, Davis, Deland, Dool, Dunn, Edgerton, Eliot, English, Fenton, Ferry, Florence, Foster, Frazier, French, George, Graham, Green, Gurley, Hale, Hall, Harkin, Heinemann, Holman, Howard, Humphrey, Hutchins, Jinks, Francis W. Kellogg, William Kellogg, Kilgore, Kintner, Larnabee, DeWitt C. Leach, Lee, Lewis, Lester, McLean, McKen, McKnight, McPherson, Morrill, Morrill, Edward Jay Morris, Morse, Niblack, Olin, Overton, Patten, Patterson, Phelps, Rice, Riggs, Christopher Robinson, James C. Robinson, Royce, Schwartz, Scott, Sherman, Sherman, Richies, Somers, Spink, Sprague, Taylor, Thompson, Tilden, Tompkins, Tracy, Trimble, Vallandigham, Vandever, Van Wyck, Verree, Waldron, Watson, Caldwell C. Washburn, Elisha B. Washburn, Wells, Wilson, Windom, and Woodruff—115.

NAYS—Messrs. Green Adams, Thomas L. Anderson, William C. Anderson, Avery, Barkside, Beckman, Bonham, Brubaker, Branch, Bratton, Burnett, Clayton, Cobb, Curry, H. Winter Davis, Reuben Davis, De Jarnette, Edmondson, Etheridge, Garrett, Garfield, Gilmer, Hamilton, Harbison, J. Morrison Harlan, Hutton, Hill, Houston, Jackson, Jenkins, Jones, Keitt, Lamar, Leake, Love, Matney, Elisha S. Martin, Maynard, McClellan, McKen, McKnight, McMillan, Montgomery, Overton Moore, Nelson, Noell, Peyton, Rogers, Russell, Ruffin, Sumner, Sturgeon, William Smith, W. H. Smith, H. Smith, Underwood, Venable, Whitely, Woodson, and Wright—65.

So the bill was passed.

During the call,

Mr. ROBINSON, of Rhode Island, stated that Mr. BRAYTON was paired off.

Mr. VANCE stated that his colleague, Mr. LEACH, was detained from the House by indisposition.

Mr. CRAWFORD stated that he was paired off with Mr. FARNSWORTH.

Mr. ETHERIDGE, when his name was called, said: I am for a homestead law, but on this particular bill I am not.

Mr. MONTGOMERY, when his name was called, said: I am in favor of a homestead law, but there is no opportunity to amend this bill, and it is highly objectionable. I cannot, therefore, vote for it. I vote "no."

Mr. STONE, when his name was called, said:

Mr. Speaker, I shall vote for this bill, though I do not like some of its provisions. I think the length of time required, during which the settler is compelled to reside thereon, is much too great. I believe that nine tenths of the settlers on public lands will take time to improve the land, rather than be compelled to comply with the provisions of this act. If you are going to donate the lands to actual settlers, do it in good faith. As this is the best donation law that I will be able to vote for this session, and as it is not up to amendment, I vote "ay."

Mr. GROW. No debate is in order.

Mr. WILSON, when his name was called, said: I had paired off with Mr. BELLEVILLE for today. I have just seen him, and he has consented that the pair shall be transferred to Mr. SPOONER.

Mr. BARSDALE. I move that the House adjourn. I think inquiry enough for one day has been done by the passage of the homestead bill.

Mr. TAPPAN. I have the floor. I call up the motion entered some days ago to reconsider the vote by which the bill of the Senate for the relief of the representatives of Charles Pearson was referred to the Committee on Patents. I will just state that it is a little bill to refund the sum of \$140, paid into the Patent Office by a man who was insane. The bill was unanimously passed by the Senate, and I believe the House to reconsider will be agreed to, and the bill passed.

The motion to reconsider was agreed to; and the question recurred on the motion to refer the bill to the Committee on Patents.

Mr. TAPPAN. I withdraw the motion to refer, and ask unanimous consent to put the bill on its passage.

No objection being made, the bill was ordered to a third reading, and was accordingly read the third time and passed.

Mr. TAPPAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DUPLICATION OF LOST LAND WARRANTS.

Mr. YANCEY submitted the following resolution, which was, by unanimous consent, considered and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of providing for the duplication, under proper restrictions against fraud, of lost land warrants issued to soldiers; of extending the term of the same; and that they have leave to report by bill or otherwise.

PUBLIC LANDS IN MISSOURI.

Mr. NOELL, by unanimous consent, introduced a joint resolution in relation to certain public lands in Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

SALE OF HARRODSBURG MILITARY ASYLUM.

Mr. STANTON, by unanimous consent, reported, from the Committee on Military Affairs, a bill authorizing the sale of the Western Military Asylum at Harrodsburg; which was read a first and second time.

Mr. STANTON. I desire to say that this bill is reported from the Committee on Military Affairs. It was examined by a committee of the last Congress, and also by our committee during the present session. This military asylum has become absolutely worthless for the purposes for which it was constructed, and has been abandoned by the Government. The bill authorizes the Secretary of War to sell it at public auction, after not less than sixty days' notice, the minimum price being fixed at \$25,000. I understand that the site is wanted for college purposes. There is no objection to the bill, I believe, on the part of the Kentucky delegation; the Secretary of War recommends it; and if there be no objection, I will ask that the bill be put upon its passage.

The bill was read through.

Mr. STANTON. I will say that a bill passed both Houses, two or three years ago, for the sale of this asylum, the minimum price being fixed at \$27,000. Twenty-five thousand dollars was offered, but it being less than the minimum, there was no sale. This fixes the minimum at \$25,000. I ask that the bill may be ordered to be engrossed and read a third time.

Mr. HOUSTON. I wish to ask whether this asylum was ever of any use?

Mr. STANTON. It never was. It was erected at great cost, and has been a heavy tax upon the people. I call for the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. STANTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

On motion of Mr. HOUSTON, (at a quarter before four o'clock, p. m.), the House adjourned.

IN SENATE.

Tuesday, March 13, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, communicating, in answer to the resolution of the Senate of the 6th ultimo, copies of the instructions to, and dispatches from, the late and from the present minister of the United States in China, down to the period of the exchange of ratifications of the treaty of Peking; and also a copy of the instructions from the Department of State of February, 1857, to Mr. Parker, former Commissioner to China, a report from the Secretary of State, and the papers by which it was accompanied. A motion by Mr. PRANCE, that it be printed, and that fifteen hundred copies in addition to the usual number be printed for the use of the Senate, was referred to the Committee on Printing.

The VICE PRESIDENT also laid before the Senate a letter of the acting Treasurer of the United States, accompanied by copies of the Treasurer's accounts of the receipts and disbursements for the service of the Post Office Department for the fiscal years ending 30th June, 1858, and 30th June, 1859; which was ordered to lie on the table.

HOUSE BILL REFERRED.

The bill (H. R. No. 280) to secure homesteads to actual settlers on the public domain, was read a first and second time, by unanimous consent, and, on motion of Mr. JOHNSON, of Arkansas, referred to the Committee on Public Lands.

PETITIONS AND MEMORIALS.

Mr. SLIDELL presented a memorial of insurance companies in New Orleans, praying the substitution of steamers of light draught for sailing vessels in the revenue service; which was referred to the Committee on Commerce.

Mr. HAMMOND presented a petition of citizens of Augusta, Georgia, praying the privilege of paying at that place the duties on goods coming through Charleston, South Carolina; which was referred to the Committee on Commerce.

Mr. FITCH presented the petition of Israel Johnson, praying for payment for the restoration of John P. Jones, a deserter from the United States of Georgia, and other services rendered by him by direction of the United States Indian agents, while endeavoring to negotiate a treaty with the Miami Indians, in 1833; which was referred to the Committee on Indian Affairs.

He also presented papers in relation to the claim of Stephen Bunnell, a quartermaster's sergeant in the war of 1812, to a pension; which were referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. DIXON, it was Ordered, That Antonio L. Fortna have leave to withdraw his petition and papers.

On motion of Mr. LATHAM, it was Ordered, That the petition and papers of Dent, Vanlieke & Co., on the files of the Senate, be referred to the Committee on Indian Affairs.

REPORTS FROM COMMITTEES.

Mr. TILGHMAN, from the Committee on Pensions, to whom was referred the petition of Micajah Hawks, submitted a report, accompanied by a bill (S. No. 269) for the relief of Micajah Hawks. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the Committee on Pensions, submitted an adverse report on the claim of Adam Sener to a pension; which was ordered to be printed.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the petition of John H. Wheeler, submitted a report, accompanied by a bill (S. No. 270) for the relief of John H. Wheeler. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the resolution and accompanying papers respecting the claims of John P. Brown, submitted a report, accompanied by a bill (S. No. 271) for the relief of John P. Brown. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Charles E. Anderson, submitted a report, accompanied by a bill (S. No. 272) for the relief of Charles E. Anderson. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of J. E. Martin, submitted a report, accompanied by a bill (S. No. 273) for the relief of the legal representatives of J. E. Martin. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Townsend Harris, submitted a report, accompanied by a bill (S. No. 274) for the relief of Townsend Harris. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FOSTER, from the Committee on Revolutionary Claims, to whom was referred the petition of Frederick Vincent, administrator of James Le Caze, submitted a report, accompanied by a bill (S. No. 275) for the relief of Frederick Vincent, administrator of James Le Caze, surviving partner of Le Caze & Malick. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SEBASTIAN, from the Committee on Indian Affairs, submitted an adverse report on the claim of the heirs of Sour John, for the value of an Indian reservation; which was ordered to be printed.

He also, from the same committee, to whom was referred a bill (S. No. 88) to provide for a superintendent of Indian affairs for Washington Territory, and additional Indian agents, reported it with an amendment.

Mr. HEMPHILL, from the Committee on Indian Affairs, to whom was referred the petition of Stephen Krebs, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of J. B. Rogers, for storage of provisions at Fort Smith, Arkansas, in 1837, asked to be discharged from its consideration, and that it be referred to the Court of Claims; which was agreed to.

Mr. GRIMES, from the Committee on Revolutionary Claims, to whom was referred the petition of Peter Van Buskirk, submitted a report, accompanied by a bill (S. No. 277) for the relief of Peter Van Buskirk. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. NICHOLSON, from the Committee on Revolutionary Claims, to whom was referred the memorial of Jacob Bigelow, administrator of Francis Cazeau, submitted an adverse report; which was ordered to be printed.

Mr. BRAGG, from the Committee on Claims, to whom was referred the memorial of Isaac Varn, Jr., submitted a report, accompanied by a bill (S. No. 278) for the relief of Isaac Varn, Jr. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Thomas M. Newell, submitted a report, accompanied by a bill (S. No. 280) for the relief of Thomas M. Newell. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the petition of D. G. Farragut, submitted a report, accompanied by a bill (S. No. 281) for the relief of D. G. Farragut. The bill was read, and passed to a second reading; and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. TOOMBS, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 279) to establish a uniform law on the subject of bankruptcies throughout the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

He also, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 276) to increase the salary of the judge of the district court of the United States in the State of Georgia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. FOSTER asked, and by unanimous con-

sent obtained, leave to introduce a bill (S. No. 292) to increase the salary of the judge of the district court of the United States for the district of Connecticut which was read twice by its title, and referred to the Committee on the Judiciary.

AFRICAN SLAVE TRADE.

Mr. WILSON. I submit the following resolution, and ask for its present consideration:

Resolved, That the Committee on Foreign Relations be instructed to inquire and report to the Senate whether the late treaty with Great Britain, for the suppression of the African slave trade, has been executed, and whether any further legislation is necessary, by way of amendment of existing laws, for the more effectual suppression thereof.

Mr. TOOMBS. I object to it.
The VICE PRESIDENT. Objection being made, the resolution must lie over.

COAST SURVEY REPORT.

Mr. PEARCE submitted the following resolutions, which was referred to the Committee on Printing:

Resolved, That there be printed, in addition to the usual number, six thousand two hundred copies of the report of the Superintendent of the Coast Survey for the year 1872, one thousand two hundred of which for the use of the Senate, and five thousand for distribution by said superintendent; that the same be printed and bound with the charts and sketches in quarto form, and that the printing of said charts and sketches shall be done to the satisfaction of the Superintendent of the Coast Survey.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had passed the bill of the Senate (No. 293) for the relief of the legal representatives of Charles Pearson, deceased.

The message also announced that the House had passed a bill (No. 394) authorizing the sale of the Western Military Asylum in Harrodsburg, Kentucky, in which the concurrence of the Senate was requested.

Also, that the House had ordered the printing of certain documents.

HOUSE BILL REFERRED.

On motion of Mr. FOWELL, the bill from the House (No. 294) authorizing the sale of the Western Military Asylum in Harrodsburg, Kentucky, was read twice by its title, and referred to the Committee on Military Affairs and Militia.

WASHINGTON JAIL.

Mr. SUMNER. I offer the following resolution, and ask for its immediate consideration:

Resolved, That the Committee on the District of Columbia be directed to consider the expediency of doing something to improve the condition of the common jail in the city of Washington.

Before the question is put, I desire to say that I have visited that jail; and I have found it neither more nor less than a mere human sty; and since the Senate has undertaken to send a fellow-creature there, I think the least it can do is to see that something is done to improve its condition.

The resolution was considered, by unanimous consent, and agreed to.

ORDER OF BUSINESS.

Mr. CHANDLER. I move to take up Senate bill No. 37, for the purpose of fixing the time when the vote may be taken upon it. It was made a special order for a day some time since, but was overlooked. I now desire to fix a time when the vote shall absolutely be taken; and I move that the bill be taken up for that purpose.

The VICE PRESIDENT. The question is on the motion of the Senator from Michigan to take up the bill making an appropriation for deepening the channel over the St. Clair flats, in the State of Michigan.

Mr. SLIDELL. I shall object to that bill being taken up for the purpose indicated by the Senator from Michigan. He seems to anticipate that the vote is to be taken on that bill without debate. That is a thing entirely out of the question.

If taken up at all and pressed, it must lead to a protracted debate, and I submit again to the Senator from Michigan, as I did the other day, whether it is worth while to consume the time of the Senate in the consideration of a bill that is sure to meet with the same fate.

The VICE PRESIDENT. The Senator from Louisiana will be good enough to pause a mo-

ment. The Chair must call up the special order at this hour.

Mr. CHANDLER. I move to postpone the special order, for the purpose of taking up this bill and assigning a day for disposing of it.

Mr. SLIDELL. I ask for the yeas and nays on that question.

The VICE PRESIDENT. The special order, which the Chair calls up at this hour, is the homesteaded bill. The Senator from Michigan moves to postpone that and all other orders.

Mr. CHANDLER. I withdraw my motion.

The VICE PRESIDENT. The motion being withdrawn, the homesteaded bill is before the Senate.

Mr. GWIN. I move to suspend the special order, for the purpose of taking up the West Point appropriation bill, which was the unfinished business of last legislative day; and I ask the Chair if that is not the unfinished business, and therefore the first business in order? We adjourned on that bill on Thursday evening last.

Friday was private bill day. Yesterday was taken up with a question of privilege; and we never got on the unfinished business. It is not in order now to proceed to the consideration of the unfinished business of Thursday last? Is not that the first business regularly in order?

The VICE PRESIDENT. The Chair thinks not.

Mr. GWIN. I make the motion to take it up.

Mr. KING. I ask for the yeas and nays, without debate.

The VICE PRESIDENT. The Senator from California moves to postpone the special order, now before the Senate, and other special orders, with a view to take up the Military Academy bill, upon which the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. FAYARD. I hope the motion will not prevail; not that I have any objection to the passage of that bill, but the bill reported by the Judiciary Committee in reference to the enlargement of the jurisdiction of the Court of Claims, was discussed in the Senate, under a special order, last night or ten days ago, in order, for consideration, postponed, and made the special order for yesterday; and yesterday it could not come up, because a question of privilege consumed the entire day. I endeavored, at the close of the session, to have it called up in order, and it was cut off in that by a motion to adjourn. But as it was the special order for yesterday, and, as I presume, the special order for to-day, the bill of the honorable Senator from Tennessee, will hardly now be called up, as the House have passed a similar bill, which has gone to a committee. I hope that bill will have the preference, and be disposed of. It is out of committee, subject only to amendments that have been made. It is a bill of great importance; and, although I do not mean to underrate at all the importance of the bill which it is now moved to take up, I consider that the bill reported from the Judiciary Committee ought to be disposed of, and in case of a tie, in preference. I shall therefore vote against the motion to postpone, with that view, and then I shall make a motion to take up the bill with reference to the Court of Claims.

Mr. WIGFALL. Will the Senator give me one moment?

Mr. WIGFALL. Certainly.

Mr. GWIN. I did not understand the question made by the Senator from Delaware. Does he state that the unfinished business is the Court of Claims bill?

The VICE PRESIDENT. The Chair will state the question before the Senate. It is the motion to postpone the prior orders with a view to take up the Military Academy bill. The Senator from Delaware objects to the motion, because he desires to take up a bill from the Judiciary Committee; but the question the Chair has just stated is the question before the Senate, on which the yeas and nays are demanded.

Mr. GWIN. Then I change my motion. I want to separate the questions. I have no objection to taking up the bill of the Senator from Delaware, if it can be disposed of; it is unfinished business that has been discussed, but as the West Point appropriation bill, being in the same

condition, to be disposed of before we proceed to any new business. My object is to take up the business that has been discussed, and dispose of it. If the Senator from Delaware makes a motion to take up his bill, if it is agreeable to the Senator from Texas I will withdraw my motion. I want to take up the appropriation bill.

The VICE PRESIDENT. The motion can be withdrawn at any time, except only, the yeas and nays having been ordered.

Mr. KING. It is not to be renewed, I have no objection to the withdrawal; but if it is, I must object.

The VICE PRESIDENT. Is there objection to the withdrawal of the motion?

Mr. KING. I ask the Senator from California whether he intends to renew the motion?

Mr. HALE. I object to withdrawing the motion.

Mr. GWIN. The Senator from Delaware said his bill was the unfinished business.

The VICE PRESIDENT. Objection being made, the motion cannot be withdrawn.

Mr. SLIDELL. I wish to ask a question. If I heard distinctly in your Journal, as it was read, it states that, on the motion of the Senator from Delaware, the bill relating to the Court of Claims was taken up.

The VICE PRESIDENT. The Senator misunderstands.

Mr. SLIDELL. Then, I very respectfully contend that, if that be not the case, the unfinished business is the bill making appropriations for the support of the Military Academy, which went over on Thursday last, and was the unfinished business of that day. Friday was devoted to another special purpose—private bills. I submit, with great deference to the opinion of the Chair, that it now comes up regularly.

The VICE PRESIDENT. The rule of the Senate is, that the unfinished business of the last preceding adjournment shall have preference in the orders of the day. The bill from the Judiciary Committee might have been the unfinished business on Thursday, but certainly could not have been so in the orders of the day on Tuesday of the following week. The Chair decides that it is not the unfinished business.

Mr. TRUMBULL. I trust the friends of the homesteaded bill will not allow it to be postponed by the Senator from California. It is apparent that the Senator from California wishes to kill the homesteaded bill, because he is willing to take up any other bill. His motion is not made because he wishes to get up the West Point bill. That is not his object. He is willing that the bill reported from the Judiciary Committee should come up; and this motion is therefore made, and manifestly so, for the purpose of defeating and overlooking the homesteaded bill, in the same way that it was done at the last session of Congress. We never could get a direct vote on it. Now, I trust the—

Mr. GWIN. Does the Senator make his allusion to the West Point bill?

Mr. TRUMBULL. I did allude to the Senator from California, because I understood him to say that, if the bill from the Judiciary Committee came up, he would withdraw his motion. He moved to postpone the homesteaded bill, to get rid of that bill, as I understood him to say, to get up the Military Academy bill; but when he was told that a bill from the Judiciary Committee would come up, that satisfied him. He cared nothing about the Military Academy bill particularly, as he was willing any other bill should come up in place of the homesteaded bill, because he was willing, as I understood him to say, that the Judiciary bill should come up.

Mr. GWIN. Will the Senator permit me a moment to say to those who have heard what I said, I called up the Military Academy appropriation bill, as the unfinished business, as I thought, on the Calendar. The Chair having decided against me, and it having been intimated that the Court of Claims bill was the unfinished business, as so stated on the record, I wanted to finish that, and agreed to let it be taken up. I want to finish the business we have under consideration before we take up any new bill. I shall vote against taking up the homesteaded bill, or any other special order, until we get clear of the business we have

had under consideration, in order that we may complete something. If the bill of the Senator from Delaware has precedence over the West Point bill, I am willing, that his bill shall come up first, and for no other reason. I make the motion, and leave it to the Senate to decide whether we shall go on and complete our legislation on this appropriation bill; I make this motion because it has been placed in my charge, as I have frequently said to the Senate. If this bill, the Senator from Delaware has in charge, has precedence, I shall give way for that; but I do so for no other reason than because I desire to finish the business we have under consideration.

Mr. TRUMBULL. That has no precedence to-day, but the homestead bill has precedence of everything else; and I understood the Senator from California the other day to urge that we should finish one thing at a time.

Mr. GWIN. That is what I am at now.

Mr. TRUMBULL. And that when a special order was made, it should be attended to. Now, to-day is set apart for the homestead bill.

Mr. JOHNSON, of Arkansas. Will the Senator allow me to make a suggestion to him on this point?

Mr. TRUMBULL. Certainly.

Mr. JOHNSON, of Arkansas. The homestead bill passed the House of Representatives yesterday, and was on our table this morning from the House. It has been referred to the committee of the Senate by our action this morning. It has not been printed; it has not been examined by the Committee on Public Lands, which meets the day after to-morrow, and will take it into consideration to-morrow, I believe, and has no question, that day will be devoted to it by the committee. I hope Senators will not think of pressing the homestead bill to-day, for the reason that we desire to have it printed for the Senate, so that each member may have possession of it, and that each member of the Senate may be able to consider it and report on it. I believe those who advocate it are a majority on the committee. I hope Senators will not press the homestead bill to-day, but let it be ordered to be printed; and I shall ask the Senate, whenever it is ready to consider it, and propriety, to allow it to be printed, although it has been already referred. I hope sincerely it may not be pressed now, and the Senate can see the motives and reasons why.

Mr. TRUMBULL. I would understand the Senate committee has matured a homestead bill, which has been set down several times as a special order. Now, if it is intended to substitute the House bill for ours, it can be very easily done. The Senate committee have already had the subject under consideration, and the bills are substantially the same, as I understand. If the coming in of the House bill is to interfere with the bill that is pending here, of course I would not desire to press it with that view. Really, but I do not see what the fact of the House having passed a bill, which the Senate committee has recommended, should delay our action on the bill which has been recommended here; and if we think proper, we can substitute the House bill for it, if there is no difference between them, and that is considered preferable.

Mr. BAYARD. I hope that the bill in relation to the Court of Claims will be taken up. It has already been discussed in the Senate. It has passed out of Committee of the House, and is in the Senate. It is, therefore, partially perfected. There is an amendment still pending. I do not know that there is any disposition further to debate it; certainly none on my part. I am willing to press the Senate bill, but I do not see what it is to be done, if they desire to retain the state of things that now exists, without any alteration of the law, be it so; but I should like to have the final action of the Senate on it.

But I may appeal to honorable Senators. They assigned two days, in the first instance, to the Committee on the Judiciary for its bills. During all the last session, we were unable to get up a solitary bill we reported. At the present session, the Senate has cut two days for our bills; and yet, immediately after the adjournment, one of those days was used off, in order to enable resolutions of an abstract character to be discussed; and then, when the bill, being half finished, was postponed until yesterday, a privileged question took precedence of it. I think it now

comes fairly before the Senate, to claim that it should be disposed of by a vote of the Senate, because it certainly is of great importance. Though involving, as I said, no political struggle and no party question, it is of great importance to the people of this country, because it is a question in which the administration of justice is involved.

Mr. JOHNSON, of Tennessee. Mr. President, there seems to be a great content here in reference to the priority of business. According to my understanding of the rules, that question is not debatable; but debate has been indulged in, and I desire to make a suggestion to the friends of the homestead bill, and I think it has no truer or more consistent friend than I. The House has passed the bill, and sent it to the Senate. That bill differs from the Senate bill in some three essentials. Here is a proposition in reference to Texas raising a regiment of men; here is a proposition to amend the law establishing the Court of Claims. There seems to be quite a content as to the passage of these bills, or the way in which they shall be disposed of. Now, if it meets the approbation of the friends of the homestead bill, I think it is the wisest and most judicious policy to let it go. On Thursday, because the House bill has been taken up, and referred to the Committee on Public Lands, who will meet on that day. The Senate bill has been made the special order for to-day, at half past one o'clock; but on Thursday, when the Committee on Public Lands meets, there is every assurance that that committee will take up the House bill on Thursday morning, and report it back on that day.

Mr. TRUMBULL. With that understanding, I am agreed, as one, to let the homestead bill go by consent.

Mr. JOHNSON, of Tennessee. I wish to make this suggestion: that the homestead bill be continued as a special order until Thursday, at half past one o'clock, with the assurance of the Committee on Public Lands that the House bill will be reported back that morning; and then we shall have the two propositions before the Senate, and can act understandingly on them.

Mr. GWIN. I shall oppose making it a special order to-day to the extent of the business of all other business. I am willing that it shall come forward regularly, and if it has a majority of the Senate in its favor, they can readily take it up and pass it. This making of one bill a special order, and substituting an unfinished business for that which we have had before us, and are ready to vote upon, it seems to me, is obstructing business here to such an extent that I think we had better go on and complete what has been partly done. We ought to adhere to the rule requiring us to take up first, every day, the unfinished business of the day previous. I have no objection to giving a fair opportunity to bring up the homestead bill at any time, so far as I am concerned; but I want to complete business as we go on.

Mr. JOHNSON, of Tennessee. By permission of the Senator from California, I will say that there has been every disposition manifested by the friends of the homestead bill to accommodate every other proposition that has come up. Nothing but an unusual business of affairs before the Senate, and the proposition is simply to let the homestead bill retain the same standing before the Senate, on Thursday next, that it has now. It does not change the state of things. It gives way for other business to be transacted in the mean time, but lets it occupy the same position on Thursday that it does to-day.

Mr. GWIN. If I understand the Senator, the Committee on Public Lands are to report on the bill to-morrow; but if I should so happen that they did not agree to bring the bill in, it might go over again. I am willing to let it go over informally now without displacing it, without making it a special order again; but let it remain in its present position.

Mr. JOHNSON, of Tennessee. A good many special orders have been made, and it will not change the position of this bill before the Senate if my suggestion be agreed to. I make the motion, that the bill be continued as a special order of the homestead bill, that the special order be continued until Thursday, at half past one o'clock.

The VICE PRESIDENT. The question before the Senate is the motion to postpone the prior order with a view to take up the Military Academy bill, and the yeas and nays have been ordered

on it. By unanimous consent, that motion may be withdrawn. ["Agreed."] The Chair hears no objection. Then the homestead bill is before the Senate. Now, does the Senator from Tennessee make a motion to postpone the motion?

Mr. JOHNSON, of Tennessee. I move that it be postponed, and made the special order for Thursday, at half past one o'clock.

The VICE PRESIDENT. That is the question before the Senate.

Mr. HUNTER. I thought there was a question before us on the motion of the Senator from Delaware to take up the Court of Claims bill.

The VICE PRESIDENT. That motion was not before the Senate. A question was made as to whether the bill was unfinished business, and the Chair decided that it was not.

Mr. HUNTER. Do I understand that the Chair decided that there was unanimous consent to allowing the withdrawal of the motion to postpone the prior orders for the purpose of taking up the West Point bill?

The VICE PRESIDENT. There was. We are now where we were half an hour ago, to wit, the homestead bill comes up as the special order.

Mr. BAYARD. I have no objection.

The VICE PRESIDENT. The motion now before the Senate, is the motion of the Senator from Tennessee to postpone the homestead bill, and make that the special order for Thursday next, at half past one o'clock.

Mr. BAYARD. Unless the Court of Claims bill will then come up, I shall make a motion to take it up.

Mr. HUNTER. I suppose it would not be in order to make a motion to postpone the prior orders, for the purpose of taking up the West Point bill then.

Mr. JOHNSON, of Tennessee. Let us get this out of the way.

Mr. HUNTER. There is a motion before us. I understand to make the homestead bill a special order. I hope no more special orders will be made. Let us do business according to its position on the Calendar. We are just embarrassing ourselves in this way. We shall spend half our time in making special orders to consider. I shall vote against making it a special order.

Mr. KING. I suppose the homestead bill is now a special order. I ask, for information, whether a motion is necessary to make it so?

The VICE PRESIDENT. It is a special order; but if it be postponed until to-morrow, it may fall behind other special orders on the Calendar, unless some particular hour be fixed for it.

Mr. KING. Then I question the propriety of such a postponement. I think the bill had better retain its place.

Mr. JOHNSON, of Tennessee. I will say to the Senator from New York, that a motion to postpone until to-morrow is indefinite, and if that prevailed, the bill would not come up as a special order again; but if you postpone it until Thursday, at half past one o'clock, it being now a special order, it will come up at that hour.

Mr. KING. I will not interpose.

Mr. GWIN. As a friend of the homestead bill, I hope the motion of the Senator from Tennessee will prevail. I hope we shall consent to postpone it until the committee shall have possession of the House bill, being assured that they will report it back promptly, so that we can act understandingly on both these bills. I hope that the friends of the homestead bill will agree to this motion, and when it does come up on that day, I trust that every friend of that bill will stand by it until it is finally acted upon. That is all I have to say on this point.

Mr. GWIN. I wish to ask a question in regard to the order of business. I have never paid very much attention to the rules of the Senate, and therefore do not profess to know much about them; but certainly, in past years, it was always considered that the first special order that was made was always to continue as the first special order until it was disposed of. If we took up a bill which was the special order first on the Calendar, and we afterwards made another special order, the first made lost its preference when the time arrived for the second special order. That certainly was the practice of the Senate. I was particularly interested in the question; for I had a special order in which I had great interest, and it was succeeded

ing, and the next special order was ahead of it on the Calendar. I should like to know if taking up a bill that is a special order now, and making it a special order for next Thursday, does not put it behind other special orders that have precedence to-day? That was the old practice of the Senate.

THE VICE PRESIDENT. The Chair calls the special order always at the hour which has been fixed for it by the vote of the Senate, no matter what may be the age of the measure; and he has done that at all times.

Mr. WADE. On the motion of the Senator from Tennessee, I call for the yeas and nays.

THE VICE PRESIDENT. It is moved and seconded to postpone the homestead bill until Thursday next, and to make it the special order for half past one o'clock. I will now, on this question the yeas and nays are demanded.

Mr. HUNTER. As I understand the question now, it is between having this bill the special order for to-day, or the special order for Thursday next, at half past one o'clock. If so, I shall vote to postpone it to Thursday next.

Mr. CLINGMAN. Cannot the question be divided, so as to take the vote simply on the postponement, without making the bill a special order? I am willing to postpone it, but I would rather not make special orders, as they seem to interfere with the business of the Senate, in the opinion of gentlemen.

THE VICE PRESIDENT. The Chair supposes the question is susceptible of division; but, whenever we have undertaken to divide questions of this sort, it has always resulted in great embarrassment and loss of time.

Mr. CLINGMAN. I withdraw the request.

Mr. MASON. I have not looked back to the rules, but my recollection is, that wherever a question is susceptible of division, it is in the power of any member to make such a division.

THE VICE PRESIDENT. The Chair says so.

Mr. MASON. I think this is one of those questions clearly susceptible of division, and I should prefer, with the Senator from North Carolina, that it should be divided. I will not speak of my impression, but I would like to see the vote for putting it in any position in the world where it would never be heard of again, if we can do it. I ask that the question may be divided, and that we may first vote simply upon the postponement.

Mr. BAYARD. I, of course, am no advocate of the homestead bill; but it seems to me, as a question of order, if the motion is simply to postpone the special order to a given hour on Thursday next, it remains a special order at that time, unless the Senate should discharge the special order. I do not see how it can be otherwise. The bill is now the special order; and when you postpone the special order until Thursday, at half past one o'clock, what makes it less a special order at that time than it is now? If the motion was to postpone it generally, I would not have any character as a special order; but the motion being to postpone until half past one o'clock on Thursday, it seems to me, of necessity, it remains a special order of the Senate at that time, unless the Senate shall discharge it. Therefore, I do not think the present order is a special order. I think it necessary to move to postpone it to that hour, and to make it a special order; for it is already one, and it can only be discharged by a positive vote of the Senate, postponing it without reference to time, or postponing it generally, or postponing it and discharging the special order. I therefore think the motion cannot be divided.

Mr. GWIN. I wish to call the attention of the Chair to the condition of business. When we adjourned on Thursday last, the West Point appropriation bill was before the Senate, and we were voting upon an amendment, and there was no quorum when the Senate adjourned. Friday was private bill day. The Senate did not sit on Saturday. Yesterday, before we got to the special order, before the special order could be taken up, a question of order was presented, which consumed the day. We then went into executive session. Now, I make this point: the 15th rule provides that

"The unfinished business to which the Senate was engaged at the last preceding adjournment, shall have the precedence in the special order."

It seems to me the unfinished business of Thursday last was the West Point appropriation bill;

and, as this is our first legislative day, out of the Private Calendar, since then, it is now the unfinished business.

THE VICE PRESIDENT. The Senator made no motion of order before. The Chair has given his construction of the rule, and is prepared to decide it now.

Mr. IVERSON. I think the Senator from California is mistaken in relation to the facts, or rather a portion of the facts. The rule is, that "the unfinished business to which the Senate was engaged at the last preceding adjournment"—that is, the adjournment of yesterday—shall have precedence. The business in which the Senate was engaged at the adjournment yesterday was the Court of Claims bill, which the Senator from Delaware has under his charge. That was the unfinished business of yesterday when the Senate adjourned, and, according to my impression, that is the first order of the day to-day. It takes precedence of all special orders. Did the Chair decide that bill was not under consideration yesterday? [Y. Y. Y.] I was not aware of that.

THE VICE PRESIDENT. The Chair thinks that the Military Academy bill, which was under consideration on Thursday last, is not the unfinished business, nor is the bill from the Judiciary Committee the unfinished business, because it was not taken up yesterday. Therefore, unless some other motion be made, the Chair will call the attention of the Senate to the state of the question. The Senator from Tennessee moves to postpone the homestead bill, which has been called up as the special order at this hour, until Tuesday next, at half past one o'clock, and make it the special order for that day, at that hour. The Senator from Virginia moves to divide the motion so that the vote will first be on the motion to postpone it to Thursday next. The Chair will state, in answer to the question of the Senator from Delaware, that in that event it will remain a special order. If postponed to Thursday next, at half past one o'clock and made the special order for that hour, the Chair will call it up. If simply postponed to Thursday next, it continues still a special order, like all others, but I understand various other special orders on the Calendar. The question then is on postponing it until Thursday next; and, on the whole question, the Chair understands the yeas and nays have been demanded.

THE VICE PRESIDENT. The question is on the first branch of the motion of the Senator from Tennessee, to postpone the homestead bill until Thursday next.

Mr. JOHNSON, of Tennessee. Then I understand it to be in order, after it is postponed, to make it the special order for half past one o'clock on that day.

THE VICE PRESIDENT. Then the Senate will vote on the last branch of the proposition.

Mr. BIGLER. I suggest that there is no need of voting on the yeas and nays for the postponement. Let the yeas and nays be taken on making it the special order; but there will be no division on the question of postponement.

Mr. ANTHONY. I understand that the request for a division was withdrawn by the Senator from North Carolina.

THE VICE PRESIDENT. The Senator from Virginia renewed it. Is general consent given that the first branch of the motion may be put without the yeas and nays?

Mr. WADE. I withdraw the call for the yeas and nays on that branch of the motion.

THE VICE PRESIDENT. By general consent, it may be done. [Agreed.]

The motion to postpone was agreed to.

THE VICE PRESIDENT. The other branch of the proposition is to make the bill the special order for half past one o'clock on that day; and on this question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 23, as follows:

YEAS—Messrs. Anthony, Bingham, Bright, Chandler, Colman, Crittenden, Dixon, Doolittle, Durkee, Dutton, Evans, Fessenden, Foster, Giddings, Hale, Harlan, Hendricks, Johnson of Arkansas, Johnson of Tennessee, King, Nicholson, Rice, Sumner, Tenney, Trumbull, Wilson, Witham, and Wright.

NAYS—Messrs. Bayard, Bigler, Briggs, Chace, Claiborne, Clingman, Davis, Fitzpatrick, Gwin, Hammond, Harlan, Hendricks, Johnson of Arkansas, Mallory, McPherson, Cowell, Howell, Thompson, Toombs, Wigfall, and Yates.

So the motion was agreed to.

Mr. JOHNSON, of Arkansas. I now ask that the homestead bill be printed, so that it may be considered in print by the Committee on Public Lands.

THE VICE PRESIDENT. The bill will be printed as a matter of course under the rule.

Mr. JOHNSON, of Arkansas. That will answer the purpose.

THE COURT OF CLAIMS.

Mr. BAYARD. I move now that the Senate take up the bill (S. No. 53) to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1855.

Mr. WIGFALL. The proposition is to take up the Judiciary bill. That bill will undoubtedly lead to debate. I believe that the West Point bill will not; at least, I will not discuss it—I will not be betrayed into a discussion. I submit to the Senator from Delaware, that he allow that bill to be taken up, and have it voted upon. It has been fully discussed, and I presume every Senator has made up his mind as to which side he will vote. The bill would have passed on Thursday last, but that there was no quorum. I have not pressed this matter, though it is one of pressing importance. I gave my vote, on Thursday last, for the honorable Senator from Vermont, [Mr. COLLAMER], in order that he might discuss a question which he desired to discuss; and I supposed that after that discussion was over, we should have a vote. The bill was lost on Thursday, because those opposed to it would accept my vote against it. I will not take up more time; but I ask that that bill may be taken up, and that we may be allowed to vote upon it.

Mr. BAYARD. I know no reason to suppose that the one bill will be more likely to lead to debate than the other. So far as the indications have gone, either way, I have just the same determination that the honorable Senator from Texas has, in reference to the bill which is reported by the Judiciary Committee—that is, not to debate it any further unless it is absolutely forced on me. I will not, however, see any necessity for further debate, because the question was discussed in the Senate before, in all its aspects. I hope the bill will be taken up. I think it is likely to be disposed of as rapidly as the other; and it seems to me there will be time enough for both, if we do not tuck too much.

Mr. MASON. I wish to say a single word in reference to the priority here. It has struck me that this bill, although for the usual expenses at West Point, having with it the amendment to remove equipment from the Arsenal, is a bill that ought to give it precedence over any ordinary business at least. I do not know how other Senators may have been impressed by the correspondence recently sent to the Senate from the Executive; but it admonishes me that there is great importance in the year and a half that has passed from that frontier. I shall not discuss the bill; I did take some little part in it heretofore; but I think with the Senator from Texas, it will either pass or be rejected without further debate. There has been a great deal of debate on it. I hope it will be taken up.

THE VICE PRESIDENT. It is moved and seconded to postpone the orders prior to the bill S. No. 53 from the Judiciary Committee.

Mr. TRUMBULL. What are the prior orders?

THE VICE PRESIDENT. There are many prior orders. The first special order before the Senate now, is the resolutions of the Senator from Mississippi in reference to the protection of slave property in the Territories.

Mr. TRUMBULL. I hope the motion will prevail.

Mr. GWIN. I shall not vote for this motion, because I will want the West Point appropriation bill to come up.

The motion of Mr. BAYARD was agreed to; and the Senate resumed the consideration of the bill (S. No. 53) to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1855, the pending question being on the amendment of Mr. HALE, to add a new section:

"And it is further enacted, That whenever any person is sued in any Federal court by the United States, he shall have leave to file an affidavit; and if, upon the trial, it shall be ascertained that a balance is due him, the court shall issue a writ of habeas corpus, and shall award him, and upon

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presentation to the Secretary of the Treasury of said certificate, the amount so found due shall be paid to the person entitled to receive the same.

The amendment was rejected.

THE VICE PRESIDENT. The question is now on the amendment offered by the Senator from Mississippi, (Mr. BAWB), to strike out all of the bill after the enacting clause, and insert in lieu thereof:

That the act entitled "An act to establish a court for the investigation of claims against the United States," approved the 26th of February, 1855, be, and the same is hereby, repealed.

The amendment was rejected.

MR. MALLORY. I offer this amendment, to insert at the end of the fourth section:

Provided, nevertheless, That in all cases in which the judgments of the said court have been heretofore rendered in favor of the claimant, the same shall be paid in conformity with the provisions of the first section of this act, until in those cases involving the payment of a larger sum than that of \$20,000, the solicitor shall carry the same by appeal to the said Supreme Court, within six months from and after the passage of this act, which appeal he is hereby authorized to make.

MR. BAYARD. I have no objection to the principle of the amendment, except that it is retrospective, and this bill is prospective, providing a general system for the adjudication of these claims in future. I fear its effect on the bill; that is the only reason why I am opposed to it. In a separate bill, I should vote for the same thing.

MR. MALLORY. I do not propose to delay the passage of the bill by any debate on the amendment I have offered, but I think it will increase the value of the bill to the country very much, and I think it ought to be made. It is simply extending the provisions of the bill to those cases which have already been decided. It is retrospective, as the chairman of the committee alleges. Without debating it the Senate will see at a glance that it embraces all those cases already passed on, and which are to be postponed perhaps for two years for the purpose to give preference to the claims that come after them. It is to prevent that, that I propose to extend the provisions of the bill, on the same terms, to cases which have been already investigated.

MR. HALE. I want to ask the Senator from Florida if his amendment would cover the case of the Florida claims?

MR. MALLORY. No, sir. It is in accordance with the provisions of the fifth section, which has been already adopted, to extend its provisions to cases heretofore decided, in conformity with the limitations contained in the bill. If it is not so, I am willing to make it so.

MR. HALE. I have no objection to that amendment. I am against the whole bill; but I do not know that that is any worse than the rest of it.

MR. MALLORY. With the permission of the Chair, I will read the amendment as I now propose it, as an amendment to, and immediately following, the fourth section:

Provided, nevertheless, That in all cases within the purview of this act in which the judgments of the said court have been heretofore rendered in favor of the claimant, the same shall be paid in conformity with the provisions of the first section of this act, unless in those cases involving the payment of a larger sum than the said \$20,000, the solicitor of the United States shall carry the same by appeal to the Supreme Court within six months from and after the passage of this act; which appeal he is hereby authorized to make.

The amendment was agreed to.

MR. DOOLITTLE. I desire to offer an additional provision at the end of the act.

And provided, That in all cases where the amount allowed to the claimant shall exceed the sum of \$20,000, the same shall not be paid or payable until a specific appropriation by Congress therefor.

MR. IVERSON. I do not see the necessity for that amendment; and I think it would be impudent and impolitic to embarrass the bill by too many amendments. I think the Senate, in adopt-

ing the amendment of the Senator from Florida, has acted rather impudently, because every amendment put on this bill of course endangers it either here or in the other House. It is an experiment which we desire to make; I think it will be a favorable experiment, and I trust it will not be embarrassed by too many provisions, so as to load it down and endanger its passage in the other House. The Senator's object can be accomplished in another way without any sort of difficulty. When a general appropriation is asked for by the Secretary of the Treasury to pay all the decisions of the Court of Claims, any Senator can call for each adjudication and ascertain precisely what it is, and if there be a single case that does not meet his judgment, he can have a separate vote taken on it in the Senate, and he can introduce a provision to the appropriation bill, providing that no part of this appropriation shall be applied to the payment of the case of A B or C D, or any other case, and then he can have it rescinded, if the Senate thinks the Court of Claims have acted improperly and without authority in that case. If it is an unjust claim, the Senate can cut it out of the appropriation; can tie up the hands of the Secretary, and exclude him from applying any portion of the appropriation to that specific case; so that there is no necessity for this amendment, and it will only endanger the passage of the bill.

MR. DOOLITTLE. A single word in reply to the Senator from Georgia. I understand this bill, in this respect, to appropriate before-hand some amount of money, I believe \$500,000, for the purpose of paying claims thereafter to be found and adjudged due to claimants by the Court of Claims.

MR. IVERSON. The Senator is mistaken about the bill. The bill does not appropriate a dollar. The bill is this; that, at the commencement of each session of Congress, the Secretary of the Treasury shall send an estimate of the amount necessary to pay the judgments of the Court of Claims which have been rendered prior to the commencement of the session; and that he send an appropriation bill, and in passed by Congress as an appropriation bill; and you can limit that appropriation, if you please, to a single dollar, or a single case. You do not appropriate anything in advance. There is not a dollar appropriated by the bill.

MR. DOOLITTLE. I do not so understand the bill, I confess. I understand that, when a judgment is found in this court, you have the privilege of appealing to the Supreme Court of the United States; and when they decide in favor of the claim, it then becomes payable out of the Treasury, and the faith of the Government is pledged for it.

MR. IVERSON. The Senator is mistaken; that is not the bill.

MR. HALE. I think the Senator from Wisconsin is entirely right in his view of the operation of this bill; and if anybody will read it, he will find it so. The Senate have refused, by a decisive vote, to call on the Secretary of the Treasury to specify, and the bill does not require him to come before Congress until he has actually paid the money. Here is the fourth section of the bill; I will read it:

It shall be the duty of the Secretary of the Treasury, at the commencement of each Congress, to include in his report an estimate of all sums paid at the Treasury on such judgments.

It is not his duty to come here beforehand and make any statement; but after he has paid the money, he is to come to Congress; and the Senate have refused, after debate, to call upon him to specify, or to estimate for any such thing. The money is to be paid, and then he is to come and tell us what he has done with it. The Senator from Wisconsin is entirely right in his construction.

MR. IVERSON. Here is the bill; and I do not think any man of common sense can misunderstand it:

That, in all cases of final judgments by said court, or on appeal by the said Supreme Court, where the same is in

favor of the claimant, the sum due thereby shall be paid, out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury, &c.

Out of any appropriation made by law it is to be paid. The passage of this bill is not an appropriation by law. It must be made afterwards. After these decisions are made by the Court of Claims, the Secretary of the Treasury estimates for them at a subsequent Congress, and you pass an appropriation, by law, to pay them; and then, in making that law, you can restrict its operation. That is the whole case.

MR. BAYARD. I do not wish to continue any debate on this bill, which, I think, has been sufficiently discussed, but will merely remark that the control intended to be given by the bill, and which is certainly given by the bill, is, that there must be an estimate from the Departments for private claims generally. The Congress have control of that amount. It cannot exceed from one hundred to one hundred and fifty thousand dollars a year. Surely that is not a great deal—not half as much as in past times you have often paid out of the Treasury in years for private claims. After you have appropriated generally for private claims, an account must be given to you of every expenditure out of it. It is a specific appropriation, for private claims, without designating them, and the object of the bill is, I understand, that Congress shall not exercise a judicial power; and the bill is worth nothing if it does not effect that. It is to take from Congress a judicial power, in investigating the merits of particular claims; and that justice shall be administered between the State and the citizen, as it is between citizen and citizen by a court of justice.

MR. DOOLITTLE. The bill, as printed before me, uses this language:

In all cases of final judgments by said court, or on appeal by the said Supreme Court, where the same is in favor of the claimant, the sum due thereby shall be paid, out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Treasury, of a copy of said judgment, certificate, &c.

Now let us see how the thing practically will operate. The Secretary of the Treasury comes in at the beginning of a session of Congress, and estimates, if you please, some \$300,000 in claims which will probably be allowed and adjudged in favor of claimants during the ensuing year.

MR. IVERSON. The Senator will allow me to say, that is not the explanation. The Secretary comes in to ask for an appropriation for the judgments before rendered—heretofore rendered, not heretofore to be rendered. You cannot know what they are going to be. How can the Secretary estimate for claims heretofore to be adjudicated? They may amount to \$10,000 or to \$1,000,000. The Secretary cannot estimate what is in the future, but he comes in at the commencement of each Congress, and asks for an appropriation to cover the decisions of the court made prior to that time, between the last session and this.

MR. DOOLITTLE. I just understood the honorable Senator from Delaware, the chairman of the Judiciary Committee, to state directly the contrary: that the estimate of the Secretary of the Treasury was to be an estimate upon the probable amount of claims which would be adjudged in favor of claimants against the Treasury; and I so understood it. The estimate of the Secretary is not clearly expressed, if the construction which is the honorable Senator from Georgia gives to it is correct. I understand that that was the main ground of the objection of the honorable Senator from New Hampshire, whose proposition, the other day, looking to securing this very object, was voted down by the Senate; and it is because it was voted down, as against the sense of the Senate, that I have been disposed to offer the amendment which is now pending. While I am willing that the Government of the United States be insured by private claimants in the Court of Claims, and that when judgments are rendered against the United States, they shall be paid out of the Treasury, I wish to put a limitation on that power of

suing the Government, by saying that where the amount recovered against the Government shall be \$20,000, it shall not be final and conclusive against the United States, and landing on the good faith of the Government, until Congress shall make a specific appropriation for that particular claim.

If this bill bears the construction which the Senator from Georgia has indicated, the Secretary of the Treasury is to come to Congress and state the amount of judgments which have already been rendered, item by item, judgment after judgment, and that Congress can object to any particular judgment, I do not know, but I should object to the bill; but I understand it differently; that the practical operation of this bill is, that the Secretary estimates a contingent fund, not for the purpose of paying any specific claim, but for paying private claims which, in all human probability, may be adjudged against the Department in the course of the ensuing year, and asks Congress to appropriate a sum of money, and put it at his disposal; and when these judgments are rendered by the courts, they are to become final and conclusive on the Government; and if the money in the Treasury is not sufficient for whom judgment is rendered and presented to the Treasury, may take the whole amount estimated by the Secretary of the Treasury. Now, I desire simply to have this limitation put upon the amount that may be recovered, so that no immense claim of \$1,000,000, perhaps, against the Government can be paid without being looked into by Congress itself. I am willing to trust to the contingencies and chances of a lawsuit in the Court of Claims, and again in the Supreme Court, on an appeal, up to the amount of \$30,000, and to subject the Government to be sued as private individuals, to that extent; but I am not willing to go beyond that.

While I am up, I desire to say also that I think the sum of \$3,000, which is here made the limit for appeal from the Court of Claims to the Supreme Court, is too small. I desire that it be broken down the Supreme Court with the amount of business you may throw on them, if every case of a private claim must necessarily be taken to that court. I think, Mr. President, if these two limitations—but especially the limitation which I have proposed—should be adopted, and met with the views of the Senate, and be adopted, I could consent to support the bill. Otherwise I cannot support the bill, and leave it unlimited for the court to find whatever judgment they please against the United States, in favor of private individuals, and make no limit, as I deem it would be, on our good faith.

Mr. DAVIS. I wish to make a suggestion to the Senator from Wisconsin. I concur with him exactly in the objection which he states, if it exists in the bill. I suggest to him that he offer an amendment which will remove the construction to which he objects, and make it so exact that there can be no doubt hereafter.

Mr. IVERSON. I have no objection to an amendment like that suggested by the Senator from Mississippi, because that would modify the construction of the bill. I introduced this bill originally myself, and, I think, I understand something about it. I did not hear the remarks of the Senator from Delaware, the chairman of the Committee on the Judiciary. His remarks were indistinct, and I did not hear them; but I understand the explanation which the Senator from Wisconsin attributes to him, he does not, in my opinion, understand his own bill. [Laughter.]

Mr. BAYARD. What is the remark to which the honorable Senator refers?

Mr. IVERSON. I will explain. The bill provides "that in all cases of final judgments by said court, or on appeal by the said Supreme Court, where the same is in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by Congress, and no satisfaction of private claims." The Senator from Wisconsin stated that the Senator from Delaware had said that he construed that to mean that the Secretary would make an estimate in advance of claims which might possibly be adjudicated in the Court of Claims, and that Congress would make an appropriation in advance to cover the judgments of the Court of Claims to be subsequently made. If that is the construction which the Senator from Delaware puts on this bill, I humbly submit that he does not understand it; and I am borne out by the opinion of one of the

other members of the Judiciary Committee, who sat near me, the Senator from Missouri, [Mr. GREEN], who says this matter was discussed freely and fully in the committee.

The Senator from Wisconsin has stated a case which shows the absurdity of the construction thus put upon the bill. The Secretary of the Treasury makes an estimate, and then, in the presence of God to make one to meet the case. But suppose he does: he comes forward and in the dark asks Congress to appropriate \$100,000 to pay the judgments which the Court of Claims may hereafter render. A case comes up the very first case upon which the Court of Claims—for \$100,000, and it exhausts every cent; and then every other judgment which may be rendered by the court goes unpaid. Does not this show that the construction is absurd? In the first place, it requires the Secretary to do that which nobody but God Almighty can do; and that is, to determine how much may be the judgments of the Court of Claims, and how much may be desired from Congress to pay them.

No such construction can possibly be put upon the bill, and I am not prepared to say, as I have stated; and it is, that the Secretary comes at the commencement of each Congress and asks for an appropriation to pay the amounts of judgments which have already been rendered by the Court of Claims in the aggregate. The Court of Claims reports to him from time to time, and in one of the other provisions of this bill, between the sittings of Congress, the amounts of its judgments in each case; and at the commencement of the next session, the Secretary asks Congress to appropriate the sum necessary to cover these various judgments; and then Congress appropriates that by law; and then the claimant in each case, after the appropriation is made, takes his certificate of the judgment from the Court of Claims, and carries it to the Treasury Department, and there gets his money. I am in opposition of the proposed law; and nothing can be plainer, in my opinion.

If the construction which the Senators from Delaware and from Wisconsin put on this clause be right, I am against the bill, and will vote against it. It is understood that the Secretary of the bill is that is not the proper construction. I will never permit a Secretary of the Treasury to come here, and, in the dark, ask for an appropriation of my amount, without our knowing how it is to be applied or to whom it is to go. I will never vote for the proposed bill of this sort, until I want to know where the money of the Government is going, when I vote it. I desire to know what judgments of the Court of Claims are to be paid before I vote an appropriation to pay them. I am not going to vote in the dark for an appropriation of a hundred thousand or half a million or a million dollars, to be applied to pay judgments of the Court of Claims when they shall hereafter render them. I desire to keep the power to review the judgments of the Court of Claims; and if I think it proper to appropriate the claim, and give me a proper judgment, I shall move in the Senate to restrict the amount of the appropriation so as to prevent the payment of that claim. I think Congress ought always to have that power in its hands, and not be asked to appropriate money in the dark; and if I am asked to do so, I will not do it. The Secretary may estimate for, not knowing to whom it is to go, or for what purpose, except the general purpose of paying judgments of the Court of Claims. If that is the construction, and the proposition to be put on this clause of the bill, I am opposed to it.

Mr. BAYARD. It may possibly be not unlikely that the honorable Senator from Georgia may have this species of intellect that he may know that others cannot understand their own words, and that he may possibly be mistaken. I think the Senator may himself be mistaken, notwithstanding his violence of manner and his utter want of courtesy. All that may be so; but the idea in my mind, which I mean to express to the Senate was this—I think so still—that the great object of the bill is, that judgments in individual cases shall not be made by a body like Congress, which is utterly incompetent to do it; and the bill is defective, if such is not its object. Congress undoubtedly, as I read the provision which is referred to, may either make a general appropriation, whether it is one hundred thousand

or one hundred and fifty thousand dollars, in advance for the purpose of paying private claims, or may make it subsequently. That is in their discretion, I admit. There is no obligation by the bill or Congress to appropriate in advance; but I have supposed that course may be taken under the bill, and I think so still.

Now, if a Secretary of the Treasury would always be known, I do not think it requires any such extraordinary intelligence, in the course of a year or two, to make an estimate of what will be the probable amount of claims against the Government. If you were to pass a clause in an appropriation bill appropriating \$100,000 for the payment of judgments rendered by the Court of Claims, not one dollar of it would be spent unless those judgments were rendered; and yet it is the intention of the bill to render the judgments of the court final. That is the very intention of the bill. Therefore, I see no injury, no danger to the Government, if you only take care to limit the amount of your appropriation; and whether you make it in advance, or make it subsequently, you have the list of claims before you, and you can make an estimate of them by the court. You intend to give the power of final judgment to the court, subject to appeal to the Supreme Court of the United States. You do not intend, if I understand the bill, to revise the action of the court in individual cases. If you do not intend to do so, I am sure I am well satisfied that no such construction ever can be arrived at. Congress may, or may not, in its discretion, determine that it will make an antecedent appropriation; taking the average of claims hitherto rendered by the court; and if the amount is not sufficient to pay all the judgments of course they will make a further appropriation at the next session. As to whether one judgment is to take it, or five or fifty judgments, is not the question in my mind. The question is, whether the Government is to be bound, or is competent to decide, private claims, which are questions of judicial cognizance; whether our experience has not shown that any legislative body is incompetent for a purpose like that. I think the great object of the bill is to get rid of that action of the bill, and to give the Government, and it retains the control over the aggregate amount which shall be disbursed by this Government for private claims; and I do not care whether one construction is given to the bill, or the other. I admit it is susceptible of both; whether Congress choose to make an appropriation in advance, or in some respects it would be more just to do so—or whether they choose to make the appropriation after the fact has been returned by the Secretary of the Treasury; but in either event, I hold, and I trust when it comes before Congress, that any attempt to investigate an individual case by striking at the amount of an appropriation, will be discontinued by Congress. Very certainly they could not reach it by any such legislation, if the late case; because all they could do, according to the bill, is to make an appropriation to diminish the amount; and unless they chose to pass on the particular case also by special law, they could not prevent the Secretary from paying any one case or another.

Mr. MALLORY. Mr. President, my service upon the Committee on Claims during two Congresses, if it has convinced me of anything, has convinced me of the absurdity, if not imprudence, of attempting on that committee to investigate the vast amount of private claims which come before it, with anything like justice to the Government; and my experience here has taught me that, whenever our Private Calendar comes up, private claims pass very much indeed upon feelings of sympathy, rather than justice to the Government, or the true claims of the parties involved. I am not to suppose that it is reported, that its object was to relieve us here from duties which are entirely incongruous to our ordinary functions, which we ought never to be called upon to perform—the investigation of claims of every kind and character, from five dollars to five millions. I suppose the object of the bill was to relieve us from that, and to throw the responsibility where we are willing to devolve it, on the Court of Claims. Now, it appears, from the suggestions of the chairman of the Committee on Claims, under whom I have the honor to serve, by his construction of the bill, that every individual

case which has been thoroughly examined, and in regard to which testimony has been taken, according to the principles of the common law and the practice of the courts, and a decision has been made, in to come here for review, and we are to treat it, in fact, as if no such examination had been instituted.

Mr. IVERRSON. Will the honorable Senator from Florida allow me to interrupt him a moment?

Mr. MALLORY. Certainly.

Mr. IVERRSON. The Senator misunderstands my argument. I have made no such argument as that. I have said this, however: that the appropriation will be agreed to by the Senate, and the judgments of the Court of Claims. I do not say that Congress is to pass on each case; but I do say that it is in the power of any Senator or Representative to have a review of any case here, if he chooses, by moving to withhold an appropriation from that particular case. That may be done. I do not say it will be done in any case. Undoubtedly it will not bring up each case, as a matter of course.

Mr. MALLORY. I think I do not misrepresent the argument of the honorable Senator from Georgia. I think you understand it. He did not say what I said; but I inferred correctly from his argument the premises I have used. It is to place in review before the Senate every claim which has been decided by the Court of Claims. It is to place a check on the Court of Claims, and to refuse there a finality in all suits. If it be the rightful construction of this bill, I shall vote against it. The Senator from Georgia says, if that is the rightful construction, he will vote for it. I say he encapsulates the bill entirely; he denigrates its vitality; he shows us the responsibility we have now. That is the course of proceeding now. Every case that comes up depends on its merits now. He says that after the decision of the court, we may decide it upon its merits. Then we shall have every case that has been decided by the Court of Claims to be brought before the Court here for revision again, and every Senator who has not taken the trouble to read the decision, will have it read in the Senate and investigated here, and the time of this body will be taken up by the investigation of claims precisely as is now done.

Is there anything in the bill that will alter the state of things? Claims come here from the Court of Claims. Those decisions are referred to the Committee on Claims who reexamine them, session after session, and yet they are referred to again here in open Senate, Senators not being satisfied. If this construction is to obtain, it will be equally in their power then, after this adjudication, to except particular claims from the operation of this bill, and except them all.

Sir, we must trust some of the branches of this Government. I am in favor of throwing the entire responsibility on this court, and sending their judgments directly to the Secretary of the Treasury. We can, at any time, abolish the court if it proves to be an imposture. It is not a very high position. It has already secured, as I think, the confidence of Congress, and the confidence of the public. I think nothing has occurred to destroy or impair it. It is growing in strength daily. We have, at any time, the power to abolish it when called upon by the Secretary of the Treasury to make the appropriations, and in that way to operate as a check.

Mr. DOOLITTLE. One single word further. This bill, as first introduced, used this language:

"Where the same is in favor of the claimant, the sum so thereby shall be paid out of any money in the Treasury not otherwise appropriated."

But the committee have moved to strike out the words "money in the Treasury not otherwise appropriated," and insert "general appropriation paid by law for the payment and satisfaction of private claims." Then, in the latter part of the section, it is made the duty of the Secretary of the Treasury, at the commencement of each session, to include in his report "a statement of all sums paid at the Treasury on such judgments, together with the names of the claimants, and whether the same were allowed." This bill, as it originally stood, without the amendment reported by the committee, would have authorized the Secretary of the Treasury to pay a claim, however large, out of any money not otherwise appropriated, in the Treasury; and at the next session of Congress,

he would report the amount which he had paid. That is as I understand the bill. I think it cannot bear any other construction.

As I stated, I am willing that there should be a general appropriation in advance and to a certain amount, if you please, \$100,000 or \$200,000; and I am willing to trust, first, to the Court of Claims, and then, on appeal, to the Supreme Court, the decision of the court against the Government in small claims, ordinary claims, or claims, if you please, below twenty thousand dollars; but when it comes to a claim above twenty thousand dollars, I insist that there should be a specific appropriation for the purpose. We cannot throw ourselves to go into court to be sued by private individuals to any amount without its being examined at all by Congress. That was the object of the amendment which I proposed. I hope that it will meet with the approbation of the Senate.

Mr. GRIMES. It is a matter of supreme indifference to me whether the amendment offered by the Senator from Wisconsin be adopted or not; for, unless the construction given by the Senator from Georgia on this bill be the one that it should properly receive, I am disposed to vote in favor of the bill. I think that the Senator from Georgia is in error in the expression of opinion which he gave to the Senate as to its proper construction. This question has been decided by the Senate already. When the bill was before the Senate on a former occasion, the Senator from New Hampshire proposed to amend it thus:

"No claim shall be paid out of any such general appropriation, until after each claim shall have received the approval of the Court of Claims, and the amount has been specifically estimated for in the annual estimates of the Secretary of the Treasury."

And this was voted down by an overwhelming majority of the Senate. When it was thus voted down, my mind came to the conclusion that it was the duty of the Secretary of the Treasury of the United States, in every case, to vote against this bill.

Now, let us look at this question. A few years ago you organized a Court of Claims. You designed that that Court of Claims should be a merely examining court; that they should unravel the facts of the case, they should investigate questions of law and submit their conclusions to you for their final decision; but, like all courts that have been established since the foundation of the world, it has been constantly attempting to draw to itself more and more power, until now it seeks to acquire the control of the Treasury. It was said on a former occasion, and has been repeated to-day, that the amount that will be annually appropriated from your Treasury to pay the judgments of the court, will not exceed more than one or two hundred thousand dollars; but have we any assurance that this amount will be limited to one or two or five hundred thousand dollars during any year? I apprehend not.

The trouble with the amendment of the Senator from Wisconsin is this: that says that the judgment should be committed to Congress, and then your amount shall not exceed \$20,000; but it is competent for the Court of Claims to determine a principle in a case involving only \$2,000, which may draw from the public Treasury millions of dollars. During the last administration, when you had one of the Secretaries of the Treasury, then you never had in this country, I apprehend—Mr. Guthrie—a decision was made, I have been informed by a Senator near me, involving the amount of only two or three thousand dollars, in regard to some of the aggregate outstanding claims. A decision was made by this Court of Claims in favor of the claim. Mr. Guthrie objected to that decision, and brought the attention of the Committee on Claims of the Senate to it, and the committee decided that Mr. Guthrie was right, and that the claim should be rejected. But the decision had been confirmed by the Secretary of the Treasury, and he would have drawn millions of dollars out of the Treasury. The check which the Senator from Wisconsin proposes to establish on this court amounts to nothing; because, although the amount involved in the particular claim may be very small, yet it may establish a principle which may put the whole Treasury at the command of this Court of Claims.

It is said here that we should do this in justice to these claimants; yet what did you do, the very first thing, when you went into committee on this bill? An amendment was proposed by the Sen-

ator from New Hampshire, declaring that when the Government went into any of the States, and there sued a private citizen, and that private citizen, before your own court, appointed by yourself, before a jury selected by yourself and paid by yourself, should be able to satisfy the court and jury that he was entitled to a set-off greater in amount than the claim which the Government had against him, that should be conclusive against the United States. You rejected the amendment; you decided that that should not be conclusive; but that he should be compelled to come here and prosecute his set-off a second time before your Court of Claims; and you say that it is justice to the citizen residing in California or Texas, or Iowa or Maine!

I am opposed to this whole thing, air—to the whole bill. I consider myself standing here as one of the guardians of the Treasury, and I am not willing to say that \$100,000 shall be voted in gross amount to meet the judgments that may be rendered by the Court of Claims, upon the supposition that that is the amount which will be required for an average number of years, for I apprehend that the Court of Claims will be constantly drawing to itself more and more power, and encroaching more and more on other courts in its jurisdiction, until finally we shall find that we have created here a tribunal dangerous to the Treasury, if not to the liberties of our people.

Mr. BROWN. I have no objection to the bill with the speech delivered by the Senator who has just resumed his seat; and it is about the only speech on this subject that I have heard in which I do concur. I regard this whole Court of Claims as an unmitigated humbug. It was so in the beginning; it is so now. True, precise thing is about to happen which those of us who opposed it in the beginning predicted would happen, that the judgments of the court were to be drafts upon the national Treasury. The friends of this court, in the beginning, said that no such thing could happen. They carried out their construction of the Constitution, which is but the plain language of it, that no money shall be drawn from the Treasury but in pursuance of appropriations made by law, and declared to us, that if the court were established, there would be no appropriations, and the judgments of the court would draw money from the Treasury otherwise than in pursuance of appropriations made by law. Now, sir, we are confronted with a proposition to allow the mere judgments of the court to operate as drafts on the Treasury. Congress is to create a court, and then the Senator from Wisconsin makes an attempt to limit it to a small amount; he is not prepared to go the whole figure just now. If the court pronounces a judgment involving \$100,000, then Congress is to be compelled.

Mr. DOOLITTLE. The honorable Senator will allow me to say a word. I voted for the proposition of the Senator from New Hampshire, which would retain the entire supervision of Congress, by making it necessary that every case should be referred to Congress, and that the amount should be paid; but the Senate voted down that proposition by so strong a vote that I supposed the bill would pass in an unlimited shape, and my desire was to put some limit on it. I am with the honorable Senator from Mississippi and the honorable Senator from Iowa in this regard.

Mr. BROWN. I was speaking to the proposition as it now stands. If a large sum of money is adjudged to be due by the court, then Congress must be consulted—not consulted in regard to the principle on which the payment is to be made, but consulted simply in regard to the amount. The Senator from Iowa has well said that the principle necessarily carries the amount with it. If you vote one dollar from the Treasury on a principle to-day, you cannot refuse to vote \$100,000, or \$1,000,000, tomorrow, on the same principle. Do you mean to establish the theory that the Government will do justice to small claimants and refuse to do justice to large claimants; that you will pay a claimant who only demands \$1,000, pay him because it is right to pay him; and yet refuse to pay him who demands \$100,000 on precisely the same principle? Sir, you cannot stand upon any such theory.

I hold it to be true that no money is to pass out of the Treasury but in pursuance of appropriations made by law, because the Constitution has so declared. You have no more right to appro-

private sums in the aggregate, and without estimate, and without knowing how the money is to be used, to pay private claims, than you have to say: "we appropriate \$50,000,000 for the support of the Government for the current year, and leave the President and his Secretaries to divide it out." I hold it to be a total departure from the original theory of the Government; a total ignoring of gentlemen's declarations when you inaugurated this court. Some of us, at the time, thought the result would be, when you got the court inaugurated, to allow it to send its judgments as drafts on the national Treasury. I repeat again, that was denied at the time.

Now you ask for the entering wedge, and, in the course of time, this court will draw, upon its judgments, millions upon millions from the national Treasury. These attempts to restrict it will be removed. The country will be made bankrupt through the instrumentality of a court that adjudicates claims and draws money from the Treasury. You will never know how much you have, or how much you have to provide for. Congress departs from the principle of the Constitution. Sir, it is the business of Congress to furnish the Treasury with money, and the duty of Congress to draw it from the Treasury out of the appropriations. We have no authority, in my opinion, to interpose a court, and say to it, "if you judge that A is entitled to so many thousands, and B to so much more, and C to so much more, they shall be paid out of the Treasury, on your judgment." That Congress intended in the letter, much less to the spirit, of the Constitution. Three judges, inferior judges at that, sitting in a court doing that which the Constitution requires the Senate and House of Representatives, with the consent of the President, to do—draw money from the Treasury! How many millions may they draw? This is the first attempt to limit it to \$200,000. I think the Senator from Wisconsin said. Next year the limitation will be put at \$1,000,000, and ultimately the limitation will be withdrawn entirely. Sir, it is not a matter to be stopped right here. Under no possible circumstances, in no shape in which the bill can be placed, will it ever command my vote.

Mr. IVERSON. If the Senator from Wisconsin will withdraw his amendment, I will offer myself, to do so. I will offer myself, to do so, "so as to make it read 'out of any general appropriation thereafter to be made by law, for the satisfaction and payment of private claims.'"

Mr. DOOLITTLE. I will withdraw my amendment, as the honorable Senator from Georgia, the chairman of the Committee on Claims, has given his special attention to this bill, and is better prepared to make proper amendments than I am.

Mr. IVERSON. I move to insert the words "thereafter to be" after the word "appropriation," so that it shall be necessary that the appropriation shall be made after the judgments of the Court of Claims are rendered, and when the amount is ascertained on an estimate made by the Secretary of the Treasury. I agree with the Senator from Iowa in relation to the limitation in this case. I cannot vote for this bill—if our funds are to be tied, in advance, by an expression of this sort in the language of the bill, to an appropriation without knowing to what claims it is to be applied—merely in the dark, as I said, I will never consent to it, to do not think Congress ought ever to permit a bill of this sort to be passed, which will bind us to pay money when, in our judgment, that money ought not to be paid. The objection to the limit of \$20,000, or any other limit, is the one stated by the Senator from Iowa.

Here are what we call the pension cases. The Court of Claims have adjudicated in favor of arrears of pension. In each case, probably, there is not more than from two to five hundred dollars involved; and yet it is well ascertained that the principle settles a large number of cases. In the end, it involves \$2,000,000. We are now appropriating money to pay those claims in advance, though this body itself rejected those very cases at the last session, and decided that the Court of Claims was wrong in its judgment, and ought not to have adjudicated in favor of the claim.

Again, with regard to the cases referred to by the Senator from Iowa, there were before the Court of Claims, and sent to the Committee on Claims, at the last session, what are called duty

cases—applications to refund duties alleged to have been improperly collected on the importation of foreign liquors. The amount of these claims, in each individual case, probably would not be more than about two thousand dollars; I think the average is about two thousand dollars a case; and there have not been more than a dozen cases as yet adjudicated by the Court of Claims; but I am informed, by one of the solicitors of the parties, that in the course of the year, there will be brought up hereafter, and that they will involve probably an appropriation of from one hundred thousand to one million dollars to pay them. The Committee on Claims at the last Congress, in investigating this decision of the Court of Claims in these duty cases, came to the conclusion that they were unjust, and ought not to be paid, and so reported; and the Senate confirmed the report of the committee.

If the bill passes in its present shape, and the construction which the chairman of the Judiciary Committee has put on it is correct, then the money appropriated will go to the payment of these cases, or similar cases, to the extent of exhausting the whole appropriation, and Congress can never exercise any supervisory authority over the judgments of the court. I am not a Senator, and I will not vote for the bill with that construction. I am willing that, to a certain limited extent, money shall be paid out of the Treasury on the judgment of the court, without coming to Congress; but in claims for large amounts, or cases which present a class of claims requiring Congress to exercise supervisory power over the appropriation. The operation of any amendment is different from that proposed by the Senator from New Hampshire, which was voted down the other day. His amendment was, that the Secretary of the Treasury should estimate for the amount of judgments at the commencement of the Congress, specifying each particular judgment, and then that there should be a specific appropriation to pay each judgment. I was opposed to that; but the operation of my amendment was, to give the Secretary the duty of estimating for the amount of judgments, and then an appropriation will be passed to pay the whole amount, unless Congress shall exempt or take out from the whole amount any particular case, which it is competent for Congress to do. I do not think Congress will be in any danger of passing upon an appropriation in a case which, in the judgment of Congress, ought not to be paid.

Mr. BENJAMIN. My President, the Judiciary Committee has been a very unfortunate one. It is a bill which was originally offered by the honorable Senator from Georgia, and in which he proposed the most unlimited power over the Treasury by the Court of Claims.

Mr. IVERSON. Will the Senator allow me to interrupt him just then for a moment? It is true that the bill was offered by me. It was not drawn up by me, however. It was drawn up by another gentleman, and handed to me to be presented. It did not meet my judgment, and I intended to offer an amendment, to the very effect of the bill now offered by the honorable Senator, to give power over the adjudications of the Court of Claims beyond the limit of \$3,000. The gentleman who presented the bill to me begged me not to alter it in any way, but let it go to the Committee on the Judiciary just as it was drawn. That bill does not commit to the principle the gentleman is stating.

Mr. BENJAMIN. I was going to observe that the committee has been very unfortunate. The bill, as presented to it, gave unlimited control over the Treasury, during the session of Congress at all events, to the Court of Claims. It was a bill that might be necessary to satisfy claims against the Government. We had all been aware here, for some years, that the Court of Claims, as established by the act which originated it, had, in fact, been of very little use in relieving the Government of legal claims. It was a year or two before it became more numerous, and which, as the great interests of this vast Republic increase, must become absolutely impossible. We cannot—it is idle to attempt it—investigate every private claim against the Government; in Congress it cannot be done. It may very well have been done in the infancy of the Republic. It may have been done at a time when there was but a small population and few States; but now, with a population

such as we have, with the increase not only of the population, but of the wealth and business of the country, he who undertakes to get Congress to investigate every private claim against this Government as it ought to be investigated undertakes that which is physically impossible.

An attempt was made to get rid of that difficulty; and what was it? That we should organize a court of judges; we should establish it here in Washington, and we should give it the right to be independent of the interests of the public; and many were of opinion, when the court was organized, that we should then determine that, upon the establishment of a claim against the Government upon any basis, either of law or equity, that claim ought to be settled at once; just as if an individual is made to pay, when, by the tribunals of his country, it is found that he owes a debt. But, sir, it was an experiment—it was something as yet untried—and Congress finally determined that it would not give to the decisions of this court that conclusive effect which was claimed by some who were in favor of its establishment; but would treat it at first in the light of what the Senator from Iowa calls an examining court. It has been tried. It has been so tried, and not a single case has been decided in its result. The result is, that the Calendars of the two branches are covered with claims, in which the unfortunate litigants, from all parts of the United States, have been brought here to the seas of the Federal Government; in which they have been put to the expense of coming here, and of making good their cases; in which their cases have been argued against the Government counsel, and in which the judges appointed by the Government have declared their claims to be just; and now there is upon your slender list, I think, of some fifty or a hundred cases, in which judgments, ranging from one to four, five, six, or eight hundred dollars, are hung up, and have been hung up, for more than nine Congress, and will be hung up for Congresses to come, simply because of a want of authority in Congress, which is occupied with other and graver matters, to attend to this small litigation.

Now, sir, the proposition at the outset of this session was this: We have tried this Court of Claims; we know the judges; we have heard their decisions; and we have seen that the decisions are those men; shall we not now, having made the experiment thus far, go a little farther, and do this: relieve Congress entirely from any class of claims which appeals not to bounty, not to liberality, not to favorable consideration; but which are those which are just claims for Government for payment of what is due under the law? That was the bill that the honorable Senator from Georgia took the paternity of; and I think that he took the paternity of no disapprobation or unworthy offspring. It was a very good bill. The proposition, in the first place, that Congress should refrain from revising the judgments of this Court of Claims, because it was unable to do so; it had neither the time, the opportunity, nor the materials for the revision. These claims come up here, and they are not to be revised. They pass through the Committee on Claims, if you please; but the chairman of that committee has told you that he considers it the duty of the committee, under the law, simply to report the bills here to be passed. Who knows what they are? Who examines them? Who discusses them? Do not we at last take them all on trust?

Now the proposition is, let that trust be carried thus far: when the Court of Claims has made a final determination on cases which depend on law and equity—not upon favor, not upon bounty—let it be the duty of the Government, for the Government, if the amount of the judgment does not exceed \$3,000. As the bill was sent to the Committee on the Judiciary, it provided for the payment of those judgments out of any money in the Treasury not otherwise appropriated. We discussed that matter in committee, and said, it will not do to allow this—not because it is not constitutional according to the idea of the Senator from Mississippi; not because we have no power to order judgments to be paid out of any money in the Treasury not otherwise appropriated. We know, we have not got that power, there is scarcely an appropriation bill that ever passes the Senate that is passed in accordance with the form of the Constitution—but because we would not be

able to tell how the law was operating; because we desired, by requiring from the Secretary of the Treasury, from year to year, an estimate in advance of how much money he thought he would require for the current year to meet these judgments, to keep the matter constantly under the eye of Congress, and if we ever found the appropriation growing, we would examine into the subject, and if the exercise of the power became dangerous, we would not hesitate to take steps to keep the vigilant eye of Congress on the operations of the court that we changed the appropriation clause, and, instead of leaving it in the power of the court to have its judgment paid out of any money in the Treasury not otherwise appropriated, we required that there should be a specific appropriation to pay judgments of the Court of Claims, so that it could not exceed fifty, or one hundred, or one hundred and fifty thousand dollars; that we supposed would be ample, in each year, without calling the special attention of Congress to the subject. My honorable friend from Virginia would be the first, when his bill came up, if he found the appropriations for the Court of Claims increasing, to say: "I am going to examine into this matter; these appropriations for my judgment were only one hundred thousand dollars a year, now they come up to \$300,000. How happens it that the claims against the Government are growing at this rate? Let us stop this expense; let us take away the power." We have a right to take it away at any time. There is no possibility of its growing in an able and virtuous man being brought under our eyes at each succeeding session of Congress. Therefore, the Committee on the Judiciary, deeming the innovation a good one, proposed to the Senate to let the Court of Claims pay its judgments without your intervention, to let it pay its judgments without your revision.

The Senator from Georgia says he is not willing to do that. I will appeal to him whether our power is not sufficient, under the law, as it stands? Is our power, does not appear to be insufficient, to the Senate. The law, as it stands, originally creating the Court of Claims, requires the officers of that court to send us every year a report of its judgments; so that from year to year we know exactly how we stand, the amount demanded, and the amount adjudged against the Government; anything is adjudged against the Government. We have got, therefore, first, annually, that much information. We know what was claimed; we know what has been allowed. Now, the Secretary of the Treasury, in making up his annual estimates, will call upon us to make appropriations to satisfy presumed judgments that may be rendered by the Court of Claims, at as near a guess as he can make, just as he calls on us for an appropriation for the transportation of the Army; just as he calls on us for a thousand other appropriations, the exact amount of which cannot be estimated, but which he has to spend at his discretion, under the responsibilities of his position, and under the responsibility of rendering an account at the very next session of Congress.

Does the Senator from Georgia object to that? The Secretary of the Treasury, at the beginning of the year, in his estimate of appropriations, puts down, "for amount to satisfy judgments of the Court of Claims, \$100,000." We pass the appropriation. We do not know what is going to be spent, but when we come together next December, the Secretary of the Treasury, by the bill, is to send in a list of all the judgments that he has satisfied of the Court of Claims, and that is to be compared by us, or by those of us who choose to do it, with the estimate. We are not in any previous session by the Court of Claims of the judgments that they had rendered, as well as those that may be rendered at the same session. We shall have, then, the report from the court of each case, the amount claimed and adjudged; we shall have from the Secretary of the Treasury the amount paid; and with all that before us, from year to year, we shall have the entire control of the subject-matter, and power to stop it at any instant, if we think there is any extravagance, or anything that we ought to check at any moment; the operation of the law constantly under our eyes, constantly under our control.

But, so far as claims go beyond \$3,000, we put the Government in the same position as our suitors. The Committee on the Judiciary has rec-

ommended to Congress at the present session, by another bill which will come up, to increase the limit of all appeals to the Supreme Court of the United States to \$3,000. That is the reason why we put \$3,000 in this bill for appeals in cases against the Government.

Now, sir, gentlemen want to limit the jurisdiction of the Supreme Court of the United States to \$30,000, unless Congress shall revise its decision; and if the Supreme Court of the United States shall find, on appeal, that the Government is indebted twenty-five or thirty thousand dollars to a man, and shall render its final decree that that sum is due to him upon principles of law and equity, without any reference whatever to the law of the Government, that is all that is demanded, Congress is to take the decision of the Supreme Court under its charge, discuss it, revise it, and refuse the appropriation, or accord it, at its discretion. We cannot trust the Supreme Court of the United States to give a decision in a claim of \$25,000, \$30,000, or \$40,000, between the Government and the citizen; but the Constitution vests it with exclusive original jurisdiction over controversies for empire between sovereign States. Claims are brought by the Government before that court for any amount of dollars, and that court is, finally, and without appeal, States contend for facts of country; the jurisdiction of sovereignty is involved; and your Constitution makes that tribunal the last, for there must be a final tribunal somewhere; and yet, for a few thousand dollars, we are asked to take the decision of the Supreme Court of the United States under our revision, because, forsooth, we, the members of Congress, suppose that we have the intelligence, the time, and the learning, amply sufficient to enable us to properly revise the decisions of that court.

It is supposed that we are bound to do this because of the indefinite nature of the appropriation. I do not know how to meet this argument. From the foundation of the Government the practice of Congress, the experience of the country, is so much opposed to this notion, that we have no power to make a general appropriation, that I scarcely know how to meet the argument. Did we not appropriate \$3,000,000 to meet claims under the Mexican treaty? Did Congress have an appeal from every case in which the commission of dollars was decided upon our having no paid to each individual? Did we not appropriate money under the Florida treaty? Did we not give unlimited discretion? Five million my friend from North Carolina [Mr. BAKER] says—five million of these were appropriated to be distributed among the claimants according to the judgments of a special tribunal which we created; and here, when this thing has been done again and again, without the suggestion of a doubt, for immense sums, and without Congress retaining any eventual control over the disposal of the money thus appropriated, everybody here becomes horrified suddenly at loosing the purse strings at the discretion of a court, and this, too, when the appropriations are never for but one year at a time, on estimates which you may or you may not pass at any time, and which you may or you may not refuse to pass the instant that their amount exceeds one moment's suspicion or distrust.

Senators, believe me, there is no danger in this. All your apprehensions are illusory. The courts of this country may be taken care of in this extent. You cannot buy them. Their reputations are at stake in their recorded decisions which every man may read. All that they do is known and published to the world. I suppose I can show, since I have been a member of the Senate, some cases in which the Government has paid twenty or twenty-five or thirty thousand dollars to a man, by the direct order of Congress, referred to a solitary officer of the Treasury Department, to be by him determined in the quiet seclusion of his office, without the check of publicity; without the presence of an officer to sustain the side of the Government; with unlimited discretion; and to a solitary clerk in a Department has been confided by the Congress of the United States, the disposal of hundreds of thousands of dollars of public money; and yet, with no responsibility, no control, no experience, under the eye of you yourselves have a voice in appointing; with open doors; with published and printed speeches and discussion; with the entire community having a right to go in at any moment and listen to

all that is going on; and finally, with the check of an appeal to the Supreme Court of the United States, where the amount is at all important; and last of all, with the necessity of coming to this Congress for appropriation to carry out its judgment, you are afraid to make a trial of a year or two with an appropriation of one or two hundred thousand dollars; and rather than do that, you will emasculate this bill; you will destroy every provision in it that has any virtue, every ray on the objects proposed, and you will bring us just back to where we started—an examination by Congress of every claim of two or three hundred dollars that may be made by an unfortunate citizen throughout the land. You have got your docket filled with them now, and with this bill, and they will accumulate year after year, because, as I started with saying, it is totally impossible for us to attend to them all, and the result will be that we shall be driven to this system in one, or two, or three years hence, after an amount of injustice has been done to the present claimants which your future legislation will be utterly incompetent to repair.

I beseech you make this experiment. Try it for a year; try it for two years; then, if there is found to be any harm in it, repeat it. If there is found in your hands; you can do with it as you please; there is no power to check you or interfere with your discretion over the matter. Let us pass the bill, and make an honest experiment of it. There is no risk in it. The few thousand dollars that may be lost, if there is a risk will be expended in the experiment. If it does not succeed, we must try something else; but, most assuredly, we cannot continue, in Congress, to entertain jurisdiction of cases of private claim. It is out of our power to do it; and we shall have to leave it to some committee eventually to do and take their reports without examination. I hope that all these amendments will be voted down, and that the bill will pass.

Mr. EVERSON. I do not wish to continue the discussion. I have expressed my opinion fully on the merits of this proposition, and the eloquent remarks of the Senator from Louisiana have not convinced me that I am wrong. I rise to say that I insist on my amendment, to insert the words "thereafter to be," so that Congress can retain jurisdiction of the case.

THE PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The amendment is in section four, line seven, after the word "appropriation," to insert the words "thereafter to be," so that it will read:

In all cases of final judgment by said court, or on appeal by the said Supreme Court, where the same is in favor of the claimant, the sum due thereby shall be paid out of any general appropriation thereafter to be made by law for the payment and satisfaction of private claims.

Mr. EVERSON. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.
Mr. DAVIS. In the earlier part of the day, a discussion arose between Senators as to whether the bill in its present form required money to be paid out of a general appropriation, or whether an appropriation was to be made to satisfy particular judgments. The Senator from Wisconsin addressed himself to it at an early part of the day. It is quite clear that estimates, when they are spoken of in strict legal language are in anticipation of our Government is conducted on estimates. Each year a Department presents a sum which will meet the probable expenditures of the current year, and an appropriation is made to cover them. The question before us, in the view which is now presented of it, is whether or not we are to pay by advance in advance for claims to be submitted to the Court of Claims? I must confess myself opposed to it, notwithstanding the able exposition which has been made by the Senator from Louisiana.

I have looked upon the Court of Claims as a well-organized committee for the examination of cases which are to come before the Senate; that they were to examine the law and the facts more fully than a committee of the Senate might do, and then the case to be presented to the Senate for an appropriation, and an appropriation, which should be found to be due. The present bill places it on a new footing, as a judgment rendered and money to be paid upon it, limited, however, to an appropriation which shall be made upon an estimate. I do not think that the court

contract, and that the citizen was entitled to separation; but the mode in which the claim was made did not intimate in the remotest degree the amount which the damages would come to, if the breaches of contract that were alleged were held to be sufficient. I sent for the party, who was in Washington, and I told him that I thought it right to be before the committee, and I told the committee, that I should know exactly the whole of the facts of the case, and I asked him why his petition did not contain a statement of the amount of his damages, so that we might have the means of knowing what sum we were to appropriate out of the Treasury. And this was his answer: "The amount of my claim will be about forty thousand dollars; and if I had stated in that petition that the damages were \$40,000, I should either have had to pay away from one half to two thirds of the amount to the claim agents of Washington, or they would have defrauded my bill."

I believe it is true. I believe it to have been so at any time in the past history of this Government. As Congress deals with claims, especially large ones, these are the influences which are to be taken into account by the members of Congress through Congress. Can they be in a court? The Government is represented there; the question is discussed openly on both sides. How many members of this body ever examine into the merits of private claims? In my own experience, when I have been on committees, I have heard bills introduced by members, referred to the committee, and on that committee, the bill referred for examination to the very member who introduced it. Can you expect a judicial investigation here in a case like that? I mean to impeach the integrity of so many. It is a corrupt system, though. It is a system, too, in my judgment, at war with the intent of the Constitution; which was, that the justice of the country, between the State and the individual, should be administered judicially, just as well just between the citizen and the State. That is the great object of this bill; and if the amendment of the Senator from Georgia prevails, the object is to give a review power over the administration of justice between the State and the individual, to the Congress of the United States. It destroys the bill, and it passes the bill. I have said before, and I say now, that if it does not pass, and the principle is tried, which I think is undeniable, that justice ought to be administered as justice and as a judicial act, whether it is between the State and the citizen, or man and man, I believe the Government is bound to do so, and give a fair trial to this mode of administering justice.

I will only add further, that in the past history of our country, for the first eleven years of the existence of the Government, there were about ninety-six acts passed in reference to private claims; and you will hardly find a solitary one of them that was not merely a gratuity, or in the nature of a gratuity; and at that time, the course always was, when a claim upon the Government was presented, it is proved, we were told, court here, guarded by counsel on your own side—and by the examination of testimony on both sides—when a claim was presented to Congress, it was referred, according to the practice that existed in England, to the head of the Executive Department to which it related, and a decision was made, and it was paid by him, without any reference to an investigation by Congress. That was departed from Congress, with that tendency which always exists in a legislative body to encroach on all other powers, judicial and executive, actually advanced step by step, until they undertook to decide on private claims against the Government, and those decisions necessarily were based, not upon the justice of the claim, not upon its proof, but upon the tact with which a claim was managed, whether by outside influence or inside influence; upon money, and a thousand other things; and the real merits of the claim were voted upon and decided constantly by Senators without knowing what the subject-matter was upon which they decided.

MR. BENTLEY. Mr. President, the remarks of the Senator from Delaware, like his bill, all indicate the character which is well known to belong to that Senator—a profound lawyer, and a righteous man. He puts the Government in the attitude of an individual. He permits the claimant to institute his suit. He revolts from the idea of referring the case to the legislative body, which he

considers the least of all fit to judge on the merits of a claim. In that I agree. We are, of all bodies, perhaps the least fit to judge of the merits of a claim, or to investigate it. But, as the case now stands, under the existing law, the Court of Claims performs that labor for us. The Congress reserves to itself the payment of the decision made by the court; and suffers from the case of the individual in this: Governments do not allow themselves to be sued; first, because they cannot allow judgments to run against them; secondly, because it must be within the discretion of the legislative body whether they will appropriate money in satisfaction of just claims or not. Public necessity, the condition of the Treasury, may render it absolutely necessary that we should postpone the payment of claims. Therefore, we cannot appropriate money in advance. We cannot say that we will pay all just claims against us when presented, or upon judgment of a court; because the public necessity may overrule that strict rule of justice which the Senator from Delaware has so forcibly and so justly presented to our view.

I adhere, therefore, to the existing system. I am not in favor of the amendment of the Senator from Georgia, because his amendment is in conflict with the bill; it destroys the bill; it is not at all in harmony with it to insert that amendment. The proposition which we have to decide, I think, is, whether Congress shall reserve to itself the right to appropriate money in satisfaction of private claims after they shall have been adjudicated by the Court of Claims, or whether we shall assume that a decision of the Court of Claims is to stand as a judgment against the Government, as it might be, and follow the course against an individual. In the latter position, it is quite clear to me that it makes no distinction whether we appropriate money upon estimates, or whether we appropriate it upon a report of judgments which have been rendered by the court. If we follow the bill, we are bound by the judgment; we are bound by the bill; in my estimation, at least, whether it be upon an estimate or upon a report, the obligation is upon that which we cannot avoid it by delay. If, however, we reserve to ourselves the right to determine the amount of the claims, and we decide in the way that the Court of Claims as nothing more than a committee legally advised and constituted, so as to inquire fully into the merits of the case, and prevent us from falling into those errors which legislative bodies are so liable to fall into, the cause is before the Government, as well stated by the Senator from Delaware, then, I think, we pursue the safer policy; and I wish to have this Court of Claims tried by a greater number of years, before we run the hazard to which we shall be subjected under the existing bill. I do not at all recollect to the change, that the Senator from Virginia says we can repeal the law and abolish the court. I am unwilling to go back to the old method of referring claims to committees, to be adjudicated in the Senate and House of Representatives, with the exception of the Court of Claims in existence, and therefore I am careful how I expose it to the hazard which may in the ensuing year bring me to the necessity of repeating it entirely.

MR. DOOLITTLE. I do not wish to be understood as making any remark which tends to an amendment providing that when the amount to be paid out of the Treasury should exceed \$20,000, it ought to be specifically appropriated by Congress, that I had not confidence in the ability or integrity of the judges of the courts to which Senators refer. I say that would be the practical operation in all small claims? The practical operation of the amendment would be, if this bill is to pass at all, that the smaller claims would be disposed of without coming to Congress at all; and, practically, that they would be referred to the court, at the same time, it is not out of distrust to the court, but because the Constitution imposes on us the responsibility of appropriating the money out of the Treasury, that I would insist, at all events, where any considerable amount was to be appropriated, to exceed \$20,000, that we give out—that it should be a specific appropriation,

and not to be taken out of money appropriated in advance, which system might involve us to the amount of millions: It is said around me that there are five or six millions of claims pending in that court now.

MR. BENJAMIN. If the Senator will permit me, how can one dollar go out that we had not appropriated? If millions are called for, we will say "no."

MR. DOOLITTLE. How can you say "no" after the judgment is rendered against you, and the faith of the Government is pledged?

MR. BENJAMIN. The money appropriated is made in advance, just as we are doing now, and just as the Senator from Mississippi proposes. If there is a judgment against the Government of \$5,000,000, and we have not got the money, then we will say we will not appropriate, but we will make some provision to satisfy the claimant, by offering him interest.

MR. DOOLITTLE. But I understand the effect of the bill to be that if the judgment of the court is that we are indebted \$5,000,000, on this bill as it stands, the faith of this Government is pledged, and the Senator and I are bound to pay it. The difference is the appropriation, because the faith of the Government is pledged.

MR. BENJAMIN. Are we not refusing to vote appropriation every day where the faith of the Government is pledged? Do not tell me that the Government pledged to pay every man what we owe him, whether it is ascertained by the judgment of a court or not? and do we not refuse to pay when we have not got the money? Did not the President of the United States visit the French capital, and express to the French Emperor that we had not money, that we were engaged in a foreign war, and could not pay? It merely puts the parties in the ordinary position of one who has a claim against a person who cannot pay, and entitles him to interest on equitable principles.

MR. DOOLITTLE. The difference is in the relation to a claim which is not yet settled and determined, and which belongs to Congress to settle and determine, our faith is not pledged until we have determined it; but here we provide by law for a tribunal that may determine the amount of the claims, and we decide in the very law that, when it is determined, it is final as against us—so much due; and we can no more repudiate it than a bond against the United States.

MR. BENJAMIN. Does not the Senator perceive that it is in the bill that the Senator says that, in the case proposed by the bill, the faith of the Government is pledged, and therefore we have no right to refuse an appropriation; but he proposes to refuse an appropriation, not because we do not have the money, but by refraining from deciding it, because Congress has not yet decided. According to those ethics, all we have to do is never to decide on the claim, and then our faith is not pledged; the moment it is decided, we are bound to pay it.

MR. DOOLITTLE. That is not the effect of the amendment, for if we put the provision in the bill, the money is not due by the language of the bill, unless Congress shall appropriate it; and our faith is not pledged in advance to the payment of the judgment. But if we say this court is to render judgments, and we are bound to pay them, the provision by Congress, our faith becomes absolutely pledged, and we are just as much bound as if a man held a bond against the Government; but when we retain the supervisory power, it is different. I mentioned the sum of \$20,000, because I thought that it would be more convenient and more expeditious, in disposing of the smaller claims against the Government under \$20,000, to allow the decision to be absolute against the Government. We could not be defrauded or injured or imposed upon; but when the sum exceeds \$20,000, in stating the bill that the amount of Congress is required, and then the claimant understands that the faith of the Government is not pledged until Congress has passed upon it, and said they will pay it. Think it seems to me, is the distinction.

MR. GRAY. Mr. President, I need not give further evidence that this bill ought not to pass than the diversity of opinions that seem to prevail among its friends as to the proper construction of it; but I wish to ask some of its friends a question, which I have just occurred to me. Suppose it should be decided that the bill was not the forward duty, with which reference has been made,

should be refunded, (and the gross amount of those duties, as I understand, is upwards of three million dollars,) and so that the Senator from Rhode Island—while the individual claims are only about two thousand dollars, as a general thing, or less than three thousand, the amount necessary to authorize an appeal) this court goes on, and decides that the \$300,000 that was appropriated in the next session of Congress, there, then, is that amount of existing judgments rendered against the United States in favor of individuals throughout the country; and to whom is the one or two hundred thousand dollars that you have appropriated in the general appropriation bill to be paid? How is it to be distributed among those several claimants? Is there any provision in the bill by which there is to be a *pro rata* distribution; or are those who first come to receive the whole money? I should like to have the friends of the bill state to us how that is.

Mr. BENJAMIN. Did I understand the Senator from Iowa as asking a question? Will he repeat his question? I did not understand it exactly. I was saying something to a friend next me.

Mr. GRIMES. Suppose the claims of those individuals who now claim the refunding of drawbacks, paid on account of spirituous liquors, shall all be allowed by the Court of Claims; the individual claims, as I understand, are generally less than three thousand dollars; but the aggregate amount exceeds, I am told by the Senator from Rhode Island, probably three million. Suppose that before the next session of Congress all those claims should be allowed; would you have appropriated in a general appropriation bill one or two hundred thousand dollars to meet the decisions of the court; under the provisions of this bill, to whom is the \$300,000 to be paid? Is it to be distributed *pro rata* among the several claimants; or is it to be paid to those who have judgments, or is it to be paid to those in whose favor the first judgments are rendered?

Mr. BENJAMIN. The Senator from Iowa, I beg his pardon, certainly has not read the bill. The bill provides that the Secretary of the Treasury shall pay the judgments as they are rendered, and presented to him for payment; and when he has got through with his appropriation, he will stop, and he cannot pay any more until Congress shall give him more money to pay with. That is perfectly plain. The bill says so. The question does not arise.

Mr. IVEISON. I will ask the Senator from Louisiana one question, if he will allow me. Suppose that, after the \$300,000, or any other amount appropriated, shall be exhausted, and there is left a million and a half or two million of judgments; how are they to be paid? Of course, the next Congress must make an appropriation; and according to this bill and the construction put by the Senator from Virginia, Congress is bound to make an appropriation. Therefore, we might as well take the original bill and provide that every judgment of the Court of Claims to be hereafter rendered shall be paid out of any money in the Treasury that otherwise appears to be lawfully due and owing to the same thing precisely. You make an appropriation of two or three hundred thousand dollars; that is exhausted, leaving a large amount of judgments unpaid; and the next session, by law, as well as the next Congress, you are bound to appropriate to pay the balance.

Mr. BENJAMIN. I will answer the Senator. Suppose the Senator were to put to me this question, which would, of course, be still more startling; suppose the next Court to adjudicate, during the summer, \$10,000,000,000 of judgments; how are they to be paid? I simply say there is no such possibility. If he puts the question that the court may give millions of judgments before the next Congress, I answer him that the experience of the years shows the thing to be an impossibility; and therefore we do not provide for it. I will tell him, further, that no possible series of cases of that kind could ever be brought before us from the Court of Claims. You cannot make up any series of claims that would require the millions of dollars with no claim amounting to \$3,000. That is all moonshine. So far as the question arises about the return of duties, as they have been spoken of to-day, I will say this, though it is going off on a collateral subject, and would not come on Claims, in reporting against these drawback duties, which I have no more doubt are due by this Government than that I stand here, has as-

sured to reverse the decision of the Supreme Court of the United States and of the Court of Claims, and I further say to my knowledge, Congress has never agreed to the report of the committee; and I cannot believe it will do such monstrous injustice as to agree to it. I have examined these cases; they have been sent to my committee, and I further say to my knowledge, to see that, in defiance of the decision of the Supreme Court of the United States, and in defiance of the decision of the Court of Claims, the Committee on Claims has reported to Congress that, where a claim imports a case of liquor which, at the start from the foreign port, contained no distilled gallons, but when it reached the port of delivery had lost half of it by leakage, and there remained fifty gallons brought into the country, he shall pay duty on the one hundred gallons with which he started from abroad, or else that he shall not have his goods brought into the country at all; for that is the whole question in these drawback cases.

The Secretary of the Treasury, over and over again, made men pay duties on goods that never reached the country; that were lost at sea; lost by leakage, or from some other cause. The Supreme Court of the United States held, when the amount was large enough to go to it, that the Government was not right in not paying the claimant; and that he had paid under protest, or without protest, went to the Court of Claims, and asked to have their money paid back. That court, under the decision of the Supreme Court of the United States, and in its judgments rendered according to the plain principles of justice, determined that the money had been wrongfully exacted and ought to be given up; and that case is brought up here as an illustration of the millions upon millions of dollars we are going to pay.

I am sorry that I have been led into this collateral subject, because it will bring up half a dozen speeches again about it. I did not intend to refer to it, but it has been spoken of three or four times already in the debate, and that is the whole case of the drawback claims.

Now, as regards the pension claims, that class of claims under pension laws was provided for by the amendment of the Senator from Georgia, [Mr. TOOMBS], which we adopted. Our bill is substantially correct, and it is based upon money on principles of law and on principles of equity; to cases where you could go into court and make an individual pay. In those cases, we say, the Government ought not to take advantage of its position, and should be made to do justice.

Mr. SIMMONS. Mr. President, I should not now say anything about this bill, because I once said a few words about it, if the Senator from Louisiana had not referred to a report of the Committee on Claims, or if he had stated the report of the case as it was. The case he refers to was no such case as he thinks. It was not a question of drawback at all; nor had it ever been to the Supreme Court. The case was an application for a refund of duties on goods imported, and it was upon the idea of our charging for a whole cask of liquor when half of it had leaked out. In the case that we examined, all such deductions had been made at the custom-house, where there was no question of drawback. The question was, whether, when a merchant imported goods, and insisted upon making his rest in his account as to the charges that should go on them in the foreign port, he could, when he stopped having that increased in the charges, insist the natural result in the voyage. That was the question, and the Secretary of the Treasury had, as we thought clearly, decided undoubtedly that, upon the importation of a cargo of merchandise, the rest in the account should be made in the foreign port where they were on ship-board; and that they could claim no allowance for waste after that; because it was for the benefit of the importer that the rest should be made in the account at the place of exportation, and that no additional charges should be made. Had the importer taken the other side of it, we concluded they were bound to take the other, too, and not let us keep losing, and they gaining, without our getting the compensating advantage of the voyage; and I do not believe any one of us would have expected the Government to take to say that there is any equitable or just claim upon the part of any one of those men for the return of those duties.

I think it must be some other case that the Senator refers to. I know it was not this one that was decided. I agree that there will get precedents established, and go on from one thing to another, until they take all the money there is in the Treasury. The report of the committee was unanimous, and the Secretary of the Treasury was with us, against both the Court of Claims and the Supreme Court, but we did not examine any such question as the Senator supposes.

THE PRESIDING OFFICER, (Mr. FITZPATRICK in the chair.) THE QUESTION on the amendment of the Senator from Georgia, [Mr. IVEISON].

The question being taken by yeas and nays, resulted—yeas 16, nays 33; as follows:

YEAS—Messrs. Bingham, Cameron, Chandler, Doolittle, Durkee, Fish, Grimes, Hiram, Harris, Fremont, Johnson of Tennessee, Simmons, Sumner, Wade, and Wilkinson—16.

NAYS—Messrs. Anthony, Bayard, Benjamin, Bigler, Briggs, Chas. C. Clay, Colman, Crittenden, Davis, Dixon, Douglass, Fremont, Fitzpatrick, Foster, Green, Gracie, Hammond, Humphreys, Hunter, Knapp, Latham, Mathews, Nicholson, Paine, Powell, Rice, Thompson, Tombs, Wigfall, and Wilson—33.

So the bill was rejected.

Mr. DOOLITTLE. I now renew the amendment which I offered to insert at the end of section four:

And provided further, That in all cases when the amount allowed in the claimant shall exceed the sum of \$20,000, the claimant shall be required to pay an additional specific appropriation by Congress thereto.

I ask for the yeas and nays on the amendment. The yeas and nays were ordered.

Mr. HALE. If the object of the Senator from Wisconsin be to give the power to render a final judgment in cases under that amount, and he would so vary it, I should concur with him, or even a smaller amount, if by the bill as it now stands, the power of the court to render final judgment, then, I do not see that we have any right to withhold payment.

Mr. DOOLITTLE. This proviso is, that it shall not be paid or payable without a specific appropriation by Congress; which, I think, would imply a specific power on the part of Congress. The word "payable" is used for that purpose.

The question being taken by yeas and nays, resulted—yeas 18, nays 30; as follows:

YEAS—Messrs. Bingham, Cameron, Chandler, Doolittle, Durkee, Fish, Grimes, Hiram, Harris, Fremont, Johnson of Tennessee, Rice, Latham, Mallory, Simmons, Sumner, Wade, and Wilkinson—18.

NAYS—Messrs. Anthony, Bayard, Benjamin, Bigler, Briggs, Brown, Chas. C. Clay, Colman, Crittenden, Davis, Dixon, Douglass, Fremont, Fitzpatrick, Foster, Green, Gracie, Hammond, Humphreys, Hunter, Latham, Mason, Powell, Seidlitz, Thompson, Tombs, Wilson, and Yates—30.

So the amendment was rejected.

Mr. HALE. I have an additional section to offer:

And be it further enacted, That whenever any person is sued in any Federal court by the United States, he shall have leave to file in said court, and if upon the trial it be ascertained that a balance is due him, and the judge who tried the case shall be satisfied that such balance is due, the court shall have power to order the amount to be paid to him, and an presentation in the Secretary of the Treasury to pay the same, and the said amount shall be paid to the person entitled to receive the same, out of any money in the Treasury not otherwise appropriated.

By this bill you propose to open the Treasury to suitors who go into the Court of Claims as plaintiffs. Now I simply propose that, in the Federal courts of the Union, where you compel a person to go in when you sue him, if there is a balance found due him on oath, and the judge who tries the case is satisfied with the finding—and that is in one of your own judges, a Federal judge, and the suit decided by a Federal officer, on the finding of a jury, certified by the judge that it is correct—the defendant shall have the same privilege that your suitor, the plaintiff, has here.

The yeas and nays were ordered. The Secretary proceeded to call the roll.

Mr. BROWN. I desire to say, before the vote is announced, that the Senator from North Carolina, [Mr. CALDWELL], being despondent, desired to retire from the Chamber. He being altogether for this bill, and I altogether opposed to it, I paired off with him.

The result was announced—yeas 16, nays 33; as follows:

YEAS—Messrs. Anthony, Bingham, Cameron, Chandler, Doolittle, Durkee, Grimes, Hale, Hiram, Johnson of Ten-

seene, King, Latham, Simmons, Sumner, Wade, and Wilkinson.

YEA'S—Messrs. Bayard, Benjamin, Bigler, Briggs, Chace, Clay, Colman, Crittenden, Davis, Dixon, Douglas, Fitch, Fitzpatrick, Ford, Foster, Gale, Hammond, Harsh, Hunter, Johnson, Kearney, Lane, Mallory, Mason, Nicholson, Pease, Powell, Rice, Sebastian, Smith, Thompson, Wigfall, Wilson, and Yates—33.

So the amendment was rejected.

MR. HARLAN. I offer the following amendment, in an additional section:

And be it further enacted, That the provisions of the second and third sections of an act entitled "As Act to prevent frauds upon the Treasury of the United States," approved February 18, 1853, shall not apply to any claim of claims that may be prosecuted against the United States in the Court of Claims.

I ask for the yeas and nays.

The yeas and nays were ordered.

MR. ANTHONY, MR. COLLAMER, and others. What are those provisions?

MR. HARLAN. I will send them to the desk and have them read in connection with the eighth section.

The Secretary read the second and third sections of the act of February 26, 1853, as follows:

Sec. 2. And be it further enacted, That any officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any Executive Department, or any other office of the United States, or under the Senate or House of Representatives of the United States, who, after the passage of this act, shall act as an agent or attorney for prosecuting any claim against the United States, or shall, in any manner, or by any means otherwise than in the discharge of his proper official duties, aid or assist in the prosecution or support of any such claim or claims, or shall receive any gratuity, or any share of or interest in any claim from any claimant against the United States with intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim, shall be liable to indictment as for a misdemeanor. In any court of the United States having jurisdiction thereof, and, on conviction, shall pay a fine not exceeding \$5,000, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court in its discretion shall adjudge.

And be it further enacted, That any Senator or Representative in Congress, who, after the passage of this act, shall, for compensation paid or to be paid, certain or uncertain, act as an agent or attorney for prosecuting any claim or claims against the United States, or shall, in any manner, or by any means, for such compensation, aid or assist in the prosecution or support of any such claim or claims, or shall receive any gratuity, or any share of or interest in any claim from any claimant against the United States with intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim, shall be liable to indictment as for a misdemeanor. In any court of the United States having jurisdiction thereof, and, on conviction, shall pay a fine not exceeding \$5,000, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court in its discretion shall adjudge.

MR. HALE. Let the Secretary read the eighth section of the act, and gentlemen will see that it does not apply to courts. It will show the necessity of the amendment.

The Secretary read, as follows:

Sec. 8. And be it further enacted, That nothing in the second and third sections of this act contained shall be construed to apply to the prosecution or defense of any action or suit in any judicial court of the United States."

MR. BENJAMIN. I hope that amendment will be accepted. I think it is a very proper one.

MR. CHUTEYENDEN. Why was it not accepted? I do not know. The decision of the court is made conclusive. It can never come back here, so that a member of this body can vote on it here. I am sure I feel no interest in it, but I see no reason for such a provision; none at all. I hope it will not be accepted.

MR. BAYARD. I am willing to agree to the amendment.

MR. HARLAN. If the amendment is acceptable to the friends of the bill, I am willing to withdraw the call for the yeas and nays.

THE PRESIDENT OFFICER (MR. FRYBARNCK in the chair). The call for the yeas and nays shall be withdrawn by unanimous consent. The Chair hears no objection.

The question being put, the Presiding Officer declared the amendment adopted.

Several Senators called for a division.

MR. HARLAN. I renew the demand for the yeas and nays.

The yeas and nays were ordered.

MR. DAVIS. I hope we shall not have a call of the yeas and nays. If the yeas and nays will apply to this class of officers, there can be no objection to making it applicable.

MR. HARLAN. I understood some Senator to call for a division. I do not wish to consume the time of the Senate in calling the roll on it if it

be acceptable; if not, however, I desire to record my vote in favor of the amendment.

THE PRESIDING OFFICER. The yeas and nays having been ordered, the Secretary will call the roll.

The question being taken by yeas and nays, resulted—yeas 40, nays 6, as follows:

YEA'S—Messrs. Anthony, Bayard, Benjamin, Bigler, Briggs, Chace, Clay, Colman, Crittenden, Davis, Dixon, Little, Durkee, Fessenden, Fitch, Fitzpatrick, Ford, Foster, Gove, Hale, Harsh, Hunter, Johnson of Tennessee, Kearney, King, Lane, Latham, Mallory, Mason, Nicholson, Pease, Rice, Sebastian, Simmons, Sillid, Sumner, Ten Eyck, Thompson, Wade, Wilkinson, and Wilson—40.

NAY'S—Messrs. Chase, Chace, Crittenden, Green, Hammond, and Wigfall—6.

So the amendment was agreed to.

The bill was ordered to be engrossed, and read a third time. It was read the third time; and on the question, "Shall the bill pass?"

MR. HALE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 34, nays 16, as follows:

YEA'S—Messrs. Anthony, Bayard, Benjamin, Bigler, Briggs, Chace, Clay, Colman, Crittenden, Davis, Douglas, Fessenden, Fitch, Fitzpatrick, Ford, Foster, Green, Hammond, Harsh, Kearney, Lane, Latham, Mallory, Mason, Nicholson, Pease, Powell, Rice, Sebastian, Sumner, Thompson, Ten Eyck, Wilson, and Yates—34.

NAY'S—Messrs. Benjamin, Cameron, Chandler, Davis, Donlin, Durkee, Hale, Harsh, Hunter, Johnson of Arkansas, King, King, King, Simmons, Ten Eyck, Wade, and Wilkinson—16.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by **MR. FORNEY**, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 304) inviting proposals for carrying the entire mail between the Atlantic and Pacific States in one line; and

A bill (No. 326) to establish mail routes in the Territory of Kansas.

The bills were severally read twice by their titles, and referred to the Committee on the Post Office and Post Roads.

MILITARY ACADEMY BILL.

MR. HUNTER. I now move to take up the West Point appropriation bill, so that we may adjourn upon it, and have it as the first business in order for to-morrow.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 5) making appropriation for the support of the Military Academy for the year ending June 30, 1861.

MR. HUNTER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 13, 1860.

The House met at twelve o'clock, **Mr. Prayer** of the Chaplain, Rev. Thomas J. Stockton.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

THE SPEAKER laid before the House a communication from the Secretary of the Treasury, in response to the resolution of the House of the 12th March, 1860, requesting estimates of sums necessary to complete the capitol and penitentiary buildings in New Mexico; which was referred to the Committee of Ways and Means, and ordered to be printed.

MRS. ANNE M. SMITH AND OTHERS.

On motion of **MR. HAMILTON**, by unanimous consent, Senate bill No. 73, for the relief of Mrs. Anne M. Smith, widow of the late Brevet Major-General Persifer F. Smith; Mrs. Harriet B. Macomb, widow of Major General Alexander Macomb; and Mrs. Ambella Riley, widow of Brevet Major General Henry Riley, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

MR. HOUSTON moved to reconsider the vote by which the bill was referred; and also moved to lay it on the table to reconsider on the table.

The latter motion was agreed to.

MRS. AGATHA O'BRIEN.

THE SPEAKER also laid before the House

Senate bill No. 260, for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. P. J. O'Brien, late of the United States Army; which was read a first and second time by its title, and referred to the Committee on Invalid Pensions.

POINT COUPÉE.

THE SPEAKER also laid before the House Senate bill No. 258, granting to the parish of Point Coupée, Louisiana, certain tracts of land in said parish; which was read a first and second time by its title, and referred to the Committee on Public Lands.

MESSAGE AND FINAL PROCESS.

MR. HAMILTON. Mr. Speaker, I ask the unanimous consent of the House for leave to introduce a bill to provide for the execution of means and final process of courts of the United States.

There was no objection; and the bill was received, and read a first and second time by its title.

MR. HAMILTON. I move that the bill be referred to the Committee on the Judiciary.

The question was taken; and the motion was agreed to.

DISCHARGE OF COMMITTEE.

MR. SCOTT. I move that the Committee on Military Affairs be discharged from the further consideration of the specific bill, in which I had the honor to introduce, and that was referred to said committee, and that it be referred to the select committee appointed to take into consideration the question of a Pacific railroad.

The motion was agreed to.

OLIVER BASCOMB.

MR. McKEAN, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the claim of Oliver Bascomb, assignee of Edward Lumber, for services in taking care of a dredge-haul for the United States at Waterbury, in the State of New York, and to report by bill or otherwise.

ORGANIZATION OF THE MILITIA.

MR. VALLANDIGHAM. Mr. Speaker, I rise to a privileged question. I move to take up the motion to reconsider the vote by which a bill introduced by me, in February, to increase the appropriation for arming the militia of the United States, was referred to the Committee on the Militia; and upon that motion I desire to address the House for a few moments.

THE SPEAKER. The title of the bill will be read. It is a bill (H. R. No. 85) to amend an act of April 23, 1860, entitled "An act making provision for arming and equipping the whole body of the militia of the United States."

MR. TOMPKINS. I move that that bill be referred to the Committee on the Militia.

MR. VALLANDIGHAM. I have the floor on the motion to reconsider the vote by which the bill was referred to the Committee on the Militia.

I do not know, Mr. Speaker, whether it is strictly in order here to discuss anything but the issues of the day.

Does it not strike the attention of the House the question of slavery; but at the hazard of being deemed singular, if not disorderly, I propose to depart now, for a little while, from the beaten pathway of debate. This motion, sir, to reconsider opens up the general merits of the proposed measure, and I ask the attention of the House for about fifteen minutes, while I explain it; I will not detain you longer, and that I may not, I desire to speak without interruption.

MR. SPEAKER, if there was any one sentiment more deeply fixed in the minds of those who founded this Republic, than that of the necessity of standing armies. It passed into a maxim among them that large military establishments in time of peace were dangerous to liberty. That maxim remains to this day in the bill of rights in many of our State constitutions. It has left its impress also upon the policy and legislation of this Government to the present time, when, with twelve thousand miles of land and water frontier, encircling three million square miles, we have a standing army numbering less than twelve thousand men. We have not a single statute the very more sensitive to national honor, or more awake to the necessity of national defense. Hostile to standing armies, but zealous to provide for the public safety, they looked to the MILITIA of the several States for protection against foreign and

son, in his annual message of November, 1868,

and, under the acts of March 10 and April 23, respecting arms, the difficulty of procuring them from abroad during the present situation and disposition of Europe, induced us to direct our whole efforts to the source of internal supply. The public factories have, therefore, been enlarged, additional machinery erected, and in proportion as articles are required, found, their effect is already more than doubled, may be increased so as to keep pace with the yearly falling of the militia."

And yet, sir, so far from carrying out the purpose for which your public factories, if not established, were at least enlarged, and even then more than doubled, Congress has permitted them to be used almost wholly to supply the demands of the regular army; and the annual appropriation, instead of being made to keep pace with the yearly increase of the militia, remains now in this, the fifty-second year from the date of the act, still at the \$200,000 at which it was first established.

Sir, Congress has been utterly derelict in its duty, and in every particular, in regard to the militia; and, by your neglect, you have forced the States to organize and discipline, and now, at last, to appropriate money out of their own treasuries for the purchase of arms. Virginia has done it, and Maryland, the other day, appropriated \$70,000 for that purpose. I repeat, that it is unjust, burdensome, and oppressive. But if you will accept your power and your duty in this particular, at least give your consent—and the Constitution provides for it—that each State may "keep ships and ships' war in time of peace," and thus may participate, to some extent, at least, in this the highest exercise of sovereignty known to independent States.

I have moved, sir, to reconsider the vote referring the bill before the House to the Committee on the Militia; but, if the chairman of that committee desires that it should remain where it is, I will not insist; and, trusting that it will be speedily reported back and passed, I will withdraw the motion to reconsider. Otherwise, I would prefer that, this bill, inasmuch as it provides for the appropriation of money, and, therefore, under the rule, go to the Committee of the Whole on the state of the Union, should be referred to that committee at once.

THE SPEAKER. If there is no objection, the gentleman will have leave to withdraw the motion.

YALLANDIGHAM. I insist upon it, if no objection is made.

THE SPEAKER. The question is upon the motion to reconsider the vote by which this bill was referred to the Committee on the Militia.

Mr. BINGHAM. I move to lay the motion on the table.

Mr. YALLANDIGHAM. I withdraw the motion to reconsider.

Mr. TOMPKINS. I move to refer the bill to the Committee on the Militia.

THE SPEAKER. The gentleman from Ohio has withdrawn his motion to reconsider, and the bill stands referred to that committee already.

MESSAGE FROM THE SENATE.

A message from the Senate was received, through Mr. HIEZKY, its Clerk, informing the House that the Senate had passed a joint resolution suspending the operation of the fifth section of "An act making appropriations to defray the deficiencies for the service of the Post Office Department for the fiscal year ending the 30th of June, 1859; and in part for the service of the Post Office Department for the year ending the 30th of June, 1861," being the section relating to printing.

Also, that the President had approved the following Senate bills, &c.:

A resolution giving the consent of Congress to Captain William B. Shulzick to accept a sword presented to him by Captain General and President Urquiza, of the Argentine Confederation.

An act for the relief of William B. Herriek."

An act to extend the provisions of "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits" to Missouri and Oregon, and for other purposes.

Also, that the President had ordered the printing of the usual number of copies of the resolutions of the Legislature of Michigan, in favor of the enactment of a law to provide for the military instruction of the uniformed volunteer companies of each State—ordered twenty minutes past one o'clock, March 12, 1860.

FALSE TRADE-MARKS, &C.

Mr. MOORHEAD. I ask the unanimous consent of the House to introduce a bill to prevent and punish fraud in the use of false stamps, brands, labels, or trade-marks; of which notice was given yesterday.

Mr. GROW. I object, and call for the regular order of business, which is the call of committees for reports.

MAILS ACROSS THE CONTINENT.

THE SPEAKER stated that the regular order of business was the call of committees for reports; and that a question was a question was to submit to the Committee on the Post Office and Post Roads a bill (H. R. No. 304) inviting proposals for carrying the entire mail between the Atlantic and Pacific States on one line, which motion was pending when the last call of committees was made.

Mr. COLFAX. I withdraw the motion to reconsider, and move the previous question on the passage of the bill. But I desire to state that I will answer, very frankly and cheerfully, any questions which may be asked by the gentleman from Texas, or by any other gentleman, in reference to this bill. It is a plain and simple bill, inviting proposals for carrying the entire mail between the Atlantic and Pacific States on one single line. On the 4th of March last, when Congress adjourned, the Government was paying over two million dollars for carrying the mails between the Atlantic and Pacific States, upon a number of lines. The Postmaster General retrenched that service; yet it now costs over one million three hundred thousand dollars. The Committee on the Post Office and Post Roads believe that the entire mails can be carried, overland, in twenty days, which is several days less time than is now consumed in their transportation, and for considerably less than one million dollars.

THE SPEAKER does not bind the Government or the Department to accept any of the bids that may be made under this bill. It simply provides that the Postmaster General shall advertise immediately for proposals for carrying the entire mail between the Atlantic and Pacific States from any point on the Mississippi or Missouri rivers, to be designated by the bidders, and over such route as they may designate, to the city of San Francisco, in California, in each direction daily, in twenty days; also, for proposals for tri-weekly service, to the same point, and over such route as they may designate, to the city of San Francisco. The Postmaster General is directed to also invite proposals to carry the letter mail, and all printed matter on which letter postage is prepaid, twice a week in each direction; and the newspaper mail to be carried through, in that case, weekly, within thirty days; the contractor having the privilege of sending public documents and magazines by the ocean route to San Francisco, at their own expense, and to be taken through in thirty days from New York. He also invites proposals for carrying the mails semi-weekly, or weekly from New York or New Orleans to San Francisco. These proposals are to be received by the Postmaster General up to the 25th day of May, and within three days thereafter are to be laid by him before Congress for their consideration, the Government reserving the right to reject any or all of these bids that they may proper. It also provides that the contractors are invited to propose for carrying the mails by a branch line to Denver City, and also to Great Salt Lake City, if the line does not run through these places, and thus to supply the mails to the gold region of western Kansas and the Territories. The service is to commence, if the bids are accepted by Congress, which is the only power that will have a right to accept them, on the 1st of August, or as soon thereafter as possible, and to continue for four years. Now I will answer any questions that gentlemen desire to ask me.

Mr. REAGAN. I desire to make a few observations on this bill.

Mr. COLFAX. Let me add one thing further. As the gentleman from Oregon (Mr. STEVENS) declared the other day, it is essential, if we are to pass at all, and if the Government is to ascertain what the mails can be carried for overland daily, that it should pass at once, because delay will prevent giving sufficient time to receive bids, and for Congress to act upon them at the present season.

Mr. REAGAN. I wish to say, in reference to

this bill, that it will be seen, from the reading of it, that it contemplates the destruction of the existing mail service on all the routes between the Atlantic and Pacific States. It goes upon the idea that the object of the mail service across the continent is purely the transmission of the letter mail between the Atlantic and Pacific States. It ignores the idea of the assistance of the commercial settlements in the Territories, and on the borders of the States, which are now supplied by the great mail routes extending across the continent. As it is now, there is a mail route, I believe, on the forty-second parallel, which supplies not only the overland mails across the continent, but is also passed by that route, but also important points in the border States on this side of the plains, and a portion of the State of California; it is for the convenience both of the Army and of the settlements between the States on this side of the plains and California. Then we have a route passing through Utah, which supplies a part of the western portion of the State of Missouri, and the various settlements in the Territories, including Utah, and in a part of the eastern portion of the State of California; it also affords many facilities for detachments of the Army contiguous to the route.

Then we have another route, extending from St. Louis and Memphis, through the State of Arkansas, through the northern part of Texas, through the southern part of New Mexico, entering the southern part of California, and passing up through that State to San Francisco. That route supplies mail facilities to the settlements through Arkansas, through the northern and western portions of Texas, all along the southern boundary of our territory bordering Mexico, through the southern part of California, and up through the State of California, to San Francisco.

It supplies the means of communicating with those detachments of the Army which are posted along the line. It performs what is a duty to the people of the United States, and to the frontier States. Now, the principle involved in this bill, and which looks to the destruction of these several lines, I wish it understood, ignores and overlooks the duty incumbent on Congress to supply mail facilities to the frontier States and Territories of our country. If the people who forego the advantages of civilization; the people who abandon homes of peace and quietude in the older States, and go into the wilderness, suffer its privations, feel the forests, encounter hostile Indians, redoubt the elements of nature, and, in addition, and advance the great interests and progress of our nation—these people, who encounter perils such as you in the older States are strangers to, ought not to be treated as this bill contemplates treating them, by withdrawing even the poor boon of mail facilities.

Sir, the prominent routes across the continent have more to do than to carry letters from the prosperous merchants of the city of New York to those in the city of San Francisco. They perform a duty which Congress owes to these pioneer settlers, who are redoubting the elements of nature, and bringing in into a state of improvement; preparing it as a receptacle for the emigrants of the country, and to be the future happy homes of the vast millions yet to people that country. I tell you, sir, that this bill is a bill to destroy the means to the intelligence, the patriotism, and the sense of justice of this Congress. It seeks to abolish the only means of mail facilities to the people of the various border States and Territories, and to the various detachments of the Army extending all over these broad plains.

Too little, in the policy of this Government, is thought of the condition of the people who occupy the vast plains between the organized States in the Mississippi valley and those upon the Pacific ocean. If a measure comes up to give a bonus, by constitutional action, to the manufacturers of the East, who live in luxury, to give bonuses to the commerce of rich merchants whose vessels float on the ocean—

Mr. COLFAX. I would remind the gentleman from Texas that I would give it to the gentleman to ask a question, not to argue the tariff.

Mr. REAGAN. I am not going to argue the tariff, and I shall be through in a moment. I was going on to say, that if a measure comes up to give a bonus to the owners of the merchant ships, or to the iron manufacturers, or to the legislature for the wealthy

and privileged classes of the country, they can always be received with favor here in this House. But, sir, when we come to the lonely pioneer, the man who perils life; the man who encounters the savage hostility of Indians; the man who is engaged in redeeming the forest of the country and advancing the standard of civilization—when he asks for the poor boon of the protection of the Army and of having the provision question referred to his friends in homes of peace, and to receive encouragement from friends and relatives, he is denied that boon by the Congress of the United States. Will such a measure receive the sanction of Congress? Can it be passed through under the pressure of the provision question without consideration of how far it will affect the interests of the country? I trust not. I trust the bill will be defeated. It will break up the existing mail contracts, and do the greatest injustice to a large portion of the country.

Mr. COLFAX. I listened with great attention to the gentleman from Texas, but allow me to say to him that had he yesterday voted for the noble boon of homesteads on the public lands to actual settlers, his speech would have been more convincing.

Now let me say a few words in regard to the points which he has made. This bill does not strike down a single mail route in the country. It simply invites proposals, and leaves it to Congress to decide whether they will accept or reject them—whether they will make a new route, or overland on a daily route, and have, if Congress please, as many mail routes besides, for the frontier settlements, as the estimate of the Treasury will admit. It does not strike down a single mail line in the country.

Mr. BURCH. I desire to make a suggestion.

Mr. COLFAX. Well, but not a speech.

Mr. BURCH. I merely want to make a suggestion. I believe that if the gentleman presses a vote on this bill to-day, the greater number of those representing the people will vote against it; and I would therefore suggest the propriety of referring the bill to the Committee of the Whole on the state of the Union; and, if the will allow me, I will submit that motion.

Mr. COLFAX. To refer the bill to the Committee of the Whole on the state of the Union would be to insure its defeat. If the House desires to kill the bill, they can do so. The Committee on the Post Office and Post Roads have reported the bill because they deem it to be right. They deem it to be just that we should do this; that we should consult this information, which we can procure in no other way. They have performed their duty, and they now ask the House to do theirs. I will now yield to the gentleman from New York, who, I see, desires to ask a question.

Mr. BRIGGS. I wish to ask the gentleman from Indiana whether the passage of this bill will not interfere with the existing contracts for carrying the mail on the routes over which the mail is now carried, some of which, I think, have served for ten years to run. I wish to know whether, in all of that of Butterfield—entered into by the Post Office Department, has now some three or four years to run. For one, I will not consent to do any act which shall interfere with that contract.

Mr. COLFAX. I will answer the gentleman from New York, that this bill does not, of itself, interfere with any contract. It simply to obtain information. And I will suggest to the gentleman from New York, that it is quite possible that Butterfield may be the lowest bidder, in which case, it will of course dismember Congress on that subject. I will now yield to the gentleman from Arkansas, who, I see, also desires to propound some questions to me.

Mr. HINDMAN. I will ask the gentleman from Indiana whether the bill contemplated by the Committee on the Post Office and Post Roads, that the effect of the passage of this bill will be to abrogate the present mail service to the Pacific, if any of the bids invited are accepted by the Post Office Department or by Congress?

Mr. COLFAX. I reply to the gentleman from Arkansas, that it is contemplated by the Committee on the Post Office and Post Roads that these bids shall be laid before Congress, and that Congress shall, during the present session, when such bids shall have been received, determine whether

they will, instead of the present service over so many routes to the Pacific, coining, at their full cost, price, over two millions dollars, provide for a daily mail overland, which shall cost less than one million dollars. I now call the previous question upon the passage of the bill.

Mr. HINDMAN. I must say that the gentleman from Indiana has not answered my question whether the bill will be the policy which I think I had the right to expect from him.

Mr. COLFAX. I have answered the gentleman with entire fairness and truthfulness. I say to him that the bill does not provide for abrogating any contract whatever.

Mr. HINDMAN. I do not say that the gentleman did not answer me with truthfulness; but he does not answer it with directness. I ask him, whether the effect of the bill, if it is passed, will not be, if any of the bids are accepted, to abrogate the present mail service overland to the Pacific?

Mr. COLFAX. It is contemplated, if the bill shall pass, that it will have the effect of very materially increasing the mail facilities to the Pacific; and not only to increase the facilities, but to lessen the expense to the Government.

Mr. HINDMAN. That is not an answer to my question.

Mr. COLFAX. I have answered the gentleman's question frankly and truthfully.

Mr. HINDMAN. Mr. Speaker, I think this is a bill of sufficient importance to allow a reasonable time for its consideration in the House, instead of forcing upon us the parliamentary gag which it is now sought to impose.

Mr. COLFAX. I will suggest to the gentleman from Arkansas that if he expects me to yield to him to ask questions, and to obtain from me answers to them, he should not accompany his request with a lecture. The committee have performed what they considered their duty, and the matter now rests with the House to perform theirs, by either adopting or rejecting the bill as they may see fit.

Mr. HINDMAN. So far as lecturing the gentleman is concerned, that is a matter of taste.

Mr. COLFAX. I have no objection to answering any question directly in relation to this bill.

Mr. HINDMAN. I then repeat my question, whether the bill passed by the Committee of the Whole are accepted by the Post Office Department, it will not have the effect of abrogating existing contracts for carrying the mail to the Pacific?

Mr. COLFAX. I answer the gentleman, that the bill itself will not produce any such effect. When the bids are received, the House, including the gentleman from Arkansas, can decide that point as they please.

Mr. SCOTT. With the consent of the gentleman from Indiana, I will say that, so far as this bill is concerned, as the State which I have the honor in part to represent is more directly and immediately interested in it than any other State, I am somewhat puzzled to know how to act in this matter, especially as this morning is the first time I have had the pleasure of reading the bill. I desire to know whether the bill passed by the Committee of the Whole are accepted by the Post Office and Post Roads for some information in reference to one or two matters pertaining or belonging to these routes.

As I understand it, the Attorney General of the United States has delivered an opinion that the contract with Butterfield cannot be abrogated until suspended until the expiration of the time specified in his contract. I believe that the late Postmaster General Brown, now deceased, was in favor of abrogating that contract. The Attorney General, however, has delivered the opinion that the contract cannot be abrogated.

Now, sir, the gentleman knows very well with what regularity, and under what difficulties, the mail has been carried under that contract; and I would do nothing to strike down that route; but I am placed in a position, in which I would not do that, I desire that additional mail facilities shall be furnished to the Pacific. I wish to see a daily mail to the Pacific established; and I see that this bill provides for the establishment of a daily mail, to be carried through in twenty days; or, at least, the Government is authorized to consider the establishment of such a mail under consideration. The bill also proposes a tri-weekly service.

Now, sir, so far as the northern, or so far as a southern route is concerned, I have always advo-

cated, I have always been in favor of following the contractor to select his own route, for the purpose of enabling him to carry the mail with the greatest facility and in the shortest possible time; for by doing that my constituency will derive the greatest benefit.

Now, sir, I do not wish to vote against this bill, and at the same time I am not prepared, without some mature reflection, to vote in favor of it. It should have more deliberate consideration before being finally disposed of in this House. I would prefer, and I would suggest to the gentleman from Indiana, that he allow the bill to go to the Committee of the Whole on the state of the Union, where it may be considered section by section; where we may offer amendments, if they may be deemed desirable, or move to strike out any clause or section that we may deem objectionable.

Mr. COLFAX. I will answer the gentleman from California by saying that it will require some two months to secure the bids upon which we can act, and that if we are to act upon the subject finally during the present session of Congress, it is necessary that the bill pass immediately. If the Committee of the Whole of the House on the state of the Union, it will be, in effect, a declaration upon the part of the House that they will not act upon the subject during the present session; it will be a declaration upon their part that they will not save venality in the expense of this matter, and, in the short time, increase the postal facilities to a daily mail.

If gentlemen wish, however, to have an opportunity of amending the bill, I am willing that it shall be referred to the Committee of the Whole on the state of the Union, and made the special order for to-day.

Several MEMBERS. We do not agree to that.

Mr. COLFAX. Then, I hope the bill will be passed without further delay. I will repeat what I have already said in relation to the obligation of the State of California to Butterfield, that it is quite possible his bid may be the lowest, he having greater facilities for the service than any other man, in which case there will be no difficulty in relation to his contract. If gentlemen desire to cheapen this service, as well as to increase the facilities to the Pacific, they should vote for it.

Mr. SCOTT. I ask the gentleman from Indiana to answer me another question. Suppose the bids which are provided for in this bill, when they are received, shall not be deemed satisfactory to the Congress of the United States, and shall not be satisfactory to the State Generals and are not accepted; what effect will the bill then have upon the contracts which are now in existence?

Mr. COLFAX. It would have no effect upon them at all. They would remain as they now exist.

Mr. STOUT. I ask the gentleman from Indiana whether one object of this bill is, that the entire mail shall be carried by one route, instead of carrying it, as now, in part by sea and in part overland.

Mr. COLFAX. That is the object. I will state that at present the mail is carried by three or four different routes. By the Butterfield mail, letters only are carried. By the Ishmus route, both letters and newspapers are carried; so also by the St. Joseph and Placerville route. I now warn gentlemen, that as the rivalry between the Panama and the Nicaragua route has ceased, if the temporary contract made for ocean service last fall when the then existing competition, and which expires next July, is to be renewed, it will be at great expense.

Mr. STOUT. Mr. Speaker, if I correctly understand the bill now before the House, I am in favor of its passage. I may, however, misapprehend the object of the bill. I believe, as I understand its provisions, that they will result in no injury to the United States, but, on the contrary, may result in much good. I am in favor of such a system of transportation of the mails of the country as will insure speedy and certain communication within our own limits, and not outside of them. Understanding that, I have that object in view, and that it does not provide for any diminution of the present overland mail service of the country, I am in favor of its passage, and shall vote affirmatively on that question.

King, the First Assistant Postmaster General, on a visit to the city of New York recently, found four unauthorized post offices, or places designated by their signs as post offices, and that they had lost money that had been deposited in those offices, supposing them to be Government offices. The bill recommended to us, and drawn up by the Post Office Department, the committee have unanimously indorsed; it provides that no office shall be kept as a "letter office," or "post office," or with the words "post office," or "letter office," or "United States mail," or words of similar import over it, for the purpose of deceiving the people in that way, and expressly reserving that the bill shall not cut off any express, "dispatch points," &c., which are in operation in the larger cities, for the delivery of letters within their limits.

The bill was then read, providing that no person, except those appointed for that purpose under laws of the United States, shall establish any other office or post office for the reception and delivery of letters; nor the establishment of any place with the words "post office," "letter office," "United States mail," or words of like import, under a penalty of \$500 for the principal, and \$100 for the assistant; and if the offense is continued or renewed after written notice by the deputy postmaster or agent to desist, the same shall be a felony to be forfeited to the Government; provided, that conductors and proprietors of hotels, &c., may keep boxes or bags with the words "for the mails" inscribed thereon; nor shall the act be construed so as to prohibit city dispatch companies from receiving letters for delivery in their respective cities, provided they so designate their offices as to show that they are not post offices or branches.

Mr. COLFAX. I would state, as several gentlemen have asked questions concerning the reading of the bill by the Clerk, that there is a special reservation in the bill allowing hotels to have a letter-box for the reception of letters, for the purpose of transmitting them to the post office. It also authorizes the Postmaster General to authorize persons to have places for the reception of letters for the mails; at a store, for instance, at a distance from the post office.

Mr. MILLSON. From the reading of the bill, as I heard it from the Clerk's desk, I infer that it is the intention of the bill to make an offer in against the United States, the unlawful acquisition of letters belonging to private persons.

Mr. COLFAX. No, sir.

Mr. MILLSON. Well, then, the unlawful acquisition and detention of letters under false pretenses. I ask the gentleman if the States are not perfectly competent to punish all such offenses whenever the exigency of the times render it necessary?

Mr. COLFAX. This is a case peculiarly within the province of Congress, as connected with the Post Office service of the United States.

I desire to add, that Mr. King, the First Assistant Postmaster General, states that, at one of these offices in New York, he had the effrontery to put up the following notice: "Letters received here one hour later every day than they are received at the post office in Nassau street," which is the real post office at New York; thereby holding out inducements to the letter-carriers to put their letters into this office, instead of into the regular post office of the city of New York.

Mr. MILLSON. I see the propriety of punishing such offenses; but it does not appear to me that they are offenses against the United States. The control of the United States over the mails does not carry the right to punish the unlawful and fraudulent procuring of letters and other valuable things intended to be put into the mails. It is an offense against the law of the State, which a State ought to prevent. I think the bill ought to be sent to the Committee of the Whole on the state of the Union.

Mr. COLFAX. The object of the bill is to prevent persons from putting up over their offices signs which delude the uninformed portion of the public, and make them believe that such places are regular post offices. That is the intention of the bill, and nothing else; but as the gentleman from Virginia objects to the bill, let it go to the Committee of the Whole on the state of the Union.

Mr. BRANCH. I did not hear distinctly the point made by the gentleman from Virginia; but

if I understood him correctly, it appears to me that the point is clearly well taken. This bill does not propose, as I understand it, to protect the United States Government against losses which may be inflicted upon it by individuals; but it is an attempt to protect communities against swindling by scoundrels. If there are officers in the city of New York, as are described by the gentleman from Indiana, and as Congress is not the proper mode of suppressing them; but an invasion by the police of New York, to break up such places established for the purpose of getting property or money under false pretenses. I think there is no want of a remedy; and I am only astonished, if the Postmaster General found existing in the city of New York, in open day, such notorious attempts to impose upon the people, that the police has not broken them up. I do not believe that Congress ought to interfere, and I do not believe it has power to do it. If this were a bill to protect the Government of the United States and its mails from being pilfered or plundered by individuals, I could have no difficulty about the matter; but I think it would be much better to establish, if the Postmaster General found existing upon unwary persons to the police of the respective communities, or to the respective State Legislatures.

Mr. COLFAX. I will state to the gentleman that the reason why the committee thought that bill necessary was because these officers were defrauding the Treasury of the United States of the postage upon letters, which, according to the law, cannot be sent in any other way than by the United States mail; and the Post Office Department of the United States of the revenue which belongs to the United States.

Mr. BRANCH. I would ask the gentleman from Indiana whether there are not already laws to protect the revenue against competition of the post individuals for carrying letters. I understand that the laws are ample upon that subject. But, as the gentleman from Indiana consents that the bill shall go to the Committee of the Whole on the state of the Union, I will not further discuss the matter.

Mr. HILL. I desire to ask the gentleman from Indiana if the first section of this bill would have the effect, if adopted, to do away with the very common convenience, in sparsely settled neighborhoods, of the letter-carriers, and of the weight along which mails are carried, in which mail matter is placed to be received by those in the neighborhood to whom such mail matter may belong, or in which mail matter may be deposited to be taken to the post office?

Mr. COLFAX. A proviso of this bill expressly provides that nothing in that bill contained shall prevent the keeping of a box or bag for the reception or delivery of letters for the mail by any person, &c., if it does not assume to be a "post office."

Mr. HILL. I hope the bill will be referred to the Committee of the Whole on the state of the Union.

The bill was so referred.

CHANGE OF REFERENCE.

Mr. CRAIG, of Missouri. The Committee on the Post Office and Post Roads, to whom have been referred various petitions and memorials in reference to a Pacific railroad, and other matters, which properly belong to another committee, ask to be referred to the committee of the House on the Pacific railroad, and that the same may be referred to the select committee of sixteen on the Pacific railroad. I make that motion.

The motion was agreed to.

PEAY & AYLIFF.

Mr. CRAIG, of Missouri, from the same committee, reported a bill for the relief of Peay & Ayloff, of Missouri, at the second time.

Mr. CRAIG, of Missouri. At the request of the gentleman from Arkansas, who desires to put this bill upon its passage, I will make a statement, in order that the House may determine whether it should be passed or not.

These persons contracted some years ago, to carry the mail, in the State of Missouri, over a route more than a hundred miles long, by two-horse hack service. The evidence shows that, for fifteen years before that, the service upon that route had been performed by four-horse coaches. The evidence also shows that the service upon that route ought not to have been decreased, be-

cause the mails were constantly increasing in weight, and that it was absolutely out of the question, after they had taken that contract, to carry the mails by two-horse coaches. These facts have been proved, by the then Governor of Arkansas and by a Senator in the other end of the Capitol, that it was out of the question to carry the mails in two-horse coaches, and that they were obliged, at the start, to put four-horse coaches upon the route. These facts were also proved by sixteen or seventeen witnesses, many of whom are certified to be truthful and reliable persons. We have not undertaken to decide how much more than the contract price the parties ought to have; but we have reported the bill referring the case to the Postmaster General, with instructions to take testimony; and, if it is ascertained that the kind of service they contracted for could not be carried on, that it required four-horse instead of two-horse service, he shall pay them the usual price for that service.

The bill was then read.

Mr. HOUSTON. I do not intend to object to putting this bill upon its passage; but I shall vote against it, unless I can carry out my purpose. If, however, it is to pass, I think an amendment to it ought to be made.

The law requires that the Postmaster General shall let the mail contracts in such a way that the mail may be carried safely and speedily. I do not remember the precise language. Now, this bill does not say that, if these parties were compelled by the weight of the mails to increase their service from two-horse hacks to four-horse coaches, then they shall be paid extra compensation; but merely, that if they found it necessary to put on four-horse coaches, then the Postmaster General shall allow them some difference of pay. If the amount of mail matter transported over that road was more than two hundred sacks in a week, and the contractors were compelled, because of the weight of the mail matter, to put on additional service, I am willing to pay them for that additional service. But I want the bill to be so amended that the Postmaster General shall not be made into allowing a pecuniary compensation when the weight of the mail matter transported over the line did not require additional service.

Mr. CRAIG, of Missouri. The committee instructed me, in drafting this bill, to provide that, if the testimony should show that, from the weight of the mails, these parties were obliged to perform extra service, then they should have their accounts audited, and be paid for the extra service. If the bill does not so provide, I feel authorized, without a recital of the bill, to interpose the words, "in consequence of the weight of the mails."

Mr. HINDMAN. I am quite willing to accept that amendment.

Mr. HOUSTON. Let the bill be read again, as modified.

The bill as modified was read. It provides that the Postmaster General be, and he is hereby, authorized and directed to adjust the accounts of Peay & Ayloff, of Missouri, for the year ending on the 30th of June, 1857, to perform extra service, not contemplated under or covered by their contract, then the Postmaster General shall cause the accounts of said contractors, for such extra service, to be audited and paid at a fair rate of compensation.

Mr. HOUSTON. I think the bill really expresses rather more than the gentleman has explained. I think the bill ought to state that if, upon examination of the evidence the Department may take, the Postmaster General is satisfied that the contractors could not carry the mail, because of its quantity and weight, without the use of a higher grade of service, then he shall allow additional compensation.

Mr. CRAIG, of Missouri. That is substantially what the bill does provide.

Mr. HOUSTON. Yes, that is possibly the effect of it. I know my friend from Arkansas does not desire this bill to pass in a wrong shape, and I suspect that that is what it had before in view.

This service was rendered from 1834 to 1857. Suppose the proof before the Department shows

that for one trip, for one month, for one year, during that time, there had to be increased service; this bill, according to the construction that I put upon it, gives compensation for the whole of that time, embracing about three years; and it provides, further, that, if the parties produce evidence that the contractors, from the weight of the mails, had to put on additional service, then he shall readjust the accounts. Now, you must remember that the office is all against the Department; because the Postmaster-General can get hold of no witnesses, except such as the contractors themselves may produce. In all likelihood, the Post Office Department can examine no evidence but what may be sent up by the contractors themselves.

Mr. HINDMAN. I think the gentleman from Alabama misapprehends the meaning of the bill. In regard to this matter of extra service, the language of the bill is:

And if it appears from the evidence produced by said Post & Express, or on file in the Department, that said contractors, in consequence of the weight of the mails, were compelled, between the 1st of July, 1854, and the 1st of July, 1857, to perform extra service, not contemplated under or covered by their contract, then the Postmaster-General shall cause the accounts, submitted for such extra service, to be audited and paid at a fair rate of compensation.

That is, that they are to be paid for the extra services by them necessarily rendered in consequence of the increased weight of the mail matter, and not for any other than the extra services which they were compelled to render. I trust the House will at once put the bill upon its passage.

Mr. HARDEMAN. I would like to ask the gentleman who reported this bill a question. I understand him correctly, he states that it is in evidence that the service had been performed on this route in four-horse coaches for several years before these parties took the contract.

Mr. CRAIG, of Missouri. For fifteen years. Mr. HARDEMAN. Then, these contractors took the contract with a knowledge that for five years the service had been performed in four-horse coaches, and they offered to do it in two-horse hacks.

Mr. CRAIG, of Missouri. The gentleman misstates. The Post Office Department has power, under the law, to advertise for just such service, on any route in the United States, as that Department may think proper, and they advertised for two-horse service on this route. I do not know that these men lived within fifteen hundred miles of the route. Men in Pennsylvania frequently become contractors for mail service in Texas and Arkansas.

Mr. HARDEMAN. I inferred, from what has been said, that this man, knowing that he had been asked to carry the mail on that route by four-horse coaches, bid for the service by two-horse coaches for the purpose of obtaining the contracts at the lowest bidder. If so, I do not think he is entitled to relief.

Mr. CRAIG, of Missouri. Not at all. I now call the previous question upon the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HINDMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. CRAIG, of Missouri. I have another bill to report.

Mr. SHERMAN. Has the morning hour expired?

The SPEAKER. It has.

Mr. CRAIG, of Missouri. I desire to report one other bill.

Mr. SHERMAN. Is it a private bill?

Mr. CRAIG, of Missouri. It is.

Mr. SHERMAN. You can report it, then, on Friday. Before making a motion to go into the Committee of the Whole on the state of the Union, I ask that certain communications which have been received by the Committee of Ways and Means may be printed.

The order to print was made, there being no objection.

SICK SEAMEN'S FUND.

Mr. SHERMAN. I am also instructed by the Committee of Ways and Means to report the fol-

lowing resolution; which I ask may be adopted by the House:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the mode of expending the fund for sick and disabled seamen, under the several acts of Congress for the relief of such seamen, and the appropriation of dedications in said fund; with leave to report by bill or otherwise.

The resolution was agreed to.

LIGHTING THE CAPITOL, &c.

Mr. SHERMAN. I am instructed by the Committee of Ways and Means to report the following resolution:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the mode and manner of the Capitol and President's House, the grounds around them and around the executive offices, and Pennsylvania avenue, Bridge and High streets in Georgetown, Four and a half, Nevada, and North streets across the Mall; the annual expense thereof; and if lighted by gas, how supplied, and on what terms; and whether a contract cannot be made for a supply of gas on better terms than it is now furnished at; with leave to report by bill or otherwise.

The resolution was, by unanimous consent, received, and agreed to.

LOAN, TAX, &c.

Mr. SHERMAN. I am also instructed by the Committee of Ways and Means to report a bill to provide for the payment of outstanding Treasury notes; to authorize a loan; to regulate and fix the duties on imports, and for other purposes.

Mr. COBB. I object to the introduction of that bill.

The SPEAKER. The bill cannot be received, if objected to.

Mr. SHERMAN. I think the objection comes too late.

Mr. COBB. Certainly not. I cannot object to a bill until it has been read or stated. I objected the moment that was done.

Mr. SHERMAN. I will state that I only desire to have the bill read a first and second time, referred to the Committee of the Whole on the state of the Union, and printed. The first time of the bill I desire to submit it, not only for the consideration and information of the members of the House, but for the consideration of everybody. I do not propose to take any advantage of a motion to reconsider, or of any privileged motion, to get before the House. The proposition is simply to refer it to the Committee of the Whole on the state of the Union.

Mr. COBB. With the understanding that the bill shall be referred to the Committee of the Whole on the state of the Union, and no motion to reconsider made to bring it before the House, I will withdraw my objection to its introduction.

Mr. McQUEEN. If the gentleman from Alabama withdraws his objection, I will renew it. We have voted away the public lands, and now it is proposed to impose an additional tax upon the people. I object.

Mr. CAMPBELL. I appeal to gentlemen upon the other side to withdraw all objection to the introduction of this bill. The wants of all sections require its consideration.

Mr. COBB. Under the circumstances, I will hold on to my objection.

The SPEAKER. If objection be made, the bill cannot be introduced.

Mr. SHERMAN. Then I desire to report the Committee of Ways and Means one of the general appropriation bills.

Mr. CAMPBELL. I object to the introduction of that bill; and I give notice that I will object to the introduction of any appropriation bill until the tariff bill has been reported. It is more important than any other.

Mr. SHERMAN. Allow me, then, Mr. Speaker, to say to gentlemen on both sides of the House, that if these objections are persisted in, it will be impossible for the Committee of Ways and Means to get through the ordinary appropriation bills for carrying on the Government. I hope the House will allow both these bills to be introduced. It is a privilege that has never been denied.

Mr. HOUSTON. I think if the gentleman will look, he will find that the rule requires the Committee of Ways and Means to report the appropriation bills within a certain time after the commencement of the session.

Mr. SHERMAN. Certainly.

Mr. HOUSTON. The rule requires the committee to report the appropriation bills, and they

have the right to do it. A single objection cannot prevent their introduction. I have known the chairman of the Committee on Ways and Means taken to task for not reporting these bills within the prescribed time; it is his duty to do it. I do not mean to say that this committee has not performed its duty in this respect; I think it has; but I do mean to say that it is not only the duty of the committee to report these bills, but that it is their right to report them at any time, and that an objection cannot prevent them from being reported.

Mr. SHERMAN. I understand what has been the practice in this respect; and I now beg the indulgence of gentlemen on both sides of the House to permit me to introduce these bills. The Committee of Ways and Means has no privilege under the rules above any other committee.

Mr. HOUSTON. If the gentleman will look at the rules, he will find that they leave that privilege.

Mr. SHERMAN. I am familiar with the rule, and I will state that the Committee of Ways and Means will be prepared during the present week to report all the annual appropriation bills; and if the House will sustain them, they will take them up and dispose of them promptly. If the House will sustain them, they will endeavor to have them all passed before the meeting of the Charleston convention. I trust that all objection will be withdrawn, and that both these bills will be allowed to be introduced, and reported to the Committee of the Whole on the state of the Union.

Mr. McQUEEN. I have no objection at all to the introduction of the regular appropriation bills. I am as desirous as any other member that they shall all be passed through this House; but I will say that, so long as my opposition can avail anything, I will oppose any bill to increase the taxes upon my constituents for the benefit of any State.

Mr. CAMPBELL. I am under the impression and belief that the bill first sought to be reported by the chairman of the Committee of Ways and Means is of great importance to the country, and any appropriation bill which can be submitted for the consideration of this House; and I will object to the introduction of every appropriation bill so long as gentlemen on the other side persist in their objections to this bill.

Mr. McQUEEN. I am ready to admit that it is important to the iron interest of Pennsylvania that a tariff bill shall be passed; but it is as important to my constituents that they shall not be taxed for the support of the interest of the people of any State.

Mr. CAMPBELL. This bill is as important to other interests of the country as it is to the iron interest of Pennsylvania. It will protect the interests of the South as well as those of the North.

Mr. HOUSTON. I ask that the rule relating to the reporting of these appropriation bills shall be read.

The 73d rule was read, as follows:

"It shall also be the duty of the Committee of Ways and Means, within thirty days after their appointment, at every session of Congress, to report to the House of Representatives, to report the general appropriation bills—for the civil and diplomatic expenses of Government; for the Army; for the Navy; and for the Indian Affairs; and to take action thereon, or, in failure thereof, the reasons of such failure."

Mr. HOUSTON. In addition to that, I will say that I can produce no rule directly in point.

While I was chairman of the Committee of Ways and Means, I proposed to report one of these bills. Objection was made, and the Speaker allowed me to report the bill over the objection, as a matter of right. I have no doubt the case will be reported in the Congressional Globe. I remember it perfectly well. That has been the construction of the rule, and why? Because here is a duty required of a committee, and that committee cannot discharge that duty, under this rule, if I make objection. Can you require that a committee shall report within a certain time, and then, when that committee proposes to make its report within the time fixed, and when it is not the regular call of committees for reports, permit one member of this House, by his single objection, to prevent the committee from doing its duty under the rules of the House? The whole thing is absurd—utterly absurd. If the rules enjoin a duty, of course they will provide the means for its fulfillment, implicitly, if in no other way. The position taken that one objection prevents the recep-

tion of the report of the committee is absurd and untenable. I remember distinctly, when I was chairman of the Committee of Ways and Means, I proposed to report one of the appropriation bills. Objection was made, but the Speaker promptly decided that I was entitled to make my report, notwithstanding the objection; and I did make the report from that committee. I will procure the reference to that case.

Mr. SHERMAN. I have no doubt, sir, that the note in Mr. Hays's book gives the true interpretation of the rule of the House. The Committee of Ways and Means are, under the rules, enjoined to report the appropriation bills within thirty days from the date of their appointment at the beginning of each session of the House.

The SPEAKER. The Chair hopes that the gentleman will yield, to permit a former decision to be read.

Mr. SHERMAN. Certainly.

The Clerk read as follows:

"Mr. GEORGE W. JONES made the point of order that, under the 79th rule, which requires the Committee of Ways and Means to report the general appropriation bills within thirty days after their appointment, the Committee of Ways and Means is in order for the said committee to report at this time."

The SPEAKER overruled the said point of order.

"From this decision Mr. GEORGE W. JONES appealed."

"Pending which, on motion of Mr. OAKS."

Ordered, That this said appeal be laid on the table."

The SPEAKER. It is to be found in the Journal of the House, third session, Thirty-Fourth Congress, page 155.

Mr. HOUSTON. That, sir, is not the case to which I have made reference. The case I referred to was one which was reported by the chairman of the Committee of Ways and Means. I will cite that case before I sit down. There was no appeal from the decision of the Chair, which was in my favor.

Let me have the attention of the gentleman from Ohio, [Mr. SHERMAN.] Suppose the Committee of Ways and Means propose to report the appropriation bills, and I object, and the thirty days expire; then, that committee are bound, under the rule, to report their reasons why these bills were not reported. That committee can come here and say that they were unable to report the appropriation bills, because, while they had them ready, objection was made, and they were prevented from coming before the House. They may say that the gentleman from Pennsylvania, [Mr. CAMPELLE] objected, and that, for that reason, they were unable to discharge their duty under the rules. The first session I was chairman of the Committee of Ways and Means, I was compelled to state the reasons why one or two of the appropriation bills were not reported within the time fixed by the rules. The reason for their non-report was, that the public documents necessary to be had before the bills were drawn up had not been printed, (for the printing was then done under the contract system,) and I stated then, that they could not be reported until these documents were printed. Here is the case to which I have already made reference:

"Very Appropriation Bill."

"Mr. HOUSTON. It will take some time to dispose of all the bills reported by the Committee of the Whole, and but no moment for me to report the appropriation bills. I therefore ask the consent of the House to report that bill now."

The SPEAKER. Upon referring to the rules, the Chair is of the opinion that the gentleman has a right to report the bill."

Mr. SHERMAN. Mr. Speaker, there is no use of discussing this point of order further. It is plain and obvious to every gentleman, that the Committee of Ways and Means have no privileges in reporting bills, that are not possessed by the other standing committees of the House. It is our duty, under the rules, to be ready to report the appropriation bills within thirty days after our appointment. When that committee is called, then we are enabled to report; but when there is a call, and our turn has not arrived, I do not think we can make a report, unless by general consent. We have, as I say, no privileges in making reports, that are not possessed by other committees.

Mr. CAMPELLE. I ask the gentleman from Ohio whether the first bill be proposed to report from the Committee of Ways and Means was not also an appropriation bill? It makes, as I understand, an appropriation for the purpose of paying the outstanding Treasury notes, or, in other words, paying the debt of the United States. This

is as much an appropriation bill as any other. The national debt is \$58,000,000.

Mr. SHERMAN. Let me say a word in reply. The first bill I introduced appropriated \$21,000,000 for the purpose of redeeming the outstanding Treasury notes.

I wish now to submit a suggestion to the gentleman from South Carolina, [Mr. McQUEEN.] The motion I made in regard to this tariff bill, a revenue bill, or whatever you may choose to call this bill for the redemption of the outstanding Treasury notes—does not place it in any better condition than it will be in if left in the hands of the Committee of Ways and Means. My motion is that it be referred to the Committee of the House, and printed, if it can be so printed. It will be printed and spread before us; and it cannot be taken up at that committee, except after prolonged debate, and by a majority vote. That same majority, sir, could at any time get that bill out of the hands of the Committee of Ways and Means.

Mr. McQUEEN. Why not separate the two subjects? Why the necessity of including in one bill an appropriation to pay the debts of the United States, and a provision to increase the tariff? I think that it would not be better and more proper to have these distinct matters in separate bills? I make no objection to the speedy payment of the debts of the United States; but, sir, I do object to giving any advantage to the getting of a bill before this House for increasing the tariff. I shall in no way further a proposition that has for its object the enlargement of the taxes imposed upon the people of the United States.

Mr. Speaker, I have no doubt that this increase of the tariff is an important measure for the interest of Pennsylvania. I have yet to learn, however, that it is to the advantage of my constituents. I must ever oppose any measure that adds to the class interest of Pennsylvania, or of any other State, at the expense of the general interest of the people I have the honor to represent. While it is important to them that they shall secure all the advantages they can from the legislation of the country, it is equally important to my people that they shall not be overburdened with what I believe, unjust taxation.

Mr. CAMPELLE. I do not propose, at this time, to enter into a discussion of the tariff. It is not before the House. I will do so at a proper time.

Mr. McQUEEN. If the chairman of the Committee of Ways and Means will separate the propositions, I will make no objection to any bill proposing to pay the debts of the United States.

Mr. SHERMAN. I have only to say that the action of the Committee of Ways and Means has been just as it is presented in that bill as I propose to report it. There was no proposition made in that committee for a division of the subject. I think that the subjects are properly connected—the appropriation for the redemption of the outstanding Treasury notes, and a provision in reference to the revenue of the United States, providing for the means for the purchase of those outstanding Treasury notes.

Mr. McQUEEN. That letter is a separate and distinct matter.

Mr. SHERMAN. They are so intimately connected that it would be difficult to separate them.

Mr. McQUEEN. There is now, in my judgment, no necessity for an increase of the tariff for purposes of revenue. Two years ago it was urged that there was such a necessity, on account of the commercial crisis which had then partially passed over the country. There was a pretext then for an increase of the tariff, because there was no such pretext now. There is now no necessity for any increase of the tariff for the purposes of revenue; because the commercial interests of the country have revived, and the importations this winter, I understand, are more, perhaps, than ever before made during the same time. There is no necessity for any tariff measure now, unless it is for the purpose of fostering class interests, and putting into the pockets of the iron manufacturers, and other manufacturers, money taken from the pockets of the consumers of the country.

Mr. CAMPELLE. Is not the gentleman from South Carolina aware that the Government is in debt \$58,000,000, and that it is necessary to increase the tariff, in order that we may have revenue sufficient to pay that debt?

Mr. WASHBURN, of Illinois. If there is to be a general discussion on this subject, I want to have a chance to say something in favor of the lead interest.

Mr. STEVENS, of Pennsylvania. I understand that Mr. McQUEEN is going to make a question of order. I want the Speaker to decide whether an objection prohibits the introduction of an appropriation bill. I shall not discuss the question of a tariff under a point of order. I agree, sir, that until the tariff bill, as it is called, is allowed to come in, no man on this side of the House ought to permit a dollar of appropriation to be made. I, however, now ask that the Speaker shall decide the question of order.

Mr. McQUEEN. I understand that the Speaker has decided it, and that an objection does prevent an appropriation bill from coming in.

The SPEAKER. The Chair thinks, under former decisions on this point, that it is very clear the Committee of Ways and Means have no privilege in making reports, not possessed by other committees.

Mr. STEVENS, of Pennsylvania. Then discussion is not in order.

The SPEAKER. And the Chair supposes that the gentleman directs the Committee of Ways and Means to report the appropriation bills within thirty days, means that they report if that can be done in the regular order of business, and when that committee is called upon under the rules.

Mr. HOUSTON and Mr. SINGLETON took the floor.

Mr. STEVENS, of Pennsylvania. I object, unless there is an appeal taken from the decision of the Chair.

Mr. SINGLETON. Is it in order to move that there be a suspension of the rules, in order that the bill may be reported?

The SPEAKER. It is not in order to move for a suspension of the rules on any other day than Monday.

Mr. HOUSTON. With the permission of the gentleman from Ohio, I wish to say a word.

Mr. STEVENS, of Pennsylvania. I object to any motion.

Mr. HOUSTON. It is necessary that I shall put myself right. I do not propose to enter into any general debate.

Mr. SHERMAN. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I wish to state that the decision which has been read was made upon a bill—the fortification bill—not included among those mentioned in the rule, which provides for their being reported within thirty days. Of course, then, that decision has nothing to do with the point I made.

CONSULAR AND DIPLOMATIC BILL.

Mr. SHERMAN. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union. And I insist upon the motion; and if it is agreed to, I also insist that the consular and diplomatic bill, which will give rise to a debate.

The motion was agreed to; and the House resolved itself into the Committee of the Whole on the state of the Union, Mr. WASHBURN, of Illinois, in the chair.

The CHAIRMAN stated that when the committee was last in session, they had under consideration the President's message; and that Mr. LOVJ had been called to the floor.

Mr. SHERMAN. I move to lay aside, for the present, the consideration of the President's message, for the purpose of taking up the consular and diplomatic bill. I do not think it will take more than half or three quarters of an hour to consider that bill; and the gentleman from Georgia [Mr. LOVJ] will withdraw his claim to the floor for the present, I will agree to an understanding that, if this bill is not disposed of in the time I have named, we will then lay it aside, and take up the other matter.

The committee proceeded to consider House bill No. 4, being a bill making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1861.

The bill was then read.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

THURSDAY, MARCH 15, 1860.

NEW SERIES.—NO. 12.

Mr. SHERMAN moved to insert, after line twenty-four, the following:

For compensation to the interpreter to the mission to Japan, \$25,500.

The amendment was agreed to.

Mr. SHERMAN also moved to amend the clause, "for the relief and protection of American seamen in foreign countries, \$150,000," by striking out the words "one hundred and fifty," and inserting the words "two hundred," so that it should read:

For the relief and protection of American seamen in foreign countries, \$200,000.

The amendment was agreed to.

Mr. MAYNARD. I move to amend the following section, by striking out the words "one hundred," in the last line:

For compensation of the commissioner, secretary, chief astronomer, and surveyor, assistant astronomer and surveyor, clerk, and for provisions, transportation, and contingencies of the commission to run and make the boundary line between the United States and the British possessions bounding on Washington Territory, \$150,000.

I do it for the purpose of inquiring of the chairman of the Committee of Ways and Means what is the necessity of continuing this very large appropriation for running the boundary line. It has been continued now I know not how many years; and unless the difficulties are greater than I have ever supposed them to be, it does seem to me that a very large, an unnecessarily large, amount has already been expended.

Mr. SHERMAN. The very question the gentleman propounds to me was propounded by the Committee of Ways and Means to the Secretary of State, from whom we received a reply that satisfied us. The appropriation asked for will complete this work. I have a communication from the Secretary of State, which shows that the amount asked for is necessary to complete the work; and, if now appropriated, will be all that is necessary. I ask to have that communication read.

The communication was read, as follows:

WASHINGTON, February 16, 1860.
SIR: I have had the honor to receive your letter of the 10th inst., requesting that the committee on the part of the House should make an estimate to detail of the amount required as "compensation of the commissioner, secretary, chief astronomer and surveyor, assistant astronomer and surveyor, clerk, and for provisions, transportation, and contingencies of the commission to run and make the boundary line between the United States and the British possessions bounding on Washington Territory," and, also, the probable length of time to accomplish the labors of the commission. In reply, I have the honor to lecture a detailed estimate of the amount required to be appropriated, and to state the length of time probably required to complete the labors of the commission. Provided the appropriation now asked for be made.

I have the honor to be, sir, your obedient servant,
LEWIS CASS.

Hon. JOHN SHERMAN,
Chairman of the Committee of Ways and Means.
Mr. MAYNARD. I would suggest to the chairman of the Committee of Ways and Means the propriety of so amending this section as to provide that this sum shall be so applied as to complete this work.

Mr. SHERMAN. It is not worth while to do this for if the work is not completed, the presence of such a provision here, would not prevent the passage of other appropriations for this purpose.

Mr. MAYNARD. I think there should be some showing of our own opinion of the amount of money expended by those engaged upon this commission. However, I will withdraw my amendment.

The following section was next read:

To enable the President of the United States to carry into effect the act of Congress of 2d March, 1819, and any subsequent acts now in force for the suppression of the slave trade, \$100,000.

Mr. CRAWFORD. I was not present when this bill was considered in the Committee of Ways and Means. I move an amendment, however, to enable me to come forward and inquire if the committee had before them any reason why this appropriation should be made? During the last Congress an appropriation for \$75,000 was made for this very same subject, and the reason offered

for it at that time was, that it was necessary to pay the bounty to the officers in command of the Echo, who had taken these slaves and brought them into Charleston, and for their support and maintenance while there. But since that time I know of no reason why we should continue this appropriation. It may be that from year to year a certain sum of money will be required for this particular purpose. If there is any necessity for it, to enforce the law, I am perfectly willing that the appropriation should be made. I have no objection to it, if it be necessary to carry out the law. But, whether the law is right or wrong, is not for us to consider at this time. The only question is, what is the sum of money necessary?

Mr. SHERMAN. We had no further information than this: the laws against the slave trade are well known; and the recommendation of the Secretary of the Treasury was that \$40,000 was required. That is the amount that was estimated for. The amount last year was \$75,000, and the reason given was that \$35,000 was necessary to support the negroes brought over in the Echo. I have no objection to the amount usually appropriated, without regard to any special exigency that may arise. I will here say that, as I understand it, it is necessary that some sum should be appropriated to carry into effect the laws in relation to the slave trade. The amount usually given is \$40,000, and I trust that amount will be agreed to.

Mr. BONHAM. I would like to ask the chairman of the Committee of Ways and Means if he is certain that there ever was an appropriation before last year for this purpose?

Mr. SHERMAN. The gentleman can inquire of my colleague upon the Committee of Ways and Means, [Mr. CRAWFORD], who has been a member of that committee longer than I have. I do not know how much has heretofore been appropriated.

Mr. CRAWFORD. I will state to the gentleman from South Carolina that this appropriation, so far as I know, has never been regularly asked for; nor have estimates been submitted by the Department heretofore. If the contrary be the fact, it has not come within my knowledge. The first appropriation was made in 1850, and the amount was the appropriation of \$75,000, which excited some debate last session.

Mr. SHERMAN. I will refer my colleague to page 45 of the General Estimates, where he will find that the amount asked for by the Secretary of the Treasury is \$40,000. We gave him all he asked for.

Mr. CRAWFORD. I have no objection to offer, if the estimate was submitted.

Mr. BRANCH. The chairman of the Committee of Ways and Means offered an amendment to this bill, at line thirty-six, to increase the amount appropriated for the relief and protection of American seamen in foreign countries from \$150,000 to \$200,000, making an increase of \$50,000. I had not before me at that time the estimates; but I have since obtained them, and I find that the amount proposed by the amendment of the Committee of Ways and Means exceeds the estimate of the Department by \$25,000. I would like to inquire of the gentleman from Ohio upon what ground that addition is made?

Mr. SHERMAN. The Secretary of State asked for more. The estimate was \$175,000. The committee proposed to appropriate \$150,000. The following letter of the Secretary of State will show that he subsequently asked for \$200,000. It shows that there is a deficiency in that Department; and that the drafts had been made on account of sick and disabled seamen.

The letter was read, as follows:

DEPARTMENT OF STATE,
WASHINGTON, February 15, 1860.
SIR: I have the honor to request that the appropriation of \$75,000 may be made for the relief and protection of American seamen in foreign countries, this sum being indispensable to the details of the work of the United States for the service of the present fiscal year, the appropriation for that being now reduced to less than one thousand dollars.

I beg leave to inform the committee that the amount asked for the current fiscal year was \$175,000, which it was supposed would be sufficient under an economical expenditure. It was, however, reduced to \$150,000, and was reported for that object—a sum totally inadequate when the amount of relief afforded to our large and annually-increasing number of sailors is taken into consideration. The appropriation for that object for the fiscal year ending 30th June, 1859, was exhausted as early as March of that year, and a transfer of \$17,500 out of the estimate of this Department was made to the amount of sixty thousand dollars, (\$60,000), and yet the fund failed before the expiration of the fiscal year, and drafts of the committee amounted to the amount of some eighteen thousand dollars (\$18,000) prior to the 1st of July, the commencement of the present fiscal year.

I have also the honor to request that the appropriation for this object, for the fiscal year ending 30th June, 1861, may be increased from \$175,000 to the amount asked for, to \$200,000, as the latter sum will, I am confident, be required to defray the expenses incurred under that head.

The serious situation of the Department has for some time past been driven to the increasing charges on account of drafts, and the necessity of providing for them.

As in the main they have been incurred in the Pacific in connection with the whale fishery, the guano and the California trade, the commission of the United States at the Sandwich Islands has repeatedly been instructed to examine and report upon the subject, in the hope that some means might be devised to prevent or curtail the expenses. Various instructions have been addressed to the ministers of the United States at Lima and Santiago de Chile; and the Department has been ordered to cause the United States Pacific to co-operate with those functions. I regret to state, however, that the result of their investigations does not show any probability at present of curtailing the expenses referred to consistently with the policy upon the subject maintained by existing laws.

I have the honor to be, sir, your obedient servant,
LEWIS CASS.

Hon. JOHN SHERMAN, Chairman of the Committee of Ways and Means.

Mr. BRANCH. I am satisfied. It appears that the Secretary submitted a supplemental estimate, and asked for an increase. I will only say that it would be better if all these amounts could be known at the outset, and put into the annual estimates, and that we should not be called upon by the Department to submit supplemental estimates, for increased appropriations.

Mr. SHERMAN. I wish to make a general statement in regard to the items of this bill. The amount estimated by the Department was \$1,137,120; this amount required by the committee of Ways and Means is \$1,089,000, being a saving of \$48,000. This saving is made by reducing the appropriations for salaries of envoys extraordinary, ministers, and commissioners; by striking out "Hacnos Ayres," "Paraguay;" by reducing the item which was last under discussion, by reducing the appropriations for salaries of consular agents, &c. But the bill has been increased \$25,500 by amendments made to-day, in committee, by adding for salary of interpreter to Japan, and the \$50,000 increase asked for by the Secretary of State, for the protection and relief of American seamen, &c. I move that the bill be laid aside, to be reported to the House.

Mr. MALLORY. I would inquire of the gentleman from Ohio, how this \$400,000, appropriated to enable the President to carry out the law against the slave trade, is to be applied? As I understand the matter, the President now has power to order the Navy to suppress this slave traffic, and that that squadron would be supported out of the general appropriation for the Navy. I would like to know, then, how this special appropriation of \$400,000 is to be applied and used by the Department for this purpose? I do not wish to vote in the dark; and I think it is the duty of the Committee of Ways and Means to inform the House what disposition is to be made of this sum.

Mr. SHERMAN. I am happy to be able to inform the gentleman that, if he will read the law of March 3, 1819, entitled "An act in addition to acts preventing the slave trade," he will find that the second and third sections give certain bounties, part of which are paid out of this appropriation. The amount of the bounty for this purpose, under the act to which I referred, was \$100,000. I move that the bill be laid aside, to be reported to the House.

Mr. MAYNARD. I move to amend the bill by adding at the end thereof the following proviso: Provided, That the sum of \$100,000, heretofore appropriated

for running and marking the line between the United States and the British possessions bounding Washington Territory, shall be so expended as to put an end to the work.

I find, upon examination, that, at the first session of last Congress, \$75,000 were appropriated for similar purposes; and that, at the second session, \$100,000 were appropriated for the same purpose. Now this bill, as I understand, appropriates \$150,000 more, as a sum to complete it. I do not desire to detain the House in discussing this question; I only desire that the facts may be known, and, in view of those facts, that the committee shall vote upon my amendment.

Mr. CRAWFORD. I rise to a point of order. It is, that the gentleman cannot go back upon the bill and offer an amendment in reference to a subject which is already disposed of.

The CHAIRMAN. The proposition is to add a proviso at the end of the bill.

Mr. BARKSDALE. I hope there will be no objection to that proviso. It certainly can do no harm.

The CHAIRMAN. Does the gentleman from Georgia insist on his point of order?

Mr. CRAWFORD. I will hear the amendment again.

The amendment was again read.

Mr. MILES. I beg the gentleman from Tennessee to yield to me for a moment, as I desire to offer an amendment that is particularly germane to the last section of the bill, and, in fact, would be a continuation of the same.

The CHAIRMAN. Does the gentleman from Tennessee withdraw his amendment?

Mr. MAYNARD. I will do so for the present.

Mr. MILES. I desire to offer an amendment, and I ask the attention of the chairman of the Committee of Ways and Means to it. With the indulgence of the committee, I will say a very few words in explanation of it. It will be recollected, that last year there was great discussion in the House about appropriating \$75,000 for the Echo Africans. It was passed, however, by the House. We had great difficulty in Charleston in getting paid out of that \$75,000 the bills of tradesmen—many of them poor and worthy men—who had advanced supplies; and most of them, in fact, clothing for these poor wretches, who were in a most miserable state of suffering and destitution, as I can testify from personal inspection, as I saw them several times. We had the greatest difficulty in getting these bills paid for by the Government. I saw they said there was no fund. The Navy Department ordered the marshal to charter a steamer, for the purpose of transporting the Africans to the fort, and thence to the Government vessel which conveyed them to Africa. The proprietors of that steamer found the greatest difficulty in getting paid for the use of the steamer. The Navy Department said they ought to be paid by the Interior Department, and the Interior Department said the Navy Department ought to pay them; and, between the two, we could get nothing done until the appropriation was made, and then we had the delay which always follows when you have to deal with circumlocution officials the whole world over, and under any form of government.

But there was one thing which was never paid out of that appropriation. The marshal of the district—a most excellent and worthy gentleman, whom I am proud to call my personal friend—discharged the duties of his office, which were most trying and most laborious, subjecting him to great personal risk. It was a period when the yellow fever was prevailing as an epidemic in the city; he was not acclimated, not living in the city; but he was compelled, of course, to give his special care and attention to these unfortunate creatures; and although the Department and the President expressed their entire approval of his course, and their high appreciation of his zeal and energy, when he came to present his bill for pay, they refused to allow it; the Department saying that they could not do it, because they could not decide out of what particular fund it was to be paid, and, of course, the matter hung in that way until the appropriation was passed. As soon as it was passed—and it was amply sufficient to cover all the expenditures in the case of the marshal to the Secretary of State. I saw him personally. He said that the marshal ought to be paid; that there would be no difficulty or trouble about it, and that he would undoubtedly be paid.

Mr. SHERMAN. I do not wish to interfere

with the gentleman from South Carolina, but I must insist on the rules of order with regard to these appropriation bills.

The CHAIRMAN. The Chair would suggest to the gentleman from South Carolina that he should read his amendment to the Clerk's desk to be read.

Mr. MILES. I will read it myself. I propose to add, at the end of the bill, the following:

And that the Secretary of State be directed to pay out of any unexpended balance of the appropriation of \$75,000, made last year in the consular and diplomatic bill, in the case of the Echo Africans, the sum claimed by the United States marshal for the district of South Carolina. Provided, in the opinion of the Attorney General, said marshal is legally entitled to receive the same.

The Attorney General has already delivered an opinion to the effect that he is entitled to this pay. Judge Wayne, of the Supreme Court, has said the same; and Judge Magraw, of the district court, has delivered a written opinion to the same effect; but the President did not agree with the Attorney General or the judges, and refused to allow the bill to be paid.

Mr. SHERMAN. I must object to the amendment. It is clearly a private claim.

The CHAIRMAN. The Chair sustains the point of order. The amendment proposes independent legislation in an appropriation bill.

Mr. McRAE. That is the very point I wish to raise, and upon which I wish to ask the opinion of the chairman of the Committee of Ways and Means. The gentleman from South Carolina, at the point of order on the gentleman from South Carolina, that that amendment is not germane to this bill. Now I want to ask him if he considers this appropriation in regard to the slave trade as germane to the consular and diplomatic bill? I want to know what part of the consular and diplomatic expenses are provided for in this clause? And I shall ask the gentleman to state, as chairman of the Committee of Ways and Means, whether he considers this appropriation germane to the consular and diplomatic bill. I want to know what these particular sums are to be applied? Because, the money may be applied to purposes much less worthy than that which the gentleman from South Carolina proposes. I want to know the position that this section of the bill is not germane to it, as it provides for no part of the consular and diplomatic expenses of the Government. I have just as much right to offer an amendment to this bill, providing for the faithful execution of the fugitive slave law, as the committee have to bring in an appropriation, in the consular and diplomatic bill, for the suppression of the slave trade. I therefore ask the chairman of the Committee of Ways and Means if he can show for what particular objects this amount is to go, and whether the point of order which he has raised on the gentleman from South Carolina, and which the Chair has sustained, does not go to the appropriation in the bill itself?

Mr. SHERMAN. My answer will be very brief. I believe these negroes, who brought here, are foreigners. The section relates, therefore, to our intercourse with foreign nations or people. But that is not all. I can sustain it on the ground of the same principle upon which I sustained the bill of last session, and, I am told, in previous appropriation bills. But there is still another ground. I can claim that this expenditure is estimated for among the consular and diplomatic expenses. It grows out of the law against the slave trade—a law which can only be carried on with foreigners, and therefore properly coming into the consular and diplomatic bill, which covers all our intercourse with foreign nations.

Mr. McRAE. The gentleman makes three points, each of which is satisfactory. In the first place, he says that the provision is germane to this bill, simply because it relates to persons brought to this country who are foreigners. That is no reason why this should be made a portion of the consular and diplomatic expenses of the Government; because there are no consular and diplomatic agents concerned in reference to this question at all, and, of course, that point does not meet the case.

The gentleman gives as his next reason, that a similar provision was in the bill of last year, and that there are precedents for attaching it to the consular and diplomatic bill. Why, does not the gentleman know that that provision was attached to the diplomatic and consular bill for the pur-

pose of carrying it through this House securely and safely; and that it was then objected, by every gentleman upon this side of the House opposed to that appropriation, that it was not legitimately connected with the diplomatic and consular expenses of the Government?

The gentleman says, further, that it is in order, because it is estimated for. Why, is that a good reason? I am glad to know, however, that the gentleman has come to the conclusion to attach no much power to the committee of the Democratic Secretary of State as to consider them an authority with him. They are, at all events, upon this question; because, I presume, they accord with the particular sentiments of the gentleman in reference to the suppression of the slave trade.

It is well known, Mr. Chairman, that my opinions are in favor of the reopening of the trade. But I am in favor, also, of observing the laws as they exist; and it is for that reason, because I am a law-and-order man, and will even sustain bad laws until they have been adjudged to be unconstitutional, that I am opposed to inserting upon this bill any such provision.

I ask the gentleman upon the other side of the House what he would be willing to introduce into the consular and diplomatic appropriation bill an appropriation for faithfully executing the fugitive slave law? Of course they will say no; that it is not germane to the bill.

Mr. LOVEJOY. I would like to ask the gentleman from Mississippi whether any such law exists?

Mr. McRAE. I think there is such a law in existence.

Mr. SHERMAN. I must rise to a question of order. This debate is all out of order. The bill has been gone through with, and nothing is in order but the motion to lay it aside, to be reported to the House.

Mr. McRAE. I will yield in a moment. I would like to ask the gentleman from Illinois whether he considers that there is such a law in existence as the fugitive slave law?

Mr. LOVEJOY. I know of no law of that title.

Mr. SHERMAN. I must insist upon my question of order. The question is on laying this bill aside.

Mr. McRAE. I do not yield at present.

Mr. SHERMAN. The bill has been gone through with, and no amendment is in order. The bill was taken up with the understanding that it should be reported to the House, and the gentleman from Georgia [Mr. Love] should resume the floor.

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from Ohio. Debate has not been closed upon the bill, and general debate is in order upon it.

Mr. WASHBURN, of Maine. I should like to know by what rule general debate is in order upon this bill. It has been gone through with by sections; no amendment is in order, and how is debate in order?

The CHAIRMAN. This bill is before the committee until it has been laid aside by a vote of the committee, and it is open to debate.

Mr. MALLORY. I proposed an inquiry a moment since to the chairman of the Committee of Ways and Means, in relation to the object which was sought to be accomplished by this appropriation of \$40,000. He responded that he understood it was appropriated to pay bounties under the law prohibiting the slave trade under which law provision is made for the payment of bounties. Now, I wish to inquire further of the chairman of the Committee of Ways and Means whether he has any statistics, or whether there are any in the committee, which will lead him to the conclusion that the amount would be necessary for the payment of bounties under that particular law? I should like to know further, whether any bounties have ever been claimed or paid under that act. I am not aware that any bounties have been claimed or claimed under it.

Mr. SHERMAN. Do you put that question to me?

Mr. MALLORY. Yes, sir. Mr. SHERMAN. Bounties have been paid under that law. One of the clerks was paid to the captain of the brig Echo and the Secretary of the Treasury has estimated that \$40,000 will be required for the coming year. Of course, these estimates must be merely an approximation. It cannot be told in advance what vessels will be

captured, or what expenses incurred under this law. I have before me a law showing the expenses which may arise in suppressing the African slave trade. I will not read it, but the gentleman can read it for himself.

I now appeal to the gentleman from Mississippi to give way, and allow this bill to be laid aside, to permit the gentleman from Georgia [Mr. Love] to go on with his remarks upon the President's annual message.

Mr. McRAE. I have no objection at all to this bill being laid aside now, if it will come up tomorrow in the position in which it now stands, and that I shall have the floor upon it.

Mr. MILES. I must, with all due respect, for the Chair, take an appeal from his decision ruling the amendment which I offered some minutes ago out of order.

Several MEMBERS. Too late.
The CHAIRMAN. The Chair will entertain the appeal. The Chair will state the question.
Mr. McRAE. The gentleman cannot take the floor from me.

The CHAIRMAN. The gentleman from Mississippi is entitled to the floor. When he shall have concluded, the Chair will give the floor to the gentleman from South Carolina, unless the gentleman yields to the gentleman from South Carolina now, to take his appeal.

Mr. McRAE. I will yield to the gentleman for that purpose, with great pleasure.

Mr. CRAWFORD. I appeal to the gentleman to allow this bill to pass over informally for the present, and to allow the President's message to be taken up.

The CHAIRMAN. The Chair will state that he understood it to be the decision of the committee that this bill should be taken for half an hour, and that if it was not disposed of within that time, it should be laid aside, to allow the gentleman from Georgia to proceed with his remarks upon the President's message.

Mr. CRAWFORD. That was my understanding.

The CHAIRMAN. The Chair will then consider that the order of the committee.

Mr. MILES. I am perfectly willing to give way to accommodate the gentleman from Georgia. I desire, however, first to inquire if the Chair will receive my right to speak from his decision?

The CHAIRMAN. Should the present occupant be in the chair when the bill is again taken up, he will recognize his right to take an appeal.

PRESIDENT'S ANNUAL MESSAGE.

The committee then resumed the consideration of the annual message of the President of the United States.

Mr. LOVE occupied the floor for three quarters of an hour, upon two relations between the people of the North and the South, especially in connection with the issues growing out of the next presidential election. [His speech will be published in the Appendix.]

Mr. KELLOGG, of Illinois, followed, in a speech nearly two hours' length—the time having been extended, by general consent—upon the subject of the alleged connection of Senator Douglas with Republicans in his reelection to the Senate of the United States. [His speech will be published in the Appendix.]

Mr. McCLELLAN replied to Mr. Kellogg upon the same subject. [His remarks will be published in the Appendix.]

Mr. VANCE occupied the floor; but yielded to Mr. COX, who moved that the committee rise.

The motion was agreed to.
So the committee rose, and Mr. Davis, of Indiana, having taken the chair as Speaker pro tempore, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly a bill (H. R. 4) making appropriations for the consular and diplomatic expenses of Government for the fiscal year ending June 30, 1861, and had come to no resolution thereon; also, that the committee had had under consideration the annual message of the President of the United States, and the resolutions proposing to refer the same, and had come to no conclusion thereon.

INDIAN AGENCY IN JEFFERSON TERRITORY.

Mr. ALDRICH, by unanimous consent, intro-

duced a bill to establish an Indian agency in the Territory of Jefferson; which was read a first and second time, and referred to the Committee on Indian Affairs.

And then, on motion of Mr. LEAKE, (at six o'clock, p. m.), the House adjourned.

IN SENATE.

Wednesday, March 14, 1860.

Prayer by the Chaplain, Rev. Dr. GREGG.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter of the assistant clerk of the Court of Claims, returning, in compliance with an order of the Senate, the papers in the case of C. J. Cook and A. A. Lockwood; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented the petition of Hetty G. Dorr, daughter of John D. Alvey, postmaster of the American Army, at head-quarters, during the revolutionary war, praying that the laws passed for the relief of the officers and soldiers of that war, or their widows or orphans, may be so construed as to include his late husband's legal representatives; which was referred to the Committee on Revolutionary Claims.

Mr. TEN EVACK presented a petition of citizens of New York and New Jersey, praying Congress to pass a law to prevent all further traffic in, and monopoly of, the public lands of the United States; and that they be laid out in farms or lots, of limited size, for the free and exclusive use of actual settlers; which was referred to the Committee on Public Lands.

Mr. F. LITTLE presented the petition of H. L. Doussan, in behalf of himself and other owners of land at Prairie du Chien, praying that the surveys affecting farm lots numbered one to twenty-three, inclusive, made by Lucien Lyon, United States surveyor, in the year 1839 or 1840, may be corrected; which was referred to the Committee on Public Lands.

Mr. FITZPATRICK presented the memorial of Daniel J. Brown, praying compensation for extra services while acting as a clerk in the Patent Office; which was referred to the Committee on Claims.

Mr. DAVIS presented the memorial of James Harrington, a laborer on the public grounds in the city of Washington, praying that he may have the benefit of the joint resolution of August, 1856, which was referred to the Committee on Public Buildings and Grounds.

REVISION OF THE TARIFF.

Mr. FOSTER. I present various memorials, praying for an alteration of the existing tariff laws of the United States. These memorials are signed by a large number of citizens and electors of Connecticut, residing in Hartford, Windsor, Weathersfield, Windsor-locks, Manchester, and New Britain; also, by citizens of New Haven and Naugatuck, in New Haven county; in Norwich, Yantic, Mystic, and Jewett City, in New London county; in Plymouth and Wolcottville, in Litchfield county; and in Hebron, Vernon, Rockville, Ellington, and Stafford Springs, in Tolland county. These memorials are signed by that one of them be read at the Clerk's table.

The Secretary read, as follows:

Memorial to the Senate and House of Representatives of the United States:
The situation of the undersigned, citizens and electors of the State of Connecticut, respectfully sheweth: That foreign wares and fabrics are now pouring into our country in such unprecedented quantities, that the glim of importation, the Federal Treasury is in an embarrassed condition, the public debt has been more than doubled within the last three years, and \$20,000,000 of Treasury notes are soon to fall due, for which no provision has been made. Your memorialists, therefore, entreat your honorable bodies to revise the existing tariff, replacing ad valorem by specific duties, so far as practicable; and according to the value of our own country's manufactures, to impose duties as may be consistent with the creation of a revenue adequate to all the legitimate and economical wants of the country.

We are, respectfully, your fellow-citizens, &c.

Mr. FOSTER. Mr. President, the signatures to these memorials are so numerous and so respectable, that I should hardly discharge the duty I owe to my constituents if I did not say a few words in regard to the general subject before mov-

ing the appropriate reference. It seems to me that what is asked in the memorials is just and necessary, and ought to be granted. The subject involves the present condition of the country in regard to its imports and revenues, and the effect of our present laws, especially on the industrial classes. From an examination of the report of the Secretary of the Treasury, laid on our tables a short time since, it appears that the whole amount of imports into the United States during the fiscal year ending the 30th of June last, was \$338,708,130, of which gold and silver coin and bullion made up \$17,434,779, leaving \$321,273,351, of goods and merchandise. Of this, \$100,000,000 was of foreign origin, imported into the country in a single year. Of this amount, however, there was exported abroad \$20,595,077, leaving to be consumed at home within our own country, \$810,438,264. The whole amount of our exports during the same period was \$335,594,365; of which gold and silver coin and bullion made up \$57,592,305; leaving, therefore, an amount of exports, aside from gold and silver, of \$278,392,060. Thus, the excess of imports over exports was \$232,046,184.

I am aware that there is one theory that goes on, and grows, that the tariff is laid in proportion to the amount of its imports, and that large imports are a proof of large wealth and of the increase of wealth. For myself, I have not been accustomed, at any period of my life, to deal in such large figures, and I am not sure that I am able to comprehend all the philosophy of that school of political economy. It seems to me that if we simplify it a little, and take the case of an individual, a planter or a farmer, and try the question on a small scale, we may understand it better. Suppose, then, that a planter or farmer takes the surplus product of his farm or plantation, all that he has to dispose of, and sells it to a neighboring merchant, and that he buys from the merchant all that he wishes for family consumption. At the end of the year he settles his account, and finds that he owes the merchant \$500. Now, that planter or farmer is certainly not taking a thrifty business, he is not making money; but is losing it, although his imports, so to speak, are \$500 a year more than his exports. I take it to be very manifest that the individual case is the same in substance, is not on the road to wealth, but is on the road to the alms-house; and I am utterly at a loss to conceive of any difference in point of principle, between an individual and a nation under just such circumstances.

We, as a nation, last year, imported more than we exported, to the amount, as I have already stated, of \$232,046,184. I believe that that is a losing business, and that a nation pursuing that course is tending to bankruptcy. Now, look for a moment at some of the imports which go to make up this enormous amount of our imports. I have looked over the tables, as prepared by the Secretary of the Treasury, and find that we imported manufactures of cotton, \$236,315,081; of manufactures of wool and worsted, \$33,221,596; of iron and steel, \$10,000,000; of iron and steel, \$19,221,547; amounting, in the aggregate, to \$79,085,984 of these three classes of articles—manufactures of cotton, manufactures of wool and worsted, and iron and steel, and manufactures of iron and steel.

Now, Mr. President, I must say that I believe this country ought to have manufactured all these several articles here at home, and not imported one dollar of the more than seventy-nine million dollars' worth that we did import. That, I believe, is the course we ought to pursue. A national import, ought to have followed. It is pretty apparent that we are not raising revenue enough to meet our expenses. Our expenditures during the past year, as appears by the message of the President of the United States, were \$53,731,511.57. The estimated deficiency for the year ending June 30, 1861, was \$66,714,928.79; and the estimated deficiency for the fiscal year is \$5,988,424.04. I shall confess myself much mistaken if our expenditure does not exceed the estimate, and, of course, if the estimated deficiency is not about of the reality. But, sir, even if both should be right, or both be wrong, the subsequent facts shall prove to be true, it is very clear that proper legislation requires the revision of the tariff laws, and requires such a change as shall make the receipts of the Government equal to the amount of the expenditures. The expediency of this principle must certainly be recognized.

from Delaware withdraw his motion, to allow petitions and reports to be introduced?

Mr. BAYARD. No, sir; I cannot. I think the bill ought to pass. If it gives rise to any debate, I will move to lay it on the table myself.

The VICE PRESIDENT. The Chair will state to the Senate that, under the rule of the Senate, he calls for petitions and reports, if no motion be made after the reading of the Journals; but under the power of the Senate to regulate its own business, if the Senator gets the floor and moves to take up a bill in the morning hour, it is clearly in order. It is moved to take up the bill indicated by the Senator from Delaware.

Mr. FESSENDEN. I ask for the yeas and nays, that the power of the Senate to regulate its own business may be given to the presenting of petitions, we will ask the yeas and nays upon it.

The VICE PRESIDENT. The Senate will come to order until it gets in possession of the question on which the yeas and nays are asked. The Senator from Delaware moves to take up the bill (S. No. 3) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855; and upon that motion the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. CAMERON. I hope the Senator from Delaware will suspend his motion for a minute, to allow Senators to present petitions. They will take but a few moments. That is the easiest way to get out of the difficulty.

Mr. BAYARD. I do not desire to obstruct the business of the Senate, nor to interfere with order in any way. If the Senate do not desire to pass this bill, I have no particular interest in it. It concerns the decency and the morality of the country. I am sure Senators would not be disposed to pass it during the whole of the last Congress. I have now moved to take it up, because it will take no time to consider it. The Senate has already taken up another bill this morning, and passed it. I do not desire to interfere with Senators or anything of that kind. I will postpone the motion; and I hope the Senate will afterwards take up the bill, and pass it.

The VICE PRESIDENT. The motion may be withdrawn by unanimous consent, the yeas and nays having been ordered. If the Senator hears no objection, and the motion is withdrawn.

PETITIONS AND MEMORIALS.

Mr. WADE presented two petitions of citizens of Ohio, praying that pension may be allowed to the surviving militia of the year of 1812, and to the widows of those deceased; which was referred to the Committee on Pensions.

He also presented two petitions of citizens of Ohio, praying that the militia who served in the Indian wars, and in that of 1812, may be placed on the same footing in regard to bounty land as those who served in the war with Mexico; which was referred to the Committee on Public Lands.

Mr. CAMERON presented seven petitions of manufacturers and mechanics of Clay county, Pennsylvania, praying a modification of the tariff which were referred to the Committee on Finance.

Mr. FESSENDEN presented the petition of Charles H. Robinson, praying that his pension may commence from the time of the injury for which it was granted; which was referred to the Committee on Pensions.

Mr. PEARCE presented a petition of merchants and underwriters of Baltimore, praying the restoration of the mail service between Charleston, South Carolina, and Havana; which was referred to the Committee on the Post Office and Post Roads.

Mr. IVERSON presented the memorial of H. T. A. Rainalds, praying compensation for his services as United States consul at Elsinore, Denmark; which was referred to the Committee on Claims.

He also presented the petition of B. F. Rittenhouse, a clerk in the office of the Register of the Treasury, praying extra compensation for preparing the estimates of appropriations; which was referred to the Committee on Claims.

Mr. LATHAM presented the petition of Charles Hare, praying Congress to pass a law changing the name of the schooner Emma, a foreign vessel, and for her enrollment, &c.; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HEMPHILL, it was

Ordered, That C. C. Cook and A. A. Lockwood have leave to withdraw their petition and papers.

On motion of Mr. GREEN, it was

Ordered, That the letter of J. M. Winchell, president of the National constitutional convention, proposing an enrolled copy of the constitution of Kansas adopted at Wyandotte, July 29, 1859, presented March 6, 1860, be referred to the Committee on Territories.

REPORTS FROM COMMITTEES.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the petition of P. Thier, praying compensation for services on the boundary survey between the United States and Mexico, and an allowance for transportation from said survey to his home, submitted an adverse report, and asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and Militia, to whom was referred the memorial of F. W. Lander, reported a bill (S. No. 284) for the relief of F. W. Lander; which was read and passed to a second reading.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of John Brannan, an employé in the Department of State, praying compensation for extra services, reported a bill (S. No. 285) for the relief of John Brannan; which was read and passed to a second reading.

Mr. BIGLER, from the Committee on Patents and the Patent Office, to whom was referred a resolution submitted by Mr. SCHMKA, on the 14th of February, directing the committee to consider the expediency of amending the existing statutes so as to abolish all discrimination between American citizens and foreigners in the office fees on the issue of patents, asked to be discharged from its further consideration, the committee having already acted on the question; which was agreed to.

He also, from the same committee, to whom was referred the memorial of M. C. Grizner, praying compensation for damages sustained by the non-fulfillment of a contract made by the Commissioner of Patents with him for the execution of descriptions and illustrations of patents, and the bill (S. No. 228) for the relief of M. C. Grizner, reported the bill without amendment, with a recommendation that it do pass.

He also, from the same committee, to whom was referred the petition of R. L. Dorr, praying that the Secretary of State may be authorized to demand of the British Government indemnity for a violation, by its subjects, of the rights of Samuel G. Dorr, under a patent for an improved method of shearing cloth, issued by the United States Patent Office, October 30, 1792, asked to be discharged from its further consideration; which was agreed to.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the memorial of Eliphalet Brown, jr., praying for the difference between the pay of master's mate and artist in the Japan expedition, submitted a report, accompanied by a bill (S. No. 286) for the relief of Eliphalet Brown, jr. The bill was read, and passed to a second reading; and the report was ordered to be printed.

BARRACKS AT SAN FRANCISCO.

Mr. LATHAM submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish this body with site plan, estimate, and reports relating to the construction of new barracks for the troops at the Presidio of San Francisco, and centrally the office of the inspector general, relating thereto, of May, 1859.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. FOWLER, its Clerk, announced that the House had passed a bill (H. R. No. 398) for the relief of Peay & Ayilife, in which the concurrence of the Senate was requested.

The bill was read a first and second time, by unanimous consent; and on motion of Mr. Johnson, of Arkansas, it was ordered to lie on the table.

A subsequent message from the House announced that the House had passed the bill of the Senate (No. 192) authorizing the corporation

of Washington city to make a loan and issue stock for \$300,000, for building a market-house, with an amendment; in which the concurrence of the Senate was requested.

The message further announced that the House had passed a bill (H. R. No. 228) relative to the printing and distribution of the annual message of the President of the United States and accompanying documents; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed an enrolled bill (S. No. 228) for the relief of the legal representatives of Charles Pearson, deceased.

PAY OF THE NAVY.

Mr. FESSENDEN. I wish to offer a resolution, to which there will be no objection, as the chairman of the Committee on Naval Affairs agrees to it. I am satisfied that the matter to which it relates needs attention at this session very much; and I hope that the Committee on Naval Affairs, if the Senate recommit those bills, will take the matter into immediate consideration and report, in order that it may be got through this session. I believe it is a branch of the service which requires action:

Resolved, That Senate bills numbered 28 and 33 be recommended to the Committee on Naval Affairs, with instructions to inquire into the expediency of establishing the pay of each grade of officers per annum, in dollars and cents, with an increase at stated periods, up to twenty years of service.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MALLORY. I will suggest to my friend from Maine to leave the alternative to the committee, to require them to inquire into the expediency of it. I agree with the principle, but I would suggest to the Senator that he amend his resolution, so that the committee will be directed to inquire into the expediency of reporting such a bill.

The VICE PRESIDENT. Does the Senator from Maine make the modification suggested by the Senator from Florida?

Mr. FESSENDEN. If it is going to lead to debate I will; but I introduced the resolution after consulting with the Senator, and he agreed to it in the form in which it is presented.

Mr. MALLORY. Well, I will take it in that form.

Mr. SLIDFELL. I trust that a question so grave as this will not be passed as a matter of course. I think the committee ought to have some discretion on the subject.

Mr. FESSENDEN. The Secretary will modify my resolution so that the committee will be directed to inquire into the expediency of it, and report. I do not care about the form.

The resolution as modified was adopted, as follows:

Resolved, That the Senate bills Nos. 28 and 33 be recommended to the Committee on Naval Affairs with instructions to inquire into the expediency of establishing the pay of each grade of officers per annum, in dollars and cents, with an increase at stated periods, up to twenty years of service.

HOOR OF MEETING.

The VICE PRESIDENT. The Chair will now call up the special order.

Mr. HAMLIN. Before the special order is taken up, I wish to submit a motion in relation to the hour of meeting of the Senate. We have a very large Calendar, and the session is now being procrastinated. We all know that after a late hour in the day it is impossible to keep Senators here. I think the easier and better way would be to meet earlier in the morning. I think we ought to meet earlier, and for that purpose I submit a motion that the daily hour of the meeting of the Senate shall be twelve o'clock, meridian, until otherwise ordered.

The VICE PRESIDENT. If there be no objection the Chair will entertain the motion.

Mr. HALE. I object.

Mr. HAMLIN. I submit that it is not a matter which must lie over, because a Senator objects to it.

The VICE PRESIDENT. The Senator from Maine can move to postpone the special order.

Mr. HAMLIN. I do so for the purpose of submitting that motion in regard to the hour of meeting. I do not suppose it will take up the time of the Senate.

Mississippi, while he was Secretary of War; but although I have very great respect for his opinions, I think the facts will show that four years is long enough. Certainly, when we have such instances before us every day as we see of gentlemen who have gone through the Academy for a term of four years, and arrived at great distinction, both in the Army and out of it, I think it would be concluded that the term that is usual at our colleges is sufficient for the Military Academy.

Now, sir, I stated that I understood (and it has not been denied by the honorable Senator) that the teachers of that Academy are in favor of the term of four years. I think they are competent judges of what education it is necessary to give a young man in order to take the grade of a lieutenant in the Army. I have always supported three appropriations for the Military Academy. I know there are many that are opposed to it.

Mr. GRIMES. I wish to ask the Senator from Maine whether the professors of the Academy or the academic staff, have not coupled with this another recommendation: that the standard of education shall be elevated, in order to enable a young man to become a cadet?

Mr. FESSENDEN. I know that is their opinion.

Mr. GRIMES. I understand that to be the case; that they have coupled with the opinion that four years is all that is necessary, that a young man should receive a superior education to that which he is now compelled to receive in order to gain admission. The effect will be, that those whose parents are able to educate them thoroughly before they go there can secure admission, but those not so fortunate cannot be admitted because not competent to pass the examination.

Mr. FESSENDEN. Well, sir, I do not know how it may be in point of fact in other places, but I have known many young men enter the Military Academy, and they went there with what is called a common education, such as is usually attained in our common schools, to which all have access; and if a boy, with the opportunity which boys of all classes have in this country to go to school, arrives at the age of sixteen years and has not sufficiently accomplished himself to enter the Military Academy, what can I but conclude that I am rather inclined to think he is not fit to go there at all, or would not stay there long after he entered the Academy. I do not regard that as a sufficient argument. It is not true, in this country, that there is no opportunity to be had at sixteen years, which is about the age thought most advisable, to acquire all the education that is necessary. This is simply a proposition to extend the term of the Academy another year, and to give a preliminary education there, instead of requiring that it should be obtained elsewhere.

I have no sort of feeling about this subject. I care nothing about it. I think it my duty to offer this amendment for the simple reason that if we are to undertake to educate young men for the Army, with all the objection there is to the Military Academy at present, it is not quite advisable to take them upon an early age and give them the rudiments of education. By so doing we extend the term of the Academy, and it expenses very much, and make it more odious than it is now among many. But, sir, I have not the slightest pride of feeling about it one way or the other. It is a matter I have deliberated upon, and with the judgment of the academic staff in favor of this change. I have thought it my duty to submit it to the Senate, with perfect indifference on my part whether they vote it in or vote it out.

Mr. DAVIS. I will make one remark as to the last words of the Senator from Maine. I do not see how he reaches the conclusion that the board which is now examining the programme of studies is composed partly of the academic staff. The superintendent of the Military Academy is the president of the board which now has the subject under consideration. If the board has not reported, if I had all the information to be presented by that board, I might make a decision; I might be ready to act upon it. As at present I pressed, I should say if the term is to be fixed, I would fix it at five years; but I dislike to make a motion to amend, by fixing five years, because I prefer to have the advantage of the report which is to be made by that board. I think any action upon it at this time premature. If we are to fix it by law, do not do it until we have all the facts.

Mr. FESSENDEN. Do I understand the gentleman to say that the board is now sitting upon the subject and examining it?

Mr. DAVIS. The board assembled, progressed to a certain extent, and adjourned to meet again. At the next meeting, the professors of the branch in the Academy were required to make out the total schedule of studies in each division of the Academy, which is in process of preparation; and the board is to reassemble some time during this month or the next.

Mr. FESSENDEN. That may be a very good reason for delay. I am perfectly willing to withdraw the amendment under those circumstances. The PRESIDING OFFICER. Does the Senator from Maine withdraw his amendment?

Mr. FESSENDEN. Yes, sir; I withdraw it. Mr. HALE. I have an amendment to offer. It is to insert, as an additional section:

And be it further enacted, That the regiment of Texas mounted volunteers, provided for by the act of April 7, 1860, shall not receive the bounty or gratuity of the United States, in the opinion of the lieutenant general of the United States, in the event of the mounted regiment of the Army, or so much thereof as may be necessary, can be safely ordered to the defense of Texas.

I ask for the yeas and nays.

Mr. WIGFALL. I would merely suggest to the Senator from New Hampshire that it would be better to amend his amendment, and make the lieutenant general the commander of the Army, instead of the President of the United States. The object clearly is to kill the bill. I will not discuss it.

Mr. HALE. I will only say, in my humble opinion, with the highest respect for both these gentlemen, the President of the United States and the lieutenant general, that I think I would rather have the lieutenant general's opinion in a question of military tactics than that of the President. Mr. WIGFALL. But the fathers happen to differ with you. The Constitution makes the President the commander-in-chief.

The yeas and nays were ordered.

Mr. DAVIS. Mr. President, this is really giving a stone, when bread was asked for. The executive department asked for more mounted troops. He wanted some regiments added to the regiment of Texas. The President of the United States, however, chose instead of giving him what he asked for, to give him a regiment of mounted volunteers. Having passed a law providing for that increase in certain contingencies, one regiment of mounted men and two regiments of cavalry, which two might be mounted in the discretion of the President, the Executive thought proper not to call them into service, because Congress had made no appropriation. The question before us now is to make an appropriation to execute a law of Congress. It is not that the Executive has asked you to substitute regular troops by volunteers or irregular troops. The reverse is true. From no action taken by the executive department, the Senator from New Hampshire makes his proposition. Congress had a right to judge what kind of troops to give; but this proposition assumes to judge that because Congress substituted one kind of troops for another, as a measure of economy, therefore a reduction must follow. You are only giving what was asked for—an increase. Congress exercised its discretion in deciding how that increase should be given; but now the Senator appends to that a proposition to reduce the existing force, to take away the northern frontier of Texas at the scene of daily raids by roving and murderous bands, and when the Rio Grande frontier, which is the international boundary between the United States and Mexico, is the scene of such disturbances, and the western frontier of Texas and this. It is a strange time to propose a reduction. You have thrown upon the President the responsibility of calling out the kind of troops which you yourselves have thought proper to adopt. Is not that correct? Must you, in the face of the declaration of a necessity for these additional troops to save the property, to save the lives of the people of Texas, propose a reduction so as to diminish the power of the Executive to give that protection both to the northern and western frontiers of Texas which devolves on us as one of the highest duties under our constitutional existence? It is quite clear, sir, that those who seek to give protection to that country, sooner than adopt the amendment of the Senator from New Hampshire, would re-

ject the proposition entirely, leaving the President with the force he has, and the power he has to call out the militia; leaving also the Governor of the State with the power which he now exercises to employ the volunteer companies of Texas, and with an existing law upon the statute-book providing for the calling out of regiments from that State, and with the certainty that those troops not having been controlled and directed by the Federal authority would soon come here for payment, and that we should have to pay the bills of all expenses incurred.

I do not see the purpose of the Senator from New Hampshire. I cannot comprehend the object which he has in view. He surely does not thus expect to initiate a reduction of the Army. He cannot believe that because we are asked for more troops, the time has come when a reduction may properly be made. He should wait for a season of peace. He should wait for a time when the troops have been concentrated, when the large force now in Utah has been brought back to the duties in which it was formerly engaged. If then it shall be found that we have an excess of troops, that would be the time to propose a reduction; not now, when the want of troops causes us to look for all conforming volunteers to perform those duties which ordinarily devolve on the regular Army. The State of Texas is entitled to consideration in her present condition, and when the Executive makes a request, which request is complied with in a manner consistent with the views of Congress, it is but little that he should ask you for the money with which to carry out your own views. That is all he asks.

I do not wish, Mr. President, to prolong a debate which may perhaps only delay the rejection of an amendment, the object of which I do not comprehend, the objections to which I have briefly stated, and the purpose of which I shall be glad to learn from the Senator from New Hampshire if he has real purpose in it.

Mr. HALE. I would be glad if the Senator from Mississippi will tell the Senate how many Federal troops there are in Texas, what kind of troops they are, and how many are ordered there now.

Mr. DAVIS. I cannot state the number. I have recently seen an order sending some companies to the Rio Grande. I think the whole of the second cavalry should be in Texas. Whether it is or not, I cannot say. Some remarks made in debate by the Senator from Massachusetts were that there are six companies of the first cavalry stationed just above Texas, perhaps in the military department of Texas, just north of the Red river.

Mr. WILSON. I have a return here, with a note of the adjutant general of the Army, showing that there are twenty-four military posts now in Texas, and two thousand six hundred and fifty-one men. There have been some ordered there; but how many I cannot tell.

Mr. HALE. How many of those are mounted men?

Mr. WILSON. I have not looked to see; but the description is all down here. I can tell in a moment.

Mr. DAVIS. If you will read the designation of the troops, I can tell whether they are in Texas or not. I think it likely that the adjutant general includes in the department of Texas troops stationed north of the Red river. The department of Texas is addressed to the Secretary of War, and the Senator from Massachusetts is probably aware.

Mr. HALE. I understand, then, that there are at least two thousand six hundred men there; and the Senator from Mississippi says the second cavalry should be in Texas. I would like him.

Mr. DAVIS. If I do not mean "should be," in the sense of giving any direction as to where they ought to be; but, from such information as I possess, I suppose them to be there.

Mr. HALE. That is what I understood, that from such information as the Senator possesses, there is now one mounted regiment in Texas, consisting, I suppose, of about a thousand men, and there are sixteen hundred others, besides, from the statement of the Senator from Massachusetts, and there are others as *route* for Texas; and yet, because I offer this amendment, it is intimated that I am against affording protection to Texas, and that the Senator from Massachusetts, every soldier of it; for there they would find some

legitimate purpose and object to set themselves about.

There is something curious about this, Mr. President. The act which has been referred to was passed on the 7th of April, 1846, nearly two years ago. It was passed in view of an existing emergency. It provided—

"That the President of the United States be authorized to receive into the service of the United States one regiment of Texas mounted volunteers, to be raised and organized by the State of Texas, for the defense and protection of the frontier therein."

That which was temporary in its purpose, and to continue, when the act was passed but eighteen months, has been continued by the President, from that day to this. The eighteen months have expired long ago; and now we propose to raise this new regiment, just exactly as if the emergency upon which it was authorized now existed.

If Texas requires everything the gentlemen say—and I am not going to gainsay it—I want to know if twenty-six hundred of the Federal troops now there are not sufficient? And if, in the opinion of the lieutenant general, a sufficient number of other Federal troops cannot be ordered there, then I am willing to give a regiment of Texas mounted volunteers. But, sir, I do not believe that the exigencies of the service there require this particular kind of force. Yet, I will not obtrude my own opinion upon the Senate, I am willing to rely on the opinion of the lieutenant general. I suppose nobody will impeach his judgment or his patriotism or his entire integrity in the opinion that he will give, if he is called upon to give this amendment which I propose, to give one. I simply want to say that if, in the opinion of a man perfectly competent to give it, this regiment is not wanted, we will not, at this time, put our hands into the Federal Treasury, and take out \$1,000,000 a year, for the purpose of sending this regiment out, when it is not wanted. That is all that I mean by the amendment. I do not desire to argue it. I simply content myself with asking for the yeas and nays.

Mr. WILSON. I have no doubt, sir, that there is a general feeling in the Senate and in the country, that the expenses of the Army have been very large; but I find, on examination, that the Army is stationed in nearly one hundred and thirty posts scattered over the country, and in very small numbers at each. There are, in the department of the West, comprising Minnesota, Nebraska, and Kansas, eight military stations, with two thousand two hundred and eighty men. I suppose that those troops are necessary there, and that those familiar with that country do not propose to withdraw them. In the department of New Mexico there are fourteen military posts and two thousand and ninety-six men; in the department of Utah, two military posts and one thousand nine hundred and nineteen men; in the department of Oregon, fourteen posts and two thousand three hundred and fifty-three men; in the department of California, fourteen posts and one thousand two hundred and seventy men. Here, sir, in the Territories of Spain, there are, in seventy-six military posts, nearly thirteen thousand men, scattered over a vast expanse of Territory, and I suppose that those who have stationed those troops understand the wants of those vast sections of our country.

Now, it is said that the troops from these distant portions of our Territories cannot be placed at once upon the banks of the Rio Grande for the defense of the State of Texas. I have reflected somewhat on this subject, and have made up my mind to vote for the proposition to raise this regiment. I do not like to disagree with those with whom I commonly concur; but, in my judgment, we need all the care of the Government of this country to keep out of a controversy with Mexico. I do not say that we are drifting into a war with Mexico; but I believe it will require the watchful care of every department of this Government to keep out of a war. The Governor of Texas has sent a communication to me in which I think amounts to just this—no more, and no less—that there have been invasions of the State of Texas which will not be submitted to; that if the Federal Government will take the matter in hand, and send troops there, and protect the frontier of the State against the State against the Mexicans and against the Indians, the authorities of Texas

will take no action; but if you decline to do so, they can draw out ten thousand men in a few weeks, and he will take the responsibility of doing it. I believe that, if he does it, he will cross the river, and carry out an idea which we all know he entertains, of extending over Mexico a protectorate, or conquering that country. We may, therefore, by voting down this proposition, involve the country in a war; and I think it the part of prudence, of safety, of peace, of humanity, to raise this regiment, and take, ourselves, the control of the affairs of that frontier.

It is said the Governor can call out troops, and we shall have to pay for them. I do not want the Governor to call out troops, or to have the command of them. I want the Government of this country, with all the responsibilities that devolve upon it, to take care of this boundary question, and to take care of this question concerning the Indians, and I would rather trust this force under the Government of the whole country, than under the government of the people living on the frontier—a people who regard the lives of Indians as of little more value than the lives of a horde of buffaloes that range over the prairie. While we have, in the annual report of the Secretary of the Interior, a statement of the action of a portion of the people of that State in regard to the Indians placed upon a reservation. First, they demanded the removal of the Indians. After the Government, under the present administration, that they should be removed, then they said they should not be removed; and when they were removed, and the Indian agent returned, he was murdered. We all know that on these frontiers, North or South, in any part of this country, there is a hostile feeling between the frontier settlers and the Indians; and I would rather trust the Army, and the officers of the Army, and the Government of the whole country, than trust the people who live on the frontier, in the management of these matters. For these reasons I shall vote for the appropriation of seven hundred and odd thousand dollars for the support of this regiment. The President will take the responsibility of calling it out, if it is needed, and he will do so, because I want to preserve the peace of the country, and to take every precaution necessary for that purpose.

Mr. HALE. Mr. President, I have listened to the statement from Massachusetts as I always do, with pleasure, but he gives attention to the strange logic that I ever heard in my life. The Senator says he does not want to trust this matter to the inhabitants of Texas, the frontiersmen; that they do not regard the lives of Indians more than they do buffaloes; and therefore he is going to vote for this bill. What does this bill do? It puts a regiment of these very mounted Texas volunteers on to those buffaloes and Indians. I want to send the regular Army there. I want to send forces there, officers and command, by our own men, subject to Federal authority, and subject to the rules and articles of war. But the honorable Senator from Massachusetts is afraid to trust the Texans to manage this matter, and yet he is willing to do so in the case of the regular Army, but he will not have the Army, but he will vote for a regiment of Texas mounted volunteers to be raised and organized by the State of Texas, and for the defense of the frontier, and all the officers of this regiment of Texas volunteers are to be commissioned under the authority of this very State of Texas, that he says he is afraid will run over into Mexico and involve us in a war!

Well, sir, I yield to his fears; but how does he reconcile this argument with sending to Texas a regiment raised by Texas under the authority of that very Governor of Texas whom he is afraid to trust? He allows him to raise a regiment, officered by Texas, accountable to Texas, and not accountable to us; he is afraid to trust them in their critical state of affairs, which we want to send the Federal Army, officered by Federal officers, and subject to Federal control; and, that we may not be mistaken or misled in this matter, I will judge of the highest military merit that there is in the subject—officers whose judgment and integrity and skill and discretion I presume everybody has the most unlimited confidence. If the Senator is afraid to trust the Governor of Texas, why on earth is he afraid to trust him with us and send the Federal force there, and if he has not all the confidence he

might have in the discretion of the Governor of Texas, repose in the discretion of the lieutenant general?

Now, sir, with all my respect for the Senator, I am obliged to meet his argument, and to strike my mind; and it does not follow, because you have great respect for a man, that you are bound to respect his arguments, particularly when they strike you as a little absurd, as they do me in this instance. I declare that, on this subject, I do feel, and feel deeply. What is the use of continually strengthening the military arm of this Government? I do not desire a reduction of the Army, as the honorable Senator from Mississippi said, at this time, on this occasion. I do desire it; for I know that we have got more than four times as many as we need; but the difficulty is, that, whenever we have an actual occasion to use them, we always want to increase. It would seem, according to the logic of gentlemen, that we want about twenty thousand men and arm, at an expense of about twenty million dollars a year, to do nothing; and when there is something to do, we must have an extra supply and some extraordinary force raised.

But I am glad to be content against this. It is going through. All the trucks are one way—to increase the Army—and there are none backward. It is not to be diminished. It will not be diminished. All the expenses are increasing. Here we are about to increase the expenses of this Government at least \$1,000,000 annually. Gentlemen tell us these troops may be disbanded some time. So the world may come to an end some time; and I shall thank Divine Providence if ever get our Army diminished before that event comes round. But it will never be diminished as long as you have any Federal Treasury to spend, or Federal credit to borrow money with. Just as long as you have that, the Army will be increased.

Mr. WILSON. The Senator from New Hampshire does not understand my logic. If the Senator understood the facts of the case, perhaps he would understand my logic better. Now, sir, the point is this: a demand is made for troops for the defense of the State of Texas, and the Senate is called out, it is not to be called out by the Governor of Texas, and is not to be under his control. If it is organized and called into the field by the United States, it will be officered, it is true, by Texas men, but the troops will be under the articles and regulations of war, and the commanding officer of the Army of the United States, precisely as the regular Army is. This regiment will become part and parcel of the Army, subject to the control of that officer. That is the fact; however, the Governor of Texas calls out troops himself, on his own authority, they will be under his own control, and will be marched where he chooses to march them. That is the distinction. It is because I want these troops to be under the articles of war, and to be under the control of the Government of the United States, to be absolutely under the direction and control of the commanding officer of the Texas military department, that I prefer to make this appropriation to meet these contingencies, rather than to trust to the contingencies that may arise if we refuse it and the Governor calls for volunteers and raises, perhaps, ten thousand men, as he says he can do in thirty days. If he does so, and brings them into the field under his own control, he may involve us in an expenditure of millions of dollars, and may involve us in a war with Mexico. That is the distinction. I think it is a plain and clear one; and I think if the Senator from New Hampshire will look at the facts of the case, he will understand the reason I have given for this vote of mine. At any rate, they are satisfactory to my own judgment.

The question being taken by yeas and nays on the motion of Mr. HALE, read—yeas 12, nays 33; as follows:

YEAS—Messrs. Ringham, Chandler, Dixon, Durkee, Grimes, Hale, Hiram, Hiram, Smith, Ten Eyck, Trumbull, and Wilkinson—12.

AYES—Messrs. Adams, Bayard, Briggs, Brown, Chace, Hays, Clingman, Crittenden, Davis, Douglas, Fessenden, Fitch, Fitzpatrick, Foster, Gwin, Hammond, Humphreys, Hunt, Ireland, Johnson, Johnson, Johnson, Johnson, Johnson, Kennedy, Lane, Nicholson, Pearson, Pomeroy, Rusk, Thomson, Toombs, Wigfall, Wilson, and Yates—33.

So the amendment was rejected.

Mr. LANE. Mr. President, I am inclined to think that the course of instruction at the Military Academy ought to be fixed at four years; and, with a view of having the sense of the Senate upon that question, I renew the amendment which was offered by the Senator from Maine, to add to the bill, as an additional section:

Section 1. Further education at West Point. The West Point Academy shall be, and the same is hereby, fixed at four years.

I dislike very much to oppose the views of the Senator from Mississippi, who has had great experience in relation to the Academy, and also in the case of the country; and I have very great respect for his opinions; but I have spent portions of several summers at West Point, and I have noticed the course of instruction, the character of the Academy, and the attainments of the young men constituting the corps of cadets, and I am satisfied myself that there are many good reasons why the course should be fixed at four years.

First, that is a sufficient time for any young man who is fit for the service to prepare himself for the duties of a soldier. It is a sufficient time for him to obtain such education as was contemplated when the Academy was established; and I think I may say that the world has not produced finer soldiers than many of those who graduated at West Point under the four years' term.

There is another reason why it should be restricted to four years. It is that the Academy as presented does not afford a sufficient number of graduates for the service. We are making citizen appointments every now and then. The object of the Academy was to prepare young men for the Army. By repeating the course in two years, you are not able to educate the same number that would graduate under a four years' course; and, in fact, there were not enough graduated under the four years' course. Then, why should we deprive the country of the service of those additional officers who would be produced by extending a four years' term? I believe—I do not speak certainly—I leave it to the Senator from Mississippi to say—that ordinarily, less than half the cadets who enter the school graduate. A five years' term is too long.

The standard of preparation is not right, let it be raised. The board of examination can raise it, and require such a course of preparation as will enable young men to go through in four years. I am satisfied that very much inconvenience cannot grow out of the change. Now, if the first class will graduate in June next. The second class can graduate in January following, if you please; that would reduce their term to four years and a half; and then the third class could graduate in June of the year following, making their term four years. There will be no more inconvenience in reducing the term than there was in raising it. The first graduates under the five years' course graduated last June; and if I recollect aright, about twenty constituted the number of that class, or perhaps it may have been twenty-five or twenty-three. That was the extent of the class that graduated at the end of the five years' term. It must be apparent, I think, to everybody, that no inconvenience could grow out of the change; and that, if good graduates are to be had, and more graduates, we should have more young men qualified for the service than we can have under the present system.

But, in addition to all that, I am satisfied that five years is too long a period to keep a young man at West Point. It is the hardest school in the world; and to keep him there five years is not necessary to prepare him for the Army, and that too after he has been, perhaps, three or four years in college before entering the Military Academy. I hope the Senate will reduce the course to four years, and fix it at that, so that they shall not have other change by the action of the Department. My recollection is not exactly like that of the Senator from Mississippi in relation to the changes that have been made at West Point. If I am not mistaken, during the first year of the late Secretary of War, he ordered the course up to five years. My recollection is, that summer before last, the present Secretary of War reduced it to four years, and the order was published and read at West Point; and then about the 1st of April last, another order was issued from the War Department ordering the term up to five years again;

and I think I am not mistaken about the matter. But at any rate, Mr. President, I want the sense of the Senate in relation to fixing the course at four years; and I think the interests of the Academy would be promoted by it; and in my opinion the interests of the country would be consulted by allowing each Senator the right to appoint a cadet. Now the appointment of cadets is now made by lot from each Representative district; and less than one half of them graduate; and when you bring the course up to five years the country derives very little benefit from the Academy. If Senators would come with me that the number of graduates ought to be increased, and that it would be better to provide that each Senator should have the appointment of one cadet, and that the interests of the country would be promoted by extending the privilege to them, I trust that some one will propose an amendment. I simply make the suggestion. I hope the Senate will now fix the course by law, so that there shall be no changing it back and forth as heretofore. Four years is long enough. Fix it at that, and young men will graduate as well, and be as well qualified for the service at the end of four years as they will be at the end of the present long term.

Mr. DAVIS. The course of a great institution cannot be varied about like a weathercock. The Secretary of War certainly never committed such a blunder as to send an order for with to reduce the course to four years. What the Senator must have heard, was an order to prepare a programme for a four years' course, which programme, I have learned, was prepared, but was never approved, and consequently the change was not made. I could not make the change without further action by the War Department. It is a serious matter; it takes years to bring it about; and when Congress goes into the Academy to arrange the studies, it is as great a misfit as a bull in a china shop. The academic staff had been for some time looking an inch or two behind, and when finally it was decided upon, it was necessary to wait until by accident a very large class was appointed, which was susceptible of division into two, and the opportunity was thus offered of increasing the classes from four to five. The Secretary of War was easy to reduce the course; it is a difficult thing to do either; the reduction the more so of the two, because when he attempts to reduce, he throws the whole line of studies into confusion. It is a thing which must be done progressively. Now, will the several years be taken from one programme of studies to another; and this easy mode of fixing a date by which studies are to be completed, without any reference to the books to be mastered, and the capacity of the students to learn, is more facile in legislation than in academic execution. I may reach the conclusion that a four years' term is long enough; I want the advantage of the thorough investigation which will be before us when the report of the board which is now sitting upon the programme of studies and the course of discipline, shall have been presented to the Secretary of War, and referred to us.

As to the capacity shown by graduates of the Academy, I think that is a very poor rule for the purpose for which it is now cited. It does not always mean that all the knowledge a man possesses was acquired at any one of the schools at which he may have been; and it is a fact, which is very well known to the Senator, that when he finds an officer in the Army able to perform that duty, which so frequently devolves on the officer, of sketching in the field, it is not because he was taught it at West Point. The course has never provided for sketching in the field. It has never provided for the study of the manufacture of arms in armories, and arsenals, and foundries. It has never provided for studying miningology, and geology, and botany, in the field. It has never provided for the practicing the construction of temporary intrenchments; never provided for any of those portions of practical military instruction which must be learned in a school of application if the student is to be a soldier.

Our Army is too small for schools of application, and nothing is more idle than to borrow our theories from Governments maintaining great armies with schools of elementary instruction, and schools of application to which graduates are sent. We have no school of elementary instruction, and the school of application combined in

the small military establishment which we maintain; and it is by those who overlook this striking fact—who those who insist that Congress in its generosity shall establish schools of application—that this argument has been made, so far as it has been made, by those who comprehend the whole bearing of the subject. Those who made an effort, for a long time, to get a commission and to serve the academic board. It is true of a majority, as I am informed, that they have now changed their opinion—that they find the course too tedious; but is there no other remedy than to reduce it to four years? Is human capacity exhausted by declaring a particular number of years, or by employing superintendents, professors, commandants, and instructors who cannot take the trouble to govern men by some of those moral forces which are applied in every institution that attempts to teach? Why shall there not be two classes of cadets? Why may not one year's practical instruction be of those who have no near regard to the commission as to be governed by different rules of discipline, and the tedium be relieved by relaxing the discipline applied to them? There are other means of government than to make men choose to study the question; and I am not disposed to lower the standard of instruction for our officers of the Army beneath the highest measure of attainment which may be reached by a course of application in the Academy; in order that we may make it a school of administration and of the duties of those who are charged with it, for that is the beginning and the end of the question.

As to the number of graduates being too small for the wants of the Army, that is no grievance to me. I propose to introduce new elements into the service. I prefer that all the officers of the Army should not come from one school. I prefer that some should be drawn from civil life. I prefer that some should be drawn from the ranks; and Congress, I think, acted not only generously, but wisely, in the looking an inch or two behind, and when finally it was decided upon, it was necessary to wait until by accident a very large class was appointed, which was susceptible of division into two, and the opportunity was thus offered of increasing the classes from four to five. The Secretary of War was easy to reduce the course; it is a difficult thing to do either; the reduction the more so of the two, because when he attempts to reduce, he throws the whole line of studies into confusion. It is a thing which must be done progressively. Now, will the several years be taken from one programme of studies to another; and this easy mode of fixing a date by which studies are to be completed, without any reference to the books to be mastered, and the capacity of the students to learn, is more facile in legislation than in academic execution. I may reach the conclusion that a four years' term is long enough; I want the advantage of the thorough investigation which will be before us when the report of the board which is now sitting upon the programme of studies and the course of discipline, shall have been presented to the Secretary of War, and referred to us.

I think, Mr. President, that the Senator from Maine acted judiciously in withdrawing his amendment, on the exhibition of the fact that the programme of studies was now a subject under consideration, so that, as it is revised, I will take occasion to say that, for my part, I accept the concurrent testimony of all the members of the academic board that, by the introduction of English studies into the first year of the course, they have prepared the cadets better to comprehend the higher branches of mathematics, natural philosophy, and thus they have gone to more advantage in their subsequent studies than under the old course, to which we must return, if we recede to the four years' term.

Mr. LANE. Mr. President, I am the last man in the world who would shut the door upon merit. I am glad that Congress has made the way for the private to reach command; and I shall always be glad to see the soldier win his way from the ranks to the higher positions of the service. From such material the armies of the world have obtained their most illustrious commanders.

Now, Mr. President, I cannot for my life see any inconvenience that could possibly occur in the change, when the course was changed. The class that would have graduated June a year ago, under the four years' term, would have graduated last June; and those who had progressed well, graduated at that time; but the younger half of the class were kept over to the end of five years. I am sure the same rule will work in bringing it back to four years.

Mr. DAVIS. I will tell the Senator exactly the number of men employed in a particular year, happened to be admitted in a particular year. All

south boundary of Kansas, in the direction of Fort Gibson and Galveston Bay; a railroad from the western boundary of the State of Missouri, south of the fourth standard parallel line, so as to connect with the Oange Valley and Southern Kansas railroad, thence westerly, in the direction of Burlington and Emporia, in Fort Riley.

Sec. — And be it further enacted, That there be, and are hereby, granted to the Territories of Kansas and Nebraska alternate sections of the public lands, in the same extent and in the same manner, and upon the same limitations and restrictions in every respect, as are by the preceding sections of this act granted to the Territory of Nebraska, in aid in the construction of a railroad from Elmwood, in Kansas, or some other eligible point, to be determined by the Legislature, so as to connect with the Hannibal and St. Joseph railroad, at Fort Kearny, in the Nebraska Territory.

Sec. — And be it further enacted, That none of the lands herein granted shall be disposed of by said Territories, upon the line of any of the roads herein mentioned, until after the construction and equipment of twenty consecutive miles of said road.

CALL OF COMMITTEES.

Mr. GROW. I now call for the regular order of business.

Mr. PENDLETON. I hope the gentleman from Pennsylvania will not insist upon that call. Let us introduce our amendments.

Mr. GROW. I must insist on the regular order of business.

The SPEAKER. The regular order of business being called for, reports are in order from the Committee for the District of Columbia.

Mr. CASE. [Mr. KULLOOG.] I know, has a report from that committee, which he is desirous to report. He is not in his seat at present. I hope he will be allowed to make his report when he comes in.

APPEAL IN CERTAIN CRIMINAL CASES.

Mr. HICKMAN, from the Committee on the Judiciary, reported back a bill to provide for an appeal to the Supreme Court of the United States in certain criminal cases, with an amendment.

Mr. HICKMAN. I ask that the bill and amendment be printed.

Mr. SPEAKER. What disposition does the gentleman propose for the bill? The bill is on its passage, unless the gentleman proposes some other disposition of it.

Mr. HICKMAN. I did not suppose it was necessary to make any reference. If so, I move to refer it to the Committee of the Whole on the state of the Union.

The bill was accordingly referred, and ordered to be printed.

THE NATURALIZATION LAWS.

Mr. HICKMAN, from the same committee, reported back House bill No. 104, to amend the naturalization laws of the United States; which was laid on the table.

CHARLESTON COURT-HOUSE.

Mr. HICKMAN, from the same committee, reported back the presentation of the grand jury of the city of Charleston, South Carolina, urging the necessity of a new court-house in that city; which was laid on the table.

PHARMACEUTICAL ASSOCIATION.

Mr. HICKMAN, from the same committee, reported back the petition of Samuel M. Coleolic and others, asking the incorporation of the American Pharmaceutical Association; which was laid on the table.

JOHN S. CHANCEY AND OTHERS.

Mr. HICKMAN, from the same committee, made an adverse report on the petition of John S. Chancey, George Miner, and others, securities for Dangerfield; which, with the petition, was laid on the table.

GENSUS LAWS.

Mr. HICKMAN, from the same committee, reported back the following resolution, with a recommendation that it do not pass:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of an amendment of the law providing for the taking of the seventh and subsequent censuses of the United States.

The resolution was laid on the table.

McFARLAND & DOWNING.

Mr. HICKMAN, from the same committee, reported adversely on the petition of McFarland & Downing; which was laid on the table, and the report ordered to be printed.

PAPER CURRENCY.

Mr. HICKMAN, from the same committee, reported back a bill to establish and regulate a

paper circulation of uniform value throughout the United States, and for other purpose, with the recommendation that it be referred to the Committee for the District of Columbia.

Mr. KULLOOG, of Illinois. I desire to move that the bill be referred to the Committee on Commerce, and to ask that the bill be printed. It is a matter that has reference to the commerce of the country. I suppose there will be no objection to that reference.

Mr. HICKMAN. I have no objection.

Mr. HOUSTON. I think that bill ought not to go to the Committee on Commerce. It is a bill, if I understand it from its caption, having reference only to the currency for the District of Columbia.

Mr. KULLOOG, of Illinois. Oh, no; the bill provides for the deposit of gold and silver bullion, and the issuance of certificates of deposit, which may be used as currency throughout the United States.

Mr. HOUSTON. Then, I take it for granted the bill ought to go to the Committee of Ways and Means.

Mr. JOHN COCHRANE. I would suggest to the House that this subject should be appropriately referred to the Committee on Commerce, that committee now having before them the question of the National Bank for the City of New York.

The SPEAKER. The bill will be referred to the Committee on Commerce, if no objection be made.

Mr. FLORENCE. I object. It is clearly the business of the Committee of Ways and Means to be charged with all such subjects as this. It has nothing to do with the duties of the Committee on Commerce.

Mr. BRANCH. I desire to know what reason the gentleman from Illinois can give for moving that this bill be printed. It is certainly an act of the House, and I would like to refer to standing committees of the House to be printed.

Mr. KULLOOG, of Illinois. For the reason that we are continually receiving requests for copies of the bill by persons outside the House, and for the further reason that I desire to have the bill printed for the information of the House.

Mr. BRANCH. Well, sir, I think the system which is in use, of printing all the bills reported from committees, entails expense enough upon the House, without printing the bills referred to Commerce.

Mr. FLORENCE. I ask that rule 83 be read, which defines the duties of the Committee on Commerce.

The rule was read, as follows:

"It shall be the duty of the Committee on Commerce to take into consideration all such petitions and matters as shall be presented to the committee of the House as shall be presented or shall or may come into question, and to report thereon to the House, and to report from time to time their opinion thereon."

Mr. JOHN COCHRANE. Will my friend from Pennsylvania declare that this matter of currency has nothing to do with commerce?

Mr. FLORENCE. I will say to the gentleman from New York that, in my opinion, no such subject can be referred to the Committee on Commerce under the rule of the House. I do not say that it has nothing to do with commerce, when one point of the country to another it may be connected with commerce; but I submit that the matter of a currency has nothing to do with the duties of that committee, as laid down in the rule which has been read. And further than that, it has been, I believe, the uniform practice of the House to refer all matters connected with the currency of the country, or with bank issues, to the Committee of Ways and Means. That has been the uniform practice, if my memory serves me correctly.

Mr. HOUSTON. So far as my opinion is concerned, I do not care where the bill goes; but I will say that, so far as that subject has heretofore been considered by the House, it has been referred always to the Committee of Ways and Means. As I understand this bill—and I have not read it at all out of context—I understand it to be a bill to regulate the deposit of bullion, the transmission of it from one point of the country to another, and the issuance, perhaps, of drafts of some sort or character, to be transmitted from one point of the country to another. I think it has been the uniform custom, and I think the proper course is to refer it to the Committee of Ways and Means.

The SPEAKER. The question now is upon the motion to refer to the Committee on Commerce.

Mr. VALLANDIGHAM. Mr. Speaker, I do not concur in the objection of the gentleman from North Carolina to the printing of new bills. The Senate is in the habit of printing all of their bills, even bills introduced by a member on leave; and I think one reason why so much of the legislation of this House passes without the knowledge of its members is that its bills are not printed. They are reported, marked here, sir, and are frequently put upon their passage. A motion to reconsider the vote by which they were referred to the Committee of the Whole on the state of the Union is made; and then that motion is called up, the previous question is demanded and sustained, and the bill passed under the operation thereof, the members knowing nothing of it, except that which they may gather while the yeas and nays are being called. I think that it would be a wholesome innovation to adopt here the practice which prevails in the Senate, and in most of our State Legislatures, that all bills brought into this House be printed.

Mr. FLORENCE. What we have here is one of the results of a violation of the rules of this House. I think that if, every morning, we proceeded in order, and that the rules were inviolated, and that the confusion and disorder which generally prevail here, it would facilitate our business very much. We would then avoid a good deal of the difficulty which now obstructs the course of legislation in this body. I have no objection to the printing of this bill, I think, as a general rule, that that should afford every means possible for the communication of information to the members of the House, in order that they may act intelligently. It is not the order to print that I object to; but I do object, sir, to the reference of this bill to the Committee on Commerce, when, under the rules, has nothing whatever to do with the matter in hand.

Mr. Speaker, the proposition made the other day by the gentleman from New York, [Mr. JOHN COCHRANE,] that a bill in relation to the establishment of a new department, the new department of the Mint of the United States, should go to the Committee on Commerce, was made, I think, in defiance of the rules of this House. I think that that bill ought to be brought back from that committee, so that it might be referred to a further consideration, and referred to some more appropriate committee. I am of the opinion that it ought to go to the Committee of Ways and Means, who, under the rules, have the custody and consideration of all subjects relating to the currency and revenues of the country.

Mr. JOHN COCHRANE. Will the gentleman yield to me for one moment?

Mr. FLORENCE. Certainly.

Mr. JOHN COCHRANE. I take it, sir, that when the voice of this House refers a matter to a particular committee, it is tantamount to making it itself a rule for that case. We of the Committee on Commerce have found that that subject was, with eminent propriety, referred to us. We have found that it is intimately connected with the commerce of the whole country—with the commercial interests as well as of Philadelphia and New York of New York. I trust, too, that we shall be able to make to this House such a report as will be extremely satisfactory to my friend from Pennsylvania.

Mr. FLORENCE. I have great confidence in the gentleman's ability, integrity, and sense of justice. I sell him that I have nothing to do with particular localities of the Union, as such, so far as this subject is concerned. I stand here with "no pent-up Ulster" contracting my powers. I stand here with "no pent-up Ulster" contracting my powers. I do not believe that I am in any way actuated by selfish local prejudices. In this matter, I speak of a general principle which should rule and govern the action of this House. I do not object or favor a reference because Philadelphia or New York is concerned. I have nothing to do with either, except to take care of the interests of the people I represent whenever occasion offers. I am upon this floor, first of all, to watch and guard the interests of Philadelphia. That I am frank to admit.

Mr. Speaker, one word on the reference of this subject being an expression of the voice of the

Mr. HOUSTON. I do not call for the reading of the papers. This was the committee, and so far as I am concerned, I voted for the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was subsequently read the third time, and passed.

Mr. HICKMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKER, their Chief Clerk, informing the House that the Senate had passed an act to constitute Tampa Bay, in the State of Florida, a district of delivery; also, an act to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1855; in which he was directed to request the concurrence of the House.

DISTRICT JUDGES.

Mr. HICKMAN, from the Committee on the Judiciary, also reported a bill to authorize the district judges of the United States to act out of their districts in certain cases, and moved to put it upon its passage.

The bill, which was read, provides that whenever any district judge of the United States shall file in the office of the clerks of the district and circuit courts of his district a consent in writing, under his hand, that his judicial duties may be performed and discharged by the district judge of any other district or districts to be therein named, the district judge of the district, or either of the districts so named, shall have power to sit in and hold any circuit or district court in the district of the judge signing such consent, at any stated, adjourned, or special term, or session thereof, with the same authority, powers, and duties, that might have been exercised or discharged therein by the district judge by whom such consent shall have been signed, until such consent shall be withdrawn and vacated by an order in writing, signed by the judge signing such consent, or, in case of his death, or other vacancy in the office, by his successor, and duly filed in the office of the clerks of the district and circuit courts; and while such consent shall remain in force, as aforesaid, the district judge of any district therein designated shall, whilst in the district of the judge signing such consent, have and possess, and may at his discretion exercise, all the powers, and perform and discharge all the duties, and be deemed the judge of the district of the judge signing such consent; and that all acts and proceedings before the courts so held, and all other acts and proceedings by or before any district judge so acting out of his own district, shall have the same validity, force, and effect, as if done and performed by and before the district judge of the district in which such consent shall have been filed; but that no district judge, acting out of his own district under the provisions of the bill, shall become entitled to any allowance, compensation, or expenses to be paid by the United States.

Mr. McKNIGHT. I would like to hear from some member of the Committee on the Judiciary an explanation of the provisions of this bill. It provides for leaving one judge in a district within the judicial district of another judge, on filing the consent of the latter, and without any application. It looks to me as though it might enable any judge of the United States court to shirk his own duty, and throw it upon the shoulders of some judge from other districts.

Mr. BINGHAM. It might have occurred, I submit with all respect, to the gentleman, that the law already existing provides sufficient protection against any United States judge shirking his duties. This bill is necessary; for if oftentimes happens, by reason of the sickness of a judge of a district court of the United States, that the public business cannot proceed. This bill is intended to provide against the occurrence of that kind, and to enable a district judge of any given district, who is alone authorized by existing laws to hold the courts within his district, by his certificate, if the public interests require it, to appoint another district judge, who, by the provisions of this bill, if passed, will have authority to transact the public business of that district, which otherwise might remain suspended for an indefinite period. It ought to occur at once to every one,

upon this statement of the case, that such a bill is absolutely necessary.

Mr. NOELL. I desire to say to the gentleman from Ohio, that if such is the object of the bill, the provisions of the bill ought to have looked to that effect. As I understand the provisions of the bill, it gives the gentleman from Ohio power to send a district judge to confer his authority upon another judge, out of his district, at his discretion. If this is to be permitted, a judge may go into all the districts surrounding his, and confer power upon other judges to supply his place. If the design of the bill is to provide for the contingency to which the gentleman from Ohio refers, the bill ought to look to that particular object.

Mr. BINGHAM. I beg leave of the gentleman from Missouri to make a suggestion, which ought to satisfy him that the bill contemplates no such result.

Mr. NOELL. I do not desire to be understood as saying that such was the intention of the framers of the bill, but that such would be the effect of it.

Mr. BINGHAM. The bill provides that the appointee, thus selected by a district judge to hold his court, shall receive no compensation whatever for his services. What motive could judges have in that case, except to discharge faithfully their duty as judges, and promote the public interests?

Mr. NOELL. I think the principle of the bill is objectionable, and that the result will be bad.

Mr. HICKMAN. I suppose I shall hardly be heard to-day; but I will suggest a single reason for the passage of this bill, in addition to the reasons already given by my colleague upon the committee, [Mr. BINGHAM.] It is, that there are a number of bad laws very much in the way of the work and effect of which is now proposed by this bill. Judges occasionally find it absolutely necessary to make application for laws of this kind, applicable to their own particular districts. I think the House will see that there is a necessity for transferring such a power to the district judge, in this bill, upon judges of the United States in many cases. I think they will see that, inasmuch as occurrences of that kind, calling for that power, must necessarily arise, as they have before, it is a great saving to the public to have them by a general law, than to have applications made here extending that power in particular cases.

Mr. HUMPHREY. I would like to ask the chairman of the Judiciary Committee whether there is not now a provision by which, upon the recommendation of the Attorney General, a district judge may assign to another judge the power of holding courts in his district? It has long been a custom for the district judges of the State of Connecticut, and of the judges of the northern district of New York, to hold courts in the southern district of New York. It is a practice which has prevailed a long time in the city of New York, and I suppose, in some other courts also. If a provision for this purpose already exists, and it is now under the control of some proper authority, as that of the Attorney General, or the President of the United States, it seems to me that it is much better than to allow this change to be made any time upon the certificate of a district judge.

Mr. BLANCHI. There is no part of the legislation of this country that I would touch with more caution and delicacy than that relating to the removal of judges from office. The act of act has received scarcely any essential amendment since it was drawn up by Chief Justice Ellsworth, as long ago as 1796. Experience under it has proved the wisdom of the act; so much so, that when a case arises where the Legislature of the country has been unable to stand for five years without being pulled to pieces, in order to suit the whims of Congress, this act of Chief Justice Ellsworth has stood the test of time. I confess, sir, that I feel some reluctance to propose this bill without a little more consideration than we have an opportunity to give to it here.

I can well conceive, as stated by the honorable chairman of the Committee on the Judiciary, that there may be cases where it is important to the public interests, and highly important to private parties, that one district judge should have the power of substituting another district judge in his

place; but ought not the bill to provide that that substitution shall only be made in cases in which the district judge properly belonging to the district is unable to attend to the case by reason of sickness, absence, or some other disability?

I am not prepared to pass judgment on this bill. I have not time to do so. In my opinion of the Judiciary Committee about matters relating strictly to the judiciary; but I confess that, before this judiciary act is amended in a particular so essential, I would rather that there should be time for discussion and consideration. I think, therefore, that the bill had better be referred to the Committee of the Whole on the state of the Union, in order that we may discuss and amend it, and hear it discussed by the members of the Judiciary Committee themselves, and make the motion that the bill be referred to the Committee of the Whole on the state of the Union, and be printed.

Mr. HICKMAN. There is no disposition on the part of the Judiciary Committee to force the passage of this bill. They were unanimous in recommending its passage, believing that such law existed as that spoken of by the gentleman from New York, [Mr. HUMPHREY.] I am perfectly willing, however, that the motion made by the gentleman from North Carolina shall prevail. The question now is on Mr. BRANCH's motion; and it was agreed to.

So the bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

THOMAS W. B. KEIM.

Mr. BINGHAM, from the Committee on the Judiciary, made an adverse report on the memorial of the Hon. William H. Keim, in reference to his pay as a member of the second session of the Thirty-Fifth Congress; which was laid upon the table, and ordered to be printed.

THOMAS C. WARE.

Mr. BINGHAM. I am instructed by the Committee on the Judiciary to report a joint resolution for the House to concur in, and to ask the House to put the same upon its passage.

The joint resolution was read a first and second time.

Mr. BINGHAM. If it be the pleasure of the House, I will ask that the resolution be put upon its passage, and if agreed to, will give me for a moment, I think no member will feel obliged to make any objection to its passage. I ask for the reading of the resolution.

The resolution was read. It directs the payment to Thomas C. Ware, of Cincinnati, Ohio, of the sum of \$1,500, in full for services rendered by him to the Government of the United States, at the request of the United States district attorney of Ohio, in the case of the United States ex. Lyman Cole et al., indicted and tried in the United States court of Ohio, in the October term of 1853.

Mr. BINGHAM. I beg leave to say that the resolution is reported unanimously by the committee; and I ask that it may now, by general consent, be passed. It is a joint resolution, and it is for the payment of a suspended fee earned six years ago, and which was not paid, for the simple reason that the district attorney of the United States, who employed additional counsel under the existing law, neglected to notify the Secretary of the Interior in pursuance of the requirements of the statute, of his employment, and of the amount stipulated to be paid. Under the existing law, he could not pay it.

The joint resolution was ordered to be engrossed and read a third time and being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PROHIBITION OF POLYGAMY.

Mr. NELSON. I am instructed by the Committee on the Judiciary to report back, with a recommendation that it do pass, a bill to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disqualify any person who is guilty of the same from being a member of the Legislative Assembly of the Territory of Utah. I am instructed by the committee to ask that the bill be put upon its passage, and to ask the previous question upon it.

Mr. HOUSTON. I want to hear that bill read. The Clerk read the bill. It provides for the punishment of the crime of polygamy in the Territories of the United States, or other places over which the United States has exclusive jurisdiction, by a fine not exceeding \$500 and imprisonment not less than two nor more than five years, and also annuls certain acts of the Legislature of Utah countenancing the practice of polygamy.

Mr. MAYNARD. That is an important bill, and I ask that the report of the Committee on the Judiciary may be read.

Mr. HOUSTON. I thought I was entitled to the floor. I asked for the reading of the bill. I am willing, however, that the report shall be read. The SPEAKER. The report will be read.

The report was read, in part, by the Clerk. Mr. HOUSTON. That report seems to be a pretty long one, and I do not think it is necessary that it should be read at length. I desire to move that this bill be referred to the Committee of the Whole on the state of the Union. If the House sees no objection to it, of course the report will be printed with the bill, and its members can read it for themselves, without taking up the time of the House with its reading now. I hope it will be the pleasure of the House to send the bill to the Committee. I think it is too important a bill to be thrown through without the consideration that we shall be likely to give it here. I did not know that this bill was to be reported from the Committee on the Judiciary this morning. I was not present when it was acted on by the committee, but I was surprised to see the bill make its appearance in the House this morning. I hope it will be referred to the Committee of the Whole on the state of the Union.

Mr. MAYNARD. I rise to a question of order. I understand that my colleague [Mr. NELSON] has the floor upon this bill.

Mr. NELSON. If I understand the rules of the House, I am entitled to the floor upon this bill, having reported it to the House. If I am, I now, as I have been directed to do by the Committee on the Judiciary, move to put the bill on its passage, and call for its reading.

Mr. MAYNARD. My point of order is, not only that my colleague is entitled to the floor, but that, the reading of the report having been commenced, it was in violation of the rules to interrupt the reading before it had been concluded. It is an important bill; and desiring to understand its provisions thoroughly, I asked that the report should be read; but, before the reading was concluded, the gentleman from Alabama, in violation of the rules of order, interposed, and made a motion which I think it was not in order for him to make, my colleague being entitled to the floor.

Mr. HOUSTON. I will state what are the facts in connection with this matter. The gentleman from Tennessee [Mr. NELSON] reported this bill. I took him aside, and desiring to understand about to put the question on the third reading of the bill, no one claiming the floor, I addressed the Chair and was recognized, and leaving the floor, I had the right to make the motion which I did.

Mr. STANTON. I think the gentleman is mistaken. I saw the gentleman from Tennessee [Mr. NELSON] upon his legs, ready to take the floor when the reading of the report should have been completed.

Mr. HOUSTON. The gentleman from Tennessee [Mr. NELSON] did not call for the reading of the report; but, on the contrary, the Chair was putting the question on the third reading of the bill, when I called for the reading of the bill myself. I took the floor, and the Chair recognized me, no one else claiming it, and I was entitled to the floor and had a perfect right to make the motion which I did.

Mr. GROW. I rise to a point of order. I submit that, after the reading of a paper has commenced, it is not in order to interrupt the reading, unless it be for a motion to dispense with the further reading. I think the gentleman from Alabama, therefore, was not entitled to the floor to make his motion.

Mr. HOUSTON. I had the right to make the motion, for I had the floor upon the bill, to make any motion which could properly be made in reference to it.

Mr. GROW. The gentleman could not obtain

the floor for that purpose while the report was being read.

Mr. HOUSTON. I will state how the matter stands. I obtained the floor before the bill had been read. When the Chair was about to put the question upon the third reading, I called for the report to be read, and, as it had been read, the gentleman from Tennessee [Mr. MAYNARD] having called for the reading of the report, that there might be no mistake as to my right to the floor, I stated that I was entitled to the floor, having called for the bill; but that I would allow the report to be read, if I still retained the floor. The Chair having recognized me as entitled to the floor, I moved that the bill be referred to the Committee of the Whole on the state of the Union, as I had the right to do.

Mr. HOUSTON. I have submitted a point of order, which I ask the Chair to decide. No debate is in order upon it.

The SPEAKER. The Chair is of the opinion that, according to the uniform practice of the House, as understood by him, the member reporting a bill has the right to open and close the debate upon the subject. If the gentleman from Tennessee, who reported this bill, claims the floor, he is entitled to it.

Mr. HOUSTON. The gentleman from Tennessee did not claim the floor, and, not having closed it at that time, he certainly has not the right to take it from me after I have occupied it, and made the motion to refer the bill.

The SPEAKER. Does the Chair understand the gentleman from Tennessee to claim the floor?

Mr. HOUSTON. The gentleman from Tennessee cannot claim the floor now. He did not claim it when he was entitled to it, and it is too late now for him to claim it.

Mr. NELSON. I will state what occurred. At the time the bill was presented to the House, I stated that I had been instructed by the Committee on the Judiciary to report a bill, which, in accordance with the instructions of that committee, I moved to put on its passage, and called the previous question. That was what I stated; and, if I am entitled to the floor, I now move to put the bill on its passage, and call for the previous question, as I have been instructed by the Committee on the Judiciary.

Mr. HOUSTON. The gentleman from Tennessee, then, as I understand, calls for the previous question.

The SPEAKER. He does.

Mr. HOUSTON. Now, Mr. Speaker—

Mr. GROW. I rise to a point of order. No debate is in order.

Mr. HOUSTON. I am not going to debate. I rise to a question of order.

The SPEAKER. The gentleman will state his point, without debate.

Mr. HOUSTON. Yes, sir; I will state it without debate. The point I present to the Chair is, that admitting the statement of the gentleman to be correct—and I am not disposed to controvert here, when he states that the gentleman instructed by the Committee on the Judiciary to report the bill, and call the previous question on its passage, he could not then call the previous question; because the bill was not before the House until it had been stated by the Chair. After the bill had been stated, the gentleman did not claim the floor to call the previous question; and the Chair agrees with me that his former call was not recognized, because, when I rose and obtained the floor, the Chair was putting the question upon the third reading of the bill, and not upon seconding the demand for the previous question. And when I rose and proposed to submit some considerations to the House upon the bill, the gentleman from Tennessee did not then claim the floor. These are the facts; and the Chair certainly agreed with me, that the previous question was not pending when I obtained the floor.

The SPEAKER. The Chair understands that the gentleman from Tennessee did call for the previous question on the bill. He was entitled to the floor for that purpose; and if the Chair did not hear the call, that does not deprive the gentleman of his rights under the rule. If the gentleman from Tennessee claims the floor, he is entitled to it.

Mr. NELSON. I claim the floor.

Mr. HOUSTON. The gentleman cannot take the floor from me. If the gentleman and the

Chair so manage that the question is being put upon the bill, and its open to amendment, debate, and I get the floor, and propose to debate or to amend it, I would like to know by what process I can be deprived of the floor?

The SPEAKER. The Chair is of the opinion that the gentleman from Tennessee could not lose the floor and his right to occupy it, because the Chair did not happen to hear him. The Chair holds that he is now entitled to his position here, under the rules, as the reporter of the bill.

Mr. HOUSTON. The gentleman from Tennessee did not call for the bill to be read, and the Chair was putting the question on ordering the bill to a third reading when I took the floor. He did not claim the floor when I took it.

The SPEAKER. The Chair is of the opinion that the gentleman from Tennessee is entitled to the floor.

Mr. NELSON. Then I demand the previous question.

Mr. HOUSTON. It would have been the previous question for the Speaker to have called for the previous question.

Mr. MAYNARD. I ask my colleague to withdraw his demand for the previous question until the House can hear the entire report of the committee read. I am anxious to hear it.

Mr. HOUSTON. I move that the bill be laid upon the table; and on that motion I demand the yeas and nays.

Mr. GROW. The House is dividing, and that motion is not now in order.

The SPEAKER. The motion has been repeatedly ruled to be in order.

The yeas and nays were ordered.

Mr. HOUSTON. I am appealed to by friends around me to withdraw the motion that the bill be laid upon the table; and I do so in deference to their judgment, and not my own.

Mr. W. WHITELEY. I appeal to the gentleman from Tennessee to withdraw his demand for the previous question. This bill relates entirely to the Territory of Utah, and I understand the Delegate of that Territory is absent. I think that the bill ought not to be acted on until he is present, and can be heard in reference to its passage.

Mr. HARRIS, of Maryland. He is here.

Mr. WHITELEY. They let him be heard.

Mr. JOHN COCHRANE. Has the morning hour expired?

The SPEAKER. It has.

Mr. NELSON. Then I withdraw the demand for the previous question. I move that the bill be recommitted to the Committee on the Judiciary; and, that motion being entered, I renew the demand for the previous question.

Mr. SHERMAN. The motion to recommit keeps the bill before the House, and, as it will come up in the morning hour to-morrow, I move that the House now proceed to the consideration of the business upon the Speaker's table.

Mr. GROW. I ask, first, that the bill reported by the gentleman from Tennessee [Mr. NELSON] with the accompanying report, be ordered to be printed.

The SPEAKER. It will be so ordered, if there is no objection.

There was no objection, and it was ordered accordingly.

MARKET-HOUSE FOR WASHINGTON.

Mr. KILGORE. Before the question is taken on the motion that the House proceed to the consideration of the business upon the Speaker's table, I ask the unanimous consent of the House that I should be permitted to make a report from the Committee for the District of Columbia, which I would have made this morning if I had been present when that committee was called.

There was no objection.

Mr. KILGORE, from the Committee for the District of Columbia, reported back Senate bill No. 192, authorizing the corporation of Washington city to make a loan and issue stock for \$200,000 for building a market-house, with an amendment.

Mr. BARKSDALE. Let the bill and amendment be read.

The bill was read *in extenso*. It authorizes the corporation of Washington to contract for a loan and issue stock to the extent of \$200,000, on the faith of the corporation, for the sole purpose of paying for the erection of a market-house on the site of the present building; and stock to bear in-

terest at not more than six per centum per annum, and to be redeemed at the pleasure of the corporation, within the space of fifteen years from the date of the issue thereof, the interest to be paid quarterly; provided that the entire revenue of said building shall, after payment of contingent expenses and interest on the stock, be appropriated to the payment of the stock issued, in accordance with the provisions of this act; and it provides further that no more than \$250,000 shall be expended in building said market-house, nor shall any contracts be entered into which involve a larger expenditure for the completion of the same.

Mr. KILGORE. Let the amendment of the Committee for the District of Columbia be read. I will ask that it be adopted, and that the bill shall be put on its passage.

The Clerk read the amendment, as follows:

Strike out all after the enacting clause, and in lieu thereof, insert:

That all the grounds lying between Seventh and Ninth streets, and fronting on Pennsylvania and Louisiana avenues, now and heretofore used and occupied for the Crier market, be, and the same are hereby, ceded to the corporation of Washington, on condition that said corporation, within two years after the date of the passage of this act, build a market-house, together with such offices and apartments in the second story thereof as may be deemed necessary, to be used by the corporation for the purpose of receiving passengers through only one entrance to the market on the north side, market wagons and other vehicles on the south side only, with means of exit and entrance on both the north and south streets, and to exclude marketing from Pennsylvania and Louisiana avenues, and the sidewalks and pavements thereon. And for the purpose of carrying out such market-house and improvements connected therewith, in case a majority of the freeholders and householders, who are legal and competent voters, within said corporation shall vote as hereinafter provided in favor thereof, it shall be lawful for said corporation to create a debt in such form as may be found expedient, not exceeding the sum of \$200,000, at a rate of interest not exceeding six per cent. per annum, and such restriction in the exercise of such power as to raising loans to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That at the first annual election held in said city of Washington, the Mayor, the person or board receiving the vote of each voter shall election who is a freeholder or householder of said city, shall proposing in each voter ballot the question in this: "Are you in favor of creating a debt of \$200,000 for the building of a new market-house, together with such offices and apartments, whether yes or no, shall be set down upon the poll-list opposite the name of each voter; and, in case a majority of such freeholders and householders, who are legal and competent voters, within said corporation shall vote in the affirmative, then this act shall take effect and continue in full force, but not otherwise.

Sec. 3. *And be it further enacted*, That the Mayor of said city shall cause notice to be given of the taking of said poll, by publication in three or more of the newspapers published in said city, at least ten days before the day of holding said election, which notice shall distinctly state the question to be propounded, and shall be given to the freeholders and householders of said city.

Sec. 4. *And be it further enacted*, That in case this act shall take effect as hereinafter provided, it shall be so construed as to treat the title in said laws in said corporation so long as the market-house and apartments shall be continued thereon and used for the purposes aforesaid, and no longer.

The amendment was agreed to.

The bill was then ordered to be engrossed for a third reading; and being engrossed, it was read the third time, and passed.

Mr. KILGORE moved to reconsider the bill by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

On motion of Mr. SHERMAN, the House proceeded to consider the business upon the Speaker's table.

The SPEAKER announced that the first business was Senate resolution No. 19, being "A resolution suspending the fifth section of the act making appropriations to defray the deficiencies in the appropriations for the service of the Post Office Department, for the fiscal year ending the 30th of June, 1859, and in support of the Post Office Department for the year ending the 30th of June, 1860," being the action relating to printing.

On motion of Mr. SHERMAN, the resolution was referred to the Committee on Printing.

The SPEAKER announced the next business to be House bill No. 228, relating to the printing and distribution of the annual message of the President of the United States and accompanying documents.

The question was upon the motion to reconsider the vote by which the bill was ordered to be engrossed for a third reading.

Mr. SHERMAN. I withdraw the motion to reconsider, and move that the bill be now put upon its passage.

The bill was then read the third time, and passed. Mr. SHERMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled Senate bill No. 239, for the relief of the legal representatives of Charles Pearson, deceased; when the Speaker signed the same.

PERSONAL EXPLANATION.

Mr. JENKINS. I took occasion, some days since, to cast enquire upon the telegraphic agent of the Associated Press, for a statement that appeared in the papers in relation to certain doctrines which were ascribed to me. I wish to say now, that, from the papers I have since seen, I am satisfied that the fault was not upon the part of the telegraphic agent, but was the result of a typographical error.

COMMITTEE OF THE WHOLE.

Mr. SHERMAN. I now move that the House resolve itself into the Committee of the Whole on the state of the Union, with a view to take up the diplomatic and consular bill. And before that motion is put I desire to submit the usual motion that, within ten minutes after the committee shall proceed to the consideration of the consular bill, all general debate shall cease; and also, the same motion with regard to the Indian bill.

Mr. UNDERWOOD. Would it not be better to close all debate? I believe we have had opportunity to debate anything that has been passed.

Mr. SHERMAN. The motion I have made does not cut off the five minutes' debate.

Mr. UNDERWOOD. Everything that has passed in the House is brought up and discussed under the whip and spur of the previous question. It seems to be favored not only by the House, Mr. Speaker, but I think by yourself. As fast as the previous question was moved, I noticed that it was announced as having been seconded. It was moved yesterday, when the House members voted for it. And would it not be better to cut off all debate, and render all our rules nugatory in that respect? We passed a bill before yesterday involving millions' worth of public lands, and yet, not without one motion to amend, or even to offer a single amendment to the bill. And it does seem that, neither in the House nor in the Committee of the Whole, are we to be allowed to debate any important measures presented for our legislation.

The proposition now is to close debate in the Committee of the Whole in ten minutes upon these important bills. There is one provision in one of these bills that I wanted to say something about myself. It is that provision in the consular and diplomatic appropriation bill which proposes to appropriate \$40,000 to execute the laws for the suppression of the African slave trade. I want to say to the House and to the country, that I am not at all disposed to be met in executing the laws. Attempts have been made, that law, \$40,000 is wholly inadequate to do it. It is the law of the land; it has been pronounced to be a constitutional law by the judicial tribunals of the country; and without expressing any opinion as to the propriety of that law, as it stands upon its merits, I am willing to place a sufficient amount of money at the disposition of the President to execute that law. I know something about the expense and the cost to be met in executing the law. Attempts have been made to violate that law in the State of Georgia; similar attempts have been made, without a doubt, in other States of the Union.

Mr. BURNETT. The gentleman's speech is not in order.

Mr. UNDERWOOD. I will get through in a very few minutes. If it is the intention of this House to enforce the laws of this land, the President of the United States is entitled to have a sufficient amount from the Treasury to enable him to enforce them.

The SPEAKER. Debate is not in order upon the question before the House.

The question was upon the motion of Mr. Sumner, and the Committee of the Whole on the state of the Union; and that debate be closed upon

the consular and the Indian bills in ten minutes after the same shall have been taken up.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHINGTON, of Illinois, in the chair.)

CONSULAR APPROPRIATION BILL.

The CHAIRMAN stated that the business before the committee was the consideration of the consular and diplomatic appropriation bill; upon which Mr. McRAE was entitled to the floor.

Mr. McRAE. The gentleman from Mississippi yielded the floor to me.

The CHAIRMAN. The Chair would state to the gentleman from South Carolina that he understood the floor to be yielded to him for the purpose of raising a point of order.

Mr. BOCCOCK. I rise to a question of order. I understand that the President's annual message was under consideration before the committee when it last rose, and that it is therefore first in order now. I wish to know how it is got rid of? Yesterday, by unanimous consent of the committee, the President's message was laid aside, and other bills taken up for consideration for half an hour.

They were considered for half an hour, and then, by virtue of an agreement, they passed from the committee. Yesterday, the President's message came up again for consideration, and was under consideration when the committee rose. Now, upon that question the gentleman from Alabama (Mr. CHASE) had the floor. Nobody could get the floor without his consent to give it to the President's message. How, then, was the message got rid of?

The CHAIRMAN. The Chair ruled that the motion to close debate being carried, it made the bill a special order.

Mr. BOCCOCK. That cannot be. The order to close debate was made by the chairman of the Committee of Ways and Means, in the usual form, and that is, that the debate upon this particular bill be closed in ten minutes after the President's message came up again for consideration, and not in ten minutes after the House shall again resolve itself into the Committee of the Whole on the state of the Union. Now you cannot, by virtue of such a resolution, get rid of the President's message in order to take up another bill.

The CHAIRMAN. The Chair decides that the determination of the House to close debate upon this bill is in the nature of a special order. The Chair decides that the debate be limited to ten minutes, and the bill will soon be disposed of. The gentleman from South Carolina rises to a point of order, and he will send up his amendment to the Clerk's desk to be read.

Mr. MILES. I propose to add the following to the end of the last clause in the bill:

And that the Secretary of State be directed to pay out of any unexpended balance of the appropriation of \$75,000 made by the Act of March 3, 1857, in the consular and diplomatic act, passed at the last session of Congress, the amount claimed as compensation for his services as such Secretary of State, by the United States marshal for the district of South Carolina; provided, That, in the opinion of the Attorney General of the United States, the said marshal is entitled to receive the same.

Mr. SHERMAN. I raise a point of order upon that amendment.

The CHAIRMAN. The point of order was raised yesterday, and the Chair decided the amendment out of order, upon the ground that it was infringing legislation of a private nature upon a general appropriation bill.

Mr. MILES. From that decision of the Chair I take an appeal; and I presume I am entitled to argue in support of the amendment.

The CHAIRMAN. The gentleman is entitled to ten minutes, if the gentleman from Mississippi (Mr. McRAE) gives way to him.

Mr. McRAE. I yield to the gentleman from South Carolina.

Mr. MILES. I contend that my amendment is strictly in order. It certainly is as much in order as the last section of the bill as reported by the Committee of Ways and Means. That last section made an appropriation for the purpose of precisely similar to that for which the appropriation of \$75,000 was made in a bill at the last session of Congress. That \$75,000 was to pay the expenses in the case of the Echo Affair. The claim against the Government was certain, upon the face of it, one of those expenses. The claim has been

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the chairman of the Committee of Ways and Means for the courtesy which he has shown me. They are now due.

Treasury what it is intended for. I have put myself to the trouble this morning—though I have

Provided, No part of said \$40,000 shall be applied towards the education and maintenance of the Echo Africans in

Liberty: And provided further, That the same amount be placed at the disposal of the President for the faithful execution of the act of Congress in reference to the rendition of fugitive slaves.

Mr. CHAIRMAN, I rise, sir, not for the purpose of discussing the propriety or the propriety of this law in reference to the suppression of the slave trade. I wish to be distinctly understood, that whether this law be right or wrong, I am in favor of its faithful enforcement so long as it remains of the statute-book. And if this \$40,000 shall be actually needed for this purpose, and called for by the President, it ought to be given. The chairman of the Committee of Ways and Means, however, is so indefinite in his statements and estimates upon this appropriation is asked, I confess I have some doubts as to the propriety of this legislation. My mind is inclined against this prospective legislation, taking it for granted that there will be violations of the law. It strikes me it will be fine enough to make this appropriation when we find it shall be actually needed. We have just as much right to presume there will be violations of the fugitive slave law, and ask for \$40,000 to carry this law into effect. And for this reason, I offer this amendment, providing that no part of this money shall be used for the education and maintenance of the Echo Africans in Liberia, and the same amount called for to execute this law for the suppression of the slave trade, shall also be placed at the disposal of the Executive to enforce the fugitive slave law. The enforcement of the one is as necessary as the other, and I hope this amendment will be adopted.

Mr. REAGAN. I do not understand that this Government provides for the educating these Africans, and therefore there is no necessity for the passage of the amendment.

Mr. BONHAM. I ask the gentleman from Georgia whether such is the fact?

Mr. JONES. The word education, I believe, is used in the message which the President sent to this House on this subject.

Mr. REAGAN. The President may have, in his message, recommended that these Africans should be educated at the expense of the Government; but there is no provision of law, that I have ever heard of, for their education.

Mr. BARKSDALE. I desire to state this fact: under the eighth article of the Ashburton treaty, a squadron was placed on the coast of Africa for the suppression of the slave trade, which is now maintained there at an expense of nearly a million dollars per annum, certainly at a cost of \$800,000, which, I think, is the amount stated in the last report of the State Department upon the subject.

Yet now, sir, without any reason being assigned for it, we are asked to appropriate \$40,000 more to enforce the laws against the African slave trade. I admit that this slave trade has not been suppressed, and it will not be suppressed. It is still carried on, and it will continue to be carried on until a check can be put upon Yankee avarice and Yankee cupidity, for it is their ships which are engaged in carrying it on. So far as I know, but in a single instance has a southern vessel been detected in that trade. It is carried on by vessels from northern ports and manned by northerners. This is a fact which I desire to state in addition to the remarks made by the gentleman from South Carolina.

Mr. REAGAN. I make the question of order that this amendment is not germane to the bill. It has no reference to the subject of it, and it is an unnecessary obstruction upon the appropriation.

The CHAIRMAN. The Chair decides that the question of order raised by the gentleman from Texas comes too late.

The amendment was then agreed to.
Mr. MAYNARD. I now renew the amendment offered by me yesterday, which was withdrawn temporarily at the request of the gentleman from South Carolina, [Mr. MILES], for the purpose of allowing him to introduce a matter which has been disposed of. I move to amend by adding at the end of the bill the following:

Provided, That the sum of \$520,000 be appropriated for running and marking the lines between the United States and British possessions bounding Washington Territory, shall be so expended as to be for the work.

The amendment was adopted.
Mr. SHERMAN. I move to lay aside the bill, to be reported to the House.

Mr. MILES. I desire to offer a modification of my amendment, which has been decided to be out of order. I understand that there were some particular words left out of the other amendment, which induced some gentlemen to vote in favor of sustaining the decision of the Chair. This proposed application is in accordance with existing law, and I am certain that it is in order.

Mr. GROW. I rise to a point of order. There is no amendment pending upon which any remarks can be predicated.

Mr. MILES. I propose to offer an amendment.

Mr. GROW. What I want is, that the gentleman shall offer his amendment in advance, so that we may understand upon what his remarks are predicated.

Mr. MILES. I move to amend by adding at the end of the bill as follows:

And that the Secretary of State be directed to pay, out of any moneys not otherwise appropriated, of \$50,000 made for expenses in the case of the Echo Africans, in the consular and diplomatic act passed at the last session of Congress, the amount claimed as compensation for his services in said case, by the United States marshal for the district of South Carolina: Provided, That, in the opinion of the Secretary of the United States, the said claim is entitled to receive the same, and that the expenditure thereof is authorized by any existing law.

Mr. WASHBURN, of Maine. I make the point of order that the amendment is out of order for two reasons. It is in order in one respect, for it is substantially a private bill, and because it is independent legislation upon an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Maine, upon the same grounds on which he decided the amendment of the gentleman from South Carolina, offered yesterday, which was substantially the same, out of order: on the ground that it is not in order to incorporate a private claim in an appropriation bill.

Mr. MILES. I dislike to appeal from the decision of the Chair, especially when so large a majority of the House, a short time ago, voted to sustain his decision; but, sir, I consider that the modification which I have made brings the amendment into order within the rules of the House. I do not consider it as new legislation at all; nor do I consider it as a private claim. We last year appropriated a certain sum of money for certain purposes.

Mr. GROW. I rise to a question of order. The question is debatable.

The CHAIRMAN. The Chair is hearing the gentleman from South Carolina by the indulgence of the committee. The Chair is desirous of being enlightened upon the question of order, if the committee will indulge the gentleman.

Mr. MILES. If gentlemen will not listen to me, I simply submit the appeal from the decision of the Chair.

Mr. McRAE. I wish to put a question to the Chair. As the chairman of the Committee of Ways and Means cannot state a single item of those going to make up this \$40,000, I would like to know whether, if it so happens that this claim which is presented by the gentleman from South Carolina [Mr. MILES] is a part of that \$40,000, the last section of the bill is then in order?

The CHAIRMAN. The Chair will not undertake to rule upon the last section of the bill. The question now is upon the amendment of the gentleman from South Carolina.

Mr. McRAE. Then the Chair declines to decide whether the last section is in order, if this claim is included in that \$40,000 provision?

The CHAIRMAN. The Chair has decided on the amendment of the gentleman from South Carolina. From that decision the gentleman has taken an appeal.

Mr. McRAE. Then the Chair declines to give a decision on this point? I am not sure.

The CHAIRMAN. The Chair declines to give an opinion on that subject at this time.

The question was taken; and the decision of the Chair was sustained.

Mr. BONHAM. Mr. Chairman, is it now in order to move to strike out the last section?

The CHAIRMAN. It is in order.

Mr. BONHAM. Then I submit that motion.

Mr. SHERMAN. A new clause has been added to the paragraph which the gentleman from South Carolina moves to strike out.

The CHAIRMAN. Yes, an amendment has been adopted, on the motion of the gentleman from Tennessee, [Mr. MAYNARD], limiting the appropriation for the Washington Territory boundary survey.

Mr. BONHAM. My motion is to strike out the paragraph as it stood before that amendment was adopted.

Mr. WASHBURN, of Maine. Have we not passed from that second section?

The CHAIRMAN. The Chair thinks not, but that the last section of the bill is now before the committee.

Mr. BONHAM. I do not propose to interfere with the amendment of the gentleman from Tennessee. I move to strike out these words:

"To enable the President of the United States to carry into effect the act of Congress of 34 March, 1819, and any subsequent acts now in force for the suppression of the slave trade, \$40,000."

Mr. SHERMAN. I rise to a point of order. I insist that the committee have passed from this part of the bill; that, as a new section has been added to the bill, it is now too late to go back and move to strike out the words indicated by the gentleman from South Carolina.

Mr. WASHBURN, of Maine. Such a motion, under the circumstances, is utterly unprecedented.

The CHAIRMAN. The Chair overrules the motion of the gentleman from Maine. The last section of the bill is before the committee for amendment. We have not passed from that section. If we had, then there would be nothing before the committee. So long as any member proposes to offer an amendment, that part of the bill is before the committee.

Mr. WASHBURN, of Maine. I make the point of order that the amendment is not germane.

The CHAIRMAN. The Chair thinks that the amendment is germane, and therefore overrules the point of order of the gentleman from Maine.

Mr. BONHAM. Mr. Chairman, I have in my hand the memorandum furnished the Clerk by the chairman of the Committee of Ways and Means. My object is to inform the House that, in 1846, and I found no estimates, except for the last year, for the purpose now contemplated.

Mr. WASHBURN, of Maine. I rise to a point of order. The second section has been passed. Independent legislation in reference to the north-western Territory is now before the House. That could not have been received or acted upon until we had passed from the second section. Having passed from the second section and having adopted this new and independent legislation, which, I grant, was not in order, and could not have been received if it had been objected to, this amendment, I hold, is not now in order, not being germane to what is before the committee; to wit, the amendment adopted on motion of the gentleman from Tennessee.

The CHAIRMAN. The gentleman from Maine reaches his point of order upon the ground that the amendment of the gentleman from Tennessee [Mr. MAYNARD] having been adopted, it becomes a part of the last section now before the committee, and that the motion of the gentleman from South Carolina is not germane to that amendment.

Mr. BRANCH. I motion to strike out would not be in order pending a motion to amend.

Mr. BONHAM. I have only five minutes, and I hope that I will not be further interrupted. I am sorry, sir, to see the gentleman on the other side so sensitive on this subject. The first appropriation was for \$50,000, passed to carry the law of 1819 into execution. That was rendered necessary because immediately after the passage of that act, certain slaves had been captured by the United States authorities. The subsequent appropriations have been much smaller. They were not more than \$5,000, in 1856. Of late years they have not been more in any year than \$10,000. The appropriation for 1842 was \$10,000, and then appropriations ceased for fourteen years. What necessity exists now for this appropriation which did not exist during those fourteen years? Why are we asked to appropriate \$40,000 at this time, when no reason for it is given? I trust that this House does not mean to squander the public money without knowing to what purpose it is to be devoted.

It is said, sir, that this appropriation is necessary to execute the law of 1819. Let that law be executed; but what I want to know is, why is it necessary to appropriate \$40,000 to the law to carry that law into effect? That law, as I understand, provides for its own execution. It authorizes payment to the officers and crew, as well as to the informers. We are not informed by the members of the Committee of Ways and Means whether one dollar of this amount is needed, nor are we informed how it is needed. I hope, then, that my motion to strike out will be adopted by the committee.

Mr. MILLSON. Mr. Chairman, I think that there is an undoubted necessity for this appropriation of \$40,000 may be a very needful one; and if, so, then no injury is done in passing it; and it may be very unnecessary one; and if so, not a dollar will be squandered, for the money will remain unexpended; and after the expiration of a few years it will revert to the Treasury.

The plain object of the appropriation is this: by the act of 1819, certain duties are imposed upon the President. It is made his duty to return to the coast of Africa any castaways who may be taken from slave vessels. If these negroes should be captured and brought to the United States by the ships of war, as they must be, the President is required to return them to the coast of Africa. He ought to have some fund at his command out of which to meet the expenses thus incurred. A want of appropriation was felt last year, when the President was obliged to make a contract with the Colonization Society, dependent upon a future appropriation by Congress. If you require this to be uniform, you must put it in the power of the President to discharge it. Sir, there is also a Department of the Government for whose convenience contingent appropriations are not made.

We have to appropriate contingent sums for the Treasury Department, for the State Department, for the War Department; and out of the contingent appropriations such expenses are defrayed. This is appropriately one of the contingent appropriations for the executive department, or the department of the President. If vessels are captured with slaves on board, the President will need the money; and he ought to have it, to enable him to perform the duty imposed upon him by Congress. If no captures are made, the money will remain in the Treasury; there is no expenditure, no squandering of the public money at all. We should at all times provide the President with the means of executing the solemn duties devolved upon him by act of Congress.

Mr. BONHAM. I would ask the gentleman why was not this amount appropriated from 1846 to 1859? I believe the gentleman was a member of this House then.

Mr. MILLSON. Because it was not asked for, I presume. And the mischievous consequence of not asking for it were felt last year; and it became the duty of the President to send a special message to Congress to obtain the appropriation, a special appropriation, to enable him to defray the expenses which, by the act of 1819, it became his duty to meet.

Mr. HILL. I move to strike out the appropriation of \$40,000; and I do this to enable me to obtain some information from the chairman of the Committee of Ways and Means. I will ask him this question: does he know of any special service to which this fund is to be appropriated; or is it merely to be provided as a contingent fund for such cases as those now before us, in the gentleman from Virginia, [Mr. Millson]? If, for example, there should be a capture of negroes by any vessel of war of the United States, and those negroes were brought into an American port, do I understand that this fund is to remain in the Treasury for that purpose; or is it to be used for secret-service money by our naval officers, to enable them to interfere with the trade upon the coast of Africa or elsewhere?

Mr. SHERMAN. It is a mere contingent fund, placed, by the law of 1819, at the service of the President to pay certain expenses defined by law growing out of the suppression of the slave trade. It may be that none of this money will be used; it may be that more will be needed.

Mr. HILL. I understand, then, that if there should be no capture made of slaves, there would

be no expenditure of this appropriation. I will withdraw my amendment.

The question was upon the amendment of Mr. Bonham; which was not agreed to.

Mr. SHERMAN moved that the consular and diplomatic appropriation bill be laid aside, to be reported to the House, with a recommendation that it be passed.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

On motion of Mr. SHERMAN, the committee took up and proceeded to consider House bill No. 215, making a bill meeting appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1861.

Mr. BARKSDALE. It is known that the gentleman from Alabama [Mr. Cress] has the floor for to-day. And I would suggest to the chairman of the Committee of Ways and Means that he will allow this bill to be laid aside, and permit the President's message to be taken up, so as to allow the gentleman from Alabama to go on with his remarks.

Mr. SHERMAN. The Committee of Ways and Means have instructed me to report but one amendment to this bill. The bill proposes merely to carry out existing laws. We can adopt the bill.

Mr. BARKSDALE. It will take an hour to read the bill.

Mr. SHERMAN. The reading of the bill can be dispensed with.

Mr. BARKSDALE. It would be necessary to read the bill.

Mr. SHERMAN. I would ask that the reading of the bill be dispensed with; and I will submit the only amendment I am instructed to offer.

Mr. BRANCH. That would be not to read the bill by paragraphs at all, and I cannot consent to that.

Mr. SHERMAN. Then let the bill be read, and at three o'clock, if we have not concluded its consideration, we can lay it aside.

Mr. CHAIRMAN. Under the rule, the bill will be read the second time by sections, for amendment. The Clerk understands the gentleman from Ohio [Mr. Seward] that this is a regular appropriation bill, and confined strictly to appropriations to carry out existing laws.

Mr. GROW. The bill can be read by clauses, and if no amendment is made, it can be disposed of in half an hour.

Mr. BARKSDALE. Very well; with the understanding that the gentleman from Alabama [Mr. Cress] will have the floor at three o'clock, I will ask nothing more.

The reading of the bill was then proceeded with until the Clerk had reached the following clause: For presents to Indians, \$5,000.

Mr. MAYNARD. I would like to ask the chairman of the Committee of Ways and Means, whether this bill is made up of sums that are prescribed by acts of Congress, by what act of Congress this appropriation of \$5,000 is recommended?

Mr. SHERMAN. Those are some items prescribed by treaty stipulations.

Mr. MAYNARD. What treaty stipulation calls for this appropriation?

Mr. SHERMAN. As to the tribes of Indians in California, we endeavor to treat them the same without treaties as we do other tribes with whom we have made treaties. The appropriations for the Indian service in California are made without treaties.

Mr. MAYNARD. That is the reason I wished to ask the gentleman the question whether this is for some general secret-service fund, to be used by the Secretary at his discretion; or whether it is to be bestowed upon some particular tribe of Indians.

The reading of the bill was proceeded with a few lines further, when

Mr. STOUT offered the following amendment, to come in after the twenty-first printed bill:

Provided, That, in the State of Oregon and the Territory of Washington, the superintendent shall be allowed a salary of \$5,000 per annum; and each of the Indian agents in said State and Territory shall be allowed \$3,000 per annum; and the several sub-Indian agents in the said State and Territory shall be allowed \$1,500 per annum.

Mr. SHERMAN. I object to this amendment. It is not in order to offer such an amendment to that portion of the bill, as we have passed by that portion of it.

The amendment was ruled to be out of order. Mr. STEVENS, of Washington. I move to amend the bill by inserting, after line fifty-three, the following:

For making treaties with the Indian tribes of Washington Territory, not included within existing treaty stipulations, \$10,000.

Mr. SHERMAN. I object to the amendment. It is not in order.

The CHAIRMAN. The Chair sustains the point of order, and rules out the amendment.

Mr. SHERMAN. I am directed by the Committee of Ways and Means to move to strike out a part of the bill making appropriations provided for by another bill. I move to strike out all from line eight hundred and sixty-one to line eleven hundred and sixty-seven.

Mr. STEVENS, of Washington. I desire to say a word in reference to that amendment. The portion of the bill which the chairman of the Committee of Ways and Means proposes to strike out contains appropriations according to the regular estimates for the Indian department, and are required to carry out treaties. They are to pay the second installments of a treaty. If these appropriations are not made now, there will be a deficiency in the next year.

Mr. BARKSDALE. It is now three o'clock; and it was agreed that at this hour the gentleman from Alabama [Mr. Cress] should occupy the floor.

The CHAIRMAN. That was the understanding of the committee.

Mr. MAYNARD. I suppose the gentleman from Washington will be entitled to the floor when the committee resumes this bill?

The CHAIRMAN. He will be.

Mr. SHERMAN. I move to lay aside this bill, and resume the consideration of the President's message.

The motion was agreed to.

PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN. Upon the President's message, the gentleman from Alabama is entitled to the floor.

Mr. CURRY. Mr. Chairman, none of the opinions I shall utter will probably meet the approbation of a majority in this House, but I shall seek to challenge confidence, if not concurrence, by the manner in which I shall avow and discuss them. Much of what I shall say will not be new to those who have studied the question, but it has been said, with much truth, that it is necessary for each generation to discuss anew the great problems of human speculation, which continually come back, after certain intervals, for re-examination.

Scarcely a speech has been made or an essay written, for ten years, against slavery, in which the opinions of the early fathers of the Republic are not introduced. These, however, were but mere speculations, and were not ingrafted upon the organic law; and actual results are a safer standard by which to measure abstract principles. Besides, times have elapsed since this Government was first inaugurated as an experiment, not yet satisfactorily tested. Then there were but little over half a million slaves, and scarce a pound of raw cotton exported. In 1784, a vessel containing eight bags of cotton was seized at the custom-house in Liverpool, on the conviction that so much cotton could not be the growth of America. In 1787, in the debate on slave representation, in the convention that framed the Constitution, Mr. Pinckney said:

"North Carolina, South Carolina, and Georgia, in their early and indigent, had a peculiar interest which might be sacrificed."

Cotton was not mentioned, for in that year there were but one hundred and eight bales shipped from the United States. Now there are near four million slaves, worth \$3,500,000,000; and of southern products, there were exported last year \$200,000,000, and those exports enter materially into the comforts, necessities, and luxuries of the world. Last year the cotton crop of the South was valued at two million two hundred and fifty thousand bales; \$161,000,000 worth was exported. Bain, in his History of Cotton Manufacture, says:

"It is impossible to estimate the advantage to the bulk of the people from the wonderful cheapness of cotton goods."

And—

"The peasant's cottage may, at this day, with good management, have as unobtrusive furniture for beds, windows, and tables, as the house of a substantial tradesman fifty years since."

African slavery is now a great fact—a political, social, industrial, humanitarian fact. Its chief product is king, and freighted northern vessels, drives northern machinery, feeds northern laborers, and clothes the entire population. Northern no less than southern capital and labor are dependent in great degree on the slave. The poor who were wholly unanticipated by the good men who are so industriously paraded as clouds of witnesses against the institution.

Slavery has altered, and men's opinions have altered. It is now of tremendous significance and consequence. The interests associated with it and dependent upon it are too momentous for it to be treated as an idle thing—made the football of politicians and fanatics, and its existence and security imperiled by rash counsels and rash action. Involving and comprehending so much; being the source of wealth and power and greatness; contributing so abundantly to civilization and humanity, it is unreasonable that the South should demand its extension and protection, and exhibit sensitiveness at the threat to surround her "with cordon of free territory, of the most complete class, like a serpent in a ring of fire, to sting itself to death."

"The North has demanded expansion; and is now so urgent in getting rid of a superabundant population as to demand that the Government shall gratuitously provide free homes as an inducement to emigration. But for an outlet, subsistence would have pressed close on the heels of production, and there would have been that irrepressible conflict between capital and labor which excites so much apprehension among reflecting men, and of the destruction of the American Republic. England is now reaping the 'first fruits' in the strikes at Lynn, Natick, Marblehead, and other neighboring towns. To deny future expansion to the South, is either cold, ferocious, malevolent cruelty, or it is a significant concession that our system is not subject to the same evils which afflict or threaten the more populous North. The South needs expansion, now or hereafter. The right, the liberty, must not be gained or restricted. We legislate for the future. A decade, a century, may be wasted in an unproductive war. He is a poor statesman, and worse philanthropist, who will do nothing for posterity because posterity has done nothing for him. Keeping the slaves, increasing rapidly, within circumscribed limits, while the whites diminish by emigration, is the incoherent effect or purpose of the mercenary policy which denies to us expansion. The numerical ascendancy of the blacks, or the vast disproportion of the races, with the exhaustion of the productive capabilities of the soil, will render emancipation certain, or slavery unprofitable, or the destruction of the white race probable, or the establishment of another Jamaica but a question of time; where, according to a late English work (Tropiques), there are three hundred thousand blacks, seventy thousand colored people, and only fifteen thousand whites; and the African brood, through the parliamentary system of the electoral franchise, has the control of the Government.

This normal law of national being, this necessity of growth, must find development, if possible, in the limits of the Union. For years, the action of the General Government denied or qualified this essential right, and prohibited to the South that equality of condition, without which the Government could not and ought not to have been established. Mr. Webster, who was ostracized for not keeping pace with the precipitate trend of anti-slavery opinion, was right.

"We should take the first, last, and every occasion which offers, to oppose the extension of slavery."

And in 1848:

"I shall oppose all such extension, at all times and under all circumstances, even against the interests and against all limitations of great interests; against all combinations; against all compromises."

The Republican party, so powerful and well disciplined, harmonizes to-day solely in its advocacy of this one controlling, overmastering dogma.

All "territory," outside the limits of a sovereign State, "belonging to the United States," is in common property, and every citizen has equal rights in and to it. It was acquired by the Federal

Government for the common benefit of the States united. It is held by the Government, acting as the agent of the people of the several States, for their common use. The universal conviction at the South is, that we have the right to emigrate unmolested, with our slaves, to any Territory belonging to the United States. Seward and the Republicans say, "No; Congress, and the positive legislation must exclude us." Prominent men in the North, some of whom act with a more healthy organization than the Republican, say, "No; the Territorial Legislature, may lawfully exclude us"—only a question about the mode of exclusion, which is to be accomplished by either process. "In one event, we are to be killed by the congressional garrote; in the other, by the more stealthy process of territorial poison. Bear with me, while to both I endeavor to apply the touchstone of logic.

The doctrine of congressional exclusion is tenderly and boldly expressed in the Republican platform, which declares that "the Constitution confers upon Congress sovereign power over the Territories of the United States for their government; and that, in the exercise of this power, it is the right and duty of Congress to prohibit slavery in the Territories. The powers of the Federal Government are expressed in the grants of the Constitution; and, to authorize the exercise of power, it is not barely necessary to show the absence of prohibition, but an affirmative grant, or a positive and proper implication from such affirmative grant. What clause warrants the inference of such supreme power? The unsuccessful search of the bird nest from Noah's ark typifies the effort to locate the exact clause which authorizes the exclusive claim of sovereignty. As Mr. Clay said of the constitutional power to incorporate a national bank, it is a vagrant power. Mr. Curtis, in his argument in the Dred Scott case, has been called upon by the opposing counsel to point out the precise clause on which he based his power of exclusion, and not to support an assertion of the power by citing the Constitution *passim*. 'Their call,' said Mr. Curtis, 'shall be answered. I give them notice that my argument will be confined to the third section of the fourth article.' And in his elaborate argument, as well as in his recent able and eloquent address before the Senate, Mr. Benton, in his review of the Dred Scott decision, scornfully repudiated the idea that that clause contained any such substantive power; and asserts that the Territories, as political entities, are never subject to the Constitution, and that the term "territory" occurring but once, and that as property, assimilates to other property—as land, in fact; and as a thing to be "disposed of—to be sold."

Most usually, however, the advocates of this position agree with Mr. Curtis and the distinguished gentleman from Ohio, [Mr. CONWELL], and base the assumption upon the power of Congress "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." This claim was adopted by the Union in the constitution; and, says Judge Campbell, "was demanded by the exigencies of an exhausted Treasury, and a disordered finance, for relief by sales, and the preparation for sales, of the public lands. It was little regarded at that time as involving under the apparently innocent verbiage a supremacy in Congress over the territory nearly equal to that claimed by the British Parliament over the colonies; and that Congress, when it exercised jurisdiction over this public property, could launch out into the shoreless sea of discretion, destroying the rights and disabilities of inhabitants, and disfranchising whole communities of their property-rights. It is an assertion of the power to create and establish the social and political system of every new State; and hence the action of the Republican Legislature of Ohio, Vermont, Connecticut, &c., instructing their members of Congress to vote against the admission of new States into the Union, thus concurring in the recommendation of the Hartford convention, to surtail the slave power by preventing the admission of any more slave States."

In this view, "territory or other property" is the subject, the *corpus* of the grant. The power given is to make needful rules and regulations for the property of the United States. The most common analysis of the phraseology shows that

"territory" is spoken of as one of the kinds of property. If it be a general, absolute, unlimited, sixteenth grant of territory, including the property, the other clause in the Constitution giving exclusive legislation over the seat of government and places purchased for forts, magazines, arsenals, dock-yards, and other needful buildings, was entirely superfluous. It was such a specific grant of what was, in more general and comprehensive phrase, elsewhere granted. In the case of the United States vs. Gratiot, as well as in the Dred Scott case, the judges say that "the term 'territory' is merely descriptive of one kind of property, and is equivalent to the word 'land.'"

If the construction placed on this clause be correct, and unlimited legislative power be conferred, and a substantive authority for civil government be conveyed, the conclusion seems irrevocable, that Congress can exclude slavery from every foot of the public domain, whether in Alabama or in Kansas, whether in the States or in the Territories. The power to "make rules and regulations" applies as well to "territory or other property" in the States as in the unblighted wilderness. From this source of legislative derivation, Congress has the power to dispose of the public domain, and this power operates in as well as out of the States. Towards the common territory, Congress cannot adopt any rule which is not common and uniform to every State, and has no rightful power to exclude property recognized by the constitution of the United States, or by the constitution and laws of any particular State.

The claim of sovereign power over the inhabitants of the soil, as derived from the power to dispose of the soil, or lands, or territory, is a renegeant and revival of one of the "essential facts and constitutive elements of the feudal system." That system blended sovereignty with property, and attributed to the proprietor of the soil, over the inhabitants, almost all the rights we call sovereignty, and such as are possessed by the Government. It asserted to the proprietor of the soil all the rights of the sovereign power; and the proprietor of the soil could enact laws, impose taxes, and render justice. Guizot, in his History of Civilization of France, says the feudal regime was considered by the mass of the population as an enemy to be fought, and a system every day nearer to its origin to its destruction, from its epoch of splendor, and at the period of its degradation and decay, the feudal system was never accepted by the people. The Republican doctrine, deduced from the proprietorship of the soil, from the position of real property, is in repugnance to all American ideas of personal rights and personal liberty—to the elemental necessity of the consent of a people to the existing Government—as feudalism was to France, when whoever struck a blow at it had popularly.

To this claim of sovereign power over the Territories, as derived from any source, I might, as against the Republicans, have conclusively referred the decision in the Dred Scott case, wherein the act of Congress prohibiting slavery in the Territory was solemnly adjudged to be unconstitutional. Besides the fact that the judiciary is not proper and essential. So satisfactory and grateful was it to the South, there is danger of forgetting one of the old State-rights landmarks. The Supreme Court is not to be regarded as the ultimate arbiter for the decision of all constitutional questions.

Besides the fact that the judiciary must take cognizance of technical cases—and there are many political questions that cannot be drawn within its authority—it should never be elevated above the sovereign parties to the Constitution, who, as sovereign and independent States, having formed the compact, have the unquestioned right to judge of its infraction. The judiciary, as well as the executive or legislature, may usurp dangerous powers, and is alike subject to the ultimate right of judgment by the parties to the Constitution. To use the language of Madison's report:

"However true it may be, that the judicial department has all opportunities to be furnished by the Constitution, to decide in the last resort, this resort must necessarily be the last in relation to the authorities of the other departments of the Government. In relation to the rights of the parties to the constitutional compact, from which the judicial, as well as the other departments have their origin, the judicial is not the proper arbiter. On any other point, the designation of judicial power would assume the authority designating it."

We accord to this decision a higher authority than that claimed for the ordinary current of judicial decisions, because the constitution, in this instance, was made the umpire of the question by express legislative enactment; and to its weight as a law-judication is superseded the authority of an ad-judicium by its opponents to be not unconstitutional.

The second mode by which exclusion from the common property is to be accomplished, or the right of the South to expansion, is to be or may be defeated, is through the alleged power of a Territorial Legislature. This theory is of recent birth, and is differently explained and limited—sometimes not without confusion of ideas and misapplication of terms; but its zealous advocates press it, under euphonious and popular names, as if it were some kind of medicine, with equally attractive nomenclature, it were the never-failing cathartic for all the ills that our body-politic is heir to. It is an erroneous opinion that this mode of exclusion is advocated solely by a fragment of the Democratic party in the North. Not an instance can be cited, since 1820, wherein the Republicans or Free Soilers, whatever may have been their paper theories, have failed to vote for every measure practically carrying it out. During the Kansas controversy, various amendments were proposed and adopted, the effect of which was to empower the Territorial Legislature to exclude slavery, or constraining the bill so as to recognize this power. I am informed that that party in Kansas, Nebraska, Minnesota, and Oregon, incorporated this doctrine into their platforms, and conducted their political campaigns on that issue. Once a Territorial Legislature was regarded as the creature of Congress, limited in its powers of legislation, as having no sovereignty, and as being wholly subordinate to the creature power. Its action was revocable; and a single act of Congress could sweep it out of existence. Its power being derivative, it must conform to the law of its being; and neither by direction or inhibition could it transcend the powers of its Federal creator. Lastly, however, territory is only common property, if then, until it is organized into a territorial government; when, by some legesimism or hocus-pocus, it becomes a quasi or absolute sovereign, and is invested with the inalienable right of self-government. If, on any subject, the will of the Territory is not supreme, slavery is not the exception; for the great expounder of this new dogma asserts that a Territorial Legislature can lawfully *exclude* slavery, rather by not recognizing its right of introduction. This power is variously derived, from the alleged inherent power of self-government, existing in every distinct political community, and from the Kansas-Nebraska bill, as endorsed by the Cincinnati platform. To the first derivation, I have no answer to make beyond the statement that it is in entire consistency with the first great experiment of squatter sovereignty—the creation of the State of California, whose admission into the Union, under the circumstances, was the only unparalleled outlier ever perpetrated on the people pretending to be free. To the second source of power, I reply that, if found there, the South was most miserably duped in that famous measure for seceding agitation. We are aware that the purpose of the framers of that bill was to say in his contribution to Harper, that it was to remove any obstacle to the free exercise of popular sovereignty—it was supported at the South because of its repeal of the Missouri restriction, and because we thought we had secured a precedent against territorial unfriendly legislation, by the provision rendering all such legislation subject to the Constitution of the United States, and by the further provision giving an appeal to the courts of the United States, in all cases where property in slaves was involved. If we were mistaken, this power to exclude slavery by unfriendly legislation—this squatter sovereignty covered up under ambiguous language in the Kansas bill, after the rejection of the Missouri restriction, was a reduced imitation of the barbarity of the petty Celtic tyrant, who fed his prisoners on salted food till they called eagerly for drink, and then let down an empty cup into the dungeon, and left them to die of thirst.

A territorial government is the creature of Congress; is provisional and temporary; and it is idle to pretend that it can usurp authority not conferred in the act of organization, and exercise power beyond the constitutional competency of Congress. Any argument drawn from the supposed analogy between such government and the American colonies is imperfect and illusory, as most analogous reasoning is. According to the British theory, Parliament is omnipotent; and no American citizen has ever claimed over the Territories what has been claimed over the colonies—the power to bind in all cases whatsoever. The dependencies are essentially different, and are held by a different tenure. The British Government regards its colonial condition as permanent and unchangeable. Canada was a colony one hundred years ago. She is a colony now. Territorial governments are temporary and permissive public corporations; and the Federal Government leaves them to manage their local affairs, in the full control of their domestic policy, save as restrained by the limitations of the Constitution and the purpose of equal enjoyment, for which Congress, as the trustee of the common and joint property, holds and exercises its trusteeship. The colonies relied upon the charters received from the Crown as the guarantees of their freedom from oppressive interference by the mother country; and also upon revolution—the power to make good their claim to liberty by the bloody arbitrament of the sword. Our colonies are not colonies, and are not colonies outside the limits of the States; held in pupillage and training, until prepared to take rank and position with sister confederate sovereignties. If organized Territories possess inherent rights of self-government, and exercise during its progress, fix and determine absolutely its social institutions, decide what shall and what shall not be property, and by unfriendly legislation to exclude slavery; it is superior, in some respects, to a State organization; and its tyrannical power has been introduced by the government from Illinois (Mr. Lincoln, *ibid.*), providing for the election of all officers by the inhabitants of a Territory. We should forthwith abdicate our ill-bred power, and carry out the logic of our consequences this doctrine of squatter sovereignty. Our laws appointing judges, and judges, our defrayment of the expenses of the government, and our claim of authority to repeal the organic act, and transfer the inhabitants to a different jurisdiction, are unauthorized and inconsistent assumptions of control and superiority.

If a Territorial Legislature be sovereign; if it can exercise legislative supremacy while it does not violate the Federal Constitution even, if its authority is not limited to the extent of a mere solicitor, it is more sovereign than a State government, and the difficulty presented in the case of Utah is remediless; for obviously it is contrary to this majestic theory of popular sovereignty to repeal the organic act of the Territory, so long as nothing is done in conflict with the Constitution of the United States. In addition to the Federal Constitution, States are restrained by fundamental laws of their own imposing. Judicial, executive, and legislative powers are distinctly mapped out, and their limits strictly defined; but under this modern political discovery, a majority in a Territory is absolute, save, as hindered by the prohibitions of the Federal compact, the Government may become despotic and unbridled, and outrages may be committed revolting to decency, shocking to the moral sense, and subversive of personal and proprietary rights. A political theory involving such consequences is an instructive lesson against departing from established landmarks.

Every southern State has repudiated this doctrine of squatter sovereignty, and pronounced it a wrong, destructive of their rights and equality. Last summer it was announced and heralded by telegraph, that a distinguished and able President would not accept from the Charleston convention a nomination if tendered to him, if that convention should declare that slavery existed, by virtue of the Constitution, in the Territories. The power of the Convention to so exclude it. Whether conditions so defiantly prescribed will be accepted, remains to be seen. Certainly the nomination of such a man would be an endorsement of his doctrines, and a constructive platform, according to the views that he carried into the practical administration of the Government; would be dishonoring to the South; demoralizing to the party succumbing to a men-

ace, and a practical negation of the right of southern citizens to emigrate to the common territory with that form of labor to which they have been accustomed. If it should be so, it would be sincere in their declarations of hostility to squatter sovereignty, or the claim set up of the power of the Territorial Legislature to exclude slavery; they will insist upon a clear, distinct, and unequivocal repudiation of the heresy. It should be done in unambiguous terms, not susceptible of a double construction. We want no Villafraña treaties to be discussed in tedious Zerrich conferences; but a manly and honest assertion of principle. However, Ohio, Texas, and Alabama has spoken. For twelve years nearly every political convention of all parties, held in the State, has condemned this doctrine of popular sovereignty, as applied to Territories. Between its advocates and her, there is great good faith, which the mechanical genius and inventive facilities of a presidential convention cannot brood over.

The true principle is, that if a master can go into the Territories or upon territory, his slave can accompany him; and neither Congress nor a Territorial Legislature can divest him of the title to his property. Just as soon as territory is acquired slave property is legal and constitutional, and no power can invalidate until a sovereignty interposes. The Constitution, as it regards and sustains, extends over the acquisition; and in the language of Chief Justice Taney, in the *Dred Scott* case, "the right of property in a slave is distinct and expressly affirmed in the Constitution." The condition of a negro is not changed by his entrance into a Territory. There is no law, constitutional, international, or local, which will make him a slave or a freeman. If he was a slave at the time of entering, he remains such; free, his condition is not changed. Freedom adheres to him on the territory belonging to the United States. There can be no law in a Territory excluding slavery, as there is no power having jurisdiction competent to emancipate or alter the condition of a slave. If a negro was a slave in a State, his servitude continues in a Territory.

Slavery is not unknown, as asserted in the Harper Magazine article, "the creature of local legislation, or of local custom, or of local usage." That it must be established and supported solely by positive municipal law, is a gross error, sustained chiefly by judicial dicta, which were irrelevant to a decision on the particular facts of the cases discussed. It is not necessary that our statute-books authorizing the introduction of slavery; and if positive precept is essential to the valid existence of slavery, the tenure by which our slaves are held is illegal and uncertain. A citizen of southern State, or a slaveholding country like Brazil or Cuba, can carry with impunity his slave into any country where, "by the law thereof," slavery is not prohibited. The passage of a master with his slave through the territory of non-slaveholders, and the consequent increase of the condition of the slave, unless there is a legislative enactment to that effect; and the law of nations protects the master *in transitu*, enforces the law of the domicile, if that protection does not contravene public policy and the common interests of the community. It is a well-settled legal principle that a person born into slavery in a foreign State, would not be liberated by the accident of intermigration into another country, where there was no law opposed to the existence of slavery; and our Government is no exception in this relation; any interference with the rights of the master, without valid cause, by the authorities of another State, is a violation of that law. (See Judge Campbell's opinion in the case of *Dred Scott* vs. Sandford.) If there is a State prohibiting slavery in a foreign State, I can take my slave there, and have him protected. Mr. Webster, in his correspondence in the *Croire* case, contended that property in slaves did not cease extra-territorially, and our Government, on several instances, has maintained the same doctrine.

It has been frequently stated in Congress that slavery was not introduced into a single British colony by authority of law, and that there is not a statute in any one of the colonies authorizing African slavery, or "constituting the original basis and foundation of title to slave property." Mr. BENJAMIN, in a very masterly speech in the Sen-

tributions. Protection is the price paid by Government for the support of its citizens, and I can conceive of no disgrace more heavy, no degradation more bitter, than the denial of this right of protection, with a simultaneous claim for maintenance against the slaveholder.

It may be said that there are judicial questions and mere abstractions, which can be safely left to the future, to be determined as exigencies may arise. In a late memorable case, appeals have been made from the Supreme Court to popular prejudice and passion, and interpretations of the decision form parts of political platforms. History is full of instances of judicial subservience, and political opinions of every control judicial conduct. The famous Somerset case, the direful spring of unnumbered woes, was decided under circumstances that reflect no credit on the moral courage of the eminent judge. The proposition of Senator SEWARD, to put the Supreme Court on the side of freedom, is fearfully admonitory of the influence of popular excitement on the judiciary. If I could lift my voice so as to be heard, I should feel bound to denounce the loyal men, in tones of earnest rebuke, who would breach her not again to commit the fatal mistake of yielding to party necessity what may be essential to future safety; not to concede a principle, which, however apparently abstract or impracticable, is in the same hour and hour, and hour, prove a potent engine of mischief or destruction.

[The hour expired at this point, but, by unanimous consent, Mr. CORY was allowed to proceed.]

As said Pitt, on the East India bill:

"It would be folly in the extreme, that the principle once it would operate only on the present occasion. Good principles might sleep; but had ones never. It is the curse of society that, when a bad principle is once established, but only will always be found to give it full effect. Mr. Chairman, for what is the Democratic party contending? Is it for spoils and patronage, or for principle? Is this immense array of means, this combination of agencies, this drilling for the strife, but to win a victory, barren and fruitless and pyrrhic? Are we to struggle for a President, whose disposal depends on patronage and feed a greedy swarm of leeches? This is of no avail, is mischievous, unless accompanied by practical results, by a triumph of principle. The election of a President, however pure and patriotic, will be as despotic as Despotism itself, unless accompanied by a corresponding change of public sentiment. Sir, there is no strength in numbers, in a mere aggregation of men. A party must be animated by a common faith; be vitalized by principle; must embody imperishable truth; and its principles must not be mere exceptional maxima, politic and convenient forms, applicable only to temporary exigencies, and to be laid aside as a snake sloughs off its skin.

I have finished, Mr. Chairman, what I have to say on these questions, endeavoring to compress into a few words what formerly I elaborated and have required several; but I cannot close without repelling an accusation which has been made on this floor, and at Chicago and elsewhere, that the President and the Democratic party, in favoring the admission of Kansas, with the Lecompton constitution, were exercising a power to institute upon the country, and "force a constitution upon the people of Kansas against their will." One Senator, [Mr. DOUGLASS], who was most conspicuous in his hostility to the Administration, and his warfare on the Democratic organization, while recording his own services, and fighting the battle against such an "arrogant demand," and against the consummation of such a "fraud" as the admission of KANSAS, congratulated his Republican allies for the successful and valuable aid rendered in this contest against the "Lecompton fraud."

The Kansas struggle has passed into history. Violence and wrong were committed on both sides, and there is much connected with the question discreditable to the country. As one member of the last Congress, I repel with scorn all imputations on either side. I am not a member of the organizing and recusant Democrat, of a purpose to "consummate a fraud," or "force" an unwilling State into the Union. It is demonstrable that the Lecompton constitution was legally and validly established as the organic law of the Territory of Kansas, so far as the organic law of the United States government. The "scene" of the inhabitants

was taken upon the expediency of calling a convention to frame a State constitution. They decided in favor of the convention, and the Legislature passed a law authorizing the election of delegates, and, at a subsequently legal and fair election, the delegates were chosen. The country was divided into two great camps, the one in support of the slightest fraud, nor of a single illegal act, any of the elections I have specified. Up to this time, there is no pretense of fraud or illegality; and the refusal of a majority, even, to vote on the question, does not affect the previous legal proceeding. The right of a convention to convene, to frame and ordain a fundamental law, I only interpose this brief explanation lest silence might be construed into acquiescence, into an unfounded excuse.

The Alabama Legislature unanimously passed resolutions authorizing the Governor to call a convention of the State, in the event of the refusal to admit Kansas under the Lecompton constitution, supposing that these alleged irregularities were but only pretenses to keep a slave State out of the Union. The President and the Cabinet, the great bulk of the Democracy in Congress, including every Democrat from the South, sustained and favored the admission of Kansas under that constitution. It is too heavy an exaction upon party fidelity, too entire a surrender of personal integrity, to demand support of this man for the highest office in the world for any man who denounced what so large a majority of the Democracy desired and sought to accomplish, as "the consummation of a fraud."

Mr. VANCE, Mr. Chairman, it is a favorite saying and the right of all accusers with conservative men, that the further agitation of the slavery question is to be deprecated as fruitful only of evil. In this I have, ever since my first venture in politics, fully concurred, and do now concur. The abstaining from the discussion of all dangerous and exciting topics, as far as it is possible, is a cardinal maxim of that party to which I have the honor to belong. But, so long as this subject continues to be the great and overshadowing issue in American politics, upon the disposition of which depends the destiny of the Republic, it amounts to nothing more than an abstract opinion in regard to an unattainable good. It will be agitated and discussed so long as one spark of available vitality can be struck out of it to add the ambition of politicians. It is a blank upon the face of the earth, and, however, if, within my power, to calmly discuss the subject of slavery in the United States. Such discussion, if conducted alone with a view to the elucidation of truth, will not serve to increase, but to ally, agitation, and restore peace to the popular mind.

I do not flatter myself that I shall be able to give the committee anything new upon the question; I may not even achieve the more ordinary feat of putting old ideas into a new dress; but every remedy of old ideas is a new dress, for the assault needs a fresh repulse; a fresh group of the same disease needs another dose of the same medicine; and the remedy being old and well known, prevents not its application nor hinders its efficacy.

With an assumption of superior morality, that I must regard as to the last degree impudent, the opponents of slavery every day assert here and throughout the country that it is a sin against God, and, inferentially at least, that slaveholders are sinners against all the laws of God. The original slave trade, or the original introduction of a man-stealing slave into our Territories, until then free, is sinful; but that slavery, as it now exists in the South, is in violation of natural law, cruel and inhuman, and a sin against God. This, I believe, is a statement of the position of the Republican party. It is my purpose briefly to examine this proposition, together with its inevitable corollary, that it is wrong to permit it to enter the Territories.

I affirm, says the honorable gentleman from Connecticut, [Mr. FESS], "that nature itself does not and cannot exist of natural right." Natural rights, in some respects, Mr. Chairman, resemble the Cincinnati platform—they are extremely plausible to talk about, and open to many different interpretations. Nothing, however, signifies anything more governed by circumstances or prejudice. The doctrine is the incentive to much

that is good, the excuse for nearly all that is mischievous. In all ages of the world men have sought to overturn well established principles, or to nullify existing laws under its sanctions, from the patriot who strikes a blow for his country to the thief who robs his neighbor's dwelling, under the idea that he has a natural right to live by bread. Now, sir, where are your natural rights? Are they the natural rights of all living creatures? The wild horse stands upon the prairie, free and untamed, where nature placed him, what right have you to catch him, to put a bridle in his mouth, and make him amenable to your superior rule of the beasts of the field? What natural right have you to subdue and destroy them at your pleasure? Has not nature given them both life and freedom as their natural right? How, then, can your right prevail over theirs, since both are the gift of nature? Vegetation itself is endowed with life and certain rights pertaining thereto; yet the lower animals ruthlessly destroy vegetation; and they, in turn, are destroyed by man, natural rights and all. How is this? How can natural law destroy itself, and on one page of the statutes thus repeal the other? If all are your natural rights, will gentlemen tell me where and what it is?

To me there is only one natural law perceptible in all this, and that is that immutable principle which extends through all creation, from the smallest organism to the highest intelligence, and which scope up to the great Author of all—the principle of superiority. It is this that enables one class to prey upon the other. Now what is easier than, by the strictest rules of logic, to extend the principle to the whole series, and to say legitimately from the premises, that superiority gives to all man a natural right to the person of his African slave? If gentlemen will agree to this, then our controversy is at an end; or if they will show me any other natural right whatever, by virtue of which the superior orders of existence exercise dominion over the inferior, then also will our controversy cease. I would not be understood as confounding right and power, but only as attempting to demonstrate the impracticable nature of these high-sounding phrases and party catchwords. I would not say that you exercise dominion over the inferior of the sea, and over the fowl of the air, and over every living thing that moveth upon the face of the earth." True, but here you forsake nature, and resort to Divine right, and in attempting to avoid Scylla, run point blank upon the rocks of the other horn of the dilemma. *vis media et tuta* is untouched. I am not of those who, regardless, perhaps, of its unmistakable condemnation of their own practices, seek to pledge doubtful passages of the Bible to the certain damnation of their neighbors. If we are to regard the Bible as an exposition of either physical or political science, we will be apt to bring both into false positions, and many a favorite dogma of modern politicians would fall to the ground for want of this token of Divine approbation. The coal and iron resources of the earth, the power of the wind, the bad way, for I find nothing in that book which requires me to tax my constituents enormously for the benefit of Pennsylvanians, especially since their Representatives so gloriously backed down from the support of my worthy colleague for Speaker. And, for the purpose of this, I stand still suffer, for the command is express, "Thou shalt not steal." No, sir, every school-boy has learned, from the numberless stories of monkish ignorance and superstition, how dangerous both to religion and to physical truth it is to assign any character to the Bible than that of a Divine guide to Heaven. The late Hugh Miller, whose melancholy death scarcely startled the reading world so much as the boldness and originality of his speculations in geology, has in fact introduced in that work one of the most striking illustrations I remember to have seen in support of the truth of Christianity, from the circumstance, that the Bible alone, of all the known expositions of religion in the world, did not pledge its disciples to any theory whatever of either political or physical science. The Bible alone, which is the natural text in professed the southern slaveholder, he accepts it with the most unbounded confidence.

Every one at all familiar with its pages knows, that for one single recognition in the Bible of man's dominion over the inferior animals, the dominion of man over every other relation of man and servant, will be recognized twenty times at the

Smith would desire to live in the State? Such a condition of things would be absolutely intolerable. The land that is now the seat of so much wealth, taste, and order, that furnishes so much valuable commerce to the world by the means of slave labor, would become a penal colony, with four hundred thousand free negroes ruling by the very liberty which would give them—roaming up and down, thieving, plundering, and infesting the very atmosphere with idleness and crime. The only thing it could effect for you, would be to nationalize the Black Republican party. Neither free nor property could be safe; such would be the case in every southern State. Generation after generation would pass away before we could recover from the shock, and our fertile fields would again resume the primeval look of the forest before other lands could be found to open their bosom to the sun. Any one at all acquainted with the history of emancipation in the British West Indies will know that I do not exaggerate, but rather fall short of the actual picture.

Says General Henningsen, in his recent masterly letter to Victor Hugo:

"In Africa, the negro, according to Egyptian paintings at least four or five thousand years old, and to which doubt that age has recently been assigned, has been, for at least the former period, content with his condition. He is as unchanged to type and in condition.

"The cultivation of the Egyptian, of the Persian, of the Greek, of the Carthaginian, of the Roman, of the Arab, have left him what they found him—barbarian, a savage, or a slave.

"Since the Declaration of American Independence, left to himself in Egypt, with the advantage of a large number of highly educated half-breeds to direct him, you know the savagery into which he has relapsed. Hardly has the grotesque despotism and virtual serfdom which Souleauque imposed been superseded by the presidency of Gerdif, can he be a bright exception to his race? when you have a hideous sample of Hittite civilization in the unprecedented murder of his unoffending daughter.

"In the West Indian islands free negro has rich lands, a congenial climate, and protection against self-imposed despotism or slavery. In California, the negro, in the North, he is surrounded by free civilized minorities, who extend to him countenance, sympathy, and aid. Yet in the South, it is everywhere the case, that he falls into barbarism, despotism, and virtual serfdom."

A distinguished abolition missionary, sent out to Jamaica to labor among the free negroes, and to furnish evidence to the world of their capacity for civilization, says:

"That nothing, save the furnishing of the people with more ample means of education and religious instruction, will save them from relapsing into a state of barbarism."

The seventh annual report of the American Missionary Association says:

"For most of the adult population of Jamaica—the unhappy victims of long years of oppression and degradation—our missionaries have great fear yet for even these there may be hope, though with trembling."

From the annual report of the American and Foreign Anti-Slavery Society, 1853, I quote again:

"The friends of emancipation in the United States have been disappointed in some respects, at the results in the West Indies, which they expected too much. A nation of slaves cannot at once be converted into a nation of intelligent, industrious, and moral freemen."

And again:

"Licentiousness prevails in a most alarming extent among the people. The almost universal prevalence of intemperance is another prolific source of the moral darkness and degradation of the people."

With much more to the same effect. The London Times, about the same year, speaking of the results of emancipation in Jamaica, says:

"The negro has not acquired with his freedom any habits of industry or morality. His almost universal prevalence of intemperance is another prolific source of the moral darkness and degradation of the people."

The Times goes on, in terms too long for quotation here, to express its belief, founded upon the very highest authority, that the whole "names of the population will retrograde to barbarism." The New York Evening Post, known to be a violent Abolition journal, in speaking of the decline of the industrial interests of the island a few years ago, says:

"This decline has been going on from year to year, daily becoming more alarming, until at length the island has reached what would appear to be the last period of distress and misery."

Governor Wood, of Ohio, on his way to Val-

pariso, in 1853, speaks thus of what he witnessed in Jamaica:

"We saw many plantations—the buildings dilapidated—fields of sugar cane half-worked, and apparently poor; and noting that which will grow without labor appeared wasteful and fruitless. Since the blacks have been liberated, they have become indolent, insolent, degraded, and dishonest. They are a stolid, beastly set of rascals, living in the streets, as filthy as the Hottentots, and betwixt worse."

Bishop Kip says, also, on the same subject:

"The depth of degradation to which the negro population has sunk is, we are told, indescribable."

These are but a few extracts from the vast mass of testimony which all candid men have been compelled to give on this subject; and which, in the connected pursuit of my subject would have induced me to waste time in citing proof as to the utter degradation of free-negro communities.

"The scheme of removing and colonizing four million people is an utterly absurd in practice as well as only to be suggested to excite a nature impracticability. Amalgamation is so odious, that even the mind of a fanatic recoils in disgust and loathing from the prospect of intermingling the quick and jealous blood of the European with the purring hum of African barbarism. What, then, is the best and right to be done with our slaves? Plainly and unequivocally, common sense says, keep the slave where he is now—in servitude. The interest of the slave himself imperatively demands it. The interest of the master, the United States, of the world, of humanity, and of God, demands it. *Keep the slave in his bondage; treat him humanely; teach him Christianity; care for him in sickness and old age, and make his bondage light as may be; but above all, keep him a slave and in strict subordination; for that is his normal condition; the one in which alone he can promise the least of good to himself or his fellow-men.* If this is not the language of political philosophy and true philanthropy, if this is not right, then are my most ardent convictions and the most generous impulses of my heart but shallow and false delusions; and I pray to be the world's martyr, if I am wrong. I repeat, above all the surroundings of prejudice and section to view this great question solely by the pure and unflickering light of truth.

Such being our circumstances, and such our condition, it is time for the opponents of slavery to know, and to be warned, that it is no longer more than pecuniary interest that binds us to that institution. It is not, as we are often tauntingly told, a desire for gain, or an aversion to physical labor, that makes us jealous of any interference with the property principle in more deeply seated than this. The general welfare and prosperity of our country, the very foundation of our society, of our fortunes, and, to a greater or less extent, the personal safety of our people, combine to make us defend it to the last extremity. And with our considerations of the Federal Union, any other good, will allow us to permit any direct interference with our rights in this respect.

But we are to be lulled in sleep, and our fears quieted, as to the purpose of the Republican party, by its repeated assertions of your leaders, that we do not intend to interfere with the rights of property. You say, again and again, that you only intend to prevent its extension into the Territories; and you complain that southern men will unjustly continue to charge you with interference with it inside the States. Mr. SEWARD, in his recent apathy, says:

"The capital States (by which it is supposed to mean those States which do not practice slavery) believe legitimate and constitutional reasons to the extension of slavery into the common Territories, and the unconstitutional aggression against slavery established by local laws in the capital States."

And Mr. WADSWORTH has laid it down recently, as one of the grand principles of the Republican party, that there shall be no interference with slavery in the States. I, therefore, solemnly prohibit slavery in all the Territories, by an act of Congress, or to refuse to admit a new State because she recognizes slavery, would be a direct and unequivocal interference, about which common sense will admit of no sort of doubt. In the first place, because it materially impairs the value of my property to restrain my power to remove it; and especially to make it no longer my property when I take it into what Mr. SEWARD himself acknowledges to be "the common territory." If you refuse to admit a new State, because she would by Congress from entering the South, you would

find their value impaired most woefully, and would needly regard it as an interference with the rights of trade.

In the second place, by surrounding the slave States with free territory, and building us in with an impassable wall, you would eventually force the abolition of slavery. Our population would become so free, and our slaves so numerous, that we could not live; their value would depreciate to nothing, and we would not be able to keep them. Do you not call this interference? If not, then what is it? A general desire to take a certain city; thinking it too strong to be won by storm, he attacks it with his army before it, draws his lines of circumvallation, cuts off its supplies, and, shutting off all communication, waits patiently for famine and domestic insurrection to do their work. True, he says, "Don't be alarmed in there; I am not going to interfere with your internal affairs; I have no right to do that; in fact, one of the rules of war in my camp is, no interference with the internal affairs of this city: my only intention is that you shall not spread, as you are a very sinful people." Yet that city, in spite of these protestations, would soon be starved, purged and ruined. You are interfering with our rights in the most dangerous manner, by thus seeking to violate one of the oldest and plainest principles of justice and reason—that you cannot do indirectly what you cannot do directly. The voice of the nation, speaking through its Representatives by a majority of four in one, North and South, affirmed this in 1838. In the Twenty-Fifth Congress, Mr. Atterton, of New Hampshire, moved a series of resolutions on this subject, the third of which set forth as follows:

"That Congress has no right to do that indirectly which it cannot do directly; and that the agitation of the subject of slavery in the District of Columbia or the Territories, is a means of protest with the view of doing indirectly that which is prohibited by the Constitution, and is an infringement of the rights of the States, and is a violation of the oath which they entered into the Confederacy."

Upon this resolution the yeas were 164, and the nays 40. Well may you complain that the South will not distinguish between your resistance to the extension of slavery into the Territories, and direct interference with its existence in the States. The ancient mounds can only see a direct means of attaining the same result.

In the third place, your agitation and eternal harangues have a direct and inevitable tendency to excite the passions of the ignorant and the bigoted, not only an intention to do so, but the effect also. But you speak in ignorance or disregard of history. It is unnatural to suppose that the noise of this great conflict will not reach the negro's ear, and that your violent professions of regard for his rights will not make him believe that those who shelter him when he runs away will not also help him to cut his master's throat. The constant denunciation of his owners by your crazy fanatics will make him regard them as monsters, and will cause him to cherish the coils of rebellion until they are ready to burst forth in a consuming fire. Wilberforce and Macaulay did not even intend to abolish slavery in the West Indies when they began their struggle for the rights of the negro—so they said—and they scouted the idea with scorn. But the negroes, in a few years, were in a state of war. And yet, when the shrieks of murder and outraged women went up through the hot roar of conflagration throughout those lovely islands, the raging demons of lust and brutality bore upon their standards the name of Wilberforce, the philanthropist, beneath the effigy of a white woman kneeling at the feet of a negro, and on which was inscribed "Liberty and white wives!" And so strongly do these facts press upon you, as the legal result of your abolition teachings, that we have witnessed the mortifying spectacle of gentlemen and statesmen, who in the unanimous voice of their people were not in favor of servile insurrection!

But all this injustice will you do, and all these dangers to our wives and children will you incur, rather than permit slavery to enter another Territory, or permit it to come into the Union as a slave State, because it is the unanimous voice of the people thereof so desired it. And this Territory, which you mock us by calling "common," what do you intend to do with it? Sir, there are some distresses in the South, in which the widows of slain Federal soldiers will obtain relief, and some of the forces which some of your northern States had in

democratic election, my advice to the South is to snap the coils of the Union at once and forever."

"Mr. McKAY, of Mississippi, thus speaks for the Democracy of that State."

"I said to my constituents, and to the people at the capital of my State, on my way there, that if such an event did occur, while I was on that day to determine the course of the State would pursue, it would be my privilege to counsel with them as to what I believed to be the proper course; and I said to them, what I say now and will always say, is an event which my constituents would have no dependence on the Union in preference to the loss of the national rights, and national rights, and national honor, in it. That is my position, and it is the position which I know the Democratic party of the State of Mississippi will maintain."

Mr. SINGLETON, of the same State, said:

"You ask me when will the time come; when will the South be united? It will be when you elect a Black Republican—Hale, Sumner, or Chase—President of the United States. Whenever you undertake to elect such a man to preside over the destinies of the South, you may expect to see us undivided and indivisible friends, and to see all parts of the South arrayed to resist his inauguration."

"We can never question the right of the people to control of the Army and Navy to go into the hands of a Black Republican President."

Another member from Mississippi [Mr. DAVIS]

said: "The members of the Republican party, I warn you, present your sectional candidates for 1860; elect him as the representative of your nation for 1860; elect possession of the Government, the instrument of your ruin, the instrument of 'irrepressible conflict,' and you of the South will tear this Constitution in pieces, and seek for our ruin and right against aggression and slavery."

Mr. CHAIRMAN, I might occupy the whole of the hour allotted me in this repeating what has been uttered by the Democracy on this floor in favor of a dissolution of the Union of these States. But I will not do it. I have no desire to pursue the negotiations that. Yet I should not do justice to the subject if I did not repeat here what has been said by the member from Texas, [Mr. HAMILTON,] on the 27th of January last. He said:

"Much has been said of the Union, and love for the Union, on one hand, and much of the Union, and dissolution of the Union, on the other. I am about to present to you a view upon the merits of questions that have been discussed during the session. I content myself with making this remark, subject if it grate harshly upon you, what I have said whatever love may be excited for the Union on the one hand, and whatever may be declared on the other in reference to the Union; whatever may be said in regard to the maintenance of it at all hazards, I believe that a dissolution of the Union, in this day and age, is a subject that should be discussed now. It may be in the power of the conservative elements of this House to arrest it; but that cannot be done by the Black Republican of the South. I believe that I represent as conservative a constituency as any gentleman upon this floor; a people who are as devoted to the Union as people, and who are as devoted to the Union as people; and yet, by the very nature of their devotion by as much liberality and unselfishness, by yielding up what no other State in this Union has yielded, a separate and independent nationality in order to participate in this Confederacy which we all profess so much to love; and yet that same State, that same people, are now so completely resolved that it is better that the wheels of Government should be arrested where they are to-day, and no organization ever effected, than that the candidate of the Republican party should be elected and placed in the Speaker's chair."

What gives special significance and importance to this extract, Mr. Chairman, is the fact that the gentleman who uttered it was for some days a candidate for Speaker of this House, and that he was, with perhaps a single exception, the united vote of all members on this floor in regular standing in the Democratic party. Northern and northwestern Democrats who opposed the election of Mr. SUMNER as speaker, very truly said, "I will not vote with a bitterness unparalleled in our history, with the utmost alacrity wheeled into line with the disunionists of the South, and cast their votes for one who, as if impatient of delay, declares 'the Union is being dissolved now.'"

"It is, be it clear to all, that this is sound Democracy! Is this doctrine palatable to the Democrats of Ohio, Indiana, Illinois, Michigan, and Wisconsin? Whether it be or not, let it be ever remembered, their Representatives on this floor uniformly cast their votes for the member who uttered it."

I might, sir, adduce additional proof of the truth of the proposition that the Democratic is a disunion party, by reference to elaborate speeches made recently in the other end of the Capitol. But I will not pursue that. The single fact will show that the same spirit of disunion, the same disregard of the Constitution, the same wild and reckless fanaticism, find favor there, and in the Executive mansion, as well as here.

Our Democratic President recently nominated,

and a Democratic Senate confirmed, Hon. Charles

A. Faulkner as Minister to France. This was a deliberate act on the part of the President, a deliberate act on the part of the Senate, and a very significant act in the present posture of political affairs. Mr. Faulkner's position was well known; and that position was most emphatically endorsed by the Executive when he nominated him, and by the Democratic side of the Senate when it voted for his confirmation. At the Democratic meeting, held not long since in Virginia, over which Mr. Faulkner presided, he said:

"When that noble and gallant son of Virginia, Henry A. Wise, declared, as was said he did in October, 1856, that, if Fremont should be elected, he would advise the NATIONAL ARMY AT HAZARD'S PERIL, how few would, at that time, have justified so bold and decided a measure? It is the fortune of some great and gifted minds to see in advance of their contemporaries. Should WILLIAM H. SEWARD be elected in 1860, where is the man in our midst who would not call for the impeachment of a Governor of Virginia who would directly injure that army to pass under the control of such an executive hand?"

Al! Mr. Chairman, it is the men holding these treasonable sentiments, the men who threaten to "tear the Constitution in pieces," and "disrupt every tie that binds this Confederacy together," that are the pets and favorites of modern Democracy. These are the men that are the party at the nation at home, and are sent to misrepresent us abroad. And sir, how that party must have fallen, how entirely it must have forgotten or ignored the teachings of the fathers, and how wickedly it betrays its trust, when thus it strengthens the hands of those that press their pretensions, crowns with high honors the fiercest enemies of this Confederacy of States!

Mr. Chairman, I will not pursue this investigation further. Enough, and more than enough, has been done to prove that the President and the Democratic side in both branches of Congress sanction disunion as well as pro-slavery doctrines. I turn from the black record chagrined, humiliated. It is a sad thought that scores of honorable members, our own fellow-countrymen, sworn to support the Constitution, and pledged to labor for the honor and welfare of the whole Confederacy, should be found willing to rise in their places here, and declare that the Union shall not survive the election of a Republican President. I say, sir, it is a sad, a humiliating thought. But as this humiliating thought, there is no terror in these threats. They have been often heard before, and the people of the free States have learned to look for their repetition at the approach of every presidential campaign. And these very threats have been the support of a war, and a civil war, of the North to the real danger that beset the country. Listening to these treasonable sentiments they have asked: "How and why is this?" And with all their native shrewdness, their indomitable energy, and a devotion to country unsurpassed by any race of men, they have turned to a careful and thorough investigation of political affairs. And what have they discovered?

They have found the General Government exclusively pro-slavery in its character.

They have found it devoted to the extension of slavery.

They have found it devoted to the perpetuation of slavery.

They have found it ignoring the rights and interests of free labor, and devoting its energies to the defense and support of slavery labor everywhere. They have found it denying all aid to harbor and river improvements, so much needed for the protection of our commerce, and squandering its millions of money upon party favorites and for party purposes.

They have found it ready and anxious to acquire southern territory, without regard to cost in men or money, but tamely yielding when our northern boundaries are in dispute.

They have found it offering millions upon millions for the purchase of Cuba, with its mongrel host of colored slaves and vicious criminals, while it was compelled to issue Treasury notes to defray its ordinary expenses.

They have found, in fact, that there is, back of the Government, and stronger than the Government, a power that for years has ruled the country with tyrannic and despotic sway. That power is slavery. It has made Senators and Cabinets and Presidents. It has made platforms for parties, and decisions for the courts. It has made compromises, used them for its own benefit, and

violated them when they were no longer serviceable. It has sought, by fraud and by force, to control the new regions of the West, and for this purpose has used, as its willing instruments, the national Government and its hordes of dependants.

All these things, and many more, Mr. Chairman, have the people of the free States learned of the action, and the power which controls the action, of the Federal Government. And out of this knowledge, out of this state of facts, legitimately and necessarily, sprang the Republican organization.

Mr. Chairman, a more agreeable task now devolves upon me than that which I have been performing.

There are yet bright spots in American politics. There is a power for the country, the people own the Government, and they will preserve it. They will rescue it from the unworthy hands into which it has fallen. They will purge it of corruption, and restore it to its original purity. They will make it once more an agency for good, not an instrument of oppression. They will see that it is no longer destructive of the ends for which it was instituted, but that it is administered "for the benefit of the governed." To do this is the mission of the Republican party—high and noble, and worthy of the trust, it will fearlessly and conscientiously fulfill.

I doubt, Mr. Chairman, whether any political party in the United States has ever been more ferociously assailed, more malignantly traduced, or more recklessly belied, than the one of which I speak. And it is in view of the fact that I propose briefly to examine the position of the people of the free States upon the subject of slavery, that I may show what Republicanism is, and what it is not.

All will readily admit that the masses in these States are, to a greater or less degree, anti-slavery in sentiment. The most radical portion are those who sympathize with and follow the lead of William Lloyd Garrison. This class is confined chiefly to New England, and even there is not so numerous as it was some years since. The masses of the United States as pro-slavery instrument; in this respect fully agreeing with the disunionists of the South. And, if I am not mistaken, they join the fire-breathers of the South in clamoring for disunion. And I may here say that they are the only disunionists in the United States of the free States. There is no other portion of our anti-slavery population that seeks or desires to break up the Union.

From this class of anti-slavery men, earnest and conscientious, and self-sacrificing, they are the South has nothing to fear. They will neither office themselves, nor aid in elevating others to office. They utterly refuse to resort to the ballot-box to right the wrongs of which they complain; and being non-resistants, they will never join in a hostile crusade against the peculiar institution. They preach against slavery, pray against slavery, and print against slavery; leaving it to the Republicans to vote against it, and to "the sword of the Lord and of Gideon" to fight against it.

"The second class of anti-slavery men are those who sympathize with Gerrit Smith, and those who regard the Constitution of the United States as an anti-slavery instrument. They believe that the Federal Government has the power, and that it is its duty, to abolish slavery throughout the whole territory to break every fetter, and set the oppressed free." This class of men resort to the ballot-box to right the wrongs of which they complain. This party, though more numerous than the Garrisonians, embraces in all the free States but a few thousand men. Its chief strength, I believe, is in the States of New York, Massachusetts, and Pennsylvania, where it has five thousand four hundred and seventy votes, in an aggregate of five hundred and forty-four thousand eight hundred and sixteen; being but a very small fraction over the one hundredth part of the entire vote of the States. It cannot show the same relative strength in any other States, and I believe it is safe to say, that not one in two hundred of the voting population of the free States can be legitimately classed with this party.

The next and last class of anti-slavery men is that with which I am particularly proud to be associated; that class which I call the Republican party on this floor, and which embraces within its organization an overwhelming majority of the people of the free States. It is that class which is known to candid people, and to all gentlemen, as the Re-

publican party; to those who have no regard for the ordinary politeness and no respect for the common civilities of life—whereby they be political editors or members of Congress—it is known as the Black Republican party.

This party, Mr. Chairman, holds the political faith of the fathers of the Republic. We believe that all men are created equal in rights, liberty, and the pursuit of happiness. We believe, nay, we know, that slavery, socially, morally, politically, is a blighting and a withering curse. We know that its influence is deleterious upon both the oppressor and the oppressed. We know it hinders the development of the material resources of the country. We know it checks the onward march of civilization. We know it impedes the progress, as it corrupts the morals and perverts the doctrines, of the Christian religion. We know it is surely, and with fearful rapidity, undermining the very foundations of our Government, and that if its onward course is not speedily stayed, our country will soon be a Republic only in name.

But, Mr. Chairman, we mean it shall be stayed. We say to slavery, "thus far, and no further." We design to combat it to its utter annihilation, now exists. Regarding it as a great evil, we cannot, as honest and conscientious men, as good and patriotic citizens, consent to its further extension. Hence, the great and lending idea, the cardinal principle, of the Republican organization is the non-extension, or, in other words, the limitation of slavery. If there is fanaticism in this principle, we are fanatics. If this is a treasonable principle, we are traitors. But those who so ferociously brand us with these epithets would do well to remember that in so doing they are assailing the memory of their own fathers, and justifying the course of George III., who published them as outlaws, and set a reward upon their heads.

The doctrines of the Republican party on the subject of slavery are clearly and authoritatively pronounced in the following resolutions, which I quote from the platform of principles adopted at Philadelphia, in 1856:

"1. *Resolved*, That the maintenance of the principles promulgated in the Declaration of Independence, and embodied in the Federal Constitution, and the preservation of our republican institutions; and that the Federal Constitution, the rights of the States, and the union as a whole, shall be preserved.

"2. *Resolved*, That with our republicans fathers, we hold it to be a self-evident truth, that all men are endowed with the inalienable rights to life, liberty, and the pursuit of happiness; and that the primary object and ulterior design of our Federal Government were to secure those rights to all persons within its exclusive jurisdiction, and to our republican fathers, when they had abolished slavery in all our national territory, or provided that no person should be deprived of life, liberty, or property without due process of law; it becomes our duty to maintain this provision of the Constitution against all attempts to violate it, to prevent the establishment of slavery in the Territories of the United States by positive legislation prohibiting its existence there. And we declare the authority of Congress, of a Territorial Legislature, of any individual, or association of individuals, to give legal entrance to slavery in any Territory of the United States, while the present Constitution shall be maintained.

"3. *Resolved*, That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government; and that in the exercise of this power, it is both the right and the duty of Congress to protect it in its Territories from those twin relics of barbarism, polygamy and slavery."

The Republican party to-day, Mr. Chairman, stands upon this platform, and it will continue to stand there. Near the shores of southern disunionists, nor the pitiful appeals of northern conservatives, nor the persevering efforts of selfish, time-serving politicians, will cause it to abandon the position it has taken. And when it shall have obtained the control of national affairs, it will be governed solely by "the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution." And I hesitate not to say, that these principles, faithfully observed in the administration of governmental affairs, will lead to the abolition of slavery in the District of Columbia; to the repeal of the unconstitutional and of the fugitive slave law; and to the limitation of slavery to the States in which it now exists. If these resolutions from the Republican platform mean anything, they mean no less than this. And, to limit slavery to its present position, is to destroy it. It must expand or die. These slaveholders know, and hence the earnestness and zeal with which they labor for its extension. This we of the free States know, and hence our anxiety to confine it within its present boundaries. We would "limit, localize, and discourage"

it. And for myself, I say, that while I desire constitutionally to observe all the "promises" and all the "compromises" of the Constitution, I would yet write in letters of gold, as the prime article of my political creed: "No SLAVERY OUTSIDE THE PRESENT SLAVE STATES."

I know, Mr. Chairman, and the people I have mentioned, we must stand by them. Our efforts are being made to modify the principles, and lower the standard of the Republican party. And I desire now, for my constituents and for myself, to solemnly protest against all such movements. Our principles, as enunciated at Philadelphia, are our very life. We must stand by them. We do not the remotest idea of relinquishing any article of our political faith, nor of suffering any article to remain in abeyance during the approaching struggle. We desire victory; we are anxious to wrest the Government from the control of the pro-slavery party; but we do not desire to triumph at the expense of our principles. We wish the people to believe that we are right. When they do thus believe, the national Government will be transferred to our hands; and, until it can thus be legally transferred by the intelligent action of men subjected to our views, we have no right to triumph.

Holding these views, Mr. Chairman, we expect that a man of our political faith, and for at least four years identified with the Republican party, will be presented to the people at the coming campaign. We—and by "we" I mean my constituents and myself—can never consent to take as our candidate for the Presidency a man who lent "aid and comfort" to our opponents four years ago. What I vote for a man who, directly or indirectly, aided to the present Chief Magistrate in the position he has so shamefully disgraced! The idea is preposterous; and I say, calmly, deliberately, emphatically, that the men who expect the Republicans of Michigan to do such an act as this, know little of the character of our population. We do not say we must have our favorite candidate; but we do say we must have a *Republican* candidate, one who believes in the Philadelphia platform now, and who believed in it and stood on it in 1856. Alas, that I could not say more! I have no plea to offer now, that the State which I in part represent will do her full share towards wresting the Government from the unfaithful hands that now control it, and restoring it to its original purity and vigor.

"SPEAKER, Mr. Chairman, during the protracted contest for the Speakership, I was often tempted to exclaim, with the Roman orator, "How long, O Cautine, will you abuse our patience?"

The expressions of disloyalty to our Federal Union, which were so profusely culminated from the Democratic side of the House, seemed so utterly repugnant to every sense of patriotic duty, that I could not sit in my seat without words of rebuke leaping to my lips and struggling for utterance. So, too, when I, in common with others, was arraigned for spirit which we do not understand for events which we do not understand, required great forbearance to withhold my immediate denial, and hurl back my indignant defiance. But impressed with the conviction that all our proceedings, with the exception of the ballots for Speaker, and the necessary adjustments, were required, I managed to hold my peace.

It is provided by statute that the members of the House of Representatives shall assemble on the first Monday of December, and choose a Speaker, previous to which, no business shall be transacted. I have felt myself called upon to observe this requirement of the statute, and I deem the present a fit occasion to call the attention of the people to the enormity of the recent transgression of the law by the law-makers themselves. The example which they have set has been one of manifest tendency to encourage the same spirit of lawlessness, which is unfortunately too prevalent in our country, and threatens more than any other thing, in my judgment, the stability of our Government and the permanence of our institutions. I judged, too, and the result has shown correct, that it was the part of wisdom to preserve silence while leading members of the Democratic party ventilated their schemes of disunion and elaborated the grievances under which they conceived the Federal Union to be groaning! Before we were fully settled here, these gentlemen

thrust "the irrepressible negro" upon us, and most vehemently have they belabored him ever since! I felt persuaded that no advantage would result to the great interests in whose behalf I came to the Thirty-Sixth Congress by mingling in the heated discussions on that kindred subject; and I would perhaps only have fanned the embers of controversy, which were already glowing, rather than feed, and keep alive by constant irritation. Not that I felt indifferent to the grave character of the scenes through which we have passed. I trust I share the feeling of concern, so freely and so feelingly expressed here, for our country, our people, and for every slave in bondage. Certainly, I would be recreant to the high trust reposed in me by the patriotic and intelligent constituency which I represent here, if I failed on this, the first fitting opportunity, to declare their unaltered and unshaken attachment to the principles and policy on which rests the superstructure of our Government, and their determination to maintain the Constitution and the Union unaltered, unamended, and unabridged. In the past these have proved the elements of our greatness and our prosperity; and we stand without an anchor of our political safety; in the future, no one can contemplate their overthrow without emotions of dread, apprehension, and hopeless despair.

I am one of those who do not despair of the Republic. After two months of persistent effort we succeeded in electing a Speaker of this House; and that event, with concomitant circumstances, proved a complete answer to the impotent threats and vaporous harangues to which we had been subjected during that period of time. Since then, the public creditors, who were so ready to forsake their dues, have been satisfied; the wheels of the Government move smoothly on their freshly-greased pivots; and the African has been left to quiet repose! Had the Helper book not been dug from its obscurity by the New York Herald a week before Congress met, some of the malignancy would have been resorted to, with a view to the renewal of the negro agitation. Some men and some parties prefer strife to peace. They live in contention and they thrive in tumult. The political position of the Government, which was administered, was attempted to be renewed here. Under the pressure of the Union-saving people, many patriotic citizens were successfully duped into voting for Mr. Buchanan; and thereby he attained the summit of his life-long aspirations, and became a national idol. The Democratic party, for the Government, the party which elevated him to power has become demoralized, and is conceded to be powerless in almost every free State. He has effectually accomplished what his political opponents had hitherto failed to accomplish; he has extinguished the Democratic party North, and has sectionalized it so that it has virtually become the mere parasite of the slavery propaganda of this country. And now, in this hour of dire distress, that their columns are broken, their legions are scattered, and the proud memories of the past history of the party are forgotten, again made that the Federal Union is imminent danger of going to pieces.

All there is of truth in the assertion is the fact that the union of the Democracy with the power and intrigues of the present administration, will be interfered with by the present year comes to a close; and so "irrepressible" is this cohesion of the spoils of office, that the most discordant elements and the most opposite extremes of men and opinions are laboring together to prevent so catastrophic a catastrophe. The free States have had possession of the Federal Government, and have shaped its policy, nearly all the time since the adoption of the Constitution; and Senator Hammett, of South Carolina, in the Senate, not long ago, declared that southern statesmanship had been a masterpiece. The free States have followed a policy for half a century, without interruption or interference. And yet, on the slightest intimation being given that the free laboring interests of the North were seeking a recognition of their power in the Government, an absolute howl of contumacy is set up in nearly every southern State. South Carolina and Mississippi send itinerant commissioners to the capitals of neighboring States, to utter their lamentations over what they fancifully assume to be northern aggressions; and Virginia, the mother of States, the

cemetery of Presidents, listens with some degree of patience to these recitals. Alas! that the pen of history, with remorseless accuracy, should record the degeneracy of these latter-day saints of a spurious Democracy!

When our fathers sealed their devotion to the cause of constitutional freedom with their blood, they hoped that the virtues which acquired the independence would be transmitted to their posterity; for countless ages, would syllable their praises and sound their fame along the corridors of time, in strains undying as the music of the spheres. But where now, in portions of the country, is the veneration for the great and good men of our golden age? Where the respect for their labors and achievements? Men high in public position scoff at the great names that adorn our history, and laugh to scorn the teachings of our glorious past! The political compact by which our fathers bound us in one common destiny is regarded as men regard a garment—to be put on and off, as it suits the caprice of the wearer. The duty we owe to a common country, the allegiance due to a common Constitution, are treated as incumbrances that may be thrown aside at will. The exalted motto of Democracy renounces the ancient and time-honored maxims of our political grievances; and instead of addressing themselves to the enlightened conscience and sober judgment of the people, they resort to the language of intimidation and menace to accomplish their purposes. When they are met by the people upon the intelligence and patriotism of the people—the true tribunal of last resort for the redress of political grievances—many of them boldly proclaim their determination not to submit to the election of a President who is distasteful to them, or their party, or their section. In other words, if a majority of the people of the United States, in pursuance of law, and under the forms prescribed by the Constitution, elect a gentleman who is not their choice, they will treat the election as if it had not been held—resist it by violence, and prevent its consummation by force of arms.

Sir, I have yet to learn that any respectable number of the people of any State or section of our country participate in these schemes of treason and projects of disunion. I am even unwilling to believe that the gentlemen who are the avowed and avowed representatives of the sentiments represented, in any fair sense, the opinions of the people at large in any portion of our country. There are, doubtless, political demagogues South as well as North, who are inflaming the minds of their people and exasperating their prejudices by malicious reports, and it is easy to see that they maintain a sort of undeniable notoriety before the people by their violent harangues and angry denunciations. Disunion is thus avowedly put forth as a remedy for political defect in the coming presidential election by many of the high-principles in the Democratic temple. Clothed in their sacerdotal robes, these gentlemen, solicitous to retain their loaves and fishes, and well pleased with the luxurious appliances by which they are surrounded, have broken out into this cry of disunion, and have taken them on the eve of a presidential election, with an unusual chorus of vociferation, the notes being pitched a little higher, and the emphasis being a little more tragic, by reason of recent events. No California miner ever struck a place with more real satisfaction, and turned his golden treasures with more zeal, than do the Democratic politicians, eager in the pursuit of the seven principles underlying the Democratic superstructure, (according to Mr. Randolph,) follow up the advantage which they suppose Brown's invasion has given them!

The right of the people to choose a Chief Magistrate of their own sovereign will and pleasure is, however, one of their essential liberties, and will be surrendered never to men or force. The Nation on these matters is not to be trifled with. It belongs not to the current politics of the day. Its existence is a fixed fact, and lies down amid the foundations of our political superstructure, firmly and irrevocably, as lie the mountains which encompass us about, the very impress of Divine sanction, and the surety of our safety. If its overthrow will meet the doom of felons the moment they put in execution one threat or commit one overt act of rebellion to its authority. One such example in each State will be sufficient to deter others from offending in like manner, for

one generation at least. There is not likely to be another John Brown for some time to come, who will venture to invade a sovereign State, and defy its authority. Nor will more than one disunionist levy war or commit an overt act of treason against the Federal Government, without meeting his just deserts. His punishment will be speedy; his doom certain.

Let me call the experience of 1832. Mr. Calhoun then proposed to nullify an act of Congress; and for that comparatively simple proposition, General Jackson had made up his mind to execute the latest extremity of the law upon him. The people, North and South, in the presence of the fact of the nullity of the Government, threatened, and its power defied, pledged themselves to sustain General Jackson, with their means and their muskets, in enforcing the laws and maintaining their authority. We were nearer then, it is true, by a quarter of a century, to the times the tried men's souls, in the future of consuming fire. In the degeneracy of these latter days we see Democrats, clothed in the mantle that Jackson wore, and professing to be touched with live coals from the altar upon which Jackson offered his labors, to mention the free institutions of our country with overbrow and our political Union with disruption, "from turret to foundation stone." And now, we have a President who, instead of boldly defying the treason, and bringing the power of the Government to bear upon the traitors, affirms that he will, by one, and takes to his loving embrace the other.

But, despite these things, the fire of patriotism are not extinct. They slumber, it is true; else we should not hear these frequent appeals to disunion as the fabled remedy for the ills of the moment; but let the people be aroused to any real danger of such an issue, and the smoldering elements will be rekindled into a fervent heat, before which treason and traitors, North and South, will be consumed like stubble in the field! Who are you, gentlemen of the South, that assume thus and here to exercise the functions of sovereignty? The servants of your masters—the people; the delegated agents, for a little brief hour, of your respective constituencies, for a limited purpose! Dressed in a little brief authority, I will not say you lack the spirit to resist, but I say you lack the courage to resist, and you have no right to exceed your authority; and your threat of any sort of moral force, are impotent, and fall on our ears like the idle wind, which bloweth where it listeth!

Sir, disunion implies war! Secession means rebellion! Treason deserves death—the hangman to execute the sentence of sovereignty. How do you exercise the functions of sovereignty? How do you propose to divide the Union? Where will you begin? What is to become of my honored State, the keystone of the Federal arch? The Hall of Independence, the ark wherein was venerated our political constitution, stands there, and the spot is sacred in the contemplation of every lover of his country. Will you separate it from the sisterhood of States? Will you give up your share in the common glory which was achieved on the heights of Bunker Hill? The blood of our ancestors flows on the battle-field of Gettysburg, and I am unwilling to surrender the patriotic memories enkindled by their services on the soil of that gallant State! And do you ask us to give up our title to the glorious achievements in the sunny South? We share with you the glory of that heroic veteran, who we in letters of fire upon the forehead of the disunionists of his day "the Federal Union must be preserved!"

With you, we claim a share in the name and fame of America's greatest orator, who sleeps his last sleep beneath the soil of Kentucky. When, so a patriot, we regard the life, the words, and teachings of these illustrious dead, then, in my judgment, are our consciences seared as with a red-hot iron, and our brows crimsoned with an infamy so deep that the waters of Niagara cannot wash them clean. There are we are ready for the work of demolition. Then hatter down, from turret to foundation stone, this proud Capitol! level it with pickaxe and spade, so that, like the temple of Jerusalem, there shall not be left one stone upon another! Pull down the palatial building of this Federal Government, and scatter its stones upon their foundations! Let not these monuments of the virtues of your patriotic ancestors stand, if you mean to disrupt the ties which now bind us to a common and a glorious Union! And when you have done these things, go to yonder

proud shaft, that is rising to the memory of him who was "first in war, first in peace, and first in the hearts of his countrymen," and leave no stone of it standing, so that your evil infamy may be baffled to the drugs, and your work of disunion be thus effectually and thoroughly done!

Southern gentlemen have strangely misconceived the spirit and purpose of the great movement now peering the masses of the North "at every step, like a steam locomotive." It has been argued here as though the mad attempt of John Brown to run off negroes held to servitude in Maryland and Virginia had received the countenance of, and was approved by, the masses of the northern people. It has even been suggested that the animus of the great Opposition party to the Democratic Administration was the abolition of slavery where it now exists by force of positive law. Such assertions are entirely unfounded in point of fact. I am not commissioned to speak for any people but those I represent here; but I think I know the general and prevailing sentiment of my whole State well enough to declare that our people do not regard negro stealing as any part of their platform, nor negro equality as any remedy for political grievances. Our people do not profess insurrection, and we have never intended to make forays upon sister States, nor set at defiance the established authority of their neighbors. They cultivate relations of peace and friendship with all; and would rather cement than loosen the ties of fraternity and good-will between the States, geographically central, so she is equally removed from fanaticism and frenzy. There need be no apprehension felt anywhere as for her loyalty; for there is no sentiment more deeply imbedded in the hearts of her people than devotion to the Constitution and Union. We interfere not with the rights of any State, but cheerfully concede all that are guaranteed in the Constitution. No subject can be introduced here during this Congress, that I am aware of, that can justify the intemperate harangues to which we have been compelled to listen since first we met here. To violate and shatter the laws, as we find them on the statute-book, and expounded by the Federal judiciary, until altered or amended by competent authority, has always been a cardinal doctrine with the party with which I am associated. It is the duty of every citizen to change it, if it is found to be the binding force of its authority. That great party is eminently national and conservative. Progressive, it is nevertheless sure and steady in its progress; fearless in the avowal of its principles, it is yet moderate and conciliatory. It is a party, by the way, without any supporters, to dislodge the Democratic party from its possession of the Government, and to restore the policy of the republican fathers in its administration. The main elements of this party's strength are, opposition to the cardinal vices of the doctrine and practices of the Democratic party. These are, its anti-American or free-trade theories, and its anti-free labor or pro-slavery policy.

The protective policy is, in my judgment, the lifeblood of the body-politic, and especially so in our own great State. Whatever prominence may be given to other great questions, this is the paramount one with our people. Our soil is fertile to the hand of intelligent labor; and whatever surplus we have to sell of our vast productions, we prefer to sell to our own people, and at the market, constant in its demands, and not subject to the fluctuations of foreign trade. Stored away in treasuries strong as her ancient hills, yet of easy and cheap approach, our State holds immense wealth, in its enduring mineral resources, of extraction and of incalculable value. The two are in such close proximity that they will always aid to elicit and elaborate each other. This vast treasure lies so near her central regions, and both are so readily approached from all important centers of population, that it is not to be found there, more readily than anywhere else, may the five great industrial classes—the farmer, the miner, the manufacturer, the carrier, and the tradesman—exchange their labor and possessions for their mutual comfort and advantage. To aid her in developing this immense store of wealth, and to protect her own citizens against of Europeans, by the profit made between the cheap material and the rich result, Pennsylvania has vainly petitioned the national Congress for many years. Her facilities, if unhindered by the hostility of the Democratic

party, are unequalled in the world; and yet her mines and mills and forges, in their best estate, have only been half worked. We have imported manufactured iron, when we ought to have supplied it to half the civilized world.

Look, for a moment, at my own, the capital district of the State. Its northern boundaries are the great anthracite rock regions, extending throughout the central and eastern portions of Pennsylvania, containing an amount of undeveloped wealth which passes the imagination of man to conceive. Its southern boundaries comprise the Cornwall hills; strewn along which, in prodigious abundance, are the largest and most valuable deposits of iron ore in this country. Not less than fifty million tons of the raw material lie there, awaiting the hand of the miner and the skill of the manufacturer. And between these two ranges of coal and iron mountains lies a valley of agricultural beauty and fertility unsurpassed in the world. With railroads passing through it, easy of access to the seaboard, and containing water power of rare excellence, that valley seems to be pointed out, as if by Divine signification, on account of its great natural and artificial advantages, as the locality best adapted to the establishment of the national government, so long in contemplation, and I trust, now soon to be firmly fixed in its "local habitation" in this, the garden spot of Pennsylvania.

Pennsylvania is a free-labor State. She was among the first, in her civil, deliberate way, to abolish human bondage within her own borders. The brows of her hardy yeomanry are moist with the sweat of honest labor, and their palms are browned with exposure to toil. Instead of being esteemed "manacles," in consequence thereof, we regard them as the salt of the body-politic, "leavening the whole lump," and the equals, in every noble attribute that belongs to our manhood, of the prouddest in the land. Many of our free-laborers seek homes in our Territories and rich stretch beyond the Mississippi, and we are anxious that they should there retain the dignity of freemen. Our great metropolis, already the first manufacturing and second commercial center of the Union, is interested in having those broad Territories preserve liberty and early practice the virtuous life of Arkansas. But our great State is equally bound to her southern and northern sisters by the ties of blood and patriotism, and wishes to perpetuate forever, and brighten continually, the golden chain of peace and harmony. It is consistent, and it is just, that we should shall enjoy their preferred constitutions and their constitutional rights, as she wishes to enjoy her own. She pours out no gratuitous upbraidings on her neighbors; she sharpens no pikes, and loads no rifles, for southern insurrections. She simply demands that the weight of the national Government shall be thrown in the scale of human freedom, rather than in the extension of human bondage; or that, at least, fair play be exercised; so that Oregon, with less than fifty thousand people, not warmed and fed by the national Government, while Kansas, with one hundred thousand, stands out in the cold, because her people do not choose to be Democratic and pro-slavery.

I have a thorough and earnest conviction that the protective policy is the only road to national wealth and independence, the only practice by which we can reach the stability and strength which it was the design of our forefathers that we should attain. It is, emphatically, a question of independence; whether we shall gather strength and enjoy property under a system that is the theme of Henry Clay, and clothed by his great mind and glorious patriotism, or whether we shall sink into driving dependence, worse than our former colonial condition. I believe, for my own part, that protection is the first duty of Government. We give our allegiance to Government as the correct policy of the nation. Why do we ride a Navy on the seas? To protect commerce. Why do we build light-houses on our coasts? To protect commerce. Why do we erect expensive fortifications on our frontiers? To protect the citizen and his property. Why do we maintain a Patent Office? To protect genius in the fruits of invention. When these are the features of the political system under which we live, I demand that he who dismembers wealth from the earth; that the farmer who raises his crops for the market, or the miner who penetrates

the surface and sinks the shaft for mineral wealth, shall also, each and all, be protected. There is no true philosophy in the negative of the proposition. And just as often as we depart from the proposition itself, we are overtaken by languor in the body-politic, distress among those who represent labor, and find our Government plunging into embarrassing and ruinous expedients.

The example of England holds out an instructive lesson to us. Hers was a policy of protection, and under its operation she culminated to the proud position she now holds among the nations. She now professes free trade, but invariably practices protection to her home industry. The secret of her greatness is in the perseverance with which she has preserved that policy which invited capital and enterprise, and gave encouragement to her industry. Afterwards, it is true, when her manufactures and machinery had arrived at comparative perfection, she invited free trade with other nations less advanced in the arts than herself, but always maintained an advantage in favor of the home Government. She occupies this day all the great channels of commerce of the world. She has the palm of her power of her power, and her virtualization of colonial empire, already seized and held nearly every important bend of the earth; and her flag is continually carried to new conquests to feed her commerce. Her steamers traverse every ocean; their lines are continuous around every globe.

We sometimes speak of being the commercial rival of Great Britain; but I will be pardoned for saying the comparison is more flattering than true. We may ultimately compete with her, but we must become first her equal as a manufacturer, and accumulate wealth within our own borders, by cherishing every department of home industry. Then our spindles will make perpetual music, and our ships will bear away to other lands our surplus manufactures; bringing returns which will give profitable employment to our labor. Our pursuit will be levered down; the circle of happiness will be enlarged in the same proportion as the circle of energy is extended; and, as a people, we shall move forward to the high destiny which awaits us.

Protection is the only policy that is a fraud and a deception. I claim protection *per se*; that protection which recognizes American labor and affords encouragement to American enterprise. This demand is as old as the American Revolution. Benjamin Franklin asserted it before the British Parliament, when they asked him, "What protection do you wish for your colonies?" He answered, "I wish for a non-protective policy. It has been said that our revolutionary struggle was precipitated by the casting of a few tea-chests into Boston harbor. Not so. The stand-point of antagonism to the mother country was protection to American industry. The other colonies joined Boston, and entered into a compact that they would use no articles of foreign manufacture. That was the first Union of which we have any account in American history, and it led to the greatest and most successful result of the war, the free trade system. When the first Continental Congress assembled, what was its first act? An act to encourage American industry. It contained a preamble to the effect that the customs duties were levied for three purposes: for the revenue of the Government, the liquidation of the public debt, and the protection of American industry. I have no patience with that man or party who maintains, now-a-days, that protection must be inferential or circumstantial, incidental or accidental. Such a doctrine is absurd in principle, unsupported by precedent, and most pernicious in its application.

Our experience—what is it? If you refer to our history, you will find that all our prosperity has been traceable to the principle of protection. Your thrift and plenty have ever been in proportion to your protection. In 1816, and again in 1828, under protection, our industry was marked by unusual success. The moment that policy was abandoned, disaster and depression came upon us, and when we reached the sliding tariff of 1841, universal distress spread over the country. Under the non-protective tariff everything ran to seed, and in 1842, when protection was restored, and when we had our highest protective tariff, then was the period of our greatest prosperity.

And now that the issue is joined, let it go fairly and squarely before the country. No later than yesterday the friends of the protective policy

in this House endeavored to introduce their measure, and asked that it be printed for the information of Congress and the country. They were met at the threshold by the united Democracy in opposition thereto, with the exception of some half a dozen members of that party. The conduct of that party yesterday was in striking contrast with their conduct here. The Democratic party, down by the Democratic State convention of Pennsylvania at its recent meeting. There it was again attempted to mislead the people of our State on this subject, and the idea was again held out that the Democratic party was favorable to the protective policy. Here the Democratic party has been the subject of ridicule; and at the first opportunity which offered, the Democratic party, almost to a man, refused even a hearing to our honored State!

Mr. Buchanan came into power with large Democratic majorities in both branches of Congress. If he had any influence whatever, why was it not exerted to procure a modification of the tariff, and to protect the interests of Pennsylvania? Had he expended a tithe of the effort which was employed to carry the Leecompton constitution through Congress, to force slavery into Kansas, the tariff would have been changed. The whole power of the Administration was devoted to those objects for two sessions, and not a voice was raised for "protection" on the Democratic side. Now, when a presidential election is approaching, and the people are about to go to the polls to elect the Administration, they are as loud in audacious professions as they were delinquent in duty when the opportunity of affording relief was offered. The record of the last Democratic Congress proves that every obstacle to a modification of the tariff was imposed by the Administration, and that the Administration was devoted to those objects in the Senate and House of Representatives.

The interests of our State were not only disregarded, but outraged, trampled upon, and subordinated to a pro-slavery propaganda in the Territories. The only politics professed by the Administration, and avowed by the President during the last Congress, when his party had complete ascendancy, was to make Kansas as much a slave State as Georgia. Such was the declaration of Mr. Buchanan's message, and everything else was sacrificed to that policy.

Again, and in conclusion, I say the issue is fairly made, and let an intelligent people decide it. I repeat now, what I said in this House on a former occasion, that, in my judgment, no man, and no party, can or ought carry the electoral vote of Pennsylvania, without presenting a living illustration of the protective policy, and that party fairly and squarely recognizes protection in its platform of principles.

Mr. WINDOM next addressed the committee. (His speech will be published in the Appendix.)

Mr. COX obtained the floor; but yielded to Mr. LEACH, of Michigan, who moved that the committee rise.

The motion was agreed to.

So the committee rose, and Mr. WASHINGTON having introduced the chair, Mr. STARKES presided. Mr. WASHINGTON, of Illinois, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly a bill (H. R. No. 4) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th of June, 1861, and had directed him to report the same, with an amendment, to the House, and a recommendation that the same do pass; also, that the committee had had under consideration a bill (H. R. No. 215) making appropriations for the contingent and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1861, and had come to no conclusion thereon; also, that the committee had had under consideration the annual message of the President of the United States, and had come to no conclusion thereon.

Mr. WASHINGTON, of Illinois. I move the previous question on bill No. 4, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1861.

The previous question was seconded, and the main question ordered to be put.

And then, on motion of Mr. WASHINGTON, of Illinois, (at five o'clock and thirty minutes, p. m.) the House adjourned.

THE CONGRESSIONAL GLOBE

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 16, 1860.

NEW SERIES, No. 74.

IN SENATE.

THURSDAY, MARCH 15, 1860.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

The PRESIDING OFFICER (Mr. IRVISON in the chair) announced that the Vice President had signed an enrolled bill (S. No. 239) for the relief of the legal representatives of Charles Pearson, deceased.

HOUSE BILL REFERRED.

The bill (No. 228) relative to the printing and distribution of the annual message of the President of the United States and accompanying documents, was read twice by its title, and referred to the Committee on Printing.

WASHINGTON MARKET-HOUSE.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 159) entitled "An act authorizing the corporation of Washington city to make a loan and issue stock for \$300,000, for building a market-house, and on that of Mr. GWIN, it was

Ordered, That it be referred to the Committee on the District of Columbia.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented a paper in relation to the claim of Major William Williams, for expenses of fitting out and equipping men for the protection of the frontier, before the commencement of depredations at Spirit Lake; which was referred to the Committee on Indian Affairs.

Mr. CLAY presented the memorial of the marine underwriters of the port of New York, praying the publication of the results of surveys made by Captain Ringgold, of the Navy, of the passages through the coral archipelago of the Pacific ocean; which was referred to the Committee on Commerce.

Mr. CAMERON presented a petition of citizens of Pennsylvania, praying the enactment of a law granting pensions to the soldiers of the war of 1812; which was referred to the Committee on Pensions.

He also presented the petition of A. A. Nicholson, and others, praying that pensions may be granted to the surviving militia of the war of 1812, and to the widows of those who have died or may hereafter die; which was referred to the Committee on Pensions.

Mr. DAVIS presented the petition of E. B. Alexander, H. K. Craig, and P. St. George Cooke, colonels of the Army, in relation to their rank, which was referred to the Committee on Military Affairs and Militia.

REPORTS OF COMMITTEES.

Mr. FITCH. The Committee on Printing, to whom was referred a resolution relative to printing extra numbers of the Coast Survey report have directed me to report it back and ask its adoption.

Mr. TRUMBULL. Let it be read.

The Secretary read it, as follows:

Resolved, That there be printed, in addition to the usual number of three thousand, two hundred copies of the report of the Superintendent of the Coast Survey for the year 1859, twelve hundred of which for the use of the Senate and five thousand for distribution by said superintendent; that the same be printed and bound, with the charts and sketches, in quarto form, and that the printing of said charts and sketches shall be done to the satisfaction of the Superintendent of the Coast Survey.

Mr. TRUMBULL. I hope it will not be considered new. I object to it.

Mr. FITCH. I suppose an objection carries it over for to-day.

The PRESIDING OFFICER. Yes, sir.

Mr. CLAY. The Committee on Commerce, to whom was referred the bill (H. R. No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers and other purposes, have directed me to ask to be discharged from its further consideration, and that it be referred to

the Committee on the Judiciary, from whom I will state, for the information of that committee, a bill was reported and acted on yesterday.

The motion was agreed to.

He also, from the same committee, to whom were referred two memorials of insurance companies, merchants, and other citizens of Philadelphia, praying that steamers of light draught be authorized to be employed for the present class of sailing vessels in the revenue service, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of insurance companies of New Orleans, praying the substitution of steamers of light draught for sailing vessels in the revenue service, asked to be discharged from its further consideration; which was agreed to.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 287) to incorporate the National Gallery and School of Arts, in the District of Columbia; which was, by its title, and by its title, and referred to the Committee on the District of Columbia.

CUSTOM-HOUSE OATHS.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to consider whether the numerous custom-house oaths now required of officers of Congress may not with safety be abolished, and a simple declaration be substituted therefor.

CRIMINAL JURISDICTION UNDER TREATIES.

Mr. MASON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Foreign Relations be instructed to inquire whether any further, and what, legislation is necessary to carry more fully into effect certain treaty stipulations between the United States and China, the Ottoman Porte, Persia, and Spain, respectively, concerning the civil and criminal jurisdiction authorized by the said treaties, and to report the result of their inquiries to the Committee on the Judiciary within three months.

FUNERAL EXPENSES OF A MESSENGER.

Mr. YULEE submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid, out of the contingent fund of the Senate, to the widow of Thomas Clarke, late a messenger in the service of the Senate, deceased, \$125 for funeral expenses, and three months' pay of deceased, from the time of his death.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had passed the following bills and joint resolutions; in which the concurrence of the Senate was requested:

A bill (No. 4) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1861;

A bill (No. 331) to repeal the third section of an act entitled "An act to increase and regulate the terms of the circuit and district courts for the northern district of the State of New York," approved July 7, 1858; and

A joint resolution (No. 15) for the relief of Thomas C. Ware.

THOMAS C. WARE.

Mr. WADE. Mr. President, I move that the Senate take up the joint resolution which has just been read by the House of Representatives, for the relief of Thomas C. Ware, for the purpose of referring it to a committee.

The motion was agreed to; and the joint resolution (H. R. No. 15) for the relief of Thomas C. Ware was read twice by its title, and referred to the Committee on the Judiciary.

HOUSE BILLS REFERRED.

The following bills from the House of Repre-

sentatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 4) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1861—to the Committee on Finance.

A bill (No. 331) to repeal the third section of an act entitled "An act to increase and regulate the terms of the circuit and district courts for the northern district of the State of New York," approved July 7, 1858—to the Committee on the Judiciary.

MARY E. CASTOR.

Mr. GRIMES. I ask the Senate to take up bill No. 247.

Mr. SLIDELL. What is the bill?

Mr. GRIMES. It is a bill for the relief of Mary E. Castor.

The motion was agreed to; and the bill was read a second time, and considered as a Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Mary E. Castor, widow of First Lieutenant Thomas F. Castor, late of the United States Army, on the pension roll, at the rate of \$26 66 2/3 per month, from the 9th of December, 1858, to the present date.

Mr. HUNTER. If there is any report in that case, I should like to hear it.

The Secretary read the report made by Mr. GRIMES, on the 6th of March, from which it appeared that the petitioner was married, in 1839, to Samuel Whitehorn, who was then a first lieutenant in the United States infantry; that, in the year 1840, he was ordered to Fort Winnebago, Wisconsin, where he died on the 2d November following, of a fever caused by the malaria to the influence of which he was subjected while at Fort Howard, leaving her with an infant son, a few weeks old, in great destitution; that more than ten years after her husband's death, she married Thomas F. Castor, who was a cadet in 1841; brevet second lieutenant dragoons, July 1, 1846; first lieutenant, October, 1847; and was killed at Fort Tejon, California, December 31, 1855; that she resided with her husband at his post in California; that for some years prior to his death they resided under a tent, where, partly in consequence of exposure, she believes, he died; that her husband, at his death, left her almost entirely unprotected; that she returned to the Atlantic States, and has since remained entirely dependent upon her friends; that her father is a chaplain in the United States Navy, with small means and a large family, and, therefore, able to render her very little assistance; and that the state of her health is such as to prevent her from earning a livelihood for herself.

The records of the Surgeon General's office show that her first husband was, on the 24th August, 1840, attacked with a fever of an "inflammatory character," but did not remain entirely prostrated; and that the official report shows that, in all probability, Lieutenant Whitehorn's system was predisposed "to an attack of fever by the influence of malaria while at Fort Howard." The records also show that her late husband, First Lieutenant Thomas F. Castor, first regiment United States dragoons, died at Fort Tejon, California, of "phthisis pulmonalis," (consumption.)

Hon. Charles Mason, late Commissioner of Patents, testified that he had been well acquainted with the petitioner since many years previous to her first marriage, and that he well knew her, and that he substantially correct; many of the facts known to him personally.

Hon. J. W. GRIMES, United States Senate, had known Mrs. Mary E. Castor more than twenty years, and knew the facts set forth by Judge Mason to be true. He also knew that the sight of Mrs. Castor is so far impaired that she is entirely disabled from seeing or reading, and unable to do anything towards her own support, and that the injury to her sight is permanent.

Mr. HUNTER. I think we can do very little but substantially correct; many of the facts known to him personally.

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Mr. HUNTER. I think we can do very little but substantially correct; many of the facts known to him personally.

the service, as most other officers do. I do not know what is her claim—whether it is as widow of one man, or as having been the daughter of a chaplain in the Navy. It is no case for a pension, it seems to me.

Mr. GRIMES. I will merely state that there was a unanimous report of the committee in favor of this bill. I am not disposed to argue it before the Senate, but I apprehend it is a case that must excite the sympathy of everybody, and that it would be nothing more than right to grant a pension in this case. The truth is, that the first husband of this lady died in the line of his duty, and she comes, under the first appropriation, within the spirit, although perhaps not strictly within the letter, of the law of Congress. The records of the Surgeon General's office show that he was attacked, whilst at Fort Winnebago, by a disease, the seeds of which were laid at Fort Howard, where he was stationed in pursuance of the commands of his superior officer. We granted the other day pensions to the widows of three distinguished officers—men, some of whom had not at the time they distinguished themselves, been so long in the public service as the husband of this woman had been at the time of his death. General Macomb, who distinguished himself at the battle of Plattsburg, had not been in the service of the United States so long as this first lieutenant had been in the service at the time of his death, and we have no reason to suppose that this man would not have distinguished himself as much as General Macomb did at that occasion, if he had only had friends at court who could have induced him from the position of a brevet second lieutenant to that of brigadier general in the short space of thirteen years. I protest entirely against the principle that the widow of an inferior officer—or a lieutenant or a captain—shall not be entitled to the same pension, in proportion to the pay that officer received, as the widow of a superior officer. These men take their lives in their hands and go to the uttermost parts of the earth to defend the honor of your flag and to maintain your rights. They die in the line of their duty; and because Heaven has not given them the talents of a Napoleon, of no reason why you should not take care of their widows and their children if they are cut off in the line of their duty.

Mr. HUNTER. This shows the danger of precedents. I did not vote for the bill to pension the widows of the officers who were killed in the war. I believe that has not become a law; it has not yet passed the House of Representatives. I think; certainly I am not aware that it has. But, at any rate, I should be very unwilling to extend that principle as far as the Senator from Iowa is disposed to go. If that is the case, we shall have to pension the widows of all officers who die in the service; certainly of most of those who die in the southern country; for most of those who die in their beds, die from some malarious disease. I believe that that is the case. If that is the other bill was put, was somewhat different from what is claimed here; still I did not think it was a case for a pension, and I was afraid it would lead to just such cases as this. If this is to pass, I believe there will be no limit hereafter.

Mr. FOSTER. I voted against the bill from Virginia against the bill that passed the other day, substantially for the reasons set forth by him; but I shall vote for this bill, for this widow is poor and blind.

Mr. CLAY. Mr. President, I had not intended to say a word on this bill, although it is well understood in the Senate that I generally vote against all such bills, and did vote against this in the committee; but the remarks of the Senator from Connecticut, who has just taken his seat, constrains me to say something against the whole pension system. His remark goes to the very root and foundation of the whole system when you get beyond the invalid pensions. There is some reason to sustain invalid pensions. They are not purely a gratuity; they are founded somewhat in contract, implied if not expressed. Many of them are express. In several of them there are inducements among other inducements for volunteers in the service, provided in the acts of Congress that in case this soldier or officer were wounded in the service or should become disabled by diseases contracted in the service he should have a pension. There it is an express contract, and I say that where it is not express, there is generally

an implied contract where a man engages in the military or naval service of his country and incurs great hazard of his life, or health, or limbs, that if he becomes disabled from disease or from wounds, that he be indemnified in some manner; but it only extends to the widow in only a personal contract, which does not apply to his widow or to his orphan children. All this class of cases are dependent merely upon the charity of Congress; they are mere gratuities. This case is one that depends upon very strong grounds, and if I was governed entirely by my own feelings, and my own sympathy for those in distress, and my disposition to relieve them; if I felt that I could make as free and discretionary a use of the public money, as I could of my own purse, I would not hesitate to vote for this bill, for there is none that has come under my observation that has touched my heart more or that has tried my principles more severely.

But, sir, I do not think that Congress is a charity hospital, or that we have the right to dispose of the treasure of the Government in pure charity; and this is a pure charity. The condition of the case is this: this widow is, for the second time, the widow of an officer of the Army. When her first husband died, she might have claimed a pension of the Government, and it is probable that she would have received principles which have governed those cases not provided for by any general law but under which several have been embraced, as several were provided for the other day. That is to say, I think there is persuasive testimony that her first husband died of disease contracted in the service of the United States. I think the evidence goes to this extent: that he contracted a disease arising from the malarial around the post where he was stationed; and the probability is, that if he had not been sent to this post, he would not have incurred the disease; that he contracted the disease, and he might have survived for a long time. Hence if she had applied for a pension as the widow of that officer, during her previous widowhood, I think she would have come within the spirit and probably the letter of the law, and a second husband and her second husband did not die of any acute disease, did not die of any epidemic; he died of a constitutional disorder which he might have had anywhere, and of which he would have probably died anywhere else.

Mr. GRIMES. Let me suggest to the Senator that the evidence shows that he died in camp; that he had been in camp for a long time, living in a tent with his wife. The fact was, that he was superintending the erection of some sort of a fortification at Tejon, in California. There was where he contracted the disease of which he died.

Mr. CLAY. I remember it; but he died of consumption, which is a hereditary and constitutional disorder, and very rarely, in my opinion, superinduced by such exposure as he incurred. The application in this case, if it has any merit at all, depends upon the mere appeal to the fact, because her former husband died of a disease contracted in the service, and in the line of his duty. It is not, in my opinion, because of the death of her second husband in the service and in the line of his duty, for I do not think the disease was contracted in the service, and I do not think that can satisfy the mind. The great objection to this case, and to all such, in that it opens the door to innumerable others, and that we shall be in the end constrained to provide pensions for the widows of all officers who die in the service of the United States.

The PRESIDING OFFICER. (Mr. IVESON in the chair.) The Chair will state, that there are two verbal amendments which are necessary to be made to the bill: to insert in line nine, after the word "during," the word "and," and after the word "during," the word "her," so that it will read: "for and during her life or widowhood."

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

THE PRESIDING OFFICER. The question is, Shall the bill be engrossed, and read a third time? Mr. CLAY. I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 36, nays 13, as follows:

YEAS—Messrs. Anthony, Benjamin, Briggs, Hamlin, Brooks, Chandler, Clark, Colman, Crittenden, Davis,

Dixon, Doolittle, Fessenden, Foster, Foster, Grimes, Hale, Hamlin, Harlan, Powell, Sumner, Ten Eyck, Trumbull, Wade, Wall, Whittier, Wilson, and Wood.

NAYS—Messrs. Bingham, Briggs, Clay, Cushing, Fitch, Hunter, Iverson, Johnson of Tennessee, Mason, Rice, Sill, Tilden, Towner, and Wilson.

So the bill was ordered to be engrossed and read a third time. It was read the third time, and passed.

JUDICIARY FEE BILL.

Mr. BENJAMIN. I will ask the Senate now to take up the bill S. No. 86, which is a general bill. We can get through it before one o'clock. It is one in which the public at large is concerned, and not for the relief of any particular individual. It is one of the reports of the committee on the Judiciary, and which we have had before as three sessions without reaching.

Mr. TOOMBS. What is it?

Mr. BENJAMIN. It is a bill to amend the existing laws relative to the compensation of the district attorneys, marshals, and clerks of the circuit and district courts of the United States.

Mr. POWELL. I trust that we shall proceed to the consideration of the unfinished business of yesterday.

The PRESIDING OFFICER. The morning hour of the Senate is now closed.

Mr. BENJAMIN. And during the morning hour the bill can be passed.

The motion of Mr. BENJAMIN was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 86) to amend the existing laws relative to the compensation of the district attorneys, marshals, and clerks of the circuit and district courts of the United States, which had been reported from the Committee on the Judiciary, with several amendments.

Mr. BENJAMIN. I suppose the bill is better than the one which was last amended, without reference to the particular amendments, so that the Senate may be at it as now stands.

The PRESIDING OFFICER. The Secretary will read it in that manner, if there be no objection.

The Secretary read the bill as proposed to be amended by the Committee on the Judiciary, as follows:

Be it enacted, &c., That, in addition to the taxable costs now allowed by law to the district attorneys of the United States, and marshals, and clerks of the circuit and district courts of the United States, the following fees for their services to the United States the following fees:

For drafting the declaration, writ, information, or other pleading necessary to bring the case to an issue, five dollars.

For arguing questions of law arising on the pleadings or documents in the case, but not more than one such fee shall be allowed in any case.

For drawing indictments on criminal informations, five dollars.

For collecting and paying over to the United States moneys, a commission of one per centum on the amount collected, but not more than one such fee shall be allowed on execution or otherwise: Provided, That when additional proceedings become necessary for the collection of money after the return of the execution issued against the defendant, a further commission, not exceeding four per centum, may be allowed, at the discretion of the Auditor of the Treasury, on the amount of the money so received by the Government, by virtue of such additional proceedings.

For examining a land title, and written opinion thereon, five dollars.

For making abstract of title when required, twenty-five dollars.

For examining and making report on any question or subject which may be referred to the President or any head of Department, thirty dollars.

For examining and making report on any question or subject which may be referred to the President or any head of Department, thirty dollars.

For each case arising under the extradition treaties of the United States, twenty-five dollars; and it shall so long be necessary for any district attorney to render account of the fees and emoluments received by him, as heretofore required by the third section of the act of March 3, 1875, entitled "An act to amend the act of March 3, 1875, relating to the fees and emoluments received by the district attorneys, marshals, and clerks of the circuit and district courts of the United States in cases wherein the United States are parties of record, and said clerks shall receive ten dollars for each day of attendance, and shall receive five dollars per case; and shall further be entitled to an allowance of five dollars per day for their attendance on court when summoned to attend in the district and circuit courts, five cents per mile for going from the office of the clerk, where he is required by law to reside, in the place of holding any court required to be held by law, and five cents per mile for returning; and the compensation herein provided shall be the only compensation allowed to the said clerks for their services to the United States, and shall be due and payable at the Treasury, from the Judiciary fund, on the 1st day of April following the term of court at which the case is heard, by the clerk and approved by the judge, which

accounts it shall be the duty of the clerk to render to the first Auditor of the Treasury within thirty days from and after the last day of January and to the second Auditor, thereafter. That where the same person is clerk of both the district and circuit courts, he shall not be allowed to charge more than one compensation for attendance, to-wit: two on the same day, nor shall such per diem be allowed for attendance at nisi, nor at sessions held extra-judicially under the bank-law, nor at any other proceedings further. That nothing herein contained shall be construed as to deprive the clerk of his salary, or to curtail the fee to be paid to him under the eleventh section of the act entitled "An act to regulate the proceedings in criminal and civil cases at nisi, and to amend the act of the same date, and for other purposes," approved 8th August, 1846—9 Statutes at Large, page 74.

Sec. 4. And he is further enacted, That all laws and parts of laws requiring the rendition by the clerks of said courts of any other or further accounts than those specified in the provisions of this act, or fixing or determining the rate of compensation to be allowed to said clerks, be, and the same are hereby, repealed.

Sec. 5. And he is further enacted, That the marshals of the United States shall be entitled to charge for the services hereinafter ascertained the following fees, namely:

For travel in going and returning to serve any process, warrant, attachment, or other writ, six cents per mile.

For expenses while employed in endeavoring to arrest, under process, any person charged with or convicted of a crime, the sum actually expended, not to exceed four dollars a day, in addition to his compensation for service and travel.

For attending examination before a commissioner or other officer, and bringing in, guarding, and returning prisoners with or convicted of crime, five dollars per day, and two dollars per day for each deputy, not exceeding three.

For bringing into court any person in custody of the marshal, whenever so required by writ or by order of the judge, clerk, or district attorney, two dollars, and a five-cent return to his custody each person who is so seized.

For safe keeping, transportation, care, and necessary expenses incurred in cases where negroes, mulattoes, or persons of color, are delivered to the marshal, under any provisions of the laws of the United States passed for the purpose of punishing or restraining offenders, one dollar per diem for each negro, mulatto, or person of color kept, from the date of the delivery to the marshal until the withdrawal of his custody under the provisions of the law, and this compensation shall not be included in the emoluments of the marshal, nor accounted for by him under the provisions of the third section of the act of 1853, but shall be retained by him in addition to the maximum compensation allowed by said section.

Sec. 6. And he is further enacted, That the bill of fees of clerks, marshals, and attorneys, and the amount paid printers, jurors, and witnesses, and lawful fees for exemplification of copies of papers necessary to the prosecution of a trial in cases where, by law, costs are recoverable in favor of the prevailing party, shall be taxed by the judge of the court in which the judgment or decree is rendered, and in and from part of the judgment or decree against the losing party; and before the account of the United States marshals, district attorneys, and clerks of the courts, and the accounting officers of the Treasury Department for settlements, they shall be examined and certified to by the judge of the court in which the action is commenced; and such examination shall be conclusive, and shall not be subject to revision, upon the merits, by the said accounting officers: *Provided,* That if it shall appear to said accounting officers that any charges so certified are not warranted by law, it shall be their duty to present to the judge granting said certificate a written statement showing the items so deemed illegal, with the grounds of the objections to their allowance; and it shall then be the duty of the judge to examine and decide upon the objections so made, and his decision thereupon shall be reported to the said accounting officers, and shall be final and conclusive, and the charges to which objections were made shall be allowed or disallowed, in conformity with the judge's decision so reported; and the certificate of the judge, or of the marshals, or United States circuit courts shall be examined and certified by the circuit judge, and received by him on any objections made by the said accounting officers, in default of which stipulation above provided; and the decision of said circuit judge shall be final and conclusive on said objections, and the charges so allowed in said accounts shall be allowed to the clerk, conformably with such decision.

Sec. 6. And he is further enacted, That in all cases of removal of a court, considered at the request of the head of a Department by virtue of existing laws, the compensation to be allowed for such services shall be adjusted in conformity with the provisions of this act, in default of which stipulation no compensation shall be paid.

Sec. 7. And he is further enacted, That in all settlements of accounts for fees, emoluments, and allowances of clerks, marshals, and other officers of the courts of the United States, the accounting officers of the Treasury Department shall not be required to account for any fees or charges not actually collected by them from the parties liable therefor, nor shall they be held to make such collection, but shall be held to result from the insolvency of the parties liable therefor; and the affidavit of the officer charged with the collection, and in relation thereto, shall be sufficient proof for the allowance to said officers of all fees and charges not actually collected by them, in all cases of removal of the settlement accounts of the marshals, before rendered, or hereafter to be rendered by them under the provisions of the said third section of the act of 9th February, 1853.

Sec. 8. And he is further enacted, That all the provisions of this act shall apply to the marshals, district attorneys, and clerks of said district and circuit courts, and to the marshals and clerks of Columbia, except this third section aforesaid, which shall not be applicable to said clerks; and said clerks shall

continue to render their emolument accounts, and remain subject to the provisions of said third section of the act of 9th February, 1853.

Sec. 9. And he is further enacted, That all laws and parts of laws in conflict with the provisions of this act be, and the same are hereby, repealed.

THE PRESIDING OFFICER. The question is on agreeing to the amendments reported from the Committee on the Judiciary. Shall the question be taken on the amendments separately, or in the whole?—*All top to the yeas.*

MR. HALE. Before the vote is taken, I wish the Senator who reported the bill would state to the Senate the reason for the amendment proposed to the end of the first section.

The Secretary read the amendment referred to, as follows:

And it shall be no longer necessary for any district attorney to render accounts of fees and emoluments, nor to pay into the Treasury any surplus of the fees and emoluments received by him in accordance with the third section of the act of 9th February, 1853—10 Statutes at Large, page 165.

MR. BENJAMIN. Mr. President, the principle upon which that is inserted in the bill is very simple. By the law as it now stands, every district attorney of the United States has to come here and settle the emolument accounts with the officers of the Treasury, and if his fees and emoluments from all sources exceed a certain amount, he has to pay the surplus into the Treasury.

Now, that system has been supposed to be it is hardly possible to get gentlemen of sufficient capacity and standing to accept the office of district attorney. They are thrown into constant trouble with the accounting officers of the Treasury for themselves five and ten, and two and three cents. They are brought here, and expected to be settling their accounts; and after all, with a corps of officers in the Treasury Department whose whole business it is to keep an account with every district attorney in the United States, there are but some three or four, or five at the most, whose emoluments exceed the limit allowed by law, and what is saved by getting their surplus into the Treasury does not pay for the cost of keeping up this corps of clerks.

Besides that, this limitation does not act except in some two or three districts in the United States, and in the remainder of the country, where the grade of professional capacity required is very high, and where the Government ought to have the very best talent in the country to defend its interests. In New York, I think the cost of the prosecution of the Government is very little—beyond the limit allowed by the law. In New Orleans, I think it would not reach it. In Boston it would not reach it. In San Francisco it might. There are some two or three officers who occasionally have to pay a surplus into the Treasury—really nothing worth mentioning; but in order to get that surplus we have to keep up a corps of clerks in the Department, and bother every district attorney in the United States to render an emolument account to the Department, and enter on a correspondence with the Department in relation to the emoluments. Now, if I think he has received during the year. There is nothing to be gained by it. It is an odious, oppressive, and disagreeable system upon the officers, and amounts to nothing, so far as the Government is concerned. For that reason, we propose to abolish it.

MR. HALE. I do not think the Government has found any difficulty in getting district attorneys, even in the districts mentioned by the honorable Senator, and I think this is a wholesome restriction. This act was passed in consequence of the enormous fees that were received by some district attorneys prior to its passage. I think it will be found by the return which was required to be made, that the district attorney of the southern district of New York received \$50,000 a year. That will be paid by the returns now on file in the archives of this Government. I do not know how it was with others. I apprehend it will be found that in other districts they were higher, even than they were—

MR. BENJAMIN. Will the Senator allow me to interrupt him?

MR. HALE. Certainly.

MR. BENJAMIN. There is no doubt there was a very great abuse prior to the act of 1853, and that arose from the fees as they existed prior to that act; but that act reduced the fees and emolu-

ments to such an extent that since then, on the emolument accounts being rendered, it is found that the district attorneys are very often actually paid so much so, that in numerous instances there have been constant offers to resign their positions; and in many districts of the United States—some in my section of the country—we cannot get the first of the best talent to accept of the office, or three cases against the Government give an attorney more than the district attorney of the United States gets for his whole year's service. The act of 1853 was aimed at the previously existing abuse under the law, as it stood prior to 1853. The district attorneys' fees were aimed against the Government; but since 1853, with these emolument returns now made, it is found that there is nothing really worth accountability at the Treasury. The fees were so reduced, by the act of 1853, as to cut off a serious abuse.

MR. HALE. Mr. President, if that has been the effect—

The PRESIDING OFFICER. The Chair will call up the special order at this time, the morning hour having expired.

MR. BENJAMIN. I will ask the Senate to let the Chair run for half an hour. I think we can get through the bill without any difficulty in that time.

The PRESIDING OFFICER. The Senator from Louisiana moves to postpone the consideration of the proposition for half an hour, in order to proceed with this bill.

The motion was agreed to.

MR. HALE. Will the Senator be so kind as to state, for the information of the Senate, what is the maximum now?

MR. BENJAMIN. I think it is \$6,000. It has reached that in one or two districts in the United States.

MR. HALE. Take this restriction away and it will be \$60,000; not immediately, but it was \$60,000 before the act of 1853 was passed.

MR. BENJAMIN. If the Senator will permit me, the act of 1853 cut down all the fees, and it is impossible now that they can go beyond a very moderate sum under the fees as now established by law.

MR. HALE. It was owing to the previous rate of fees that the abuse existed.

MR. HALE. I am asking something about the practice in that matter as to these fees. I do not know how it is with district attorneys, but I know how it is with clerks. They generally charge about two hundred per cent. over and above the statute fees. They have no ready experience when I have had anything to do with them, and I have had something. I say, as a fact, that in some of the offices the irregular charges they make, under various pretenses, are at least two hundred per cent. over the statute fees. If the maximum is not large enough, let it be raised; but I think it is well to keep some sort of restraint over these officers. I think it is well that these returns should be made, and that it is not wise to take off this restriction. But I am not going to take up the time of the Senate. I am opposing the amendment.

THE PRESIDING OFFICER. Does the Senator ask that the question be taken on that amendment separately?

MR. HALE. Yes, sir.

The PRESIDING OFFICER. The question, then, is on agreeing to the amendment, reported from the Committee on the Judiciary.

MR. HALE. I believe the same provision is made in regard to the clerks and marshals. I ask the Senator from Louisiana whether the same provision is not made in relation to the clerks and marshals.

MR. BENJAMIN. In relation to the clerks, yes; in relation to the marshals, no. The distinction was established in the Committee on the Judiciary for this reason: marshals can create business for themselves and the court, and can use up fees to any extent, and the clerks and district attorneys have no such power. They cannot create criminal business. They cannot run up fees. There is no liability to abuse in relation to those offices in running up fees.

MR. HALE. I think there must be a higher standard of morality and honesty in Federal officers in Louisiana than in New England, if the Senator thinks so.

MR. SLIDELL. Will the Senator from New Hampshire permit me to interrupt him for a single moment?

not allowed any salary as clerk of the criminal court at all, it being considered as a rib taken out of the side of the circuit court of the United States, and he receives only such salary as he may earn in the circuit court of the United States. He gets nothing for his services in the criminal court—not a silver—and the Government now holds him responsible, not only for the excess of fees which he may receive over and above the expenses of his office, but they hold him a guarantor of all the fees and may be he is compelled to receive all those fees in cash at the time they are earned—a thing impossible, absurd, and contradicted by all the experience and practice of the courts of Maryland, from the earliest day down to this time. A former Attorney General gave the opinion that he was obliged to collect those fees in cash.

Now, sir, how is a clerk, whose fees are made up of small sums, charged for every little service in court, as entering a judgment, entering a motion, entering a continuance, to stop the progress of the business of the court, when sometimes hundreds of cases are called in a day? No court would allow it. Nor is such the system that prevails in Maryland, and prevails here, or did prevail here until this monstrous construction prevented it. Our practice in Maryland, from which the whole part of the circuit court of the United States is borrowed, except as altered by acts of Congress, is a credit system for fees. They are charged by the clerk, and sent out once a year, or at certain designated periods, and to be collected in Maryland by the sheriff; here by the marshal. It has now been declared, however, that the marshal is not bound to collect them, so that the clerk receives no fees in cash except such as parties are willing to pay him; generally such as are for services done out of court, and he is compelled to make good to the United States all sums, whether due by paupers, non-residents, insolvents, or others—a course of injustice which I hope will be removed by this bill.

The Senator has been misinformed. A great deal has been said to the prejudice of this officer, but I recollect a friend from Georgia said he never had rendered his accounts as required by law. In order to meet that, I have in my drawer an account of the receipts of the office as rendered by him in his accounts, regularly. I hope there will be no objection to this, which is really necessary for the very simplest purposes of justice.

Mr. HALE. I hope the Senator from Maryland did not understand me as making any objection as to that.

Mr. PEARCE. I did not.

Mr. HALE. I referred to a remark made by the Senator from Georgia three or four years ago; and, if I recollect, he made the statement, in the form I put it, as an interrogatory.

Mr. PEARCE. He was mistaken.

Mr. HALE. I do not know the clerk, and do not know what his name is, and have never seen him, and have no sort of knowledge upon the matter. I simply put the inquiry for information.

The PRESIDING OFFICER. The question is on an amendment of the Senator from Louisiana.

The amendment was agreed to. The bill was reported to the Senate as amended; and the amendments made as in Committee of the Whole were concurred in. The bill, as amended, was ordered to be engrossed for a third reading, and was read the third time.

Mr. HALE. I wish to record my vote against the bill, and I ask for the yeas and nays on its passage.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 18, as follows:

YEAS—Messrs. Bayard, Benjamin, Blyler, Bragg, Bright, Cameron, Cassiady, Chalmers, Claiborne, Clifton, Fish, Gales, Hammond, Humphreys, Iverson, Latham, Phelps, Powell, Rice, Selden, Thompson, Wigfall, and Yates.

NAYS—Messrs. Bingham, Clark, Dixon, Doolittle, Durbin, Fitzpatrick, Fox, Grimes, Hale, Hamilton, Harlan, Bismarck, Brewster, King, Sumner, Van Eyck, Wade, and Watkins—18.

So the bill was passed.

LOUISVILLE AND PORTLAND CANAL.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 6) authorizing the enlargement of, and the construction of a branch to, the Louisville and Portland canal. The joint resolution, as originally introduced by Mr. POWELL, authorized the pres-

ident and directors of the Louisville and Portland Canal Company, with the revenues and credits of the company, to enlarge the canal, and to construct a branch canal from a suitable point on the south side of the main canal to a point on the Ohio river, opposite Sand Island, sufficient to pass the largest class of steam vessels navigating the Ohio river.

The Committee on Commerce reported the joint resolution, with an amendment to insert at the end of it, the following provisions:

Provided, That nothing herein contained shall authorize said president and directors, directly or indirectly, to use or pledge the faith or credit of the United States for the said enlargement or construction of said canal, as previously declared that the Government of the United States shall not be in any manner liable for said enlargement and construction.

Mr. POWELL. I ask that the report of the committee with reference to the resolution be read.

Mr. WADE. I have just received some resolutions of the Legislature of Ohio on the same subject, which I ask may now be read.

The Secretary read the resolutions, as follows:

Resolved by the General Assembly of the State of Ohio, First, That the commercial interests of the Ohio valley imperatively demand the enlargement and enlargement of the Louisville and Portland canal; and that the property already invested in said canal by the United States Government is a public benefit, until the works can be enlarged and extended.

Second, That the Senators and Representatives from Ohio to the Congress of the United States be earnestly requested to procure an appropriation by said Congress adequate to the exigency of the case, and to adopt such measures as they may deem expedient for the completion of said canal.

Third, That the Governor of Ohio is hereby requested to forward to any such resolutions to the Senators and Representatives from this State in the Congress of the United States.

RICHARD C. PARSONS,
Speaker of the House of Representatives.
ROBERT C. KIRK,
President of the Senate.

Passed March 10, 1860.

Mr. WADE. The resolutions may as well lie on the table, as the subject is reported upon.

The PRESIDING OFFICER. The Secretary will read the report called for by the Senator from Kentucky.

The Secretary read the following report, made by the committee on or on the 8th of March:

The Committee on Commerce, to which was referred the "bill in relation to the Louisville and Portland canal," and also the "joint resolution authorizing the enlargement of, and the construction of a branch to, the Louisville and Portland canal," beg leave to report:

This said canal was constructed under a charter from the State of Kentucky, granted in 1825, and completed in 1830, at a cost of \$1,019,777.00. That the capital stock of said company is divided into ten thousand shares, of \$100 each. That the United States, by subscription, is entitled to two thousand nine hundred and two of these shares, which cost the Government the sum of \$235,500.

That upon these shares the Government has received, as dividends, the sum of \$257,778, a sum greater than the original cost of the shares owned by it. By an act of the Legislature of the State of Kentucky, passed on February 15th, 1856, the president and directors of said company were authorized to sell out the stock held by individuals in the United States, at about half the value of the shares, and, in further, to appropriate the net income of the canal to the purchase of stock belonging to individuals, instead of making any such appropriation to the shareholders. It is to be noted by said directors that the work belonging to others in the canal system is not to be sold; and that the shares of the canal should be so purchased, that the shares transferred to the United States, upon condition that the United States should only receive the net income of the canal in repairs and pay all necessary superintendence, custody, and expense, and make all necessary improvements to any expenditure of money, or the Government's interest; and, further, to protect the interests of commerce.

The directors have, as it appears, under the authority of said act, sold and now hold in the United States, and ninety-three shares of the capital stock of said company, with the shares owned by the United States Government, to the directors, and the Government, to complete the full number of the shares in the capital stock of the said company.

That the committee that the enlargement of the canal, and the construction of a branch thereof, as contemplated in the proposed joint resolution, would be of great commercial advantage; and that the proposed improvement will not, and cannot, under the amendment to said resolution which the committee propose, subject the General Government to any expenditure of money, or the Government's liability on account thereof, the committee respectfully report back said proposed joint resolution, with an amendment, and recommend its adoption; and ask the Government to be further consideration of the bill referred to them in reference to the same subject.

The PRESIDING OFFICER. (Mr. Fessenden in the chair.) The question is on the amendment reported by the Committee on Commerce, to add as a proviso:

Provided, That nothing herein contained shall authorize

the said president and directors, directly or indirectly, to use or pledge the faith or credit of the United States for the said enlargement or construction of said canal, as previously declared that the Government of the United States shall not be in any manner liable for said enlargement and construction.

The amendment was agreed to.

Mr. BRIGHT. I have an amendment to offer that I understand will not be objected to by the gentleman having the resolution in charge. It is to insert, as a further proviso:

Provided, further, That when said canal is enlarged, and the branch canal constructed, and the cost of said improvements paid for, no more tolls shall be collected than an amount sufficient to keep the canal in repair and pay for all necessary superintendence and management.

The amendment was agreed to.

The joint resolution was reported to the Senate, as amended; and the amendments were concurred in. It was ordered to be engrossed for a third reading, and was read the third time, and passed.

Mr. CLAY. I did not observe that the resolution was on its third reading. I intended to ask for the yeas and nays on its passage. Has it passed?

The PRESIDING OFFICER. It has passed.

Mr. BENJAMIN. The Senator addressed the Chair before he passed.

The PRESIDING OFFICER. The Senator addressed the Chair, but the Chair did not hear me. I hope, by unanimous consent, the question will be allowed to be taken.

The PRESIDING OFFICER. If there be no objection, the Chair will treat it as not having passed. Now, upon the passage of the resolution, the Senator asks for the yeas and nays.

The yeas and nays were ordered.

Mr. CLAY. I do not propose to debate the question; but I ask for the yeas and nays, because this resolution involves an important principle.

The joint resolution is not objectionable to the objections which may be preferred against most of such measures—that they propose to appropriate money from the Treasury of the United States. This does not do so. Guarded, as it is, by the amendments which have been adopted, it restricts the use of the money to the enlargement of the canal, the Senator asks for the yeas and nays.

The yeas and nays were ordered. Mr. CLAY. I do not propose to debate the question; but I ask for the yeas and nays, because this resolution involves an important principle. The joint resolution is not objectionable to the objections which may be preferred against most of such measures—that they propose to appropriate money from the Treasury of the United States. This does not do so. Guarded, as it is, by the amendments which have been adopted, it restricts the use of the money to the enlargement of the canal, the Senator asks for the yeas and nays.

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Now I prefer to cede this entire work, or all the stock of the United States, to the State of Kentucky. Such was the proposition of the bill of the Senator from Ohio, who is not now here. [Mr. POOL.] but a majority of the committee, in accordance with the wishes, as it was understood, of the Representatives of the State of Kentucky, adopted the proposition which is now before the Senate. I am opposed to it on the score of principle. I apprehend that if the revenues derived from the tolls should be insufficient to effect this work, we shall be called hereafter to make an appropriation from the Treasury of the United States. It is certainly an improvement that I do not think can inure to the advantage of the Government of the United States. I do not suppose the Government will ever derive any tolls from it. I do not see why the Government should be further connected with it. I ask for the yeas and nays, because I wish to record my vote against it and to test the principle.

Mr. HALE. I am in favor of the joint resolution, but before I vote I wish to ask the Senator from Indiana whether he is in favor of the amendment. I desire to know whether it does not compromise the rights of private stockholders?

Mr. BRIGHT. No, sir.

Mr. CLAY. There are only five of them, owning five shares of \$100 each.

Mr. BRIGHT. The object of my amendment was simply to provide that, after the work contemplated by the joint resolution shall have been finished, no more tolls shall be levied on the commerce of the Ohio river than are absolutely necessary to keep the work in repair and pay for superintendence. I am not opposed to the amendment was necessary, because the law transferring the canal made that provision; but I thought that, to make it more plain, I would offer that as an

amendment to this resolution, and I was glad that my friend from Kentucky assented to its adoption. There is one other amendment I should like to have made, but I found there was objection to it and I did not offer it. It was to place the work under the control of the President or Secretary of the Treasury; but I found on inquiry that it would be likely to involve the interest of the State of Kentucky, and they will have no meeting of the Legislature there for two years to come, and I forego the privilege of offering it. I did not approve of all the provisions of the joint resolution, and would much have preferred a new canal on the Indiana shore. I have struggled for that for seven years, but have despaired of ever getting it; and now I look on this as perhaps the only means of getting an enlargement of the canal, and thereby providing for a commerce that has been taken for years far beyond what it ought to have been.

Mr. TOOMBS. Mr. President, being a member of the committee to which this measure was referred, and being opposed to it, it is, perhaps, proper that I should state to the Senate the effect of my opposition to this bill. When the Louisville and Portland canal was built, the Government was a subscriber, I think, to the extent of \$233,000. It turned out to be a very profitable work. Fifteen or twenty years ago an arrangement was made, under a law of Kentucky, by which they acquired the property of the Government, and appropriated all the tolls, as well as those due to private stockholders as to the Government, for the purpose of making it wind up itself. In other words, they agreed, I think, to pay the individual stockholders from one hundred and forty to one hundred and seventy-five dollars a share, at different periods, to be paid out of the proceeds of the canal, and, in the meantime, they determined to give the Government nothing on its two hundred and thirty-three shares. The individual shares, as they were paid off from time to time by the sale, were conveyed to the directors in trust, with the intent that finally no more tolls should be levied than were necessary to keep up the canal. That has gone on until the whole of the stock of private stockholders has been paid off. The Government has, and I think these five shares have been actually paid for out of the proceeds; but they are still held by the five directors, so as to enable them to control the concern. The Government is the legal holder, without having the least power over it, but the face of the canal, as they have the control of the property, for which nearly a million of dollars has been paid. Of this the Government originally paid \$233,000; but, by some action, the number of its shares, originally two thousand three hundred and thirty, has been increased, probably to twenty-nine hundred. These five persons have constituted themselves directors, by the holding of one share each, though they have no real interest, and nothing but a sham interest. While the concern is worth \$1,000,000, they, having an interest of only \$500, control it, by virtue of the holding of a share in conformity with the charter, to enable them to be directors.

From the report of the Secretary of the Treasury to us, it seems that they deny any authority of the Government of the United States, except its right as a stockholder. The directors do not, technically own a majority of the stock, the directors being trustees for the stock that has been paid off by the proceeds of the canal—the Government interest as well as that of private stockholders. The private stockholders have been fully paid off, but these persons holding in trust have the canal, and have bid defiance to the Government for ten or fifteen years, or rather denied its authority.

Now, I am willing to say the whole thing was wrong; the Government ought never to have put its money in doing the canal, the inevitable result of appropriation of Government money to any such purpose, which I have frequently elaborated in this body; and this is only another illustration of it. If it is a good thing, it is taken away from the Government; if it is a bad thing, the expense is added on the Government.

Some of us were very anxious, in committee, to give this canal to Kentucky, or anybody that would take it; but the gentlemen will not take it. I believe those members of the committee who were opposed to this bill were unanimously in

favor of giving the canal away; but they will neither let us sell it, nor give it away to anybody; but they insist that we shall stand stockholder. While this bill only enables them to borrow money on the tolls, we all know the effect of it will be, when they run in debt and put the tolls down so that they will not pay, the Government, as the holder of the stock, will be called upon to pay.

I warn you of that from the previous history of this work. Since I have been a member of the public councils, since they entered on this policy, the Representatives from Kentucky on the one branch, and of the other States of the Northwest, who had an interest in it, (even when it was going on, and was, by the operation of the act, to have wound itself up in 1833,) in 1846, 1847, and 1848, were continually insisting that we should pay for it in advance of the tolls winding up. I think they once got it into a bill; probably it was in the internal improvement bill, vetoed by Mr. Polk. At all events, I know it was once in a bill. They determined, though the tolls had not paid for it, that we should pay for it. Now they will go on and borrow money, and then they will say the Government has more power over it than I have; and both the Senators from Kentucky know it. It simply holds the legal title, for the purpose—if these men run it in debt, and do not choose to charge tolls enough—to make the Government pay. For the Government, I am opposed to it; and that is the whole operation of it. It is for the Government to hold the legal title, and to allow five gentlemen, who elect themselves directors, having each of them an interest of \$100 apiece, and I do not know whether they hold that the trust or in their own right—to govern the thing, please; to borrow money on the tolls, and, doubtless, when they get in debt, they will expect the Government to pay it. I am willing to give the canal to Kentucky; we ought never to have put our money in it. I am willing it shall go, but they do not want it.

Mr. POWELL. Mr. President, the Louisville and Portland canal was constructed under a charter granted by the Kentucky Legislature in 1835. It was completed in December, 1836. In 1837 the stockholders of the shares, which were except \$233,500, which was subscribed by the United States in pursuance of acts of Congress. From 1834 to 1842, the United States received in cash, as dividends derived from the tolls on this canal, \$275,178, or \$24,278 more than she had put out for the canal. There were no other improvements in that region of country because the canal was owned by a private corporation; and the people living upon the banks of the Ohio and Mississippi rivers, and all those who were interested in the commerce of those rivers thought, and thought properly, that state of things ought not to continue. In obedience to the wishes of the people, and in order to unfetter commerce and make this canal free, the Legislature of Kentucky, in 1842, so amended the charter as to allow the tolls arising from the canal to be applied to the purchase of the stock held by private individuals. That amendment to the charter provided that when all the private stock should be purchased up with those tolls, the canal should be transferred to the United States, upon the condition that the United States should make all the improvements, enlargements, and, indeed, perform the conditions that were incumbent on the president and directors of the company under the original charter, namely, to keep it in a condition sufficient to pass the boats navigating the Ohio river.

Under that amended charter, which was accepted, the tolls were applied to the purchase of the private stock, and about the year 1855 all the private stock was purchased, except five shares, which were necessary to be held by individuals, in order to keep the corporation in existence. In 1856 the president and directors of the company notified the Secretary of the Treasury that, in a very short time, all the private stock would be taken, and they asked the Government to take charge of the canal upon condition that it should improve it, and so enlarge it as to improve the demand for the commerce of the Ohio river. The Government refused, or at least failed to do so. The Secretaries of the Treasury, from that time to this, have occasionally mentioned the matter in their reports; but no action has been taken on the subject. Congress will not legislate and will not

take the canal; I suppose, for fear that they will be asked for additional sums to enlarge it.

Congress not doing anything in the matter, in 1857 the Kentucky Legislature again amended the charter. It was found, after the canal was completed, that it was wholly inadequate for the passage of the large class of steamers now plying on the Ohio river, and that it was not wide enough. At the time of its construction it was large enough to pass the boats then on the river; but the improvements in steamboats were such, that in a very few years it was apparent that it was not sufficient for the demands of commerce. Indeed, from the statement that I have before me, it is evident that not more than one half the tonnage on the river can pass through this canal. This is a very great injury to the commerce in another way, for the boats which it is necessary to construct in order to pass through the locks on the canal, are not constructed with a due regard to hydrostatic laws, and consequently they do not run so rapidly. It is stated in a report which I have before me, made by men eminent for their ability in all commercial matters, at Cincinnati, Louisville, and New Orleans, that it takes about six hundred tons now requires ten days to pass from the city of New Orleans to the city of Louisville, and consuming five hundred cords of wood in the journey; whilst a boat properly constructed could carry a thousand tons, and make the trip in four days. If the canal was enlarged, as it was in 1857, as I have said, Congress failing to do anything in the matter, the Legislature of Kentucky amended the charter, by the passage of an act in these words:

"Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the charter of the Louisville and Portland Canal Company be so amended as to authorize said company to construct, with the revenues and on the credit of the corporation, a branch canal sufficient to pass the largest class of steam vessels navigating the Ohio river; and said company are hereby vested with all the powers and authorities necessary to acquire the land, to construct said branch, and to construct the same, vested by the charter and amendments, for the construction of the original canal, and the branch canal, and the enlargement of the amendments shall, and are hereby, made as applicable to the branch as to the original canal."

It is to meet the provisions of this amendment of the charter, that the present proposition is made. The United States virtually owns nearly the whole of this canal, as the matter now stands; for there are only five shares of stock held by the directors. Under the provisions of the amended charter of 1842, the president and the directors purchased the shares of the private stockholders, and now five shares; the Government of the United States originally held two thousand nine hundred and two. These, with the five shares held by the directors, make up the ten thousand shares which represent the original cost of the canal.

This resolution can, I think, be obnoxious to none of the objections urged by the honorable Senator from Georgia. I think he need have no fear that we shall come back here and ask the Congress of the United States for any money. I would not quarrel with him if he were to think that the only improvement in this broad river and on any river, lake, or harbor, that has been made by a tax on commerce. The United States Government paid \$233,500 originally, but she has received in tolls collected on the tonnage of the Ohio river \$24,278 more than she ever paid; and she has caused to be purchased in trust for her seven thousand and ninety-three of the shares held by private individuals in this canal; purchased, not with money paid out of the Treasury of the United States, but with money derived from the tolls collected on the vessels passing through the canal.

All we ask now is, that you allow us to go on and use the revenues and credit of the canal to enlarge it so as to make it of sufficient size to pass the boats that now navigate the Ohio. I am sure that a very small sum would be sufficient to satisfy the constitutional scruples of those who are the strictest in their construction. I think it would fully meet the views contained in the very able message of the President of the United States, which was read before this body a short time ago, in relation to internal improvement. We do not ask the Government to allow us to do anything else than to use the revenues arising from the taxes on the commerce of the river for the completion of the canal.

The Senator from Georgia says that the direct-

it would have been totally abandoned. They have held this stock merely for the preservation of the work, and are going on, as well as they can do in the almost impotent condition in which they are placed, to make the necessary and proper enlargements and improvements. That is the state of the case.

This resolution proposes now that you, as the legal holder of the property, and the beneficial owner of the property, too, will allow the tolls gathered still on the canal to be applied to the improvement—it is all, and to compensate themselves forever from the burden of future taxation when the work is accomplished. Gentlemen propose to cede it to Kentucky as the best disposition that can be made of it. I should like to see that disposition made; but it ought not to be made at present, because the Legislature of Kentucky will not be assembled for two years, and can take no charge and management over the canal, and the works now in progress for its improvement and completion until that time; and, of course, those works must be suspended if that be now done. I should hope that, at expiration of two years, or when the Legislature can take an active and efficacious charge over the property by legislation, this Government will transfer it to the State of Kentucky. It has been already reimbursed; and I know of no investment it ever made that has been so profitable.

If you choose to avail yourself of it as an individual, what have you got? You have got over twenty thousand dollars more than you put in as stock, in money paid into your Treasury. You have gained twenty-four or twenty-five thousand dollars, and you own the canal, worth \$1,000,000. You have made \$1,000,000, counting as an individual would count, out of this investment. But you would not seize upon that property, and use it for the purpose of perpetuating the tax upon the Ohio river. I need not say it would be according to the policy or temper of this Government.

I hope that those gentlemen who propose to cede it to the State of Kentucky will defer that proposition until the State of Kentucky can act upon the grant. I am not in favor of it, in point of constitutionality, to this measure. If, as the gentleman from Georgia supposes, the original investment was unconstitutional, can it be unconstitutional in the most prudent manner to get rid of that investment? That is in the power of the House. Those who think it unconstitutional ought to be in the most haste, I think, to get the Government out of that condition, and to do this prudently, without sacrifice or without loss, either to its own particular interest or to the general public interest. Sir, I have no more to say.

Mr. DAVIS. Mr. President, I am one of those referred to by my friend from Kentucky who consider the original act without warrant of the Constitution. I think the United States had no right to be a stockholder in an internal improvement that is made within the limits of the State; had no right to be the beneficiary of tolls levied within the limits of a State. That is my conviction. I supposed my friend knew that. Therefore I have been in favor of, and some fifteen years ago, in the other House, made a proposition, that the United States should also object to the State of Kentucky, thus reducing the capital stock, with the condition that the tolls should be reduced *pro rata*. I have been willing since, when the accruing dividends, to which the Senator has referred, were invested in stock, so as to make the United States really the owner of the canal, to transfer it to Kentucky wholly on the simple condition that no higher tolls or charges should be imposed upon vessels using the canal than were necessary for its enlargement and to keep it in repair. I think we are invading the soil and jurisdiction of Kentucky by holding that work as the property of the United States. I have no fear that Kentucky would not administer it, not only in accordance with her own interests, but with those who have joint rights in navigating that important tributary of the Mississippi river of our country. I prefer that she should be the owner of the canal entirely, that she should make such enlargement and improvement as she may think proper; and we all know that enlargement is needed; that the increased size of the boats navigating that river requires that the canal should not only be deepened, but that it should be length-

ened. The growing commerce and the improvement of vessels has led to a class of boats not suited to the locks as when the canal was constructed.

I concur, therefore, in all that is said of the importance of the work and the necessity for its enlargement. My objection is, that the United States should be connected with it at all. It is within the limits of the State of Kentucky, under her jurisdiction, and should belong to her. If, however, the Congress do not choose thus to transfer the canal to the State of Kentucky, I consider the joint resolution, as amended and offered by my friend from Kentucky, (Mr. POWELL,) far better than the present condition. It is better that the accruing dividends should be expended for the enlargement of the canal, so as to adapt it to the commerce of that great tributary, than that they should be accumulating for no use. I think it is better than the present condition, though it does not get rid of the constitutional difficulty entirely; and I would very much prefer to have the canal transferred to the State of Kentucky, no far as the interest of the United States is concerned, without any other consideration than the obligation that tolls should not be raised beyond the amount necessary for its enlargement and repair.

Mr. CRITTENDEN. I should desire to see that resolution.

Mr. DAVIS. I know how difficult it is for one hastily coming to the consideration of a subject to decide on all the reasons which may have governed the action of the committee by whom a measure has been matured. I will not venture, for that and other considerations, to offer an amendment. The committee may have had views which do not occur to me. Though I have often reflected on this subject, and at various times during my congressional service I have had to consider it, there may be considerations with which I am not familiar. I will abstain, therefore, from interfering with the resolution, merely stating the preferences I have for a different course, and my objections to this.

Mr. FITZPATRICK. The Senator from Ohio, (Mr. PENCZ,) who is detained by indisposition, has the honor to refer the consideration of it, if I have paired off with him, and therefore cannot vote.

The question being taken by yeas and nays, resulted—yeas 30, nays 14; as follows:

YEAS—Messrs. Anthony, Braggman, Bigler, Bright, Cameron, Chandler, Clark, Colburn, Crittenden, Dixon, Durkee, Fish, Foot, Foster, Hale, Hamlin, Harlan, Hendricks, Johnson of Arkansas, Kennedy, Lane, Pearson, Phelps, Seymour, Ten Eyck, Wade, Wigfall, Wilkinson, and Wilson—20.

NAYS—Messrs. Bragg, Brown, Chenoit, Clay, Clissold, Davis, Evans, Hunter, Iverson, Johnson of Tennessee, Lothrop, Mayne, Rice, and Toombs—14.

So the joint resolution was passed.

HOMESTEAD BILL.

Mr. WADE. I move now to take up the homestead bill.

THE PRESIDING OFFICER. (Mr. Foor.) The Chair will state to the Senators that under the rules of the Senate, it is the imperative duty of the Chair to call up that bill as the special order, and it is now pending before the Senate.

Mr. MASON. I move to postpone the consideration of the bill, with a view to proceed to the consideration of congressional bills.

Mr. WADE. I wish to get it up, so that it may stand as the unfinished business for to-morrow.

Mr. MASON. It is up, I understand.

THE PRESIDING OFFICER. The Chair will state that there is no motion required for taking it up; it is up.

Mr. WADE. To-morrow is private bill day. I move to make the homestead bill the special order for Monday.

Mr. MASON. It is not improbable—indeed, I think more probable—that we shall have an executive session will not last beyond an hour, and the Senator then can have his bill before the Senate.

THE PRESIDING OFFICER. The question is not debatable.

Mr. JOHNSON, of Tennessee. I wish to inquire whether, if the Senate should go into an executive session will change the position of business as it is?

THE PRESIDING OFFICER. Not at all.

Mr. MASON. I would say to the Senate, that there is a matter in executive session which must be transacted to-day, or the public interests will materially suffer.

EXECUTIVE SESSION.

The motion of Mr. MASON was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 15, 1860.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STRECKTON. The Journal of yesterday was read and approved.

Mr. DAVIDSON. I ask the unanimous consent of the House to discharge the Committee of the Whole House upon the Private Calendar from the further consideration of the adverse report of the Court of Claims on the petition of George W. Munday, administrator of E. W. Ripley, deceased; and that the same be referred to the Committee of Claims. I make that motion.

The motion was agreed to.

VIRGINIA LAND WARRANTS.

Mr. MILLSON, by unanimous consent, introduced the following joint resolution; which was read a second time, and referred to the Committee on Public Lands:

A joint resolution declaring the construction of the act entitled "An act making further provisions for the satisfaction of Virginia land warrants," approved 31st August, 1852.

NAVIGATION OF PATAPSCO RIVER.

Mr. HARRIS, of Maryland. I ask the unanimous consent of the House to introduce a bill for reference only.

Mr. WASHBURN, of Maine. I must call for the regular order of business.

Mr. HARRIS, of Maryland. This bill will take but a moment.

Mr. WASHBURN, of Maine. Very well. Mr. HARRIS, of Maryland, then, by unanimous consent, introduced an act for continuing and completing the improvement of the navigation of the Patapsco river, and to render the port of Baltimore accessible to the war steamers of the United States; which was read a first and second time, and referred to the Committee on Commerce.

CLERGYMEN OF THE CITY.

Mr. MAYNARD. I ask leave to introduce some resolutions, to which, I am sure, there will be no objection.

Mr. WASHBURN, of Maine. I call for the regular order of business.

Mr. MAYNARD. The gentleman will not object to the resolutions when he hears them.

Mr. WASHBURN, of Maine. I will not object to this; but I will object to anything further out of order.

Mr. MAYNARD. Let the resolutions be read, that their character may be known.

The resolutions were read, as follows:

Resolved, That the thanks of the House be hereby tendered to those clergymen of the District of Columbia who have attended the daily sessions, and opened the same with prayer.

Resolved, That the Clerk pay, out of the contingent fund of the House, the salary of the annual salary of a Chaplain of the House pro rata according to the time they have performed the duties of that office.

Mr. RUFFIN. I object, and I would like to have an opportunity to state my objections.

Mr. WASHBURN, of Maine. Mr. Speaker, I will—

Mr. SCOTT. I would ask the gentleman from Maine—

Mr. RUFFIN. I thought I had the floor to state my objection.

THE SPEAKER. The resolutions have not been received.

Mr. RUFFIN. Well, I object to their reception.

Mr. WASHBURN, of Maine. I will state to the House, and to gentlemen, that if they will give way, and go into the Committee of the Whole on the state of the Union upon the special order, which is the consideration of the amendments of our rules, and amend those rules in the way the committee on the revision of the rules recommend, they will all have an opportunity to present their reports next Monday.

RAMUEL J. HENKLEY.

Mr. SCOTT. I ask leave of the House to

withdraw from the files of the House the papers in the case of Samuel J. Hensley, for the purpose of reference to the Committee on Indian Affairs.

Leave was granted.

Mr. WASHBURN, of Maine. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

CONSULAR APPROPRIATION BILL.

Mr. SHERMAN. I would state that, until the consular appropriation, upon which the main question was ordered yesterday, is disposed of, that motion is not in order. I move to take up the consular and diplomatic appropriation bill.

The SPEAKER. The gentleman is correct. The bill will be taken up. The first question is upon agreeing to the amendments reported from the Committee of the Whole on the state of the Union.

Mr. SHERMAN. I have no objection to any of the amendments except the last one, which was offered by the gentleman from Tennessee, [Mr. MAYNARD.] I think it is totally inoperative, and if it is insisted on, let it be put in its proper place in the bill, and not at the end of it.

The first amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

Page 3, after line twenty-four, insert:
For compensation of interpreter to mission to Japan, \$2,000.

The amendment was agreed to.

The second amendment was read, as follows:
Page 3, after the word "countries," in line thirty-six, strike out the words "one hundred and fifty" and insert in lieu thereof "two hundred;" so that the clause shall read:

For the relief and protection of American seamen in foreign countries, \$200,000.

The amendment was agreed to.

The third amendment was to add at the end of the bill the following:

Provided, That the sum of \$150,000, appropriated for running and marking the lines between the United States and British possessions, located within the territory, shall be so expended as to put an end to the work.

The amendment was not agreed to.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was subsequently read the third time and passed.

Mr. SHERMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLERGYMEN OF THE CITY.

Mr. MAYNARD. I have, upon conference with several gentlemen, agreed to withdraw one of the resolutions I before offered, and to which objection was made, and to offer the other. I ask that it be read.

The resolution was read, as follows:

Resolved, That the thanks of the House be hereby tendered to those clergymen of the District of Columbia who have attended the daily sessions and opened the same with prayer.

Mr. RUFFIN. I have no objection to that. The reason why I objected to the other resolution was that when these clergymen of the District of Columbia proposed to officiate here as clergymen, in opening the House with prayer, they were allowed the benefits of the Congressional Library, and they expressly said, or their representatives were upon the floor said, they would not receive any compensation for their services. They wanted the House distinctly to understand that fact. That was the reason, in part, I have no doubt, which induced the House to adopt that system. I think it was a good system, and I think they were amply repaid by giving them the benefits of the Congressional Library. There are, I think, about forty of them, and upon an average, they would not have to open the House with prayer more than two or three times a session, and they would not have to officiate here on the Sabbath more than once in two years during the sessions of Congress. For that reason, I objected to the resolution proposing to pay these gentlemen. I have no objection to the resolution of thanks.

Mr. MAYNARD. I desire simply to say, that if the resolution were before the House, I could respond very readily, as I conceive, to the

gentleman from North Carolina; but as it is not, it will not take time to reply to his remarks.

The resolution was then agreed to.

MICHIGAN CONTESTED-ELECTION CASE.

Mr. CAMPBELL. I rise to a privileged question.

Mr. WASHBURN, of Maine. I rise to a privileged question. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, to consider the special order—the proposed amendment of the rules.

Mr. CAMPBELL. I have a report to make from the Committee of Elections, which takes precedence of the gentleman's motion.

The SPEAKER. In the opinion of the Chair, the motion of the gentleman from Maine, as it relates to the special order, takes precedence.

Mr. CAMPBELL. Well, will the gentleman from Maine give way for a moment?

Mr. WASHBURN, of Maine. I will yield to the gentleman for a moment.

Mr. CAMPBELL. I am instructed by the Committee of Elections to report the following resolution:

Resolved, That it is inexpedient to allow further time to take testimony in the case of William A. Howard, contestant for the seat of John B. Cowan, to represent the first congressional district of Michigan in this House, as asked by the sitting member.

I submit the report of the majority of the committee, who, accompanying dissenters, and move that they be printed, and that the resolution be assigned for Tuesday next, at two o'clock.

Mr. WASHBURN, of Maine. It is a question of privilege, and may be called up at any time.

Mr. CAMPBELL's motion was agreed to.

Mr. GARTRELL. I suppose the minority report will also be received and printed.

Mr. CAMPBELL. Certainly. Leave was granted to the minority of the committee to present their views, and an order was made to print the same.

Mr. CAMPBELL. I am also instructed by the Committee of Elections to report the following resolution:

Resolved, That William A. Howard have leave to occupy a seat upon the floor of this House, pending the discussion of the motion of the gentleman from Maine, in the case of his contest for the seat now occupied by Giovanni B. Cowan, from the first congressional district of Michigan, and that he have leave to speak to the merits of said contest and to the report thereon.

The resolution was agreed to.

Mr. CAMPBELL moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NEW YORK CONTESTED ELECTION.

Mr. WASHBURN, of Maine. I move now that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. DAWES. Before the gentleman submits that motion, I wish to move that the special assignment of one o'clock to-day—contested case of Williamson vs. SICKLES—be postponed till one o'clock to-morrow.

Mr. WASHBURN, of Maine. I suggest to the gentleman that, as that is a privileged question, he can call it up at any time. An assignment of an election case is wholly unnecessary. He can simply give notice to the House when he will call it up.

The SPEAKER. The gentleman has the power to call up the report at any time.

Mr. DAWES. I am aware of the rule; but I think the special assignment had better be postponed till to-morrow, at one o'clock.

Mr. BURNETT. To-morrow is private bill day, and I object to fixing this matter for to-morrow. The gentleman can call it up at any time.

Mr. DAWES. You will have Friday and Saturday for private bills, and this will take but an hour.

Mr. GARTRELL. I desire to appeal to my colleague on the Committee of Elections, if he insists on assigning this report to a particular day, that he shall assign it to Tuesday next week—say Tuesday of next week. The report has only just been printed and sent in, and it would be almost

impossible to prepare an argument or investigate the case as its merits require earlier than that day. I hope the gentleman will consent to postpone it till Tuesday next.

Mr. DAWES. There is already one special assignment from the Committee of Elections for Tuesday. Saturday is private bill day, as well as Friday; and Monday is resolution day, and you cannot interfere with that. I think that, by to-morrow, everybody can consider the report. It is not a short report. These parties ought to have this matter decided. It is a preliminary question, and not one of the merits of the case. I agree, and I hope, therefore, that there will be no objection to considering it to-morrow, at one o'clock.

Mr. FLORENCE. I must object. To-morrow will be the first objection day we shall have had this session.

Mr. GARTRELL. I object.

Mr. WASHBURN, of Maine. Then I insist on my motion.

Mr. DAWES. I have the floor, and I make the motion to postpone.

The SPEAKER. The gentleman has the floor only by the permission of the gentleman from Maine.

Mr. DAWES. The gentleman has made his motion, and mine takes precedence of his.

Mr. WASHBURN, of Maine. I think the gentleman's motion does not give precedence to his. I think there can be no higher question of privilege than the one which I make; and I insist upon my motion.

The SPEAKER. The gentleman from Maine has the floor if he insists upon it.

Mr. WASHBURN, of Maine. Yes, I insist on my motion, as the gentleman from Massachusetts would gain nothing by his motion. He can call up the report at any time.

Mr. DAWES. Then I give notice that I shall call up this question at the time of the special assignment for to-day for the purpose of submitting the motion to postpone.

AMENDMENT OF THE RULES.

The question was taken on Mr. WASHBURN's motion; and it was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON in the chair,) and proceeded to the consideration of the special order—being a report of the select committee appointed for the revision of the rules.

Mr. WASHBURN, of Maine. I desire to say, in the first place, to the gentleman from Massachusetts, [Mr. DAWES], that I had no desire, in pressing my motion, to prevent him from having the earliest action on the question which he has presented; but I conceived that a good deal of the time of the House might be expended in the discussion of the motion to postpone; and I am anxious that, if possible, we shall get through with this subject of the rules to-day; that such amendments as we may deem to be agreed upon, and that we may not hereafter under the amended rules. For I am satisfied that, if we carry into execution the amendments proposed, we shall save at least one day in every week—that is, we shall do more business in five months than we can do, under the rules as at present, in six months.

Mr. DAWES. I have no desire to interfere with the arrangement which the gentleman from Maine has in his mind about these rules. I only want to say, that I am not prepared to give sanction of the report of the Committee of Elections, in reference to the New York contested-election case.

Mr. BRANCH. This discussion about an election case is not in order in committee.

The CHAIRMAN. The Chair agrees not to see how a question of that sort is in order in the Committee of the Whole on the state of the Union. There is no question before the committee about postponing an election case.

Mr. DAWES. I am not going to make any motion, but I think the House that I shall call up the case on Saturday.

The CHAIRMAN. The House is in committee.

Mr. DAWES. I am perfectly aware of that. I have the floor, by the consent of the gentleman from Maine, to make a statement to the House, that on Saturday, at one o'clock, I will call up

this question of the New York contested-election case.

Mr. WASHBURN, of Maine. Mr. Chairman, you know very well that there has been great complaint in the House, growing out of the obstructions to business under the rules. Undoubtedly the rules need amendment, and need it to correct the practices of the House under the rules as they exist, rather than the rules themselves. It has been supposed, and I have heard it stated by many of the older members of the House—I recollect that this was stated by Mr. Stephens, of Georgia—that, in his opinion, our rules were very near the perfection of human wisdom; that all that was required for the speedy and intelligent transaction of the public business before the House, was that the rules should be observed. It has certainly not escaped your observation, Mr. Chairman, that nearly all the business transacted by the House is done through the good nature of members, outside the rules of the House, by unanimous consent. We are in the habit of giving consent so often to the transaction of business outside the rules, that very little is done under them.

The labors of the committee having this subject in charge, have been confined principally to those amendments which may have a tendency to bring the House more to an observance of its rules in the transaction of business.

Now, sir, I will state very briefly and concisely the amendments we have reported; and I will say that all these amendments have received the unanimous consent of the committee; that nearly all of them were reported in a report of the committee on the subject at the last session, and received the unanimous consent of that committee, on which was Mr. Speaker Orr, of the last Congress.

The first proposition is to amend rule 4, by inserting after the fourth "required," in the eighth line, the words, "by at least one-fifth of a quorum of the members," and by striking out the last three lines; so that it will read:

Questions shall be distinctly put to the question, to wit: "As many as are of opinion that," (as the question may be) "yes;" and after the affirmative vote is taken. "As many as are of the contrary opinion, say, no." If the Speaker shall find a division he shall call for the yeas and nays from those in the affirmative of the question shall first rise from their seats, and afterwards those in the negative. If the Speaker shall doubt a correct vote, he shall call for the yeas and nays from a quorum of the members, the Speaker shall name two members, one from each side, to tell the members in the affirmative and negative; and the Speaker shall report, he shall rule and state the decision in the House.

This is substantially the old rule, but is brought into smaller compass, and is stated with more perspicuity.

Mr. BRANCH. I ask the gentleman from Maine whether he proposes to put these rules on their passage at this time?

Mr. WASHBURN, of Maine. I do; and I will state the course which I propose to pursue, by the consent of the committee. I propose to go through with the general principles of the amendments, and then ask that they shall be read by the Clerk, and that the vote shall be taken on the aggregate upon such amendments as no objection shall have been made to. But if any member shall desire a separate vote upon any particular amendment, he will indicate by rising, and it shall be considered separately. We can then take up such a separate vote as has been desired upon, one by one, discuss them, and amend them as the committee may think fit, and so dispose of the subject. I ask the unanimous consent of the committee that that course may be taken.

Mr. REAGAN. I think we had better take a little time to look into these rules, and consider them, before we adopt the course the gentleman from Maine proposes.

Mr. WASHBURN, of Maine. I will say to the gentleman from Texas, that many of these amendments are merely changes in form, and in which there can be no objection whatever. I had supposed that, after hearing a general explanation of the amendments proposed, and then, after hearing them read by the Clerk, each member would be able to see that to many of these amendments there can be no objection; and that it would be well enough to allow the vote to be taken upon such amendments in the aggregate, and afterwards take up separately the other amendments for discussion and amendment.

Mr. HOUSTON. I would suggest to the gen-

tleman from Maine that he allow this subject to lie over for a day or two. This report has just been printed, and it is impossible to so amend this report as to perfect it without taking a little time to consider it. There are rules, I have no doubt, which ought to be amended; but I think there will not be any more amendments proposed for the question for a day or two. If we are to make amendments, we ought to do it understandingly; and it will be impossible to do so here to-day. If I could have the report before me, with an opportunity of spending an evening in looking it over, I should be prepared to act upon them, but I am not prepared to do so this morning. There left my copy of the rules at my room, and I presume many of the other members are in the same condition. If the gentleman from Maine will consent to have this subject postponed for three or four days, or for any time which the gentleman will name, he will enable us to act upon the subject in a more satisfactory manner.

Mr. WASHBURN, of Maine. I will say, in reply to the gentleman from Alabama, that this report has been some two weeks ago; that it has been printed for about a week, and has been in the document-room, where any member could obtain it.

Mr. HOUSTON. I understood that it had just come in.

Mr. WASHBURN, of Maine. No, sir; it has been printed and in the document-room for a week; and I gave notice to the House yesterday that the subject would come up for consideration to-day.

Now, sir, without asking the House to agree to a plan which I have proposed in reference to the manner of acting upon these amendments, I will go on with the explanation which I propose to make; and I imagine the gentleman from Alabama will have no difficulty in understanding the purpose of every amendment as it is read, without asking for any further explanation.

The second amendment which the committee have recommended, is to insert in rule 6, after the word "Hall," in the third line, the words, "and the unappropriated rooms in that part of the Capitol assigned to the House shall be subject to his order and disposal until the further order of the House. He shall have a right to dispose of any member in the Chair; but such substitution shall not extend beyond an adjournment."

The Speaker shall examine and correct the Journal before it is read. He shall have a general direction of the Hall; he shall have the custody of the keys to the rooms in that part of the Capitol assigned to the House shall be subject to his order and disposal until the further order of the House. He shall have a right to dispose of any member in the Chair; but such substitution shall not extend beyond an adjournment.

That involves no change in the rules; it simply incorporates rule 147 into rule 6.

The third proposition is to strike out all of rule 14, and insert in lieu thereof:

There shall be elected at the commencement of each Congress, to continue in office until their successors are appointed, a Clerk, Sergeant-at-Arms, Doorkeeper, and Postmaster, each of whom shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and ability, and to the satisfaction of the House; and the appointees of the Doorkeeper and Postmaster shall be subject to the approval of the Speaker; and, if there elected by the House of its officers, the vote shall be taken *vice versa*.

Mr. Chairman, this rule embraces rules 72, 73, 74, and 21, all of which will be stricken out. All the changes in reality which are made, are the substitution of the words "and the unappropriated rooms in that part of the Capitol assigned to the House shall be subject to his order and disposal until the further order of the House" for the words "and the unappropriated rooms in that part of the Capitol assigned to the House shall be subject to his order and disposal until the further order of the House." That amendment was agreed on by the committee of the last House of Representatives preceding this one. It was thought to be a proper one by the committee of this session, and it was unanimously agreed to. Mr. SMITH, of Virginia. Will the gentleman from Maine allow me to suggest that it would be, perhaps, well enough to test the sense of the committee in relation to the consideration of this question to the extent to which it will give way for that purpose, I will move that this report be laid aside.

Mr. WASHBURN, of Maine. I must decline to yield the floor for that purpose, for I am satisfied that we will take the time for the consideration of this report, we shall not be able to secure a revision of our rules. The report has been assigned for to-day, as a special order, and if it is waived we shall never be able to get it up again. I hope, therefore, the House will go on and consider this matter without delay.

Mr. SMITH, of Virginia. Do I understand

the gentleman from Maine as proposing to take action upon these amendments to the rules at this time, or is he merely giving his explanation of them?

Mr. WASHBURN, of Maine. I am giving a general explanation of the report of the committee. After I have concluded my report, I shall have various amendments shall be taken up separately for discussion.

Mr. SMITH, of Virginia. Will the gentleman from Maine allow me to make the motion to pass this subject without delay?

Mr. WASHBURN, of Maine. I must decline to yield for that purpose.

Mr. SMITH, of Virginia. Will the gentleman, then, allow me to move to postpone this subject until to-morrow?

Mr. WASHBURN, of Maine. It would not be in order to make that motion.

Mr. SMITH, of Virginia. If gentlemen want to save time, I think they will do it.

Mr. GROW. I think you will save time by going on and finishing up this matter at this time.

Mr. WASHBURN, of Maine. The report amendment proposed is to insert after the word "States" in the 17th rule, the words "and of the Court of Claims;" so that it will read:

No person, except members of the Senate, their Secretaries, Agents, Deputies, Presidents of the Private Secretaries, the Attorney-General, and the Secretary of the Supreme Court of the United States and of the Court of Claims, shall be admitted within the Hall of the House of Representatives.

The members of the Court of Claims are in some sort to be considered as a committee of this House, and the amendment only provides that they shall enjoy the privileges of the floor of the House, like the Judges of the Supreme Court.

Mr. HARRIS, of Maryland. Is the report of the committee now open to amendment, and are we passing from these amendments?

The CHAIRMAN. The Chair understands that the gentleman from Maine is now upon the floor explaining and justifying the amendments proposed by the committee of which he is chairman; and that, when he has concluded, the amendments will be taken up for action, beginning with the first of them.

Mr. HARRIS, of Maryland. Then it is proposed that they shall be taken up and upon them one by one, and not that they shall all be considered and acted upon en masse?

The CHAIRMAN. Yes, sir; when the gentleman has concluded, the amendments will be taken up separately, and they will separately be open to amendment and discussion.

Mr. WASHBURN, of Maine. Mr. Chairman, I will proceed. The fifth amendment provides for striking out rule 21, that rule being already provided for by the proposed amendment to rule 14.

Mr. HOUSTON. What is rule 21?

Mr. WASHBURN, of Maine. I will read it; it is as follows:

"The Clerk of the House shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and ability, and to the satisfaction of the House; and the appointees of the Doorkeeper and Postmaster shall be subject to the approval of the Speaker; and, if there elected by the House of its officers, the vote shall be taken *vice versa*."

That is provided for by the proposed amendment to rule 14, which provides for all of the elective officers.

Mr. BRANCH. Will the gentleman from Maine inform me by what authority the House can, by its rules, provide for a Clerk continuing in office in the next Congress, when the Constitution says that each House shall elect its own officers? By what authority can we, by our rules, provide a Clerk for the Thirty-Seventh Congress? Mr. WASHBURN, of Maine. Mr. Chairman, I will explain the gentleman's objection by saying, in the first place, that I do not understand that the report of the committee is now up for amendment; and, in the second place, that the first Congress under the Constitution, on March 1, 1791, provided for the continuance of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress as if no adjournment had taken place;" so that it will read:

After six days from the commencement of a second or subsequent session of any Congress, all bills, resolutions,

and reports which originated in the House, and at the close of the next preceding session remained undetermined, shall be resumed and acted on in the same manner as before. If the committee had not then taken place, all bills and reports from committees of the House at the end of one session shall be resumed at the commencement of the next session, and the House or Congress at its adjournment have taken place.

Now, sir, there is already a rule which provides that all business before the House, except such business as is before committees, at the time of the adjournment, shall be renewed at the commencement of the subsequent session; and the consequence thereof it would be, that all business of time if they should provide that bills reported at this session of Congress should come up before the same committees at the second or subsequent session, without any new reference. I will call attention of members to joint rule No. 31, as following some light on this question.

"After six days from the commencement of a second or subsequent session of Congress, all bills, resolutions, or reports which originated in either House, and at the close of the preceding session remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

The seventh amendment proposed by the committee strikes out rule 23, and, in lieu thereof, introduces the following:

As soon as the Journal is read, and the unfinished business in which the House was engaged at the last preceding adjournment has been disposed of, reports from committees shall be called for and disposed of in the following manner: The Speaker shall call upon each standing committee in their regular order, and then upon select committees; and if the Speaker shall not through the call of the House, or otherwise, before the House passes any other business, he shall resume the next call where he left off, giving precedence to the report last under consideration. That whenever any committee shall have occupied the morning hour on two days, it shall be in order for such committee to report further until the other committees shall have been called in their turn. On the call for reports from committees on each alternate Monday, which shall commence as soon as the Journal is read, all bills reported during the first hour after the Journal is read shall be committed, without debate, to the Committee of the Whole, and, together with the reports of the select committees, shall be taken up; the hour of the committee is not called, then, on the next alternate Monday, the select committee shall be called, and the same shall be continued until the committee is called to report. *Provided*, That no bill reported under the call on alternate Mondays and committed, shall be again taken up before the next Monday, or a motion to reconsider.

Rule 23 is as follows:

"As soon as the Journal is read, reports from committees shall be called for and disposed of—doing which, the Speaker shall call upon each standing committee in the order in which they are named in the 7th and 8th rules, and all the standing committees shall have been called on, then it shall be the duty of the Speaker to call for reports from the select committees in the order in which they are named; and if the Speaker shall not through the call of the House, or otherwise, before the House passes any other business, he shall resume the next call where he left off. That whenever any committee shall have occupied the morning hour on two days, it shall be in order for such committee to report further, until the other committees shall have been called in their turn."

Gentlemen will perceive that all the change contemplated is this: that on alternate Mondays one hour, after the reading of the Journal, shall be devoted to the call of committees for reports, upon which there shall be no debate, and which shall be referred to the Committee of the Whole, and ordered to be printed, and which shall not be brought back into the House by a motion to reconsider. We know, sir, that we do not get through with the first call of the committees for sixty or ninety days. It is now forty days since the commencement of the last session of the House, and we have not proceeded further than half way through the call of committees.

The committees have many reports which they desire to report, merely for reference to the Committee of the Whole, to be put upon the Calendar and ordered to be printed. As it is, they cannot have an opportunity to make their reports for weeks to come, and the consequence is, that the members of these committees fatigue the ear of the Speaker day after day, asking for unanimous consent for permission to admit their reports. Nearly every day, hour after hour, is occupied with these requests, asking to make reports, merely for reference to the Committee of the Whole. It often happens, too, that when a committee, on a call, makes a report upon which they do not contemplate action, some member interposes and will rise and make the length of his report upon its passage; and then, hours, and it may be days, are consumed in the disposition of a question which ought not, at this time, to have been brought before the House. In this amendment we simply propose to provide a means by which committees of this House may, upon alternate Mon-

days, have leave to report bills and joint resolutions upon which they do not contemplate action, and which are presented for reference merely to the Committee of the Whole, and to be ordered to be printed.

The amendment is to amend rule 25, by striking out the words "of Wisconsin," and inserting in lieu thereof the words "last organized;" so that it will read:

Reports from committees having been presented and disposed of, the Speaker shall call for resolutions from the members of each State and Delegate from each Territory, beginning with Maine and the Territory last organized, successively.

The amendment does not change the present practice of the House under the rules.

The ninth amendment proposes to amend rule 26, by inserting before the word "resolutions," in the first and seventh lines, the words "bills on leave and;" and by adding at the end the words, "and the Speaker shall first call the States and Territories for bills on leave; and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees: *Provided*, however, That a bill so introduced and referred shall not be brought back into the House upon a motion to reconsider;" so that it will read:

All the States and Territories shall be called for bills on leave and resolutions on each alternate Monday during the first hour after the Journal is read, and all bills on call on said days, all resolutions which shall give rise to debate shall be referred to committees under the rules of the House already provided, and the whole of said bills shall be appropriated to bills on leave and resolutions, until all the States are called through. And the Speaker shall call for bills on leave and resolutions on each alternate Monday, and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees: *Provided*, however, That a bill so introduced and referred shall not be brought back into the House upon a motion to reconsider.

Now, sir, we have seen this morning that the time of the House is occupied on a motion to reconsider, and twenty minutes, and it would have been occupied much longer if objection had not been made, by gentlemen rising and asking leave to introduce bills for reference to appropriate committees. The committee on the revision of the rules recommend that on that day, after the reading of the Journal shall be devoted to a call of the States and Territories for the introduction of bills and joint resolutions on leave, for reference to the several committees of the House, and which shall not be brought back into the House upon a motion to reconsider, so that no mischief will result, but, on the contrary, the time of the House will be economized.

The tenth amendment is to rule 30, by inserting after the word "Friday," the words "and Saturday;" and by adding at the end of the rule, "but when a bill is again rejected, after having been once objected to, the committee shall consider and dispose of the same, unless it shall again be objected to by at least five members;" so that it will read:

On the first and fourth Friday and Saturday of each month, the House shall consider private bills, if any (the Chairman of the Committee of the Whole House commencing the call where he left off the previous day), and all bills on call on said days, of which no motion to reconsider shall be made shall be first considered and disposed of; but when a bill is again rejected, after having been once objected to, the committee shall consider and dispose of the same, unless it shall be again objected to by at least five members.

The operation of this amendment is to make Saturday, as well as Friday, an objection day. A large portion of the business on the Private Calendar is consumed on objection days, and the members of the House, for several years past, has been to ask, very frequently, that Saturday, by unanimous consent, shall be made objection day. And I think it was the sentiment of the last House, and of several preceding Houses, that it would be better to have one day of objection, and to have the day to the public business, if alternate Saturdays, as well as alternate Fridays, should be objection days. Two Saturdays and two Fridays in each month will be objection days, and the other two Saturdays and two Fridays will be discussion days.

And the further amendment is this: objection day, when no objection is made, a bill is laid aside to be reported to the House, with the recommendation that it shall pass. Now, it often happens that a bill is objected to by a single individual, and that, if the objection is not sustained, it would be laid aside. Now this amendment contemplates, that after the Cal-

endar has been called, and a bill has been once objected to, upon a second call of the Calendar any bill before objected to shall be laid aside as though not objected to; provided that at least five members shall not rise as objectors. It often happens that when some bill comes up, and some member who is interested desires to see it pass, it may be that some other member does not understand the merits of it, and objects to it. The member favorable to it, understanding its merits fully, feels that there can be no possible objection to it, but some other member does not understand the question as well as he does, or thinks, at any rate, that it will bear discussion and ventilation, objects to it. The member who understands the question as well, if not better, than any one else, feels a little irritation, and says, "If you object to us as plain a bill as that, I will object to the entire Calendar," and thus a whole day will be lost. I have known that, and so have you, Mr. Chairman, to be done over and over again. The committee thought, if any member could indicate a valid objection to any bill, he could sustain at least five members to second that objection; but that, if five members could not be found, who, upon their attention being called to the question, would rise and second the objection, that was a very good reason why the Calendar should not be blocked up by objection, and that all bills upon the second reading of the Calendar, though before objected to, should be laid aside as not objected to, if five members shall not then be found to second the objection.

The eleventh amendment is to rule 34, by adding to the end thereof the words, "provided further, that the House may, by the vote of a majority of the members present, at any time after five minutes' debate have taken place upon proposed amendments to any action of a bill, close all debate upon such section;" so that it will read:

On the first and fourth Friday and Saturday of each month, the House shall consider private bills, if any, upon any question, in the House or in committee; but a member reporting the measure under consideration from a select committee shall be called upon to report. Where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendments to the bill, and the committee shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the bill, unless the committee shall be allowed to be withdrawn by the mover thereof, unless by the unanimous consent of the committee: *Provided further*, That the House may, at any time after five minutes' debate have taken place upon proposed amendments to any action of a bill, close all debate upon such section.

I wish to consider this amendment, and I desire the committee to consider it in connection with an amendment proposed to the 19th rule, upon page 6 of the printed report, in order to fully understand the object of the amendment. The amendment to the 19th rule is as follows:

Add to the end thereof the words, "whereas a bill is reported from a Committee of the Whole, and such recommendation to strike out the enacting words, and such recommendation is disagreed to by the House, the bill shall stand recommitted to the committee and committee without further action by the House;"

So that it will read:

A motion to strike out the enacting words of a bill shall have precedence over all other motions, and shall be considered equivalent to its rejection.

Whenever a bill is reported from a Committee of the Whole, with such recommendation to strike out the enacting words, and such recommendation is disagreed to by the House, the bill shall stand recommitted to the committee and committee without further action by the House.

Now, under the 19th rule, as it has been understood and practiced upon by this House for several years past, it is competent for the majority of the Committee of the Whole upon any bill which shall be before it, no matter how important it may be, to propose a bill appropriating millions of dollars, a bill appropriating \$100,000,000 for the acquisition of Canada, or \$100,000,000 for the acquisition of Cuba—no matter how important the bill may be that is before the Committee of the Whole, because, by the rules, it must go to that committee, and be considered—under the 19th rule, as it now stands, it would be competent for the majority of the Committee of the Whole, the moment the committee takes up a bill, to vote to go into the House, and close the general debate; and the majority which carries that motion, and the House terminates the general debate. The House will then resolve itself into the Committee of the Whole again, and

the question is resumed again; a member of the majority in favor of the appropriation bill under consideration rises and moves to strike out the enacting clause of the bill. Upon that motion there may be a debate of five minutes in favor, and five minutes debate in opposition to it. No further debate can be had; no amendment is then in order; the question must be taken in order, and if it is agreed to, the bill, with that amendment, is reported to the House. The committee, after the discussion of five minutes in favor and five minutes against the motion, is brought to a vote at once upon striking out the enacting clause, without further discussion, and with no opportunity for further amendment.

Well, sir, this majority, that recommends that the enacting clause be struck out, the very moment the bill is reported to the House with that recommendation, vote to disagree to the recommendation of the Committee of the Whole; and then, the previous question having been called, the question is upon ordering the bill to be engrossed, and afterwards upon its passage. So that, under the rule as now interpreted, and under the practice of the House, it is competent, in the Committee of the Whole, to vote to disagree to an amendment of any bill under consideration, and bring it into the House, and then, under the operation of the previous question, put it upon its passage at once. This is a great and flagrant abuse; and we merely propose to carry out the intention of the rule that the bill and all amendments of any bill shall be considered in the Committee of the Whole. Now, sir, we provide that where a majority in the Committee of the Whole honestly desire that a bill shall be defeated, and vote to strike out the enacting clause, and the same majority vote in the House to concur in the recommendation of the committee to strike out the enacting clause, they can do so as well as they can now. But if the majority desire that the bill should pass, but that there should be no discussion and no amendment of the bill, we say that the majority shall be done away with. The committee recommends that if the House non-concurs in striking out the enacting clause, the bill immediately, by force of that vote, shall be returned to the Committee of the Whole, and be placed upon the Calendar again. In that way, the majority of the House in its purpose to deprive members of the opportunity to speak to appropriation bills, or to propose amendments to them. For, if that course is pursued, the bill will either be defeated in the House, by the House concurring in the recommendation of the Committee of the Whole to strike out the enacting clause; or if the House do not concur, the bill will be sent back to the committee, to take its place again upon the Calendar.

Now it may be said that, while you are depriving the majority of this power to strike out the enacting clause, you should give them some power by which they may bring the discussion in the Committee of the Whole to a termination; by which they may finally bring the House to a vote upon bills for appropriation in the Committee of the Whole. And in order to carry out that idea, we propose this amendment to the 34th rule:

Amend rule 34, by adding at the end thereof the words, "Provided further, That the House may, by the vote of a majority of the members present, at any time after five minutes debate has taken place upon proposed amendments to any section of the bill, close all debate upon such section;" so that it will read:

No member shall occupy more than one hour in debate on any question, in the House or in committee; but a member supporting the measure under consideration, in the committee, may open and close the debate. Provided, That where debate is closed by order of the House, any member desiring to be heard in committee on the same question, or amendment, may offer—after which, any member who shall first obtain the floor shall be allowed to speak five minutes in opposition, and the member in support of the bill on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment. No amendment or amendment not an amendment to the amendment shall be withdrawn by the mover thereof, unless by the unanimous consent of the committee. Provided, That no member of the House may, at any time after five minutes debate has taken place upon proposed amendments to any section of a bill, close all debate upon such section."

Now, under this rule, as amended, it will be competent for the committee, after the general debate has concluded, and they have been in the Committee of the Whole on five minutes debate, and that five minutes debate has proved burdensome and irksome to the House, it will be competent for the

majority of the Committee of the Whole to vote to rise, and ask the House for a majority vote, to terminate the debate upon the five minutes amendment, so that, if that recommendation shall pass the House, the members may return to the Committee of the Whole, and offer such amendments as they choose; but debate upon such amendments shall be closed.

In this way we thought we could remedy, as far as they could possibly be remedied by the rules, the abuses upon either side—on the one side the abuse under which you may be called to pass these important bills without any opportunity to debate them, either in committee or in the House; and on the other side by the abuse of making Buncombe five-minute speeches—not in order, in fact—upon amendments which they may offer in Committee of the Whole.

The twelfth amendment amends rule 42, by inserting after the word "commenced," in line fifth, the words, "and before the main question is ordered to be put;" so that it will read:

Every member who shall be in the House when the question is put shall give his vote, unless the House shall excuse "him," and he may exercise a similar privilege at any time made before the House divides, or before the call of the yeas and nays is commenced, and before the main question is ordered to be put, and the question shall then be taken without debate.

This amendment requires that all motions to excuse a member from voting shall be made before the main question is ordered to be put. That matter explains itself, and I presume no one will object.

The thirtieth amendment amends rule 50, by striking out all after "January 14, 1840," in the tenth line, and inserting, in lieu thereof, "but its only effect, if a motion to postpone is pending, shall be to bring the House to a vote upon such motion."

Whenever the House shall refuse to order the main question, the consideration of the subject shall be resumed, as though no motion for the previous question had been made. A call of the House shall not be in order after the previous question is ordered, unless it shall appear, upon an actual count by the Speaker, that no quorum is present;" so that it will read:

"The previous question shall be in this form: 'Shall the main question be now put?' It shall only be admitted when demanded by a majority of the members present, and to effect shall be to put an end to all debate, and in bringing the House to a direct vote upon a motion to commit, if such debate is desired, and if the members in support of the bill prevail, then upon amendments reported by a committee, if any; then upon pending amendments, and then upon the debate thereon, to the order of the day. If a motion to postpone is pending, shall be to bring the House to a vote upon such motion. Whenever the House shall refuse to order the main question, the consideration of the subject shall be resumed, as though no motion for the previous question had been made. A call of the House shall not be in order after the previous question is ordered, unless it shall appear, upon an actual count by the Speaker, that no quorum is present."

This amendment has respect entirely to the previous question. In the first place, it changes the effect of the previous question when a motion to postpone is pending. Now, when a motion to postpone is pending, if the previous question is ordered, it cuts off the motion to postpone, and brings the House to a vote upon amendments, if any are pending, and then upon the order of the day of the bill, so that when there is a motion before the House to postpone, there may be an interminable debate upon it. You may not want to come to a vote upon the bill, nor to hear an endless discussion on the motion to postpone. But you cannot prevent that, unless you go to it, and incur the expense of bringing the House to a direct vote upon the bill. The amendment provides that the previous question may be applied to a motion to postpone, and shall operate no further than upon that question; so that when that motion is exhausted, you shall renew the previous question upon the third reading or the passage of a bill.

So much for the first clause of the amendment. The next clause is:

Whenever the House shall refuse to order the main question, the consideration of the subject shall be resumed, as though no motion for the previous question had been made.

That is intended to correct this evil. Now, when a question is pending before the House, and the previous question is called for, it is seconded. A majority rise and second the call. Some one calls for a division on the question, whether the main question shall be ordered. It fails. The main question is seconded, and still the main question

is not ordered to be put. The result is, that the question before the House goes over to the next day, under the rules, whereas the true interpretation and true meaning of the word "second" should be simply that of a necessary formula to bring the House to a vote upon the question, whether the main question be seconded, and precisely as the rule is changed, as we propose, and the House shall, after having once seconded the call for the previous question, still refuse to order the main question to be put, the subject before the House shall be resumed as if the call for the previous question had not been made, and as if no call for the previous question had been made, instead of going over until the next day.

The last clause of the amendment is this:

A call of the House shall not be in order after the previous question is seconded, unless it shall appear, upon an actual count by the Speaker, that no quorum is present."

That is precisely as the rule now stands, with the single exception that it shall be in order for the Speaker to entertain a motion for a call of the House after the previous question is seconded, only in case there shall appear to be upon an actual count by the House, no quorum present. A call of the House is not in order after the previous question is seconded; but it will not be, if this amendment is adopted, unless, upon an actual count by the Speaker, it shall appear that no quorum is present. In such case, it is highly proper that there should be a call of the House, that a quorum may be brought in.

The fourteenth amendment amends rule 53, by inserting, after the word "question," in the first line, the words "before or after the main question is ordered;" so that it will read:

Any member may call for the division of a question before or after the main question is ordered, which shall be divided if it comprehend propositions, &c.

That needs no explanation, I apprehend. As the rules now stand, you cannot call for a division after the main question is ordered.

All the fifth amendment proposes to strike out all of rule 38, as follows:

"The order of the day which the House was engaged at the last preceding adjournment shall have the preference in the order of the day; and no motion on any other business shall be in order, without special leave of the House, until the former be resumed."

And insert in lieu thereof the following:

The consideration of the unfinished business in which the House may be engaged at an adjournment shall be resumed as soon as the Journal of the next day is read, and at the same time, the question in order at the adjournment, if any, from any cause, other business shall intervene, it shall be resumed as soon as such other business is disposed of, and the unfinished business of the adjournment shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

Now, Mr. Chairman, although a bill is pending at the time of adjournment, and the House is just ready to finish it, if the previous question has not been called and seconded, and no motion to recommitt is pending, the bill goes to the Speaker's table, and that is the end of it. Ordinarily, not in one case in a thousand, where a bill falls to the table, it is taken up at the next adjournment, and never be resumed in order. To prevent that result, this amendment is proposed.

The sixteenth amendment relates to the 61st rule, which is as follows:

"A proposition requesting information from the President of the United States, or from any of the heads of the Executive Departments, or by the Postmaster General, or to print an extra number of any printed matter, shall be referred to a select committee, to sit at both Houses at the commencement of each session of Congress, and the reports and documents connected with or referred to in the question, on the next day for consideration, unless otherwise ordered by the unanimous consent of the House; and all such propositions shall be taken for consideration on the following day, together with any amendments thereto, and when adopted, the Clerk shall cause the same to be delivered to the printer."

The amendment proposes to strike out all after the word "General," in the fourth line, and to include the word "House" in the tenth line.

This amendment is rendered necessary, on account of the provisions of the printing law.

The seventeenth amendment relates to rule 67, which is:

"A frequent ass. Amos shall be appointed, to hold his office during the pleasure of the House, whose duty it shall be to attend the House during its sittings; to execute the commands of the House, and to receive and deliver the same, as such process, issued by authority thereof, as shall be directed to him by the speaker."

It proposes to strike out from the beginning to and including the word "be," in the third line, and inserting in lieu thereof the words "It shall be the duty of the Sergeant-at-Arms;" and also by inserting after the word "sittings," in the same line, the words "to aid in the enforcement of order under the direction of the Speaker;" so that it will read:

It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings; to aid in the enforcement of order under the direction of the Speaker; to execute the commands of the House from time to time, together with all such process issued by authority thereof, as shall be directed to him by the Speaker.

It is understood now, by custom, or some parliamentary law, that it is the duty of the Sergeant-at-Arms to aid the Speaker in the enforcement of order. But, that there should be no question about it, the committee thought it wise to provide for it specifically.

The eighteenth, nineteenth and twentieth amendments strike out rules 72, 73, and 74, which are as follows:

"72. The Sergeant at Arms shall be sworn to keep the secrets of the House.
"73. The Doorkeeper shall be appointed for the service of the House.
"74. The Doorkeeper shall be sworn to keep the secrets of the House."

Those rules are rendered unnecessary by the proposed amendment to rule 14.

The twenty-first amendment strikes out rule 75, which is as follows:

"The Postmaster, to superintend the post office kept in the Capitol for the accommodation of its members, shall be appointed by the House."

And inserts:

The Postmaster shall superintend the post office kept in the Capitol for the accommodation of its members."

The 14th rule, if amended, will provide for the appointment or election of a Postmaster.

The twenty-second amendment amends rule 76, by striking out the word "eight," in the first line, and inserting in lieu thereof the word "seven;" and also by striking out the word "session," in the second line, and inserting in lieu thereof the word "Congress," so that it will read:

Twenty-seven standing committees shall be appointed at the commencement of each Congress, viz:

Also, by striking out, on page 178, the words "a Committee on Engraving, to consist of three members."

In that case there will be but twenty-seven committees instead of twenty-eight. Striking out the word "session," and inserting in lieu thereof the word "Congress," has the effect to provide that the committees shall be appointed for a Congress, instead of for one session, so that it will not be necessary for the Speaker, at the commencement of a second session of Congress, to name the committees anew.

The amendment further proposes to abolish the Committee on Engraving. It is proposed to transfer the duties of that committee to the Committee on Printing.

The twenty-third amendment proposes to strike out certain words from rule 78.

If gentlemen will turn to the present rules, and to the note on page 174, they will find that the words in brackets are struck out, for the reason that the Committee on Public Expenditures is now charged with the same duties with which the Committee of Ways and Means are charged by the words proposed to be stricken out.

The twenty-fifth amendment is to rule 105, and is to strike out "six," in the first line, and insert "seven" in lieu thereof. It is proposed to constitute a Committee on the Expenditures of the Interior Department, so that there will be seven committees on the expenditures in the Departments, instead of six. The Interior Department has been established since these rules were amended.

The twenty-sixth amendment is to amend rule 104, by striking out the words "there shall be appointed a standing committee of this House, to consist of three members, to be called the Committee on Engraving, to whom shall be referred, by the Clerk," and inserting in lieu thereof the words "there shall be referred, by the Clerk, to the members of the Committee on Printing, on the part of the House;" so that it will read:

There shall be referred, by the Clerk, to the members of the Committee on Printing on the part of the House all drawings, maps, charts, or other papers, which may at any

time come before the House for engraving, lithographing, or publishing in any way; which committee shall report to the House whether the same ought, in their opinion, to be published; and if the House order the publication of the same, that said committee shall direct the size and manner of executing of all such engravings, drawings, or other papers, and contract by agreement, in writing, with any such engraving, lithographing, printing, drawing, and coloring, to be done by the House; and the cost of such writing, shall be furnished by said committee to the Committee of Accounts, to govern said committee in all allowances for work so done, and it shall be in order for said committee to report at all times.

The twenty-seventh amendment is to strike out rule 118, which is in these words:

"No more than three bills, originating in the House, shall be committed to the same Committee of the Whole; and any such bills shall be designated in their titles, which shall be determined by the Speaker."

The committee were none of them able to understand what that rule meant, and saw no use in retaining it. They therefore recommended that it be stricken out.

The twenty-eighth amendment is the one proposed to rule 119, which I have already explained.

Mr. SHERMAN. I wish to direct the attention of the gentleman from Maine to the difficulty, under this amendment, of getting a bill out of the Committee of the Whole at any time if ten determined men in Committee of the Whole insist that the bill shall be defeated, even though it may be an appropriation bill. I put it to him, if we adopt the amendment which he proposes, how a bill can ever be got out of the committee of the Whole on the part of the Union? I merely make the suggestion to him now, whilst he is pursuing his argument, that I may give him notice that when we reach that point in the amendments, I shall move an amendment so as to obviate the difficulty. I think it will be found difficult, if the amendment of the committee is adopted, to get any bill out of the Committee of the Whole on the part of the Union, even an appropriation bill.

Mr. WASHBURN, of Maine. My impression is that the gentleman from Ohio has never seen the committee whatever of the House under that 118th rule.

Mr. SHERMAN. I speak of the 119th rule. Mr. WASHBURN, of Maine. Well, in regard to that rule, the committee have done the best which they supposed it possible for them to do consistent with the right of discussion.

Mr. HOUSTON. I think it a little doubtful whether the 118th rule ought to be stricken out. I understood the gentleman to say the committee did not understand what the rule meant. I think the committee are very plain. It simply means that no one Committee of the Whole shall have more than three bills.

Mr. WASHBURN, of Maine. The gentleman will excuse me. The committee have no sort of care whatever about that rule—whether it stands or not. They can see no possible use for it.

Mr. HOUSTON. It is a very plain rule, and I doubt very much whether it ought to be stricken out.

Mr. JOHN COCHRANE. I should like to hear some explanation of this amendment.

Mr. HOUSTON. The question is not now on agreeing to the amendment. The gentleman from Maine is making a general explanation.

Mr. WASHBURN, of Maine. I am simply explaining briefly the effect of the amendments recommended by the committee, and some of the reasons for those amendments.

The twenty-ninth amendment is that rule 120 be amended by adding at the end, the words "and should such recommittal take place after its engrossment, and an amendment be reported and agreed to by the House, the question shall be again put on the engrossment of the bill;" so that it will read:

After the committee and report thereon to the House, or at any time before its passage, a bill may be recommitted, and should such recommittal take place after its engrossment, and an amendment be reported and agreed to by the House, the question shall be again put on the engrossment of the bill.

Now, sir, it is in order to recommit a bill after it has been engrossed; and in order that an engrossed bill may be amended without going through all the forms now necessary under the rules, this amendment simply provides that when an engrossed bill has been recommitted and there is an amendment reported back by the committee, the question shall be again taken on the engrossment of the bill.

The thirtieth amendment provides for the striking out of the 124th rule, which is as follows:

"It shall be a standing order of the day, throughout the session, for the House in resolve itself into a Committee of the Whole on the first Tuesday of January."

That is provided for by another rule, and is therefore unnecessary.

The thirty-first amendment is to amend rule 130, by striking out the words "all questions, whether in committee or in the House, shall be propounded in the order in which they were moved except that, so that it will read:

In filling up blanks, the largest sum and longest time shall be first put.

The rest of that is provided for by other rules.

The thirty-second amendment is to amend rule 135, by adding at the end thereof "and all debate on special orders shall be confined strictly to the measure under consideration;" so that it will read:

In Committee of the Whole on the state of the Union the bills shall be taken up and disposed of in their order on the Calendar; but when objection is made to the consideration of a bill, a majority of the committee shall decide without debate whether it shall be taken up and disposed of or laid aside. Provided, That general appropriation bills, and, in time of session, bills for the relief of any individual, shall be taken up and disposed of in all bills concerning a treaty of peace, shall be preferred to all other bills, at the discretion of the committee; and when demanded by the committee, the question shall be in regard to them; and all debate on special orders shall be confined strictly to the measure under consideration.

Now, sir, when the House is considering appropriation bills and other important measures in the Committee of the Whole on the state of the Union, under the rules of the House, as now construed, the Union generally being said to be under consideration, it is in order to speak upon any question whatever. Members are not confined to the discussion of any measure. But it sometimes happens that it is important, when a measure is committed to the Committee of the Whole on the state of the Union, that there shall be action upon it speedily; and that Bancombe speeches should not occupy the time of the committee, which can be made in the Committee of the Whole upon bills that are not special orders, and when the President's message is before the committee. But whenever the House goes into the Committee of the Whole with a view to act upon some specific measure, and it is necessary that there should be action upon the measure, the Committee of the Whole amended rule, has only by a majority vote to make that particular bill a special order in the Committee of the Whole, and that, then, all debate shall be confined to the question directly before the committee. The gentleman from Ohio was perceptive, that if it should be in the power of the committee propose, so that all debate shall be upon the question directly before the committee, it will aid him very much in removing the difficulties which he suggested to me a little while ago.

The thirty-third amendment is to amend rule 136, by inserting after the word "present," in the eighth line, the words, "nor shall the Speaker, entertain a motion to suspend the rules, except during the last ten days of the session, and on Monday of every week at the expiration of one hour after the Journal is read;" so that it will read, inserting after the word "present," in the ninth line, "make any of the general appropriation bills a special order; and also," so that it will read:

No standing rule or order of the House shall be rescinded or changed on any day, by a vote of a majority of the members present, nor shall any rule be suspended, except by a vote of at least two-thirds of the members present; nor shall the Speaker entertain a motion to suspend the rules, except during the last ten days of the session, and on Monday of every week at the expiration of one hour after the Journal is read. The House, without any day, by a vote of a majority of the members present, make any of the general appropriation bills a special order; and also suspend the rules and order the order of bringing into the Committee of the Whole House on the state of the Union; and also for providing, &c.

The effect of that amendment is, that on alternate Monday one hour shall be set aside, and not subject to be broken in upon by motions to suspend the rules, for reports of committees for reference to the Committee of the Whole without debate, and without a right to bring them back by motions to reconsider, and that on the other Mondays, when the House is in session, without being subject to motions to suspend the rules, to the call of the Speaker for bills and resolutions.

This amendment is necessary to secure the right which I explained to the House a little while ago.

Mr. MAYNARD. I should like to hear the gentleman from Maine upon a suggestion which I will make to him. It is this: suppose these amendments are made; will it not always be in the power of the dominant majority to restrict and limit the time of debate to such subjects as they may see proper?

Mr. WASHBURN, of Maine. There will be opportunities enough, of course, in Committee of the Whole, upon questions which are not special orders, to indulge in general debate. No question or measure can be made a special order by a majority vote, except the general appropriation bills. With that exception, no measure can be made a special order except by a two-thirds vote, and not then except on Mondays. It leaves the matter, therefore, precisely where it is now, with the exception of appropriation bills. This amendment simply places it in the power of a majority to make the appropriation bills special orders, and provides that, upon special orders in committee, discussion shall not be in order, except upon the subject of such special orders, leaving general debate to go on upon the President's message and upon such bills in committee as have not been made special orders.

Mr. MAYNARD. I am still unable to see how it will be possible under circumstances which may arise, for the minority to protect its rights in the Committee of the Whole. It will be in the power of the majority to keep special orders before the committee, and prevent all general discussion.

Mr. WASHBURN, of Maine. You can make special orders now, under suspension of the rules by a two-thirds vote. By the amendment reported by the committee, they can be made only in the same way, with the exception of the single instance of appropriation bills; and it seems to me that a majority should have the right to make the appropriation bills special orders. Let me give you an instance. One of the general appropriation bills, with the amendments of the Senate, comes into the House within twenty-four hours, or, perhaps, within twelve hours of the close of a session. The bill is referred to the Committee of the Whole on the state of the Union, and in the last three days for the reason that the time of the House may be wasted by general discussion, until the session has expired; while the House may need discussion upon the bill under consideration, which they may have, and still save the bill. That difficulty will be avoided by the adoption of the amendment which we have reported, confining the debate to the measure under consideration upon special orders, and permitting the appropriation bills to be made special orders by a majority vote.

Mr. MAYNARD. I will suggest, then, that the rule be so amended as to provide simply that general debate shall not be allowed upon the appropriation bills.

Mr. WASHBURN, of Maine. The amendment provides that general debate shall not be allowed upon appropriation bills, if they are made special orders.

The thirty-fourth amendment proposes to strike out the 137th rule, which is provided for in rule 136.

The thirty-fifth amendment is to amend rule 153, by inserting, after the words "unrolled bills," the words "and the Committee on Printing;" so that it will read:

It shall be in order for the Committee on Enrolled Bills and the Committee on Printing to report at any time.

That is the same provision as is made in the rules at present.

The thirty-sixth amendment is to strike out rule 147, which is provided for by the proposed amendment to rule 6.

The thirty-seventh amendment is to strike out rule 153, which is provided for by the proposed amendment to rule 136.

The thirty-eighth amendment is to strike out all of rule 154, and insert the following:

The bills from the Court of Claims shall, on being laid before the House, be read a first and second time, committed to a Committee of the Whole, and, together with the accompanying reports, printed.

The amendment explains itself.

Now, Mr. Chairman, I have but this to say upon the amendments which have been reported; that the committee were unanimous in every recommendation which is made. A majority of the committee were in favor of several amendments

which are not printed with this report, and which may perhaps be effected by individual members upon their individual responsibility. We have reported nothing which every member of the committee did not consider necessary and proper.

Now, sir, I will renew the proposition which I made in the outset of my remarks, that, in the consideration of these amendments they shall be read by the Clerk, and that when they are read, members shall indicate those which they wish a separate vote upon; then let us vote in the aggregate upon such amendments as no objection shall have been made to, after which we will go back and take up the other amendments separately, and discuss them and act upon them.

Mr. VALLANDIGHAM. Will that preclude amendment?

Mr. WASHBURN, of Maine. No, sir. And in this I propose, after our report shall have been gone through with, that the rules may be taken up *seriatim*, if desired, and amended.

Mr. VALLANDIGHAM. I do not object to that arrangement.

Mr. HORTON. I object to it, for this reason: when amendment is taken up for consideration, I may be in favor of it with a modification which may be made, but if the majority of the committee vote against the modification, I may be opposed to the amendment as reported by the committee.

Mr. WASHBURN, of Maine. I think the gentleman does not understand my proposition.

The CHAIRMAN. In the absence of any rule which will apply to the consideration of these amendments, the Chair will consider them as he wishes. He will call the attention of the House to the vote upon each separately, whether the committee will adopt or reject it.

Mr. BOGOCCK. As one of the committee which reported these amendments to the House of Representatives, I desire to say a very few words. The first of them, I shall occupy the attention of the committee, at this time, for more than five minutes.

I wish merely to say, in relation to the proposition of the gentleman from Maine, (Mr. WASHBURN), as to the manner of voting upon these amendments, that I do not believe any time will be lost. I shall occupy the property of the House. So far as I am concerned, I am perfectly willing to adopt that course; but I think, perhaps, it will be as well to adopt the usual course in Committee of the Whole, and vote upon each amendment separately, and then upon the consideration.

Mr. WASHBURN, of Maine. I will say to the gentleman from Virginia, that I am perfectly willing that course should be adopted if he thinks it advisable.

Mr. BOGOCCK. I wish to remark, in relation to this whole matter, that I was in hopes the consideration of these amendments, at this time, would lead to a pretty full and thorough discussion of the rules of the House of Representatives. Nothing is more common, nothing is more fashionable, both here and in the country, than to bring up the rules of the House of Representatives, and subject them to prompt trial and condemnation. Whatever goes wrong in the House of Representatives, whatever a man has to explain before his constituents he is very apt to attribute to the rules of the House of Representatives. Well, sir, there are in these rules many things which I think may appear objectionable. But if they are to be dispensed with, the question is, how can we substitute matter in their place that will better promote the public business? The great object of rules is to enable the majority of a deliberative body to secure the greatest dispatch of business in a manner consistent with the rights of the minority. In other words, to enable the majority to dispatch business in such a manner as will not require the minority to vote upon propositions which they have had the opportunity of considering there. You have, then, in such a body as this, to impose restrictions upon a minority, but, at the same time, you should enable them, by the whole tenor of your rules, in the best possible way, to make their views distinctly known.

It is a common complaint that the complaint of the rule which allows one member of the House of Representatives to object a bill, and thus to throw it over. That is a rule in favor of the dispatch of business rather than against it. Suppose that you had no such rule, and the Private Calendar came up: a bill might be considered

which would occupy days and weeks in the discussion. Gentlemen would claim the right to discuss it. Behind that bill might be various other bills to which there would probably be no objection; therefore those bills to which there would be no objection, and which might at once go through, and so forth, would be postponed till, which is of doubtful propriety, have been discussed at length. You will see, then, that, by enabling a member to throw over bills which are liable to discussion, you thus open the way for such bills as are not liable to objection, to be passed through. I only mention that as an instance of a rule which tends to the dispatch of business, but which is regarded by the members of this House and by others elsewhere who have not deliberately considered it, as doing the very reverse. Nothing is more common than to hear men say that it is hard to permit one member of the House of Representatives to defeat the passage of any bill. In reality, one member does not defeat the passage of a bill; but his objection only throws it over out of the way of bills to which there is no objection, and puts it in its turn upon what I may term the calendar.

There is another thing to which I allude. We have here a very large number of members—two hundred and thirty-two—one half of whom are necessary to constitute a quorum. With that number of members present, all anxious to speak upon every important measure, it is hard to perceive that it is impossible all can be heard. Some must be cut off. When gentlemen are cut off from making their remarks they are, as we know, in the habit of visiting all the blame upon the rules of the House, when in truth the fault is inherent to every condition. In the British House of Commons there are some five or six hundred members, and of them only forty members are necessary to constitute a quorum to do business. With these forty members, as it is with the Senate, there is no difficulty in giving every one of those who are disposed to speak, to a greater or less extent, upon every important question brought up for consideration. There, then, no member has reason for complaint.

Generally there are one hundred and fifty or two hundred members present. It is hard, every one of them, on an important question, will wish to address the House and the country. Each man has some peculiar view which he thinks is going to create a sensation in this House, and if not here, at least in the district which he represents, and throughout the country. He thinks, if he can get here long, he thinks, to establish a reputation of being an orator, a statesman, and a satirist, and that to do that he must speak upon all important questions. A friend near me adds, that he thinks he must be also an economist. Suppose, then, you have an important question before this House. There are one hundred and fifty members in this House whose brains teem with ideas which each one holds dear intimately upon the interests of the country and the destinies of mankind; whose brains teem with ideas which they think will give forth Minerva, the Goddess of Wisdom, are thusing in agonies of thought, so that they cannot resign themselves to silence. They must speak, Mr. Chairman; wisdom must find utterance, if not through a fissure of the head, at least through their mouths. There are one hundred and fifty members, one hundred and fifty speeches are to be made. Each speech requires an hour for delivery. We sit about four hours each day. The morning hour is consumed in other business, and we have then about three hours each day for speeches. Divide one hundred and fifty by three, and that would give us fifty days for each important question. Think of it! And yet such would be the result of a practice that would give the right to every member to debate each question that may arise.

Now, Mr. Chairman, we have upon our calendar every year some five or six hundred bills. I state the number roughly, of the bills which are upon our Private and upon our Public Calendar. You are aware, sir, that of that five or six hundred bills only some, scarcely more than half, are ever actually considered by a Congress. Then you must put in the power of a majority to determine which shall have precedence. Then, sir, every member whose bill is not acted upon at the conclusion of a Congress, and which is thrown over, visits the blank of that condition of things upon the rules of the House of Representatives. If it

were ordered that each particular bill reported from a committee, and placed upon the Calendar, should be set down in its proper position, and come up in its turn for consideration, and if it were ordered that each one should be passed upon in its turn, it would take a great deal of time, it is true; but then, there would not be the wrangling and contention produced by members contending which shall get the lead and have his bill acted upon, to the exclusion of other bills. You find gentlemen here who will tell you day after day that they do not wish to consider all the bills upon the Calendar; that a great many of them are bad bills, and that the best way to get rid of them is to allow them to sleep upon the Calendar. If that be done, you know that there are friends of these bills who, when defeated in securing the consideration of their bills, visit the blame upon the rules of the House of Representatives.

Mr. COBB. Some members want to have the floor four or five times upon the same measure.

Mr. NOELL. The explanation of the gentleman from Virginia is very satisfactory to me so far as it goes. One thing I would like to hear him refer to, and that is the necessity for the previous question. I want to know whether he recognizes the propriety of the system in vogue here of passing bills reported from committees under the operation of the previous question, without debate? He is then in the case of the country and is engaged upon a measure important to all interests in the country, which is before this House for action.

Mr. BOOCOCK. I intended, before closing my remarks, to refer to that very subject.

Mr. NOELL. I want the gentleman from Virginia to tell us why such a disposition should exist here as the previous question?

Mr. BOOCOCK. I intend to come to that. I object to that as much as my friend from Missouri. I have been thinking on the subject since the report was made by the committee on the revision of the rules. It has occurred to me that there is an evil there which might, to some extent, be remedied. It is true that we cannot, to the fullest extent, remedy the evil of which the gentleman from Missouri complains, for the reason we are already stating in the committee on the bill. Each one of us has a constituency at our back, who wishes to hear our special views upon that bill. Each one of us, as I said before, has some important ideas which he believes will tell to the interest of the country and the destinies of unborn generations, and therefore we all want to speak. Suppose that each one of us makes an hour speech—

Mr. NOELL. I do not mean that every member should have the privilege of speaking; but I do insist that the whole body of the minority shall not be cut off from the expression of their views when an important question is before the House.

Mr. BOOCOCK. I agree with the gentleman from Missouri. It is an evil which cannot be entirely remedied. It has occurred to me, as you have suggested it to some friends around me, that there is an evil which may be corrected. In the event that a member of a committee reports a bill to the House, explains his views upon it, and, before taking his seat, calls for the previous question, and a majority vote is secured on the previous question, and the main question is ordered, I think the evil complained of could be remedied by making a provision that the House should not be required to vote upon it, if there was a disposition on the part of the minority, through one of its members, to suggest anything in opposition. It occurred to me before my friend from Missouri referred to the subject, that we ought to incorporate in our rules a provision that when a bill is reported and the previous question is demanded the previous question shall not be sustained until one member is heard in opposition to the bill. In that way, though all would not be gratified, some one could get the floor, and by his own views and such suggestions as he might get from others—and we all know that gentlemen now-a-days are willing to give their friends as much of their fees, every suggestion that may be deemed necessary—might bring forward the views of the minority. And it would be out of the power of the majority to force the House to vote upon a bill or joint resolution without its merits being discussed to some extent.

Mr. NOELL. With the permission of the gentleman from Virginia, [Mr. Beece], I would ask how it happened that upon the homestead bill no man was allowed to speak in opposition to it?

Mr. BOOCOCK. I think it happened in this way: that, in pursuance of the rules of this House, I recollect saying, the members of the House of Illinois, [Mr. Leazer], perhaps before he got the floor, had gone around among the friends of the proposition, and told them that, when he reported the bill, he was going to put it upon its passage, and asked them to support him in his report of the previous question; and he then called for the previous question as soon as he reported the bill, and in that way it was passed.

Mr. NOELL. Does the gentleman from Virginia [Mr. Beece] say that there is any rule of the House that can be abused in this way?

Mr. BOOCOCK. I think there is such a rule. The gentleman must not understand me as saying that such a rule is right. I only say that such a rule exists; and if, in considering these amendments, the gentleman can suggest some amendment to the demand for the previous question; and he does things, I shall be greatly obliged.

Mr. HUSTON. I desire to hear my friend from Virginia [Mr. Beece] speak to another point, which I think highly important, and which was intended originally to be embraced in the rule. I have seen a bill appropriating money sent to the Committee of the Whole on the state of the Union, without a two-thirds vote is had to suspend that rule. I think that rule was intended to include not only the money bills, but the bills which appropriate the property of the Government; the demand for the previous question; and he does, and everything else; or any property of the Government; requiring them all to go to the Committee of the Whole, as a bill appropriating money now goes to the Committee of the Whole. Certainly, in my estimation, the same reason that will apply to money bills will apply to bills going to the Committee of the Whole on the state of the Union; would require that a bill appropriating the property of the United States should go there likewise. I would like to hear the views of my friend from Virginia [Mr. Beece] upon that subject.

Mr. BOOCOCK. I agree with the gentleman from Alabama [Mr. Houston] in all that he has said; and I will say, in connection with the same point, what I was about to say in answer to my friend from Missouri, [Mr. Nathan], who wanted to understand the operation of the legislative practice of other countries, I have examined somewhat attentively the rules under which the business of the British Parliament is conducted, and I find that it is not in the power of a majority of the House of Commons, at any time, to force the minority to vote upon a proposition, unless that minority has had an opportunity to be heard against it. I think that is an example worthy of being followed by us. We ought at least to allow our member of the minority to be heard in answer to any proposition brought forward by the majority. I would also say, in answer to the reply of the gentleman from Alabama, [Mr. Houston], that, as it is well known to you, Mr. Chairman, and doubtless to the members of this House, in the British Parliament all bills for supplies are raised by the House of Commons; and they extend that rule to all propositions imposing or leading to the imposition of taxes upon the people; and therefore the technical distinction that we observe here does not obtain there. We claim that the clause of the Constitution which requires that money bills should originate in the House of Representatives does not apply to the pension bills, and other bills which make a demand upon the people, but which does not levy a tax to pay those demands. In the British Parliament they consider that clause of the Constitution as not binding, so that no, any general bill that disposes of the property of the people might very well be considered as standing upon the same footing; as, for instance, a bill giving so large a quantity of land as the bill acted upon the other day. Therefore, I think such a rule should have been considered by the Committee of the Whole; fully, deliberately, and maturely considered; for I consider that to have been one of the most important bills that ever came before this Congress.

I did not intend to discuss the merits of this measure now. I do not intend to enter now upon

anything like a full discussion of the amendments; that has been done by the gentleman from Maine, [Mr. Washburn]. The rules of the House of Representatives have long been a subject of discussion, both in the House of Representatives and in the country. We have now a series of amendments before this body. I would not pretend that these amendments will perfect the rules; but we think they do good as far as they go. We have the suggestions of five gentlemen of a body composed of two hundred and thirty members. Other amendments may be suggested in the progress of the discussion of this subject. I would suggest that it would be well for members, while this subject is under consideration, and while their minds are brought to bear upon it, to endeavor now to make the rules of the House of Representatives as nearly perfect as it is in our power to do. So far as these particular amendments of the committee are concerned, I concur with the gentleman from Maine [Mr. Washburn] in recommending them, and shall probably unite with him in endeavoring to have them favorably acted upon. But if, in the course of this discussion, any member should show me that they are wrong or improper, and will operate to the injury of the business of the House or the rights of any portion of its members, I hold myself perfectly free to vote against them, though they may be reported by a committee with my approbation and consent. But if the chairman of the committee, [Mr. Washburn, of Maine], or anybody else, can show any good reason why these amendments should be adopted, and no other person can show stronger reasons against them, I hope that I will be able to vote for them.

The Clerk then read the first amendment, as follows:

Amend rule 4 by inserting after the word "required," in the eighth line, the words, "by at least one fifth of a quorum of the members," striking out the last three lines; so that it will read:

Questions shall be distinctly put in this form, as it is: "As many of the members of this House as will say 'aye'?" and after the affirmative vote is expressed, "Aye," many as are of the contrary opinion, say 'no'." If the Speaker doubts, or if a division is called for, he shall divide upon the affirmative of the question shall first rise from their seats, and afterwards those in the negative. If the Speaker shall think it expedient to require a vote of a quorum of the members, the Speaker shall name two members, one from each side, to tell the members in the affirmative and in the negative, and will be required to shut rise and state the decision to the House.

The amendment was agreed to.

Second amendment:

Amend rule 6, by inserting after the word "Hall," in the third line, the words, "and the supplementary rooms to that part of the Capitol assigned to the House shall be subject to his order and disposal until the further order of the House;" so that it will read:

The Speaker shall examine and correct the Journal before it is read. He shall have a general direction of the Hall; and the appropriated rooms in that part of the Capitol assigned to the House shall be subject to his order and disposal until the further order of the House. He shall have a right to name any member to perform the duties of the Chair, but such substitution shall not extend beyond an adjournment.

Mr. HUSTON. I would like to know who has carried out the words of the order of the House?

Mr. WASHBURN, of Maine. The Speaker, as provided by rule 147. We strike it out there and insert the authority here.

The amendment was agreed to.

Third amendment:

Strike out all of rule 14, and insert in lieu thereof: There shall be a clerk of the House, and each Congress, to continue in office until their successors are appointed, a Clerk, Sergeant-at-Arms, Doorkeeper, and Postmaster, each of whom shall take an oath to perform faithfully the duties of his office, to the best of his knowledge and abilities, and in keep the secrets of the House; and the Speaker shall have the power to remove and install in his place any one of the officers of the House; and in cases of election by the House of its officers, the vote shall be taken by ballot.

Mr. MAYNARD. I desire to propose an amendment to this amendment, and as it is a matter of some consequence, if the committee will indulge me, I will explain it in a very few words. I propose to insert after the word "Clerk," the words "Financial Clerk;" and after the word "Doorkeeper," the words "Librarian." The object of the first amendment is to remove the disbursement of the contingent fund of the House entirely from under the control of the officers now having it in charge. At present we know that the Clerk is made the disbursing agent of the House for its contingent fund, which amounts to

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Mr. KUNKEL. They have, under the resolution, I believe, of the gentleman from Tennessee, instructing them to inquire into and report to the House what alterations should be made in the law respecting the disbursement of the contingent fund of the House.

Mr. MAYNARD. With that information, I will anticipate the action of the committee by pressing the subject further on the House at this time. I withdraw the first branch of my amendment, and ask a vote of the committee on the second branch of the amendment making the Librarian an elective officer of the House, instead of an appointee of the Clerk.

The question was taken, and **Mr. MAYNARD's** amendment was disagreed to.

The third amendment reported by the committee was then agreed to.

Fourth amendment:

Amended 17, by inserting after the word "States," in the fourth line, the words, "and of the Court of Claims;" so that it will read:

No person except a member of the Senate, their Secretary, heads of Departments, President's Private Secretary, the Governor for the time being of any State, and judges of the Supreme Court of the United States, shall be admitted within the Hall of the House of Representatives.

Mr. HARRIS, of Maryland. I desire to suggest the following amendment to that amendment:

After the words "members of the Senate," insert "members of previous Congresses."

Several members. Oh, no; do not offer that.

Mr. HARRIS, of Maryland. I make this suggestion because it occurred to me, in the last Congress, when this rule was adopted, that there was an impropriety in the exclusion of ex-members from the floor.

Mr. VALLANDIGHAM. I ask the gentleman from Maryland to modify his amendment so that the clause shall read as follows:

Senators, Representatives elect, and ex-members of the House not prosecuting claims personally, nor as agents, nor Congressmen, shall be admitted within the Hall of the House of Representatives.

Mr. HARRIS, of Maryland. No, sir; I prefer my amendment as I have suggested it.

Mr. VALLANDIGHAM. Then I will offer my amendment as a substitute for that of the gentleman from Maryland.

The **CHAIRMAN.** The gentleman from Maryland is entitled to the floor.

Mr. HARRIS, of Maryland. I will yield for the purpose of allowing the gentleman from Ohio to introduce his amendment, but I will remark that it does not strike me that it will accomplish the purpose for which my amendment was offered. I offer my amendment as a compliment to these persons.

Gentlemen who have for half a dozen Congresses been associated in this body in their Republicity. I think, as a matter of courtesy, ought to be permitted to come upon this floor.

When gentlemen have been here representing the people of a congressional district, as many upon this floor have been for ten or fifteen years, and even for a longer time, and when they retire from public life and visit this city, it is proper, it is nothing but fair, nothing but a deserved compliment, that we should recognize their former position by giving them the privilege, if they desire it, of coming upon the floor of the House.

It is only as a compliment to them that I suggest it. If any gentleman, having occupied a seat in this Hall, as a member of this House, returns to Washington in the position of an agent for any particular claim before the House, and desires to come upon the floor for the purpose of presenting his claim to the members of the House, then that gentleman, ex-member of Congress though he is, does not come within the scope of the suggestion that I make. I do not desire to confer any such compliment upon a gentleman who comes here on any such business.

But if the suggestion of the gentleman from Ohio is adopted, I do not see that anything will be accomplished.

Suppose he comes here as a claim agent: who is to inquire, who is to ascertain, whether the ex-member, who presents himself under this rule, is

it be amended as my friend from Ohio suggests, has or has not any connection with any claim before Congress.

Mr. VALLANDIGHAM. It is to be ascertained in precisely the same manner that the right of others who apply for admission upon the floor are ascertained. If a Governor of a State applies for admission on the floor, under this rule he must furnish such evidence as will be satisfactory to the Doorkeeper of his right of admission. Under the rule, as it now exists, if the Doorkeeper ascertains that any person not entitled to the privileges of the floor is here, he will have him removed, or the attention of the Speaker may be directed to the fact, and he will order the removal of such person.

Mr. HARRIS, of Maryland. Now, sir, I have been struck, during this session, as I was during the last session, with the fact that some gentlemen, who had been for years past connected in Congress, with the administration of affairs in this body; who had won for themselves a reputation in the councils of the country, and who, on visiting this city, because they were possessed with the idea that, as gentlemen, they had the right, under the rule that existed at the last session, to exist now, to avail themselves of the opportunity afforded to others by the laxity on the part of the Doorkeeper in enforcing the rule, had studiously, and at great personal inconvenience, as they desired to have conference with the right, under the rule that existed at the last session, to exist now, to avail themselves of the opportunity afforded to others by the laxity on the part of the Doorkeeper in enforcing the rule, had studiously, and at great personal inconvenience, as they desired to have conference with

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Now, sir, there is not a very large number of ex-members of Congress who come to Washington at the same time, certainly not so many as to inconvenience us. I know that there are not very many ex-members of Congress who would care to come so frequently, or to remain very long upon the floor, and I think it is due to them that we should accord this compliment to them.

Mr. Chairman, I do not understand upon what ground this rule goes. It provides that a Governor of a State being absent from the Hall, or having the right to enter upon the floor; upon what ground is that right accorded? There is certainly no special matter of business between a Governor of a State and this House, that should entitle them to it; and I should like to know from the chairman of the committee upon what principle the rule was adopted?

I can understand why judges of the Supreme Court should be included, for they are considered as one of the coordinate branches of the Government. I can understand why the judges of the Court of Claims should be included, for they constitute, in point of fact, one of the subordinate committees of this House; but I do not understand why Governors of States for the time being should be paid this compliment, which is denied to ex-members of the House itself.

Mr. WASHBURN, of Maine. The committee did take into consideration the propriety of the admission of the persons named in the amendment of the gentleman from Maryland. They were, however, all of the opinion that it was proper to extend that courtesy to the judges of the Court of Claims. I believe a portion of the committee, perhaps a majority, were in favor of the amendment the gentleman has suggested; but they determined not to report anything in which every member did not concur.

Mr. HARRIS, of Maryland. I am glad to find that the amendment will meet the objection of others. I will not enter into the discussion or detain the House further at this time. I hope the committee will agree to my amendment; and I presume such will be the fact, inasmuch as it seems a majority of the committee on rules are in favor of it.

Mr. McQUEEN. I wish to submit just a few words upon this amendment. I have seen here, for years, ex-members of Congress crowding into this House, occupying the seats of the members,

and interfering with the public business of the country. I never knew one to be such from any personal intercourse between the House and myself, but, sir, it was the common talk of the House and the country that ex-members were crowding this Hall, with a view of advancing or engineering through, as the common expression is, private claims against the Government. For years it was complained of, and the presence of a number of ex-members acting as claim agents, was looked upon as disagreeable to this body. That practice was the fruitful source of complaint in this body, as every member then here will remember. I know that these ex-members were here in numbers, and that it was because of the complaint that they acted as claim agents, that they were excluded from the privileges of the floor of this House. From my own observation, and from what I have heard, in the House and out of it, I should be very sorry to see the practice of the floor again conferred upon that class of men.

It was charged here, Mr. Chairman, and with some truth, that members of Congress who had passed two or four years had a hankering for the city of Washington, and that the members would return here, when not returned to Congress, and act as claim agents. It was thought to be wise and proper to exclude them from the privileges of this floor. It is no disrespect to them when they are refused entrance to this House. The galleries of this House are ample enough to provide for ex-members of Congress, as well as for all others who wish to witness our proceedings. They can hear there as well as they can upon the floor, what is passing in this branch of the National Legislature. I know that it has been the complaint, the just complaint, of the members of this House, that they were an annoyance to the House. Day after day they were here, enjoying the privileges of this floor; and when a member of the House left his seat for a moment, he would find it occupied by one of these ex-members. When he returned, and he would then have to stand up, or be put in the indecent position of requesting that his seat should be vacated, in order that he might again resume it. They were numerous here, and the charge was general, that they were engaged as claim agents. It is no disparagement to the House, in refusing them admittance to this Hall. They are not public functionaries. If they are to be admitted, I see no reason why any others of the private citizens of the United States should not be admitted upon this floor. I have a recollection, as I have no doubt other members have, that I represent a constituency, and that among them there are eminent and worthy private citizens as much entitled by merit to the privilege of the floor as any ex-members of Congress. I believe that members of Congress have been an annoyance to members of Congress who are entitled to the privileges of the floor. Therefore it is that I hope the amendment will not be adopted.

Mr. VALLANDIGHAM. I concur in the argument of the gentleman from Maryland, [Mr. Ataxen,] in favor of the admission of ex-members, but disagree with him in his objection to my amendment proposing to exclude from admission to the floor ex-members who are prosecuting claims before this House or the Senate. I would not counsel—for it would be a sort of compulsion—those who have claims here to employ ex-members of Congress; and the result certainly would be, if there were no restriction, that none but ex-members would be retained to prosecute claims before Congress.

Mr. WHITELEY. I ask the gentleman from Ohio whether the Doorkeeper is to ascertain whether he is or is not a claim agent?

Mr. VALLANDIGHAM. The Doorkeeper of the Senate has a book in which every one applying for admission, and claiming the privilege of the floor, is required to write his name, together with the designation of the office or the title by virtue of which he claims admission; and a like usage ought to prevail here. It would be a pledge of honor remaining of record, which no

one but those entitled to the privilege would venture to give.

Mr. RUFFIN. That was the practice of the House when we were in the old Hall.

Mr. MILLSON. Mr. Chairman, I differ with my friend from South Carolina, [Mr. McQUEEN], and I favor the amendment of the gentleman from Maryland, [Mr. HARRIS]. The number of ex-members present in this city, at any one time, is always very small and during the many years that they have been entitled to the courtesies extended to them under our former rules, I have never known any practical inconvenience to result. Besides, their presence here is not altogether a matter of course. A gentleman, connected for many years with the business of the country, is sometimes competent to give the House useful information upon past subjects of legislation, which may be raised and discussed at the time he is present. I am, therefore, in favor of the proposition; and I confess that, unlike my friend from Ohio, [Mr. VALLANDIGHAM], I am not reluctant to hear suggestions from ex-members of Congress, whether they are the agents of claims intrusted to them or not; for I have no fear that I shall be led astray by any incorrect statements that they may make. On the other hand, I would greatly prefer. I would be glad to suffer the annoyance of being talked to by them upon the floor, if it be an annoyance, rather than to be frequently compelled, as I am now, to go out of the House to hear their representations, and in that way to absent myself when the business of the House is going on.

Mr. FLORENCE. Mr. Chairman, I differ with the gentleman from South Carolina in the conclusions at which he arrives, and I believe that the courtesy of this House ought to be extended to ex-members of Congress in this city. The inconvenience to which the gentleman refers was enhanced by reason that in the old Hall, at which time the complaints were made alluded to, gentlemen here, as correspondents and reporters of the newspapers throughout the country, were allowed to occupy seats upon the floor of the House. It frequently happened that those gentlemen, as well as the ex-members of Congress here, were interested in the legislation that was going on before us. They, I know it was claimed, were the source of much trouble and annoyance to the members.

Mr. McQUEEN. They had desks assigned them outside of the bar of the House, and when they passed the bar of the House and came in amongst the members, it was considered an intrusion, and that they exceeded the privilege conferred upon them.

Mr. FLORENCE. I am aware of what. Those gentlemen informed themselves upon the subjects before the House, became interested in them, and, as was alleged, gave much trouble and annoyance to members by their importunities. In this Hall we avoid the necessity of having them upon the floor. Correspondents and reporters for the newspaper press of the country have a gallery assigned them, which I understand is acceptable to them. I objected, at the time, to putting them in that gallery, as well as to the practice of the House when they were there. I now, however, understand that they are satisfied with their accommodations. I only refer to the matter now to show that the annoyance of which members complained did not arise altogether from ex-members of Congress.

The gentleman from Ohio, [Mr. VALLANDIGHAM], refers to the practice of the Senate in keeping a book, wherein are entered the names of those who claim the privilege of the floor of the Senate, and the office which gives them the right to make that claim. That matter is not in question in the House when we occupied the old Hall, and I do not know why it has been done away with. Those who came upon the floor were compelled to say, before they were admitted, that they were in nowise concerned in pressing claims before Congress.

Mr. McQUEEN. I am informed by the permission of my friend from Pennsylvania, [Mr. FLORENCE], let me inquire if he did not hear from day to day, week to week, and month to month, that former members of this House were here as claim agents, pressing claims upon the attention of this House?

Mr. FLORENCE. It was a subject of general remark, I believe. But the difficulty would be obviated if the provision suggested by the gentleman from Ohio [Mr. VALLANDIGHAM] is added

to the amendment proposed by the gentleman from Maryland, [Mr. HARRIS]. The gentleman from Virginia [Mr. MILLSON] very properly remarked that there were but few ex-members of Congress at any one time during the session of Congress present in this city. That is true, except, perhaps, it be with regard to gentlemen who come here to prosecute claims before the House. But will any person tell me that those persons are not as well known as any other class of residents of Washington? Let an ex-member of Congress—I was going to say, prostitute himself to such base purposes—let an ex-member of Congress come here to perform this business of lobbying claims through Congress, and the stench of fire will be upon his garments, and no purification will cleanse his skirts of the odium that I think should attach to such a person. He can be pointed out; he is known to everybody; he is button-holed and button-holed all the time by those desirous to secure his services; and we adopt the provision suggested by the gentleman from Ohio, [Mr. VALLANDIGHAM], he would not dare to obtrude himself in the presence of honest and virtuous gentlemen. I would propose to amend by inserting—

“The CHAIRMAN. There is already an amendment in this House.”

Mr. FLORENCE. I would suggest that the words “diplomatic corps” be inserted in this amendment.

A MEMBER. “Foreign ministers.”

“diplomatic corps.” They are known as the “diplomatic corps.”

Mr. WASHBURN, of Maine. I would suggest to the gentleman from Pennsylvania [Mr. FLORENCE] that he allow the vote to be taken upon this amendment, and then he can offer the one he indicates.

Mr. FLORENCE. I would say that members often have business for their constituents with the diplomatic corps resident in Washington, and they cannot leave that means of intercourse with them that they desire if they are confined to the gallery. I do not object to the amendment, but with a person occupied as I am, it is difficult to find them at their offices, when my time allows me to call upon them there.

Mr. GROW. I would inquire of the Chair if the gentleman from Ohio [Mr. VALLANDIGHAM] is substituting for the amendment for the amendment of the gentleman from Maryland, [Mr. HARRIS].

The CHAIRMAN. So the Chair understands. Mr. GROW. I understand that my colleague [Mr. FLORENCE] moves now to strike out and insert certain words.

Mr. FLORENCE. My colleague is mistaken. I make no such motion.

Mr. GROW. Then I will move to strike out of the amendment of the gentleman from Ohio [Mr. VALLANDIGHAM] the words “ex-members of Congress,” &c., and insert the words “foreign ministers,” so that it will stand: “members elect to the Senate and House of Representatives, foreign ministers,” &c.

Mr. WASHBURN, of Maine. Let us dispose of the matter in reference to members elect of the Senate and House of Representatives, and then go on with the other.

Mr. GROW. That is what I wish to get at now. As I understand the question, the gentleman from Ohio [Mr. VALLANDIGHAM] proposes to substitute for the amendment of the gentleman from Maryland, [Mr. HARRIS], I propose to strike out of the substitute the words “ex-members of Congress,” and to insert after the words “members elect to the Senate and House of Representatives,” the words “foreign ministers.” That will decide whether this House is willing to admit upon this floor ex-members or not. Or, I will modify my amendment, and simply propose to strike out the words “ex-members of Congress.”

Mr. HOUSTON. I understand the Committee on the Rules have reported amendments to the rules, and their amendments are now before us as amendments.

The CHAIRMAN. The Chair holds that the amendments reported by the Committee on the Rules are the text upon which subsequent amendments are predicated.

Mr. HOUSTON. I understand that the committee have reported back the whole body of the rules, with their amendments; and the body of the rules, I take it, constitute the text, and the amend-

ments proposed by them constitute amendments in the first degree. The whole body of the rules are necessarily before us in Committee, of the Whole, and they constitute the foundation upon which we propose to build.

The CHAIRMAN. The Chair considers the report of the committee as the subject upon which the Committee of the Whole is now acting. They did not report back the rules, but reported back certain amendments to be incorporated into the rules. The amendments reported by the committee are the text upon which subsequent amendments are to be predicated; and amendments are, in order, as the Chair holds, to the second degree. The question is now upon the motion of the gentleman from Pennsylvania, [Mr. GROW], to strike out from the amendment of the gentleman from Ohio [Mr. VALLANDIGHAM] the words “ex-members of Congress.”

Mr. HOUSTON. I would like to have the amendments reported to the committee, so that we could understand them.

The CHAIRMAN. The committee propose to change rule 17 of the House, by inserting after the word “Sinter,” in the fourth line, the words “and of the Court of Claims;” so that it will

No person, except members of the Senate, their Secretaries, heads of Departments, President's Private Secretary, the President's personal Secretary, the Chief Justice of the Supreme Court of the United States and of the Court of Claims, shall be admitted within the Hall of the House of Representatives.

The gentleman from Maryland [Mr. HARRIS] proposes to amend, by inserting after the words “members of the Senate” the words “members of previous Congresses.” For the amendment of the gentleman from Maryland [Mr. HARRIS] the gentleman from Ohio [Mr. VALLANDIGHAM] proposes to substitute “Senators and members elect, and ex-members of the House not prosecuting claims personally, or as agents, before Congress.” The gentleman from Pennsylvania [Mr. GROW] moves to amend the substitute, by striking out the words “ex-members of the House not prosecuting claims personally, or as agents, before Congress.”

Mr. MAYNARD. In common with the rest of the House, I am somewhat interested in this question, especially if I live as long as I hope I may, be an ex-member of Congress. I came up the last Congress, I offered a proposition similar to the one now submitted by the gentleman from Ohio, [Mr. VALLANDIGHAM], to amend the rules. This rule which we now propose to amend is a rule that was adopted for the first time, as I understand the history of it, by the House when they took possession of the new Hall some two years ago. Not long after that rule had been adopted an incident occurred, that came to my notice, of such a character as led me to introduce the proposition I have referred to. That incident was this: a gentleman from the State of Virginia, of very high character and great personal dignity—a very aged man—who had been at one time in his life a conspicuous member of this body, since deceased—I refer to the late Charles Fenton Smith—when he came to the new Hall, and found that the House of Representatives had taken possession of their new Hall, he expressed a desire to a friend to see this body in its new place of session. He came with a friend up here to the front door, and with three men by a sub-doorkeeper, who closed the door in his face and sent him up to the gallery. This occurred but a short time before his death. I was also informed of another incident which occurred during the last session of Congress. One of the first men of the country—acknowledged by all to be the first time as I recollect in various ways by both Houses of Congress—I refer to General Scott—came here and sought admission into the Hall. He also was sent up into the gallery to look on. I know that, as a matter of fact, ex-members of Congress very seldom come here.

Mr. McQUEEN. If my knowledge is correct, the adoption of the rule advocated by the gentleman from Tennessee would not relieve General Scott. I do not think he ever was a member of Congress.

Mr. MAYNARD. I was stating the effect of the recent change of the rule, and the necessity which exists for revising it, so as to avoid such results. I referred to General Scott as one who would have been entitled to come in under our

former rule, for the individual who has received the thanks of Congress.

I was saying this in a matter of fact, ex-members of Congress seldom return to this city. They come occasionally, and when they do so, it is very grateful to be permitted to mingle with their old associates, and this Hall is the only place where they can well do so.

I prefer that the amendment should not exclude those who might be acting for the time being as claim agents, but that is a small matter, affecting comparatively few gentlemen. It will operate almost entirely for the convenience of those who, from distant portions of the country, come to the city once, perhaps, in five or ten years. When they come here they find it very agreeable, desirable even, to come into the Hall and sit a few minutes, or perhaps an hour. Admit them; the rule would not probably apply to more than twenty-five or thirty persons during a session—not exceeding fifty, I am sure. By excluding them, in variance with ancient usage, we commit an ungracious act of inhospitality towards our predecessors, without deriving from it any compensating advantage.

MR. HANCOCK. I do not propose to give the committee the benefit of any of my advice to-day upon the amendment of the rules. I see in these proposed amendments a good deal that is good; and I have not been able to find anything at all objectionable. I hope they will be adopted.

I desire to remind the committee that we have already spent three hours, and have not yet got through the third amendment proposed by the committee. There are thirty-eight amendments in all; and if we go on discussing them in this way, it will take at least ten days of the session, missing four hours a day, to dispose of them. I would like to talk about some of them myself. The rules are an interesting subject to gentlemen upon this floor. We like to make points of order, and discuss them. But I intend to refrain entirely from discussing any of them, because I consider it desirable that they should be adopted; and unless gentlemen practice some self-denial, and allow them to be acted upon without debate, we shall waste a great deal of time. I suggest to the chairman of the committee that, unless the Committee of the Whole House shall give a disposition to pursue such a course, he shall move that the committee rise for the purpose of going into the House, and closing debate upon the amendments.

MR. WASHBURN, of Maine. I am much obliged to the gentleman from North Carolina for the suggestion he has made. I was about to call the attention of the committee to the fact that it will be necessary to refrain from these lengthy discussions, if we hope to pass upon these amendments.

I have no doubt that every gentleman here understands perfectly this question as to the admission of ex-members of Congress and foreign ministers upon the floor of this House, and is just as well prepared to vote upon it now as he ever was. I hope we shall be permitted to come to a vote immediately.

The question was taken upon the motion of Mr. GROW to strike out from the substitute offered by Mr. VALLANDIGHAM the words "ex-members of Congress," &c.

The amendment was not agreed to.

The question recurred upon the substitute offered by Mr. VALLANDIGHAM for the amendment of Mr. HARRIS, of Maryland.

MR. WHITELEY. Is it in order to add "defeated candidates for Congress" to think if a man comes in here upon a certificate he ought to be permitted to come in by courtesy.

The CHAIRMAN. Such an amendment is in order.

MR. GARNETT. I would suggest also, "members of the Baltimore, Cincinnati, and Cleveland conventions, and all candidates for the Presidency." [Laughter.]

MR. BOCKOCK. I call for tellers upon the substitute.

Tellers were ordered; and Messrs. HARRIS of Maryland, and HALE were appointed.

MR. GROW. Before the vote is taken, I desire to inquire if foreign ministers are included in the substitute as it stands?

The CHAIRMAN. They are not.

MR. GROW. I hope they will be inserted in

the substitute; for if it is to be adopted, they ought to be included.

The House divided; and the tellers reported—ayes 72, noes 53.

So the substitute was adopted.

The question recurred upon the amendment of Mr. HARRIS, of Maryland, as amended.

MR. GROW. Now I ask the unanimous consent of the House to insert the words "and foreign ministers" after the words "Private Secretary." They should be allowed the privilege, if it is extended to other persons.

No objection being made, the words "foreign ministers" were inserted.

The amendment of Mr. HARRIS, of Maryland, as amended, was agreed to; and the amendment of the committee, as thus amended, was adopted.

Fifth amendment:

Strike out rule 21. (Provided for by proposed amendment to rule 14.)

The amendment was agreed to.

Sixth amendment:

Amend rule 22, by adding at the end thereof the following: "And all business before committees of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress, as if no adjournment had taken place;" so that it will read:

After six days from the commencement of a second or subsequent session of any Congress, all bills, resolutions, and reports, which originated in the first session of the next preceding session remained undetermined, shall be resumed and acted on in the same manner as if an adjournment had taken place. The same rule shall govern committees of the House at the end of one session shall be resumed the same manner as if the first session of the same Congress, as if no adjournment had taken place.

The amendment was agreed to.

Seventh amendment:

Strike out rule 23, and insert in lieu thereof the following:

When, as on the Journal is read, and the unfinished business to which the House was engaged at the last preceding adjournment has been disposed of, reports from committees shall be called for and disposed of—in doing which, the Speaker shall call upon each standing committee in their regular order, and then upon select committees; and if the report of a committee has not yet been reported during the session, but the House passes to other business, he shall resume the next call where he left off, giving preference to the report last under consideration: *Provided*, That whenever any committee shall have occupied the morning hour on two days, it shall not be in order for such committee to report, and whenever the other committee shall be called to their turn. On the call for reports from committees on each alternate Monday, which shall commence as the Journal is read, all bills reported during the first hour after the Journal is read shall be commenced, without debate, by the gentleman who introduced them, together with their accompanying reports, printed; and if, during the hour, all the committees are not called, then, on the next Monday, the gentleman shall be called to resume the call; and if the committee shall be called, and the committee shall be again brought before the House by a motion to reconsider.

MR. McKNIGHT. I move to amend the amendment by striking out the word "their" before "regular order," in the fifth line. It is superfluous and ungrammatical.

The amendment to the amendment was agreed to.

The seventh amendment, as amended, was then agreed to.

MR. OLIN. I wish to propose an amendment to the 24th rule, which I desire the Clerk to read. I suppose it will come in in order here.

MR. NOELL. I rise to a question of order. It is in order to offer an amendment to the 24th rule which is not included in the report of the committee.

MR. OLIN. We are passing over the rules, and have now reached the 24th rule.

The CHAIRMAN. The Chair supposes that, in fact, the rules of the House are not before the Committee of the Whole; that they are acting upon the report of the committee, which only brings before the Committee of the Whole those rules to which amendments are reported. The amendment of the gentleman from New York will probably be considered as an amendment to the Committee of the Whole; that we are acting upon the report of the committee, which only brings before the Committee of the Whole those rules to which amendments are reported. The amendment of the gentleman from New York will probably be considered as an amendment to the Committee of the Whole; that we are acting upon the report of the committee, which only brings before the Committee of the Whole those rules to which amendments are reported by the committee.

MR. OLIN. The amendment I propose only has application to the 24th rule of the House.

The CHAIRMAN. Then the Chair would suggest that the gentleman had better reserve his amendment until the Committee of the Whole has gone through with the amendments of the committee, and then it is believed that it will be in order to offer any other amendments in addition to the amendments reported by the committee.

Eighth amendment:

Amend rule 25 by striking out the words "of Wisconsin and inserting in lieu thereof the words, "last organized;" so that it will read:

Reports from committees having been presented and disposed of, the Speaker shall call for reports from members of each State and Delegates from each Territory, beginning with Maine and the Territory last organized alternately, &c.

The amendment was agreed to.

Ninth amendment:

Amend rule 36, by inserting before the word "resolutions," in the first and seventh lines, the words "bills on leave and;" and by adding at the end of the words, "and the Speaker shall first consider and dispose of the bills on leave;" and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees: *Provided*, however, That a bill so introduced and referred shall not be brought back into the House upon a motion to reconsider; so that it will read:

All the States and Territories shall be called for bills on leave and resolutions on each alternate Monday during each session of Congress; and, if necessary to secure this object on said days, all resolutions which shall give rise to debate shall lie over for discussion, under the rules of the House already established; and the whole of said days shall be appropriated to bills on leave and resolutions, until all the bills are called for and disposed of. The Speaker shall call the States and Territories for bills on leave; and all bills so introduced during the first hour after the Journal is read shall be referred, without debate, to their appropriate committees: *Provided*, however, That a bill so introduced and referred shall not be brought back into the House upon a motion to reconsider.

The amendment was agreed to.

Tenth amendment:

Amend rule 37, by inserting after the word "Friday" the words "and Saturday;" and by adding at the end of the rule, "but when a bill is again reached, after having been once objected to, the committee shall consider and dispose of the same, unless it shall again be objected to by at least five members;" so that it will read:

On the first and fourth Friday and Saturday of each month, the Calendar of private bills shall be called over, (the chairman of the committee shall be called to the Chair, commencing the call where he left off the previous day,) and the bills to the passage of which no objection shall then be made shall be taken up and disposed of. If, after the call, a bill is again reached, after having been once objected to, the committee shall consider and dispose of the same, unless it shall be objected to by at least five members.

The amendment was agreed to.

Eleventh amendment:

Amend rule 24, by adding at the end thereof the words, "Provided further, That the House may, by the vote of a majority of the members present, at any time after five minutes' debate have taken place upon proposed amendments to any section of a bill, close all debate upon such section;" so that it will read:

No member shall occupy more than one hour in debate on any question, in the House or in committee; but a member reporting the measure under consideration from a committee may open a debate of one hour on the question, and where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer—December 18, 1857—after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment nor an amendment to the amendment shall be withdrawn by the mover thereof, unless by the unanimous consent of the House. *Provided further, That the House may, at any time after five minutes' debate has taken place upon proposed amendments to any section of a bill, close all debate upon such section.*

MR. VALLANDIGHAM. I move to amend, by providing the following proviso:

Provided further, That the limitation of debate to one hour shall apply only to speeches read by members in the House or in committee.

MR. MILLSON. As that may preclude an amendment which I have to offer, I ask the gentleman to allow me to move to amend the preceding clause. I understand the rule to be that, after a new proviso is added to the clause, it will be too late to amend the clause itself.

The CHAIRMAN. The Chair supposes it will be in order to amend the clause if the amendment of the gentleman from Ohio shall be added to it.

MR. BOCKOCK. I rise to a question of order. I entirely wish to reserve the right to offer amendments to matters. When a member rises and moves to add to a section, and another member rises and moves to amend the body of the section, the latter motion takes precedence. In this instance, the amendment of the gentleman from Virginia must be first acted upon, and that of the gentleman from Ohio afterwards.

The CHAIRMAN. The Chair had supposed that the rule was different, but does not know that it is a matter of any importance. He had supposed that a section was open to debate and

amendment, even after words had been added to it. The Chair, however, will assign the floor to the gentleman from Virginia.

Mr. MILLSON. The change proposed by the amendment reported by the committee has long been a very desirable one. Some years ago, when a member of the select committee on rules, I reported to the House a proposition intending to produce the very good result which I think this amendment will secure, but I suggested to the gentleman from Maine, who reported the amendment, that, perhaps from inadvertence, there are one or two words omitted which I think are necessary to make the amendment useful. I am surprised at the inadvertence on the part of the gentleman from Maine, when I call to mind that in 1834, at the time I made that report from the select committee on rules, the very omission to which I am now calling his attention he himself rose and called my attention to. Although, in point of fact, the resolution which I then submitted was not open to his criticism, yet I admitted at the time that the point he made was a good one. I propose to amend the amendment by adding after the word "section" the words "or paragraph;" so that it will be read:

At any time after five minutes' debate has taken place upon proposed amendments to any section or paragraph of a bill, &c.

Mr. WASHBURN, of Maine. I would suggest to the gentleman from Virginia, that it may be necessary to make other modifications to conform to the amendments he proposes.

Mr. MILLSON. I do not think there will be any inconvenience, practically, from retaining what I have suggested. I do not propose to interfere with the right of the House to close debate upon the whole section, if they shall please to do so; but the committee will observe that when the House, in the Committee of the Whole on the state of the Union, with an appropriation bill under consideration, we have a number of independent paragraphs in one section; indeed it very often happens that there is but one section of an appropriation bill, and a great many independent paragraphs. Now, sir, the case may occur that the committee are desirous of closing debate upon a whole section, but in other cases, they may desire to close debate only upon a paragraph. I wish, then, to leave it optional with them to close debate either upon the section or the paragraph, as may seem right at the time.

Mr. BOCKO. I will say to the gentleman from Virginia that I am authorized, by at least two members of the committee, to say that they are in favor of the amendment he will propose.

Mr. WASHBURN, of Maine. You are so authorized by a majority of the committee.

Mr. BOCKO. Then, as a majority of the committee authorize it, the amendment of my colleague will be adopted as a part of the report of the committee.

Mr. MILLSON. The amendment having been accepted by the committee, it necessarily includes the following addition:

"That the House may, at any time, after five minutes' debate has taken place upon a proposed amendment, or any section or paragraph of the bill under consideration, close the section or paragraph, or, at their election, upon the pending amendment only."

Now it will be observed that the committee may sometimes desire to close debate upon a pending amendment or amendments without closing it upon the section, for the section may be a very long one, important in its provisions and needing amendment. The committee, however, may not be able to get on beyond a pending amendment so as to be able to close debate on the subsequent part of the section or paragraph.

Mr. WASHBURN, of Maine. The committee also accept that amendment, and it seems very strange to me that it did not occur to them before.

Mr. GARNETT. I should not be doing justice to myself or to the importance of the amendment under consideration, if I did not express to the House some of the reasons which will determine me in casting my vote against it. I do not, for one, consider that this is a mere legislative body. We are not a *corps législatif*, assembled by a French Emperor to register his arbitrary decrees. We are not only a legislative assembly, but we are a deliberative body, and it is the highest privilege of the Anglo-Saxon race to be governed by parliamentary bodies which deliberate

upon all propositions brought before them for their action. I ask any attentive reader of our history, I ask any man who has observed the course of proceedings in this body, whether there has not been for years a constant tendency to dwarf this House of Representatives into a mere legislative assembly, where measures are brought before us and passed through without deliberation or decision?

In the early days of this Government, the House of Representatives, the immediate representatives of the people, was the principal branch of Congress. Why is it that now, on the contrary, each day diminishes its importance and influence in public opinion? Is it because they are more intelligent representatives, or are less immediately dependent upon the people? I take it that is a reason which gentlemen will not be prepared to avow, even if they believe it. Why is it, then, unless the rules and forms of proceeding in the Senate secure deliberation and discussion; while, on the contrary, the tendency in this House is to cut them off entirely? And let us remember, that the influence of a congressional body, in a free Government, depends not so much upon their power of passing laws—for laws, to be carried into effect, must be carried by the executive, formed beforehand—but upon their power of discussion, their habit of deliberation, and the control they exercise over the public opinion of the nation.

What is the state of things here? In the first place, Mr. Chairman, it is exceedingly difficult under the rules for any member to exercise what I take to be the first right of a Representative, and that is, to bring his proposition before the House. While he is cut off from that privilege of a Representative in great part under our practice—for notwithstanding gentlemen tell me the theory of the rules is that a member shall always have that opportunity, yet all we know, under the practice, that that opportunity seldom or ever occurs for him; while he is cut off from the highest privilege of a Representative, when his measure is introduced into the House, how seldom is it, sir, that we have intelligent, deliberate debate upon it? It is sent to the Committee of the Whole on the state of the Union, and there, under the construction of our rules, a member is at liberty to speak on any question before the question before the House. The consequence is, so far as our hour speeches are concerned, that there is rarely a discussion of the pending question. Then we go back to the House, where it is determined that debate shall terminate in the Committee of the Whole on the state of the Union at certain time. Then, sir, for the first time, commences valuable practical debate, under, however, the five-minutes rule. It is now proposed to do away with even that debate. Suppose there is an important section of an appropriation bill before us; some law affecting the destinies of territory; one of the future sovereignties of this Union; and that I am so fortunate as to obtain the floor, and move an amendment: I can speak for five minutes, and some other member of the House can speak for five minutes in opposition to it. Then, sir, the proposed amendment, if the amendment of the rules, all possibility of further debate is cut off, and other amendments cannot be offered or explained.

I admit freely that this five minutes' debate is frequently abused. I admit that the patience of the House is sometimes overtaxed by two or three days' discussion of one amendment, and that, too, not always germane or pertinent, though it is generally so. I admit all of that; but, Mr. Chairman, are we never to have our patience tried, and are we never to be expected here to exercise our own judicious determinations without listening to debate; without being willing to hear our peers upon this floor bring forward the reasons which move them, as the Representatives of the people, to go for or against a measure? Is it not one of the necessary duties of a parliamentarian and a deliberative body that there shall occasionally be tedious debate; that occasionally it shall be within the power of members to protract discussion unreasonably? The moment you take that power away, you may as well take away the power of discussion at all, and force it within the power of a majority to register its decrees without the minority having the privilege of appealing to public opinion by discussion and deliberation. Now, sir, you will then take away a still more valuable power

from the majority itself—the power which every majority ought to desire to have placed upon it—the power of the minority to check them, and prevent them from tyrannical and precipitate action; that check, sir, which is to be found in free discussion; that check which is necessary to the safety and to the wise conduct of the majority as it is to the rights of the minority.

For my part, Mr. Chairman, I believe that the true remedy for the abuse of the present practice, the true remedy for protracted and unreasonable debate in the Committee of the Whole on the state of the Union, will be found in an enforcement of the parliamentary law, which, in committee as well as in the House, (the opportunity I know has been the practice under the decisions of our Speakers and Chairmen of the Committee of the Whole on the state of the Union), directs that debate shall be germane and pertinent to the measure immediately pending. If we could agree upon a rule that will prevent the practice of long protraction in the Committee of the Whole on the state of the Union, of members getting up and reading electioneering essays upon every possible subject; treating upon doctrines of philosophy, and upon history and the arts; if we could, in other words, enforce the rule which I have just quoted from the Committee of the Whole on the state of the Union, then, sir, we would, I believe, have no need of such an amendment as this, and debate would rarely be prolonged beyond the patience of members of the House. I admit, I repeat, under our practice, in the House of Representatives, we occasionally have the patience of the House sorely tried; but I submit that that is a thousand times better than the adoption of an amendment to the rules which enhances the greatest evil of the present question; which destroys the rights of the minority; which gives to the majority a power dangerous to itself, and which has a tendency to dwarf and degrade the House of Representatives in the eyes of the people in comparison with the other branch of Congress, and to throw, I will tell gentlemen, all the weight which we have as a government all power, not over the mere passage of laws, but over that public opinion which shapes and molds the laws beforehand.

In some respects, Mr. Chairman, as a sectional man, I do not think that I object to this state of things. I believe that the House of Representatives upon its true theory so long as it does exist; and I tell gentlemen upon all sides, and especially gentlemen of the other side, that if they adopt this amendment, they will do that which will still more diminish the power of this House of Representatives in the future.

Mr. BOCKO. Mr. Chairman, I do not think it necessary, at this stage of our proceedings, to take up the time of the House with any protracted remarks upon the necessity which exists for the present question. I believe that the history of the Congress of the United States satisfies every man that, while the previous question does sometimes lead to abuse; while it may, by a tyrannical majority, be employed so as to infringe the rights of a minority, yet our business cannot be carried on without the aid of the majority. It is the diet of all those who have had experience of legislative matters in this House. So far as the remarks of my colleague relate to that subject, what I have said is a sufficient reply to them.

Now, sir, when my colleague said that the amendment the gentleman introduced would increase the power of the majority and diminish opportunity for the discussion and amendment of bills, he did not, perhaps, look forward to see that this amendment, taken in connection with another which will come after it, will destroy the power which the House has, by the power of a majority to force bills through by cutting off amendment and debate. It is within the knowledge of all of us, of my colleague as much as of any other, that the protracted debates under the five-minutes' rule have been going on to such an extent as to destroy the power of the majority to take up and put in force an old rule that had slumbered in oblivion for many years. Under the interpretation of the rules and the practice of the House, this is the state of things at present; and I call the attention of my friend and colleague to it. Suppose the majority have a hour session, as introduced by the gentleman from Ohio, [Mr. SHERMAN,] with a number of provisions of importance; suppose that the first sections excite, because of their importance, inquiry and protracted debate,

extending day after day, into weeks, and that a speech made by one gentleman compels reply— for we know that concussion of ideas always produces an increase of ideas before the House—the gentleman from Ohio will then rise in his character of chairman of the Committee of Ways and Means, and being worn out with debate, his mind appressed with a sense of the responsibility resting upon him, and in view of the approaching termination of the session will appeal to his faithful cohorts, telling them that the responsibility of the Government is upon them; that the debate must not be allowed further to proceed; and that the motion striking out the enacting clause, which is the effect, must be moved to. Now, sir, though there may be, in the latter part of that bill, various propositions which are important, and which ought to be discussed and ought to be amended, the majority, following the lead of the chairman of the Committee of Ways and Means, may believe that it is better, on the whole, to force the bill through and cut off all amendments to the latter part of the bill, by moving to strike out the enacting clause, bring it into the House, non-concur in the recommendation of the Committee of the Whole, call the previous question, and, by whips and spur, force the bill through the House of Representatives. Now, the committee appointed by the Speaker has provided that that power shall not be exercised by the majority of the House. It has provided, in an amendment hereafter to come up, that when a bill is introduced in the Committee of the Whole, no motion is made to strike out the enacting clause and agreed to by the Committee of the Whole, and the House refuse to concur with the recommendation of the committee, the bill, by that act alone, shall stand recommitted to the Committee of the Whole. The effect of that will be, to bill carry it before the Committee of the Whole on the state of the Union; a majority is satisfied that any amendment of the bill, or any discussion of it in the Committee of the Whole, would be of no use; would be but time thrown away. They may strike out the enacting clause, and the purpose of defeating the bill. The bill will then come into the House with that recommendation of the Committee of the Whole; and their concurring in that recommendation will defeat the bill, and the time of the House will be saved. The abuse of the rule is thereby prevented.

You all know that a majority of the Committee of the Whole now have the power, under this rule, to strike out the enacting clause of a bill; and if the House refuse to concur in that action of the committee, with the purpose of defeating the bill, the bill will then come into the House without opportunity for discussion or amendment. Adopt these two amendments together, and then what do you have? You deny to the majority of the Committee of the Whole the power to take a bill out of the committee before you have had an opportunity to discuss it and amend it, under the rule allowing speeches of five minutes upon amendments; it goes that far in carrying out the views of my friend and colleague, [Mr. GARNETT]. In order to get that, the gentleman upon the other side, who is in the majority, will say, "the business of the House is to say: 'If you ask us to do this'—and they were willing to do it; I do not say that they were reluctant to do it—'if you ask us to do this,' you must give us the opportunity by which we can discuss it, and get the business out of the Committee of the Whole." We then agreed that when any section was under consideration, and there had been a speech for and against an amendment to that section, they can go into the House and take a vote of the debate upon the question of the bill. Instead of my colleague [Mr. GARNETT] opposing this, he ought to advocate it.

Mr. VALLANDIGHAM. What is the pending question?

Mr. CHAIRMAN. The question is upon agreeing to the eleventh amendment of the committee, as amended.

Mr. VALLANDIGHAM. I offer the following amendment:

Provided, further, that the limitation of debate to one hour shall apply only to speeches read by members in the House or committee.

I will detain the committee but a few minutes upon this amendment. I do not propose to discuss the subject at length. I am not ambitious of the character of a reformer. But I am sure that

wise and wholesome reforms are needed in the rules of this House. I object to the report of the committee, that it is not sufficiently radical; it does not go far enough. In my deliberate judgment, he would be one of the greatest benefactors of the legislation of this Government who would introduce and carry through a proposition to abolish the whole system of rules and of precise under the House of Representatives, and to replace it by a more casual and usages of Parliament. Our system, sir, is not half so democratic—not half so republican, if you please—as that which obtain in the House of Commons. There, every member who can "catch the eye of the Speaker" may propose a measure, and the Speaker, if the House in support of it as long as the patience of the House will tolerate his speech, or his own good sense allow him to proceed. He may move for leave to introduce a bill, and if the House look so far favorably upon the proposition as to grant it, leave is then, by parliamentary usage, given the chairman of the select committee appointed to bring it in, and in, by virtue of that chairmanship, invested with the same privileges which are extended to chairmen of standing committees here. Thus, sir, is equality there accorded to every member, and he has the chance to participate in the business of legislation.

But how is it here? Your Speaker, whatever his natural disposition may be, is, by the necessities of his office, a despot. Your rules make him so. And the chairman of the select committee is but twenty-eight sub-despots, acting under him. They are entitled by the custom of the House to be recognized by the Speaker in preference to any other member, whenever the measures which they have severally reported are pending. No proposition can be introduced here, unless by unanimous consent or a suspension of the rules, except from a committee. The result is, that to the hands alone of the privileged few who are chairmen of the committees is consigned the whole trade and mystery of legislation. The business, sir, of a lightning rod train, and we, the other members, are but passengers, with checks in our hats. I repeat, then, that it would be a wise and most wholesome reform to abolish all these rules, worse now than the early English rules of action or English special pleading, and return to the ancient and well-tried parliamentary law and usage, allowing every member to introduce whatever proposition he may please to introduce—as Mr. Burke did his celebrated measure for economical reform—and, at last, lay before the House and the country his exposition of the principles upon which the measure is based, whether the House give its consent that he may bring in a bill or not.

But I rose, Mr. Chairman, mainly to urge the adoption of the amendment which I have proposed. I do not prefer—if written speeches should be prohibited altogether—that the hour rule should be entirely abrogated. But apprehensive that the committee may not consent to go that far directly, I propose now only to mitigate the evil. No one, sir, who has observed and reflected upon the business of legislation here for some years past, will deny that very many of the evils of which the country has so much and so justly complained, and which have contributed so much to bring this House into disrepute, have arisen from the operation of the hour rule. I say the hour rule, I permit, go back to the history of the past, and demonstrate the uniform and inevitable mischief resulting from that rule wherever it has obtained. At Athens, in her legislative assembly, there was no limit to public debate, and hence those splendid orations of the Grecian eloquence which excited the admiration of the world to this day. But in the judicial courts of Athens the rule did prevail; the "clepsydra" cut down the orator in the midst of his address, and, by consequence, forensic eloquence attained but small importance in Greece, and but little which is known or read remains to this day. The "hour rule" precluded advocates, and the want of advocates dwarfed the forum and the jurisprudence of Athens into comparative insignificance. Demosthenes, who "ful-

mined" in the public assemblies of that renowned city, shrank at the bar into a mere writer of speeches for litigants to read. Limitation upon debate was not known in the Roman Senate or at the Roman bar in the earlier days of the Republic; but as she began to fall into decay, and wicked emperors succeeded to the seats of virtuous consuls, the "hour rule" was applied in judicial trials, and it is the testimony of Tacitus and Pliny, that from that moment the eloquence perished. Despotism thirsted for treasure or for blood, and free speech was no longer tolerated at her bar. Dispatch is the great weapon of tyranny.

But I come down to our own times, and ask of the older members of the House whether the effect of this rule here has not been unmitigated evil? I am well aware that the usual argument urged in support of the limitation is, that it diminishes the quantum of debate. Is that a consideration, I ask, it to be urged in a deliberative assembly? Why protect members from question for words spoken in debate, if no debate is to be allowed, or even if it be an object to suppress or to limit it? But I deny the fact. I affirm, on the contrary, that the aggregate amount of speaking has been vastly increased by it. I should say nothing myself of the quality of the speaking, but I should say that the authority of a predecessor of mine, (Mr. Schenck), who served some eight years in this House, and who has been eight years now a citizen in private life, observing the course of debate and legislation here, from the date of his resignation to his thirteen years' observation, that the speaking in this House has very much increased in quantity, and very greatly deteriorated in quality, since the adoption of the hour rule. Sir, the rule was assailed vehemently by Mr. Benton, in his Thirtieth Year View, and I refer gentlemen to his observations upon it. Mr. Calhoun also denounced it as "destroying the liberties of the people by gagging their Representatives," and Mr. William R. King declared that he would resist it in the Senate "even unto the death." In the House it was opposed persistently by the ablest and most able members, and among them by John Quincy Adams.

I propose, Mr. Chairman, that the hour rule shall be limited in its application only to speeches which are read. According to the new view of this House, as I have said, the Manual, no member has a right now to read a speech if it be objected to; but courtesy will not tolerate an objection. So long has the custom prevailed, and to such an extent has it been carried, that it would be regarded, doubtless, as highly presumptuous to demand an enforcement of the rule. Now, I believe that this proposed amendment will prove a wise provision; and that, by removing the restriction, or confining it rather to essays read in this House, a premium will be held out to legitimate debate, which I trust to see restored in this Chamber, to take the place of these carefully-prepared, elaborately-constructed, and, for the most part, elegantly-written lectures which so often weary the patience of the House, admirable as they may be— for, sir, I am not one of those who think that in this House, as in the Senate, the speeches which are read, or spoken upon that floor, are mere "trash." This, sir, is an accusation unjust and unfounded. But these essays or lectures are not fit for this presentation; they are not delivered in the proper place. They belong to the lyceum, and not to legislation.

Allow me, sir, to refer, by way of illustration of the evil of which I complain, to what occurred when the gentleman from Alabama [Mr. CECIL] had concluded his very earnest and elaborate speech upon the question of the hour rule. I was eager for the debate to proceed. You, yourself, Mr. Chairman, [Mr. STANTON] rose to reply upon the spur of the moment; and had the floor been given you, we should have had, I doubt not, one of those interesting and exciting debates, so highly dramatic in their character, which are now heard only in the Senate of the United States, or in the Parliament of Great Britain; but which, sir, in an evil hour for the legislation of the country, have almost wholly disappeared from this Chamber, and linger only in the memory or the records of the past. Yet, under the custom more honored in name than the observance, which has grown up under the hour rule, and which is one of its most odious excrecences, the Chairman had his roll of members prepared long time in advance. You, sir,

were not upon that roll; or, if upon it, not next in order. You rose first and were restricted. But the Chairman's promise was, and the gentleman set down in the programme claimed "specific performance." You yielded, and he proceeded amid great disorder, and very soon to empty benches, to make a speech, which, if spoken, would have commanded, as it deserved, the closest attention. They who had listened with interest so intense to the oral speech of the gentleman from Alabama, [Mr. COWLEY] crowding these seats in silence even beyond the allotted hour—for you relax the rule by unanimous consent in his favor—immediately, at the very sight of the manuscript, fled from the Hall, and retired to their boarding-houses. And when the committee rose last night there were but five members present in all this vast Chamber.

I appeal for a moment here, Mr. Chairman, upon the point of the alleged abuse of unlimited debate, to the experience of this House, not only previous to the adoption of the hour rule, but during the interregnum of eight weeks which occurred at the commencement of this session. Was the patience of the House ever abused more than once, at most? Sir, we had but two speeches of really inordinate length—very able ones, indeed—within that period; and one of them, at least, I am sure, commanded the attention of the whole House, as to style and intensity of argument, and the force of which has been delivered within this Capitol for more than twenty years. The average length of the speeches during those eight weeks of unrestricted debate—and I have made an estimate fairly—did not exceed from half an hour to forty minutes. Very many of them did not equal that limit. And yet we had no hour rule then; but had it been in force, every member who obtained the floor would have felt himself under an imperious necessity of speaking full an hour, lest his speech be deemed to have "broken down." And that, sir, is precisely the evil which afflicts us now under its operation.

Yet another grievance growing out of this rule, is the persistent and offensive interruption to which every member upon the floor is subjected. No one is at ease and address the House, without the some gentleman interposes, not upon a point of order, not for personal explanation, but that member who interrupts may propound an interrogatory to the member interrupted, and thus thrust him into the witness-box to extract from him, by process of cross-examination, the matter more than all relevant to the subject; or perhaps to interpolate a speech of his own. Sir, this happens here, and it happens every day; because the rules of politeness, which prevail in conversation and in social intercourse, are forgotten in this House. Nothing was more and perhaps is still, deemed more rude than to interrupt a gentleman in conversation, at least in the midst of a sentence; yet it is continually done here. And it is done because members are anxious to speak whether prepared to speak or not; and the best opportunity to "catch the Chairman's eye," is when there is but one member upon the floor, and no one struggling for it. Then it can be secured. Thus it is that speeches by one member are thrust into the speeches of another member, to go out with them. I doubt sometimes, perhaps, whether the reputation of a gentleman from the subject he is discussing, or to extract from him some troublesome answer relating to a personal matter or opinion, it may be, wholly foreign to the business of legislation. This is an evil grievous to be borne, and I think it is the result of very much of the hour rule—certainly that is a part of the system of evils which has grown up since the adoption of that rule.

It may be that the solution proposed by the gentleman from Mississippi [Mr. McKAY] is correct; that there are no more members upon the floor who think themselves so much better "posted" than the particular member speaking, that they are anxious to communicate some portion of the valuable surplus of their information to that member, or rather, perhaps, through him to the country.

Certainly, Mr. Chairman, I do not intend to apply these remarks personally to the gentleman from Virginia, [Mr. BOGOCCK], who sought two or three times to interrupt me some time ago. No, they are the result of a long and arduous reflection upon what I have seen and heard from

the time I first had the honor of a seat upon this floor.

Mr. BOGOCCK. It is so long since I asked the permission to interrupt the gentleman that I have almost forgotten what I intended to say. The gentleman seems very much fascinated with the British system of unlimited debate in this House. I have been somewhat surprised at the course this debate has taken to-day. It is sometimes charged that, though we profess to be Democrats, we are not always democratic in our practice. I considered this as only the taunt of our enemies. Now, I have been surprised to find my honorable friend from Pennsylvania, [Mr. FLORENCE], who has always great care for the widows and orphans; who votes always on the side of the working men; who is always the poor man's friend, advocating to-day a proposition to confine that class of men to the galleries; to exclude them from places upon this floor; to make them sit up there in the cold, and, at the same time, advocating the bringing in of foreign ministers, with all their insignia of position, upon this floor. And I had scarcely recovered from that surprise, before I heard the honorable gentleman from Ohio, [Mr. VALLANDIGHAM],—*par excellence*, a Democrat—one of the shining stars of the Democracy; one whom we all look to; a man of expectation, come forward in the House of Representatives and ask that the system of the British should be adopted, and that the Treasury benches spread out here, and the First Lord of the Treasury and the Chancellor of the Exchequer to come down to control the proceedings of the House. I suppose the gentleman wants lords and dukes—and they are ministers of the crown, and sit upon the floor, and have the chief control of our business.

The gentleman wants the British system pursued. Ay, sir, the gentleman, I think, has been misled by his desire to accomplish a particular purpose into acting upon a too brief examination of the subject. Under conference rules, the gentleman took to state this morning why the British system should not do here. There, there are generally only from forty to a hundred members present. There, members are allowed to go forward and state upon that subject, and work the whole of a motion for a particular day. Well, some three or four notices are entered upon the floor on a day. Now, suppose we could go forward here and enter notices of motions for a particular day, there would be one, or perhaps two hundred notices entered upon the floor, and crowded into each other, and the gentleman would find that at last you would have to designate some order in which the business should be conducted. We have committees to prepare our business; they do not. Our whole system is different from theirs, and we require different regulations. The Constitution provides that we shall establish our rules; and we could not get along a day without rules; and what I ask of the gentleman from Ohio and others is, that if these rules are not satisfactory, they shall make better ones and propose them.

Now word in regard to the hour rule. The gentleman will allow me. I will say that I interrupt gentlemen when they are speaking as seldom as any man on this floor; but I had been on the floor once or twice to-day, and did not want to sit up too soon, and, therefore, I asked the courtesy of the gentleman from Ohio to interpose a few remarks.

The gentleman says that our debates are not relevant to the subjects under consideration, and I agree with him that they are often irrelevant; but how will the abolition of the hour rule bring about relevant debate? Let the gentleman recall that debate in Committee of the Whole, as well as elsewhere, shall be confined to the particular question before the committee, and then we shall have relevant debate.

Mr. VALLANDIGHAM. The speech of the gentleman from Virginia would no doubt have been very captivating in the region of Appomattox and upon "the stump" anywhere, [laughter]; but surely it was quite inappropriate here; indeed, I ask no better practical illustration to enforce my view, I and a few members ago that this interruption from a gentleman who has served in the House now these ten years, and, I fear, has fallen into all its bad habits.

In reply to his last observation, I will tell him how I come to sit four hours upon the floor, and how totally different from legitimate debate, and

why members prepare speeches in writing because of the hour rule. It is important, of course, for every member to compress as much as is possible within that limit. Every man knows in his own experience that he can condense an amount of matter within an hour when he writes, which it would require an hour and a half to deliver orally. Yet, for one, I must say, in passing, I would rather listen to the duldest speech from any member here for two hours, orally delivered, than to sit for one hour under the infliction of the finest and best composed essay ever read in the House.

The gentleman from Virginia has just made a lecture on democracy, monarchy, republicanism, and the other forms of government. Sir, he himself stands here to-day the advocate of despotism. He is upon this floor defending a rule, the whole purpose and tendency of which is to prevent the free and legitimate deliberation and debate, so essential a part of legislation. But, in speaking of the previous question, he himself forgot the very wide difference between that question as it obtains here and in Great Britain. In Parliament it is used in the highest sense to propose a subject for debate before the House; so that there shall be neither vote nor debate upon it. Here it is employed solely for the purpose of bringing the House to vote directly upon the proposition, and without debate at all. Now, if we should return to parliamentary usage, and if we should restore also to the ancient and legitimate use of the previous question, and abandon the dangerous and tyrannical perversion and abuse of it which have grown up under our own system. And yet, limited and comparatively innocuous as it is there, the previous question has not been raised in this House of Commons for many years; and a motion, in 1849, to limit speeches in Parliament to one hour, was rejected. And just here allow me to add, that no legislative body, anywhere, or at any time, in a free country, except the House of Representatives, has ever submitted to this most mischievous restriction upon the freedom of debate.

The gentleman finds an apology, sir, for all these most vexatious restrictions and intricacies of the rules which preclude a member from bringing forward business, or discussing it, as he sees fit, brought forward, in the number of Representatives of which this House consists. Sir, does he forget that the British House of Commons is composed of six hundred and fifty-eight members, and yet the business of the House is transacted in three days then by this House in six weeks; and that, too, usually there is a full House. It is very true that forty members constitute a quorum for the transaction of business, and that private business, in which the whole empire is not interested, is usually passed upon in this House; but whenever any great question is pending before Parliament, the House is full, and the members are nearly all present. Even the very important commercial treaty recently concluded between France and Great Britain was discussed and disposed of in this House, and the business of Parliament in two nights, only some few weeks since. How long would it have occupied this House? How much time do we usually consume in discussing great public questions? The debate on the Kansas-Nebraska bill, including the resolutions of the House, was continued for six or eight weeks. The discussion upon the Lecompton constitution, in which from one hundred and seventy to two hundred speeches were delivered or read, occupied the time, if not the attention, of the House from the 16th of December until the 30th of April. And why is this? Because we have no legitimate debate. The speech of one member does not follow that of another. One set of ideas or arguments are not provoked by another urged by the speaker so preceded. We hear none, and have none of the kind of debate, in the House of Representatives, written words, and concealed in the desks of members, are continually produced here, and read to empty benches, and yet go forth to the country as speeches which thrill the hearts of members of those who have no opportunity to hear. Sir, remember, that an illustration of the same thing occurring to me, that a member from Illinois read an essay upon this floor, in the month of February one year ago, late at night, to three members and five pages, [laughter.] Yet the next day it was a significant and losing paper in the *New York Herald*, as one of the most thrilling speeches ever

delivered in the House; remarkable, especially, for its fairness, and the boldness of its denunciation, [renewed laughter], and perfectly extirpating every one present. Now, is it not time that this evil was remedied? I repeat again, that the quantum of speaking will not be increased by the abrogation of the hour rule; the number of pages which make up your Congressional Globe will not be multiplied; and what difference is it to us or to the country, whether one man shall speak for two hours, or two men shall speak for one hour each? It may be of some moment to our particular constituents; but it is none to the whole country. Let gentlemen who would discuss more particular local topics, go back to the ancient usage which prevailed some forty years ago, of publishing addresses upon such questions to their constituents. Let us agree henceforth that what is said upon the floor shall relate to the great measures of public policy and legislation which may come before us, and not to mere fleeting and temporary subjects of controversy between parties. No reform which we can devise will tend so far to bring the House back to its ancient dignity and decorum, and to the great measures which belonged to it in the earlier days of the Republic.

I desire to call the attention of the committee to the fact that for thirty years after the organization of this Government the Senate was not the subject of attention. It was the House which had the eyes of the country were turned. It was here, sir, that in those days there were gathered an Ames, a Madison, an Ellsworth, a Randolph, a Sherman, and others of a like fame, who have made the history of our country illustrious. But, for thirty years now, and especially within the twenty years past, since the adoption of the hour rule, along with other evils, the importance and even the equality of the House has been lost; and it is the Senate whose galleries the people throng now; it is the Senate that has drawn upon itself the chief attention of the country, and which is in the Senate for which the public look; it is the speeches delivered in the Senate which circulate throughout the land; and, finally, it is the Senate, as the gentleman from Virginia, [Mr. GARNETT], suggested, which is not only absorbing all the legislative energy of the country, but is governing the public opinion which controls the Government. Is it not apparent then, I ask, that there should be found, and right speedily, a remedy for the dire straits into which this House has fallen? What remedy may be devised, I do not know; but I think, gentlemen, to devise; but, I repeat, that the abrogation of the hour rule is, in my opinion, the first and a most important step in that direction.

Mr. COX. I wish to ask my colleague a single question. He seems to have taken the British House of Commons as his model of a parliamentary body.

Mr. VALLANDIGHAM. Not altogether, although this House was certainly modeled after it.

Mr. COX. My colleague has, no doubt, read in the Athenian Year of our history, the famous orator who broke down a ministry by crowing at an inopportune time. [Laughter.] I suppose that, to carry out the system in this House, it should be the duty of the Speaker to appoint persons who are to perform that duty. But, as my colleague refers to classical authorities, let him tell whether it was not true that the hour rule always prevailed in the Roman Senate?

Mr. VALLANDIGHAM. Certainly not. Mr. COX. I ask if it was not extraordinary that those great declamations of Demosthenes and Eschines always came out in exactly sixty minutes?

Mr. VALLANDIGHAM. My colleague is, as Timotheus would say, a most "respectable gent"; and no doubt the incident to which he has referred in that gentleman's parliamentary career, illustrating his power of oratory, is remarkable in mind by the similarity between my colleague's name [Mr. Cox] and the barn-yard fowl called

"Chantecler who wakes the morn."

He is the very bird for the new office he proposes. [Laughter.] But I regret that he has exhibited unsentimental and disrespectful regard to the Roman and Grecian eloquence, to which I had made allusion by way of illustration. If he had recited the speeches of Demosthenes and Eschines, to which he refers, he would not have asked whether they were not spoken in sixty minutes. Certainly they cannot now be read in

two hours, and that without including the documents quoted by the orator.

Mr. COX. That depends upon whether they are read in the original. [Laughter.]

Mr. VALLANDIGHAM. I do not profess to be as familiar with Grecian as my colleague. He has been the "vision of Greece" who visited the classic shores of Attica, walked the streets of Athens, and stood upon the Acropolis. I have not. He visited Rome, too; though I may not speak of what he saw or heard in the Eternal City. He has written it in a book. [Laughter.] But I will not occupy the time of the committee longer. By reason of the very evil of interruptions of which I complained, I have been forced to speak at far greater length than I intended. I beg pardon, gentlemen.

Mr. ETHERIDGE. I propose to follow the example of some who have preceded me, in making public some private opinions I have, with the hope that they may prove beneficial to those who hear them.

Now, sir, I shall not undertake to say anything about Demosthenes, or any of those old fellows, who have been so unconsciously introduced into this debate; I have no acquaintance with them. [Laughter.] I know nothing about them. But I desire to make some observations to those who are now present, about the decorum of the House. I have been very much annoyed by any member here, because that would provoke a discussion into which I did not care to be drawn: I concede all that the gentleman from Ohio [Mr. VALLANDIGHAM] has said in regard to the marked deterioration in the character of the debates of this

* *NOTE BY MR. VALLANDIGHAM.*—Not aware that the report on the rules of the House was made a special order for this day, and obliged to speak, therefore, without recent examination of the subject, I appear now certain extracts to which I have previously referred in my remarks.

1. Many of the extant orations written by Demosthenes for prosecutors or the accused, were in State trials or impeachments; and some of them in support of the repeal of certain laws, as for example, the Lepinean order, which was before "commenced" as we would say at this day, a longer time, (if indeed there were any limit,) it would seem, was allowed in such cases.

2. The first example of limitation of time for argument at the bar in Rome, was by Pompey, upon a trial of Milo, and was intended for securing his conviction; but the limit then was fixed at three hours. Under the Emperors it became a settled usage; and sometimes two hours, sometimes one hour, or even half an hour, were allowed, at the discretion of the judge. Pliny assigns as the reason, that "the advocates grew tired before the business was explained, and the judges were ready to decide before they understood the question." And he adds, and the inquiry is just as pertinent now, "are we wiser than our ancestors? We have less more just present? Our ancestors allowed many hours, many days, many adjournments in every cause; and, for my part, as often as I sit in judgment, I allow as much time as the advocate requires: for would it not be rashness to guess what space of time is necessary in a cause which has not been opened? And some unnecessary things may be said, and it is not better that what is unnecessary should be spoken, than that what is necessary should be omitted? And who can tell what is necessary till he has heard? Patience in a judge ought to be considered as one of the chief branches of his duty, as it certainly is of justice." (Book 6, Epistle 2.) These considerations apply still more strongly to debate in a deliberative assembly.

3. Cicero says in his "Brutus," that he never heard of a Lacedaemonian orator, and adds, "brevity, brevity, brevity, is a repeated cry, and it is very far from being compatible with the general character of eloquence."

4. Referring to the adoption of the hour rule by the House, July 7, 1841, Mr. Benton says: "This measure is remarkable for the institution of the hour rule in the House of Representatives—the largest limitation upon the freedom of debate which any deliberative assembly ever imposed upon itself, and presents an eminent instance of permanent injury done to free institutions in order to get rid of a temporary annoyance."—2 *Benton's View*, 347.

body within the last few years to be true; but I will suggest that it may be that the rules of this House are not the sole cause of it. I will also say to the gentleman from Ohio, that if he will inquire into the characters of the men who were in this House twenty years ago, and compare them with those who are here now, it is possible that he may find quite as much difference in the men as in the tone and temper of the debates.

Mr. VALLANDIGHAM. I think not.

Mr. ETHERIDGE. Well, sir, I will not further discuss that point. I will remark, however, that the regulation and government of a body so large as this, especially when those who compose it are controlled by bad passions, was almost an impossible task, when for weeks we were without a regular presiding officer—a Speaker; but it turns out that now, when we have at last secured a presiding officer, we have not secured the observance of good order or decorum. I have seen, during the present session, the Speaker over and over again peremptorily call members to order; and I submit to this House whether such an instance has ever occurred as a member taking his seat when so called to order, or not. I have seen the existence of a positive standing rule of the House, requiring that when a member is called to order he shall take his seat. From its simplicity, I have supposed it is the only rule of the House that is well understood; yet it is one which I have never known to be completely obeyed.

Now, sir, I do not envy the position of the gentleman from Maine [Mr. WATSON] as the chairman of the select committee to revise the rules; for I venture the assertion, and think it will prove true, as a general proposition, that it is fit to be a member of Congress who knows very much about the rules, unless he be the Speaker of the House. [Laughter.] Sir, if you will look at the history of the most distinguished men who have been connected with this body, and in the way of service, or otherwise, I do not think in conducting its business, you will find that they seldom or never raised questions of order. I think their example worthy of imitation, and without claiming for myself any of their great qualities, I will say that I have been a member of the Congress some years, and I do not think I have ever raised a question of order during that period of time; and, in fact, I never knew, or cared, whether a member was in order or out of order, if he behaved himself.

But, Mr. Chairman, we have a great many vigilant guardians of our rules—more than we have of the public interest, and so far as my observation extends, these peculiar watchers of the rules have wasted more time in discussing mere questions of order than has been consumed in legitimate debate. I say that without the slightest disrespect to any one.

Now, sir, I remarked that the rules of the House require that when a member is called to order, he shall take his seat, and retain it until the member calling him to order has finished his question of order. I have never seen this rule obeyed.

Mr. HARRIS, of Maryland. I call the gentleman from Tennessee to order.

[Mr. ETHERIDGE immediately took his seat amidst shouts of laughter.]

Mr. CHAMBERLAIN, of the gentleman from Maryland will state the point of order.

Mr. HARRIS, of Maryland. My point of order is, that the gentleman has been indulging in a lecture to the House, rather than in debate upon the pending proposition; but, sir, as he has done it gracefully, and as he has quoted the Scriptures, I am compelled to practice upon his own teachings. I will draw it. [Laughter.]

Mr. ETHERIDGE. Mr. Chairman, this is an incident which I think is very suggestive. Strangers, who may be observing the attitude of the Society, and who may have been by his action recently a complicity to practice upon his own teachings, I will draw it. [Laughter.]

Mr. ETHERIDGE. It is just as it is. However, I do not propose to pursue the matter, but merely to give expression to my own idea. [Laughter.]

My friend from Ohio [Mr. VALLANDIGHAM] suggests that we ought to abolish the hour rule. So far as I am concerned, I feel no particular solicitude on the subject. I think, however, that the

abolition of that rule would have the good effect of bringing to the discussion of important subjects many of the ablest men on both sides of the House, who, in consequence of it, are but seldom heard.

This rule compresses a man of brains into so small a compass as to dwarf all his enlarged and liberal ideas; while it enables these of stupid natures and contracted opinions, so to dilute their notions as to spin out and exhaust at least sixty minutes. [Great laughter.]

Now, Mr. Chairman, if we were to attempt to elaborate the subject of the day—the standing question of “nigger”—and to submit a reply to all that I have heard *pro* and *con*. upon it during this session; if I were to attempt to controvert erroneous legal propositions, debate unsound constitutional theories, I tell you candidly, it would be impossible for me to get through within the space of an hour. There are gentlemen here who, had they been allowed to proceed without the perplexing constraint of this rule, would, no doubt, long since have elaborated the subject so fully and satisfactorily as to have deterred others from attempting to speak upon a subject upon which they could offer nothing new. There was a memorable instance of this kind during the struggle here to elect a Speaker. We have just been reminded by my friend from Ohio [Mr. VALLANDIGHAM] that our galleries are not often crowded. He certainly could not have been alluding to the period anterior to the election of a Speaker; for then, when nobody respected rules, law, or order, the galleries of this House were densely crowded.

Mr. VALLANDIGHAM. We had no hour rule then.

Mr. ETHERIDGE. But to the incident to which I was about to refer. A distinguished gentleman from Ohio [Mr. CONWIS] carelessly rose from his seat, and proceeded to address the House at great length upon the various questions which arrested all our efforts to organize the House, and especially upon the slavery question; and at the conclusion of his calm, temperate, but elaborate speech, he had thereby slaughtered every diminutive Republican in this House. His representatives so effectually, that until recently no speech was made on that side of the House on the subject he so thoroughly discussed. True, within the last few days, a few have been hurried in under the hour rule. He discussed the whole subject for two or three days, and showed his grasp upon the Republican side felt that the honorable gentleman from Ohio, when he closed, had expressed his views much better, more forcibly, and more felicitously, than it could have been done by the great body of the members of that party; so much so that when he had finished there was not one of them who then desired to be heard. [Laughter.]

Now I say to my friend from Ohio [Mr. VALLANDIGHAM] that I am willing to abrogate the hour rule. I think the abolition would do great good in more respects than one. In its operation it is unlike the law reforms, the revised codes of many of the States. Many years ago, when the science of special pleading was in favor, a practitioner had to learn something of it before he could be a successful lawyer. The Chief Justice considered the bridge or the pane to be forced before it was considered safe to intrust to any one the name of lawyer. The science of special pleading was a terror to lazy students and fools. A remedy must be provided. Being unemployed in the courts, a great many of these had, besides lawyers got into the Legislatures of the several States, and remembering their former sufferings and trials, they concluded they would reform the practice, codify the laws, and simplify matters they never understood. In plain English, they concluded to adopt a series of legislative enactments, which when fairly translated, meant simply this: a system of laws by which a very bad lawyer could be made as good as a much better one. [Laughter.] The result has been in all the States where revised codes and simplified practice have been adopted, that lawyers are, on the whole, nothing better than a revised edition of a mean constable. [Renewed laughter.] So is it with this hour rule, in its effect upon legitimate debate.

Mr. Chairman, memory is not an attribute of reason. Some men, who have no such character, have the faculty of committing to memory very many nice things, which other people have first

said. A member who is a little classical in his attainments—who does not go filthily through about town, but keeps closely locked up in some quiet room, surrounded by the writings of great men, may, with the aid of a good memory, finally gather together very many pretty things—a sort of medley—

“Oriens grana at random strong.”

He can, I say, store them away until an opportunity is presented, when, for an hour, like one of those traveling showmen we all remember to have seen, he amuses us by pulling out of his literary mouth a long string of oratorical ribbons of every hue, color, and description. [Boisterous and protracted laughter.]

Perhaps I had better stop. [Cries of “No!”] “Go on!” Very well, then, I took the floor for the purpose, among other things, of making an appeal to all sides of the House upon a matter that deeply concerns us. I fear, however, that my warning and my entreaties will not have much effect—that is, with those who do not know me. [Laughter.] I submit to gentlemen, and in all sincerity, that whatever rules we do adopt, we agree heretofore to enforce them. Were I disposed to imitate examples, perhaps I could get up a laugh at the expense of an inexperienced chairman—perhaps at your expense, Mr. Chairman—by making myself two or three weeks’ rest for some obsolete rule that everybody had forgotten, and then, by making a point of order upon the chairman, seek to embarrass him by a citation of some long-forgotten rule. I do not know that I should be delighted to do so, for I do not find special legislation in such trials and tribulations the readiest and best way for us to get along is to have our rules, whatever they may be, enforced by the Speaker, and to have obedience on the part of the House. Every lawyer who has had a fifty years’ experience, and who has no days of grace, and commercial usage had never allowed, would not now desire any; but if they were two or four instead of three he would not now want the rule changed.

The question is not so much what is the particular of the law, but enforcement of it on the part of the Speaker, and especially obedience on the part of the House. The report of the gentleman from Maine, [Mr. WASHBURN], if adopted, will have no influence in expediting the business of the House, or making this body a dignified body, but it will, in the first instance, attempt to reform their own conduct. A great deal of party prejudice finds its way into this Hall. A stranger who visits the Capitol would sometimes imagine that we were divided into armed bands, each ready to give battle to the other. It is nothing uncommon to hear a member allude to another substantially as “the honorable the damned rascal on the other side.” [Great laughter.]

Mr. HILL. He precedes it with the designation, “my friend.”

Mr. ETHERIDGE. Oh, yes! I made reference to a particular gentleman. But I will not pursue the matter further. Every one will feel that I could not have intended any personal application of my remarks. [Laughter.] I am willing, if it would conduce to the dignity and good of the House, to let someone else, on the worst offender in this presence. I will suffer occasionally if I can reform the manners of the House. [Laughter.] This is a grievous evil. It is bringing this House into public scandal, infamy, and disgrace. We ought to stop it. I suggest that, whatever course we adopt, we ought to agree to be true and loyal to it; that we ought to agree to respect each other’s prejudices of birth and education. Then, perhaps, we may hope to control these prejudices. Let us, if we need be, take a “step backwards,” for there is not one of us, I think, who will not agree to do so. None of us will agree to be great to be authorized to say, “I tread no step backwards.” Let us go back to our rules, and without regard to party or prejudice, let us maintain them. Let us cause gentlemen to know, that when they refuse to yield obedience to them, they not only destroy their own dignity, but bring reproach upon the body itself.

Mr. Chairman, I have said this much because, for the last four or five weeks, I have felt inclined to express myself privately to members, and to address them to forget, for a while, party prejudice, and resolve to extricate the House from its deserved censure it has suffered, for weeks past,

from a watchful people. I trust the House will not regard what I have said in the light of a lecture, but rather as an earnest but kind appeal, pertinent and proper, I trust, to the occasion. I desired to call the attention of the gentleman from Ohio [Mr. VALLANDIGHAM] to the matter he has made, as he always does, wise and practical remarks in regard to the evils of which he complains. If he will go back behind the rules he will perceive that the true remedy is for every member to apply the reform, the remedy, to himself. The will is in the conduct of members, not in the rules.

Mr. WASHBURN, of Maine. What is the question now before the committee?

The CHAIRMAN. On the amendment of the gentleman from Ohio [Mr. VALLANDIGHAM] to the seventh amendment of the committee.

Mr. WASHBURN, of Maine. Let it be read.

The Clerk again read the amendment.

Mr. WASHBURN, of Maine. I think the question upon this amendment has been sufficiently discussed, and I do not rise to add anything to what has been said. I do not suppose the House is prepared to return to the old system out of which it emerged some fifteen or twenty years ago; and I hope the committee will consent to have the question taken now.

Mr. FLORENCE, of Massachusetts. I propose an amendment to this proposition.

Mr. SHERMAN. As it is manifest that we cannot get through this business to-night, I would move that this subject be laid aside, and that we now take up the Indian appropriation bill, as we can accomplish it this evening.

Mr. VALLANDIGHAM. Let the vote be taken upon the amendment first.

Mr. WASHBURN, of Maine. Let the question be taken upon the amendment of the gentleman from Ohio [Mr. VALLANDIGHAM].

Mr. FLORENCE, of Massachusetts. I propose an amendment to this proposition. I desire to occupy the floor upon this subject, and I do not wish to lose my privilege of offering an amendment to the proposition reported by the committee. I am aware that the question should be taken upon the amendment of the gentleman from Ohio [Mr. VALLANDIGHAM], if I retain my right to offer my amendment.

The question was stated to be upon the amendment of Mr. VALLANDIGHAM, rescinding the hour rule, and with regard to written speeches.

Mr. WASHBURN, of Maine, and Mr. VALLANDIGHAM were appointed to act as tellers.

The vote being taken, the tellers reported 54 in the affirmative, and 70 in the negative.

So the amendment was not agreed to.

Mr. SHERMAN moved to lay aside the subject under consideration, for the purpose of taking up the Indian appropriation bill.

Mr. WASHBURN, of Maine. With the consent of the gentleman from Ohio, [Mr. SHERMAN], I desire to state that this subject of the revision of the Indian department, will be made the special order, and from day to day until the subject was completed, and consequently to-morrow it will take precedence of all other business, and it will be the first business for consideration in Committee of the Whole.

The motion of Mr. SHERMAN was then agreed to.

Mr. STEVENSON moved that the committee do now rise. The motion was not agreed to; there being, on a division—ayes thirty-four, noes not counted.

INDIAN APPROPRIATION BILL.

The committee then resumed the consideration of House bill No. 215, being a bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1861.

The CHAIRMAN stated the pending question to be upon the motion of Mr. SHERMAN, to strike out all from and including line eight hundred and sixty-one to and including line eleven hundred and sixty-seven, being the portion of the bill relating to appropriations included in another Indian appropriation bill.

The amendment was agreed to.

Mr. SHERMAN moved that the bill be laid aside and reported to the House with a recommendation to pass.

The motion was agreed to.

Mr. KUNKEL moved that the committee rise. The motion was agreed to.

So the committee rose; and Mr. MILLSON having taken the chair as Speaker pro tempore, Mr. STANTON reported that the Committee of the Whole had had under consideration the special order bringing the report of the committee on the revision of the rules of the House of Representatives; that they had made progress, but had come to no conclusion thereon; also, that the committee had had under consideration a bill (H. R. No. 215) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1861, and had directed him to report the same with an amendment to the House, and a recommendation that the same do pass.

Mr. SHERMAN moved the previous question upon the bill.

The previous question was seconded, and the main question ordered to be put.

The question was stated to be upon concurring in the amendment of the committee of the Whole, being to strike out all from line eight hundred and eleven to line eleven hundred and sixty-seven, inclusively.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. SHERMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CONTROVERSED-ELECTION CASE.

Mr. STEVENSON. I wish to present to the House the minority report of the Committee of Elections, in regard to the contested-election case in the first congressional district of Michigan. The majority report in the same case having already been received and laid over till Monday next, I move that this minority report be printed with the majority report, and that its consideration be set for the next day.

The motion was agreed to.

COAST SURVEY REPORT.

Mr. MILLS offered a resolution with reference to the printing of the Coast Survey report, and moved that it be referred to the Committee on Printing.

The motion was agreed to.

WITHDRAWAL OF PAPERS.

Mr. BURNETT. I ask leave to withdraw from the Committee on Commerce sundry memorials, asking for the establishment of a naval board of inspectors for steamboat boilers and hulls in the State of Kentucky, for the purpose of reference to the committee of the Senate.

The motion was agreed to; and leave granted accordingly.

BILLS INTRODUCED AND REFERRED.

By unanimous consent, the following bills, of which previous notice had been given, were introduced and referred:

By Mr. PENDLETON: A bill to establish a port of entry at Cincinnati, in the State of Ohio—referred to the Committee on Commerce.

Also, a bill to fix the salaries of the judges of the district court within and for the district of the State of Ohio—referred to the Committee on the Judiciary.

By Mr. STOKES: A bill for the relief of John Randolph, of Warren county, Tennessee—referred to the Committee on Military Affairs.

Also, a bill for the relief of Elizabeth Smith, of Coffee county, Tennessee—referred to the Committee on Military Affairs.

By Mr. GROW, from the Committee on Territories, asked that that committee be discharged from the further consideration of House bill No. 306, being a bill providing for the appointment of two additional Indian agents in the Territory of New Mexico; and that the same be referred to the Committee on Military Affairs.

The motion was agreed to.

WEST POINT MILITARY ACADEMY.

Mr. HAMILTON. I move to take from the table Senate bill No. 5, making appropriations for the Military Academy at West Point, for the pur-

pose of referring the same to the Committee on Military Affairs. I will state the reason why I make that motion, and I trust no gentleman will oppose it. That bill contains an important amendment, which is intended for the benefit of the State which I in part represent. It is an amendment providing the means for putting on foot a regiment of volunteers provided for by law during the last Congress. The Military Committee of this House have had all the facts in relation to this subject before them for some time, and have been giving their anxious consideration to the subject. I think the bill will be taken up and referred to the Military Committee, so that action may be taken upon it as speedily as possible.

Mr. SHERMAN. I have no objection to the bill being taken up; but it ought to be referred to the Committee of Ways and Means.

Mr. HAMILTON. I have no objection to the bill going to the Committee of Ways and Means, but for this reason: The Committee on Military Affairs have had before them all the information in relation to this matter, and are better prepared to act speedily upon it than any other committee, without the same source of information, could possibly be.

The motion to take up the bill was agreed to.

The question was upon the reference of the bill. Mr. SHERMAN. I move that the bill be referred to the Committee of Ways and Means, and I refer it to the Committee on Military Affairs would be a departure from the established precedent of the House. I suppose this thing has never been done, but those bills have always been referred to the Committee of Ways and Means. If you refer these bills, in this stage of discussion, to the various committees, they will be loaded down with propositions of this sort. Here is a most important amendment, as to a new regiment in Texas, supported upon a bill providing appropriations for the Military Academy at West Point. If this practice is indulged in, these bills will be loaded down so that some of them will hardly get through the House at all.

Now, I have no objection to the regiment being ordered to service in Texas, if that is all that seems to me that to refer this bill—a bill introduced into this House by the Committee of Ways and Means; a bill intended to carry out existing laws; a bill which has been loaded down by the Senate with an appropriation larger than the original bill, to the Committee on Military Affairs, to be loaded down with new subjects, would be virtually overthrowing the rules of this House, and would lead to a practice which would involve this House in irremediable difficulty.

Mr. STANTON. It will be remembered that some few days, since the House referred to the Committee on Military Affairs a joint resolution making an appropriation of \$5,000,000 for the purpose of defending the frontiers of Texas. This Military Academy bill comes back to the House as a Senate amendment providing for the same object. The Military Committee have had under consideration the joint resolution referred to them heretofore, and have obtained information which has been in possession of the Executive Department. They have considered the question of the Military Academy bill, and referred it to the Military Academy bill. Now, sir, if there ever was any propriety in referring any question connected with military affairs to the Military Committee, it does seem to me proper in a case where a part of the same subject, or the same subject in a different form, has already been referred to that same committee.

Mr. SHERMAN. I would ask the gentleman if he has ever known, during his experience in this House, of an instance where an appropriation bill, which was sent here by the Senate, had been referred to any other committee than the Committee of Ways and Means?

Mr. STANTON. I am not prepared to answer that question. I am not familiar with the history of this House. Nor am I prepared to say what the Military Committee have done with the amendment to the Military Academy bill, if referred to them, as a question of propriety—whether they would or would not recommend the passage of the bill with such an amendment. Whether the committee would consider it upon its merits, or whether they would not, I do not know.

But there is another question, and it may as

well be settled now as at any other time. This question was disposed of, not entirely to my satisfaction, the other day, upon the motion to refer the Army bill to the Committee on Military Affairs. I believe, and have believed for years, that the practice which has prevailed of sending all these bills to the Committee of Ways and Means is wrong, and I think this case is a proof of the correctness of my position. The House, when the same question involved in this amendment came before it in a different form from an appropriation bill, or of an amendment to an appropriation bill, sent it to the Committee on Military Affairs without controversy, and without claiming that it was not a proper reference. And now the Military Academy bill came back from the Senate with an amendment relating to the same subject; and why should it not be sent to the same committee?

I take it that this is one of the best arguments in support of the position I advocate, that such a question should be referred to the Military Committee. It ought to go to the Military Committee, because it is a subject which has been investigated by them. They have made inquiry into the condition of that frontier, and the necessities of the public service, and they are prepared to act upon it.

Now, I desire to say, that the Senate at this session for the first time, so far as I know, has adopted the policy which I now propose the House shall adopt, and sent this identical Military Academy bill to the Committee on Military Affairs in the Senate, and not to the Committee on Finance. This is an indication that it is the purpose of the Senate to adopt the policy I propose should be adopted in the House—to distribute the business of the various committees to what I cannot but regard the appropriate committees.

Now, sir, permit me to say, in this connection, that this question of expenditures and appropriations is one that can be better settled by the appropriate committees, because the appropriate committees are channels through which information comes in reference to their particular branches of public service, and to which every citizen has a right to know, and which they come for information. Since the discussion which occurred the other day, I have received, as the organ of the Committee on Military Affairs, information that, in the opinion of a very intelligent officer of the Army, there is one branch of the military service which requires no other charge upon the public Treasury in time of peace—that is, the flying artillery.

It is said that that branch of the service has not fired a single gun, except for a salute, since the capture of the city of Mexico; and that it will never fire another until we have an invasion, or make an invasion; and then you can train a corps of flying artillery in sixty days. And yet you are spending \$1,000,000 a year, in time of peace, for a branch of service which is of no more practical use than the flying artillery of the Romans. If the House had seen proper to send the Army bill to the Committee on Military Affairs, they would have investigated the condition of the flying artillery, and would probably have reported in favor of a diminution of the expenses of the Army, and would have understood, nobody would have thought of sending that matter to the Committee of Ways and Means, because it has no charge of the military arm of the public service.

I propose, now that this subject is taken up by the House, to make it test question as to whether the House intends to adhere to the policy which seemed to be recognized by the vote the other day. I should have acquiesced in that decision of the House with great cheerfulness, if it had been the spontaneous decision of the House, and I should have, open, public argument submitted to it. But I know, and you know, that when the roll-call was completed, and members had expressed their opinions upon the merits of that controversy, there were half a dozen votes changed through private influences brought to bear upon members, to the effect that the Committee of Ways and Means would be disgraced by a reference to the Committee on Military Affairs.

Now, sir, I am not disposed to acquiesce in a decision of the House which is based upon such influences and instrumentalities. I shall ask for a reconsideration of that question. I hope

the House will give it to me when they take a vote upon the commitment of the bill which is now pending before it. There is also a motion pending to reconsider the commitment of the fortification bill to the Committee of the Whole on the state of the Union. That motion I am prepared to call up whenever the House is disposed to act. I do not suppose, in the present thin attendance in the House, that it is desirable to decide this question in reference to the commitment and disposition of appropriation bills; but that it shall be decided to-morrow, in a fuller House.

Mr. PENDLETON. If the gentleman will yield for that purpose, I will leave that the House adjourns. I understand that the motion to commit will be the first question in the morning, and that the gentleman now occupying the floor will then be entitled to it.

Mr. STANTON. I will yield to the motion to adjourn.

Mr. REAGAN. I desire to say a word, while the attention of the members present is directed to this matter, in addition to what the gentleman from Ohio [Mr. STANTON] has said. Upon the general question, I do not suppose I can add anything to the views already expressed.

In addition to the resolution to which he refers, referring this subject to the Military Committee, on the day after the House elected a Speaker, or as soon as the House was ready to proceed to business, a bill was referred to the Military Committee, giving them charge of the subject, and a resolution has since been referred to them. Since that time, and before it, and continually since our arrival here, no mail has come to this Capitol, to my colleagues or myself, but what brings up papers and letters announcing the continuation of hostilities upon the frontier, the murdering of men, women, and children, and the carrying of people into captivity; and it is but a continuation of the state of war which has existed upon our frontier for five years. It is a matter which requires urgent action; and we should be diligent, in the highest and most censurable regard, in our duty to our constituents, if we did not urge and insist that the House shall act upon the question. The whole subject is before the Military Committee. Common sense and the dictates of reason would seem to require that that committee should have control of the subject.

In asking that the bill shall be referred to the Committee on Military Affairs, I have no assurance whatever that the action of that committee will be one way or the other. I have heard no expression of opinion by its members, but I am sure that committee on the subject. We have to rely upon the sense of justice and right of that committee as to what they will do. I only ask its reference to that committee in conformity with the motion of my colleague, because they have had the whole subject before them. It is their duty to examine and report upon it; and the report of the Military Committee will have authority with the House.

The SPEAKER *pro tempore*. The Chair would remind the gentleman from Texas that the only motion now before the House is a motion to refer the bill to the Committee of Ways and Means.

Mr. REAGAN. No, sir. My colleague made the motion first to refer the bill to the Committee on Military Affairs.

Mr. HAMILTON. I certainly made the motion distinctly to refer the bill to the Committee on Military Affairs. Whether the motion was heard and entertained by the Speaker or not, I do not know.

Mr. REAGAN. In conformity with the views of my colleague and the action of the Committee on Military Affairs, that it would be better to have a fuller vote on this question, I will now yield for a motion to adjourn.

The SPEAKER *pro tempore*. The Chair would suggest that it would be better to have this matter put in a proper shape before it is referred to the Committee on Military Affairs is not considered by the Chair as now pending.

Mr. REAGAN. It was the first motion submitted.

Mr. HAMILTON. It has precedence, I think, of the motion of the gentleman from Ohio. Gentlemen near me, on both sides, bear me out in the fact that I made the motion, although the Speaker may not have heard or entertained it.

Mr. BINGHAM. There is no doubt the gentleman made the motion.

The SPEAKER *pro tempore*. The Chair distinctly heard the gentleman from Texas move to refer the bill to the Committee on Military Affairs, but at that time the gentleman from Texas had not been recognized as entitled to the floor, and the bill was not then before the House. Afterwards, when the bill had been taken up, the gentleman from Ohio obtained the floor, and moved to refer it to the Committee of Ways and Means.

Mr. HAMILTON. Then I submit the motion now that the bill be referred to the Committee on Military Affairs.

Mr. REAGAN. I will now yield for a motion to adjourn.

Mr. RUFFIN. I move that the House do now adjourn.

PROTECTION OF FEMALE PASSENGERS.

Mr. JOHN COCHRANE. Before the House adjourns, I ask that Senate bill No. 3 may be taken from the Speaker's table and referred to the Committee on Commerce. It refers to the subject-matter of a bill which has already passed the House.

Mr. RUFFIN. I withdraw my motion temporarily.

Mr. JOHN COCHRANE. The bill to which I refer is one in relation to the protection of female passengers.

There being no objection, the Senate bill to amend an act entitled "An act to regulate the carrying of passengers in steamships and other vessels," approved March 3, 1855, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

And then, on motion of Mr. RUFFIN, (at five minutes to five o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, March 16, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

To the Senate of the United States:
Referring to my communication of the 5th instant to the Senate, in answer to its resolution of the 23d February, 1860, in relation to the communication which I have received from the Governor of TEXAS, and the documents accompanying it, concerning alleged hostilities now existing on the Texas frontier, I now have the honor to submit for the consideration of that body the following papers: Dispatch from the Secretary of War to the Governor of Texas, dated February 28, 1860.
Dispatch from the Governor of TEXAS to the Secretary of War, dated March 8, 1860.
Dispatch from the Acting Secretary of War to the Governor of TEXAS, dated March 14, 1860.

JAMES BUCHANAN.

WASHINGTON, March 15, 1860.
On motion of Mr. HAMLIN, the message was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

The VICE PRESIDENT also laid before the Senate a communication of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a statement of the trade and commerce of the United States with the British North American Provinces annually, since 1850; which was, on motion of Mr. WILSON, referred to the Committee on Commerce; and a motion by him to print the report was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. DOOLITTLE presented a memorial of the city council of the city of Racine, in the State of Wisconsin, praying that beacon lights may be established and kept up in the harbor of that place; which was referred to the Committee on Commerce.

Mr. SEBASTIAN presented a paper in relation to the claim of Barrow, Porter & Crenshaw, contractors for carrying the mail from Kansas City, Missouri, to Stockton, California, for mules stolen and wagons destroyed by the Indians; which were referred to the Committee on Indian Affairs.

Mr. HAMMOND presented papers in relation to the claim of Captain William L. Hudson, of the United States Navy, for the reimbursement of certain expenditures made by him while in command of the United States steamship Niagara,

engaged in laying the Atlantic cable; which were referred to the Committee on Naval Affairs.

Mr. GREEN presented a memorial of the Legislature of Missouri, requesting a reimbursement of money paid by that State in repelling an incursion of the Osage Indians in 1837; which was referred to the Committee on Military Affairs and Militia.

Mr. GREEN also presented eight memorials of citizens of Dakota Territory, praying Congress to grant to them, at the earliest possible moment, a territorial organization; which were referred to the Committee on Territories.

Mr. FESSENDEN presented the petition of Eli Green, a soldier in the Arrowstock expedition, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN.

On motion of Mr. WILSON, it was Ordered, That Samuel Beck leave leave to withdraw his petition and papers.

PETITIONS RECOMMENDED.

On motion of Mr. HAMLIN, it was Ordered, That the petition of Lemuel Wooster, praying a reimbursement of money incurred while employed as a waiter to a militia officer in the United States service, during the late war with Great Britain, with the address as clerk to the Post Office at Peoria, Illinois, be recommended to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the joint resolution (H. R. No. 11) providing for the manner of expending the balance of appropriation "for repairing the works and piers, in order to preserve and secure the light-house at Chicago, Illinois," reported, without amendment, and submitted an adverse report.

Mr. WILKINSON, from the Committee on Claims, to whom was referred the memorial of George G. Durham, asking compensation for services as a clerk in the Indian bureau, reported adversely thereon.

OFFICERS OF THE SENATE.

Mr. JOHNSON, of Tennessee, I am instructed by the Committee to Audit and Control the Contingent Expenses of the Senate to offer the following resolution; and I ask the action of the Senate upon it now:

Resolved, That any vacancy now existing, or which shall hereafter exist, in the places of messengers of the Senate, by death, resignation, removal, or otherwise, such vacancy existing or occurring shall not be filled by the appointment of new messengers, until it is so ordered by the Senate.

Mr. DAVIS. I should like to have some explanation of that resolution.

Mr. JOHNSON, of Tennessee. I will state, for the information of the Senator from Mississippi, that there are more messengers than are needed by the Senate, while we have not quite so many laborers as we need. My object is to discontinue with the further appointment of messengers, and to leave the employment of laborers, if needed, under the control and subject to the order of the committee. These officers are not needed, and I am so informed by the Sergeant-at-Arms. This resolution is offered at his request, and the committee, after considering it, have thought it best to discontinue with the appointment of additional messengers, unless otherwise ordered by the Senate.

Mr. DAVIS. If the committee having charge of the subject think we have too many officers, of course I have no objection to lessening the number. The resolution was considered by unanimous consent, and agreed to.

PATENT LAWS.

Mr. BIGLER. I ask the consent of the Senate to take up the bill (S. No. 10) which is a general supplement to the Patent Office laws, for the purpose of having it recommitted. There is a section of the bill in relation to which the Department has some views to submit to the committee.

The motion to take up the bill (S. No. 10) in addition to an "Act to promote the progress of the useful arts" was agreed to.

Mr. BIGLER. I now move that the bill be recommitted to the Committee on Patents and the Patent Office.

The motion was agreed to.

BILL INTRODUCED.

Mr. LATHAM asked, and by unanimous con-

ment obtained, leave to introduce a bill (S. No. 298) to create a separate district upon the Pacific coast, for the inspection of hulls and boilers and machinery of vessels propelled in whole or in part by steam; which was read twice by its title, and referred to the Committee on Commerce.

PREPAYMENT OF PENNY POSTAGE.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing by law for the prepayment of the penny post.

SALE OF ARMS.

Mr. DAVIS. I ask the Senate now to take up a bill which has been several times discussed, and remains as unfinished business. It is the bill (S. No. 45) to authorize the sale of public arms to the several States and Territories, and to regulate the appointments of superintendents of the national armories.

Mr. IVERSON. I shall not object to the motion of Mr. Fessenden from Massachusetts, with the distinct understanding at the expiration of the session, during which this bill will give way to the Private Calendar, if it shall be under discussion at that time.

The motion of Mr. DAVIS was agreed to; there being, on a division—yeas 23, nays 11; and the Senate resumed the consideration of the bill (S. No. 45) to authorize the sale of public arms to the several States and Territories, and to regulate the appointments of superintendents of the national armories, the pending question being on the amendment offered by Mr. Fessenden, to insert at the end of the first section the following proviso:

Provided, That the whole number of arms which may be sold as aforesaid shall be ascertained and determined in accordance with the census of the year 1850. The Territory shall be allowed to purchase a number of arms bearing a greater proportion to the whole number so ascertained and determined, than the Federal population of all the States and Territories to the aggregate Federal population of all the States and Territories of the Union, according to the census of the United States next preceding such purchase.

Mr. HUNTER. I rise not to debate this bill, but to perform an act of justice to the superintendent at Harper's Ferry, upon whose character as a public officer it seems to have been supposed, in the debate which has taken place heretofore, that some blame was attached. I desire to say that those who may suppose so are greatly mistaken. He is not only a gentleman of high character, but, as I believe, has given entire satisfaction to the Department as to the manner in which he has discharged the duties of his office. He is no military man, it is true; but if he had been, he could not have prevented the recent occurrences at Harper's Ferry. He was placed there as a civil officer to superintend the manufacture of arms. These duties, I believe, he has discharged very faithfully; and certain I am that no one enjoys a higher standing within the range of his acquaintance.

Mr. FESSENDEN. I do not know but that it may be requisite that I should give a very slight explanation of the amendment which I have proposed. Its design is simply to give to each State its proportion. If the Government is going into this business of manufacturing arms largely, and very largely, as is proposed by this bill, for the purpose of having them sold to the different States at a low price, to which I am opposed, it is but fair and proper that each State should have its proportion of the amount so to be sold. The amendment is simply this: that in each year the Secretary of War shall determine the amount to be sold, the surplus, whatever it may be, over and above those that it is desirable to keep for the use of the Government; and having determined that, he shall apportion that amount among the States and Territories; and that each State and Territory shall have a right to purchase the proportion of the whole number sold which would belong to it according to its Federal population. I think it is manifestly proper. Otherwise, the whole amount might be purchased at once, or a very large portion of it, by a State, which thought it had a particular need for the arms on hand, and the rest would have no opportunity to purchase during that year. It might be so, because, if no State should choose to purchase its proportion in any given year, that number would be carried

to the surplus to be sold the next year, and so would be distributed. I cannot conceive of any objection to it, and it seems to me manifestly fair and right, and best calculated to advance the purpose.

Mr. DAVIS. I think the amendment does more than is designed by the Senator from Maine. As I understand his remarks, it would restrain the demand, and would not increase at all the supply on hand. That, I suppose, is not his object. I do not treat arms as surplus. I do not think we have too many; I do not think we have enough. I think, however, we have the machinery and power to enable us to increase the manufacture, if we had the means whereby to increase it. As the bill is now drawn, the issue is put upon the discretion of the Secretary of War. To make Government practice, we must have some discretionary power in men; they are the agents. If he thinks we cannot spare any, none will be sold. This amendment seems to provide as though some were to be sold anyhow. That is not my view. If Congress should appropriate money enough to work the armories up to the full "plant," there would be none for sale, because then we should want all the increase of arms which the armories would supply. I think if the Senator will notice the manner in which I state his proposition in an amendment which I shall offer, it will be found that it covers so much as I understand him to present in his remarks. I propose, as a substitute for his amendment, this proviso:

Provided, That the sales of each year shall not exceed the increased manufacture which may result from the sale, and that the whole number to be sold, if less than the requisitions made, shall be divided between the States applying in proportion to the census, as arms furnished by the United States are now distributed.

Mr. FESSENDEN. The Senator and myself probably entertain very different ideas on the whole subject. In the first place, I presume that he is not in favor of the sale of the manufacture of arms at the armories up to the whole capacity of the armories, provided the States purchase the amount over and above what it may be advisable to retain at the armories. As I stated, I am opposed to the proposition to use the arms in such a manner that the Government becoming a manufacturer for the benefit of the States. As the Senator from Rhode Island [Mr. Symonds] suggested the other day, I do not think the Government should go any further than it may deem wise to order to manufacture for the States, if arms it is expedient to keep on hand. I doubt very much whether the proposition of this bill is not carrying the business of manufacture by the Government beyond its legitimate bounds, and I am not, therefore, disposed to vote for it.

My proposition, however, is, that if this measure passes so that the Government shall go into the manufacture of arms to the extent to which purchases may be carried by the States, the whole supply shall not be monopolized by one State. The number that can be sold will be ascertained, undoubtedly, after a year or two of experiment, and what I propose is, that we begin with the simple system of dividing the amount which it may be expedient to sell among the States and Territories, according to their Federal population.

My proposition varies from the amendment proposed to divide the amount to be sold among the States applying. There may be a very different degree of readiness among the States to apply; and, as I said before, the State first applying might get the number of arms required, and leave a very unfeeling number to another State. My idea is, for the first year, for instance, to leave it just as it is, that each State and each Territory shall be at liberty to purchase its share; and if it is found that there is an amount of money on hand, then to increase the manufacture the next year, and let other States which have not been formerly benefited to purchase their share. My amendment provides precisely for the division among the several States, according to their Federal population, if they see fit to apply; you cannot obligate any State, but if they do so, they shall have, whatever it may be, on hand, that is not taken for those States for the first year, will be carried, of course, to the number of arms that will be on hand for sale the next year; and the money received will be appropriated in the same way to the manufacture of arms, which will be used until it is to be divided. I see no difficulty about it. The proposition of the Senator does not answer my

purpose. It answers his very well; but it is not my idea. Perhaps my idea is not sufficiently defined in my own mind; but I think I understand what I mean.

Mr. DAVIS. The difference, I think, is very plain. I suppose that if the sales furnish means to run up to the full "plant" of the armories, they will increase the manufacture twenty-two thousand stand of arms per annum. If only ten thousand are required, they will replace the ten thousand by the money received for the ten thousand they issue. It is more than I should have required, they make no more over and above what we make now annually. Then the Senator must perceive that, according to his proposition, he would be providing at some future date to take from the Government arms which had never been replaced to the Government. If, on the other hand, for requisitions are for twenty-two thousand, and money is paid in which replaces the twenty-two thousand, the Government loses nothing.

But the Senator commits this great mistake: he treats it as a new proposition. He says, "if we are to go into this." We are in it; we have been in it—since the foundation of the armories we have been in it; and there is now a standing appropriation of \$200,000 per annum to make arms for the militia. Now, the question is, whether all the States are to be supplied with arms, or whether the militia may require, or whether each State will tax itself for such additional number as it may desire to possess. I think the advantage is in the latter method; that the States taxing themselves will take better care of the arms than if all the States were taxed to furnish them, instead of laying a tax to increase the manufacture for an increased issue, we shall be replacing all the arms in the hands of the Government which are taken out by this method, and there is no charge falling on any, except those who are willing to be taxed. If we are to go into it, for instance, chooses to buy as many arms as it requires, it hands the money to the Governor, who makes the requisition and pays for the arms it needs. That volunteer company, then, you may see, will not be taking the money out of the State in such a manner that they will be ready for use whenever required. Our policy is to arm the militia. It is a mere question of method; it is as to the form in which it shall be done—nothing more; and all that is necessary to restrain it I thought was in the amendment. If the Senator is so wanting, it is contained in the amendment which I now propose to substitute in lieu of the amendment offered by the Senator from Maine.

The PRESIDING OFFICER. [Mr. FOSTER in the chair.] The question is on the following amendment, offered by the Senator from Mississippi as a substitute for the amendment proposed by the Senator from Maine: to strike out all after the word "provided," and insert:

That the sales of each year shall not exceed the increased manufacture which may result from the sale, and that the whole number to be sold, if less than the requisitions made, shall be divided between the States applying in proportion to the census, as arms furnished by the United States are now distributed.

Mr. FESSENDEN. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 28, nays 19; as follows: YEAS—Messrs. Briggs, Butler, Burt, Chenoweth, Crittenden, Davis, Fitch, Fitzpatrick, Gray, Griswold, Hammond, Harts, Iveson, Johnson of Arkansas, Johnson of California, Johnson of Louisiana, Mallory, Nicholson, Pearce, Powell, Sebastian, Thompson, Toombs, and Wigfall—19.

NAYS—Messrs. Anthony, Bingham, Chandler, Clark, Colman, Dixon, Doolittle, Fessenden, Fox, Foster, Grimes, Hamlin, Harlan, Ten Eyck, Trumbull, Wade, Winthorp, and Wilson—28.

So the amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. FITZPATRICK. Mr. President, I have listened attentively to the elaborate discussion which has heretofore taken place on this bill. I answered it in the affirmative, but I am not sure of it now. I think it is salutary in all its provisions. I do not sympathize with those Senators who seem to apprehend that this will be bringing the Government establishments in antagonism to the private arms manufacturers in the country. The question is not whether they are to be used or not of Congress. We usually appropriate, I think, \$200,000 a year for the manufacture of arms. If

it should become necessary to enlarge or diminish the amount, it will always be under the control of Congress. We all know that the whole militia system has been pretty much reduced to the volunteer system, and the volunteer corps throughout the various States is the only rally to the support of the country; and to enable them to do that, I think it becomes the duty of Congress to arm them with the best arms the country can afford. Experience has shown that the best can be got from the armories of the United States.

I do not rise for the purpose of discussing the question, but to ask my friend from Mississippi to accept an amendment which I think ought to be made to this bill. We are all aware that, under the modern improvements, the percussion lock has taken the place of the old style of cap lock, and the Government has adopted a primer which is essential to the use of its arms. That invention is owned exclusively by the United States, and those primers are manufactured at public expense, and under the control of the Government of the United States. I therefore propose, as an amendment, to insert in the sixth line of the first section, after the words "ammunition," the words "and primers prepared by the United States."

Mr. DAVIS. There can be no objection to that. If any of the States wish to apply for primers for the percussion lock, and to purchase primers manufactured in the arms and ammunitions factory, I have no objection to allowing it, under the discretion proposed to be lodged in the Secretary of War.

The PRESIDING OFFICER. (Mr. FOSTER.) There was a motion before the Senate to strike out the first section of the bill, but the amendment of the Senator from Alabama was adopted before taking the question on striking out. The question is on that amendment.

Mr. FESSENDEN. I should like to have the yeas and nays on that. I do not know anything about these primers; but this seems to be going into another speculation on the part of the Government.

The yeas and nays were ordered. Mr. FESSENDEN. I should like to know whether the United States is the owner of any primer. I have heard that there is considerable competition about the Government business. They are all under patent; and to have a general provision to furnish primers, without knowing how much is to be paid for them, or anything about it, seems to me to be leaping in the dark.

Mr. FITZPATRICK. I will inform the Senator, as I stated the fact, that I made before that I understand the Government purchased what is called Maynard's primer, and has the exclusive right to prepare those primers now. I learn, on inquiry, that there is not an establishment in the United States that can prepare them all to compare with the primers prepared by the United States under this patent; and if the arms which that primer is necessary to accompany be disposed of without it, the arms will be a nuisance. Experience has shown that these primers can be best manufactured by the Government; and I believe it has the exclusive right to manufacture them. The amendment simply authorizes the Government to dispose of the primers, which are a necessary accompaniment to the arms, based on the principles of modern improvement with the arms themselves. It is not a monopoly in the bill, and the amendment will make it complete.

Mr. FESSENDEN. I understand that the Government became interested in Maynard's primer—

Mr. DAVIS. If the Senator from Maine will allow me, I think I can state the whole proposition in a moment.

Mr. FESSENDEN. I am always glad to yield to the Senator from Mississippi.

Mr. DAVIS. I wish simply to state the facts; not to argue the matter. The Government purchased a right to use an improvement of Dr. Maynard—being a primer. The Government has manufactured some of these primers; they are also manufactured on private account. The Government did not purchase and did not desire to have the exclusive right to the Government; only purchased the right to make them to any extent which it pleased. It has so happened, however, that the principal difficulty in the primer was to get a cement which would hold the two strips together, and prevent the capsule from being exposed to the weather, and prevent any capsule from conveying its fire to the adjoining one. This,

which seemed to be very small in the beginning, has thus far proved an obstacle not overcome anywhere, except at one arsenal, and in the hands of one ordnance officer. The only good primers which have been made, have been made at the Frankford arsenal, and because of the skill of the ordnance officer. This proposition, as I understand it, from the Senator from Alabama, is to authorize those who purchase the improved arms which may have the primer, or can be used without it, to purchase also the primers prepared by the Government, under his impression, which is in the present state of the manufacture, that they cannot get good ones anywhere else. That is all there is in it.

Mr. FESSENDEN. I had an impression, derived from conversations among gentlemen, that there had been a recent invention, which made that primer much more valuable, but that it was not yet perfected exactly. There was an original defect in it, that it would not stand exposure to water; but I understood that recently there had been an invention which had fair to be successful, and to be a public protection, to keep this dry, although immersed in water for several days, and that has not yet been brought to perfection. Now, until it is brought to perfection, it seems to be useless to make these provisions; and more especially if the Department, on the authority of this proposition, is to purchase any invention, and make a job of it; and I confess I am very suspicious of jobs by the Government. I think, from what I have heard in relation to the matter, that it is hardly time yet to say for a certainty that this thing is completed, finished, and perfected. I believe it has recently been improved, and calculations, since I have been in the Senate, with reference to altering arms, &c., that have turned out to be pretty bad ones. We have been led away by this talk of great improvements, and acted hastily, and wasted money. I think had we waited, we would have been wiser. Dr. Maynard's genius with reference to arms, but I want to act carefully.

Mr. FITZPATRICK. The Senator from Mississippi is more accurately informed than I am in relation to the Government's interest in this patent. I perhaps could have acquired the information if I had examined more particularly into it; but my impression was that the Government owned the exclusive right to make these primers. I stand corrected now by him. The view is certainly an objectionable one, and to use the invention to any extent is unpleasant. Now, if this is a valuable invention, and those who purchase these arms desire it, my amendment authorizes them to have the primer. The President is not absolutely required to have these primers accompany the arms; nor are the companies bound absolutely to purchase them. If the improvement alluded to by the Senator from Maine has been made, and there is another primer superior to the one the Government has now got the right to use, the volunteer companies seek it. All I ask is for the President allow the volunteer companies or the States who desire to purchase these arms to purchase the primer, and give him authority to sell it. It is not to interfere with any inventions that may take place hereafter. If it is, it is superseded by subsequent inventions which desire the arms will not purchase these primers, but will look elsewhere for a better article.

Mr. HAMLIN. We would like the attention of the Senator from Mississippi for a single moment. I want to invite his attention to this amendment for a single point. The bill, if I understand it, provides for the distribution of such arms as shall be applied for and paid for by the Executives of certain States. Well, suppose a certain number are applied for, purchased and paid for. Under this bill, if this amendment shall be adopted, certain States also to be supplied by the Government, if the amendment shall be adopted in the words in which it is presented, how many primers are to be allowed? I ask what is to be paid for them? I ask, in addition to that, if this provision is to stop by the Government, or if it is to be an order made on the Government for these primers, or a demand whenever the persons receiving the arms may want them? It is certainly very indefinite. There is nothing about it to tell when they are to be furnished, how they are to be furnished, whether they are to be furnished once or continuously. The

thing ought to be put in a different shape from what it now is, it seems to me, so that it shall be at least intelligible.

Mr. DAVIS. I will answer the inquiry. I suppose, of course, from the language, it means the cost price. I will also say that I attached no little importance to it as not to think beyond an instant about it when it was proposed. My own opinion is, that the militia do not want them; that they will not buy them; that there will not be a hundred dollars' worth of them ever sold to the militia, though when they go into active service they may require them, and then they will be furnished by the United States; but for any purpose of instruction, or any use at home, I do not believe they will ever require the primers or desire them. The arms are made for cap and primer both. The habit is to use the cap. The primer may be as defective as some think; it may be as good as others deem it. It has not been sufficiently perfected as yet to give any confidence in the manufacture. But one manufacture has been made in which I have confidence. I do not believe the militia will buy any considerable number of them. I do not believe my friend from Alabama has much interest in it. I am sure he has no interest in any plan of improving the primer, but has moved the amendment under the belief that a good primer had already been made.

Mr. FITZPATRICK. The Senator is correct; it is a matter in which I have very little interest, but it has been brought to my notice by some persons who feel an interest in the matter, and who have a knowledge of it. In looking into the bill, it was suggested to me that the amendment had better be made, to enable the States, if they see proper, to purchase primers to accompany the arms.

Mr. DAVIS. If my friend from Alabama will allow me, as there is some confusion about the effect of this proposition, and as private establishments, as private manufacturers of these primers is perfected by the Government, will very soon thereafter make them on the same plan—for the Government has no secret, (any manufacturer can go and learn exactly what element is needed in the making of them, and the Government perfects it, private establishments will make it on their own account—I do not think it of consequence to insist on the amendment.

Mr. FITZPATRICK. I do not think it of any great consequence myself, and have offered it to the wisdom of others. I should like to see the amendment incorporated in the bill. I am clear in the conviction that it is to affect no private interest; that if a better article is invented hereafter, or if, upon experiment, the volunteers do not like this primer, but prefer the cap, they will have the option, and that is all I seek to effect by this amendment.

The question being taken by yeas and nays, resulted—yeas 22, nays 20, as follows:

YEAS—Messrs. Bayard, Benjamin, Bigler, Bragg, Brown, Bryant, Clingman, Clifton, Fick, Fitzpatrick, Green, Hale, Hendon, Iveson, Johnson, Knapp, Knowlton, Leake, Tresser, Kennedy, Mallory, Nicholson, Powell, Sebastian, and Tilden.

NAYS—Messrs. Bingham, Chandler, Clark, Collier, Crittenden, Davis, Dixon, Fessenden, Fox, Foster, Hamilton, Hildreth, Johnson, Keith, Thompson, Wade, Wigfall, Wilkinson, and Wilson—20.

So the amendment was agreed to.

The PRESIDING OFFICER. It becomes the duty of the Chair to announce the special order, the hour having arrived for the consideration of the Private Calendar, which is the special order for the day.

Mr. FITZPATRICK. I suppose it will take but a few moments to finish the bill, and I move to postpone the special order for that purpose.

Mr. IVERSON. If it is understood that the question is to be taken at once, I shall interpose no objection to the motion, if it is to be given up to discussion, I shall not consent to let the Private Calendar be passed over. It will be remembered that we lost the whole of last Friday out of respect and consideration to a distinguished individual who was laid to rest.

The PRESIDING OFFICER. The motion is to postpone the Private Calendar.

Mr. FESSENDEN. I ask for the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 24, as follows:

YEAS—Messrs. Benjamin, Bigler, Bragg, Bright, Brown,

Clay, Clingman, Davis, Fish, Fitzpatrick, Green, Gorin, Hammond, Hunter, Iremson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Lane, Latham, Mallon, Mason, Nicholson, Powell, Sebastian, Tompkins, and Wigfall—47.

YEAS—Messrs. Anthony, Bingham, Chandler, Clark, Colburn, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foster, Grimes, Hale, Hamlin, Harlan, Kildee, Ransom, Say Eeck, Trumbull, Wade, Wilkinson, and Wilson—44.

So the special order was postponed.

THE PRESIDING OFFICER. The question is on the motion of the Senator from Rhode Island (Mr. Simmons) to strike out the first section of the bill, after the enacting clause.

Mr. HALE. Let the section be read as it has been amended.

The Secretary read it, as follows:

That the Secretary of War be, and he is hereby, authorized to issue to any State or Territory of the United States, on application of the Governor thereof, arms made at the United States Arsenal, and primers prepared by the United States, to such extent as may be required from the public supplies without injury or inconvenience to the service of the General Government, upon payment therefor in cash at the time of delivery, in each case, of an amount sufficient to replace, by fabrication at the national arsenal, the arms so furnished. That if the Secretary of War should have exceeded the increased manufacture which may result from said sales; and that the whole number to be sold, if less than the requisitions made, shall be the difference between the States applying to purchase *pro rata*, as arms furnished by the United States are now distributed.

THE PRESIDING OFFICER. The question is on striking out the first section of the bill after the enacting clause, which has been read by the Secretary.

Mr. DOUGLAS. I shall vote against striking out the first section of the bill. I see no objection to that section, and am prepared to vote for it; but I am utterly opposed to the second section of the bill, and will take this occasion to remark, that I was unavoidably absent the other day. I understand a vote was cast against striking out that section. I shall vote against striking this out; but when the bill comes into the Senate, I shall move to strike out the second section.

THE PRESIDING OFFICER. The bill is now in the Senate.

Mr. FESSENDEN. I ask for the yeas and nays on the motion to strike out the first section.

The yeas and nays were ordered.

Mr. DOOLITTLE. I do not propose to detain the Senate by speaking on the bill or the first section, but simply to state, as an officer would, as I can, the reasons why I shall be constrained to vote against it. In the first place, it lodged in the Secretary of War a discretion over the arms of this Government that Congress ought not to lodge in the hands of the Secretary of War.

Mr. DAVIS. I will say to the Senator from Wisconsin, that that has been amended. The discretion has been controlled by an amendment which was offered, limiting the sales to the increase—the increase resulting from the sales.

Mr. DOOLITTLE. The increase after this year?

Mr. DAVIS. Say that requisitions are made for the equivalent of twenty thousand stand of arms. If they can increase the manufacture twenty thousand stand of arms by selling twenty thousand, they are permitted to do it; not otherwise, under the bill.

Mr. DOOLITTLE. I understand the effect of the bill as it stands would be to authorize the Secretary of War to sell the arms we now have on hand.

Mr. DAVIS. Of course he will sell the equivalent. That is to say, if requisitions are made for twenty thousand, and the money is deposited for twenty thousand, he can sell twenty thousand and make twenty thousand more. It is true that he can increase the manufacture twenty-two thousand; but if that should be varied so that he could not increase the manufacture, then he would violate the spirit of the law, and I think its letter, if he sold anything more than the equivalent of the money he received.

Mr. DOOLITTLE. I am unable to state the precise number of arms now on hand at the arsenal of the United States; perhaps there are half a million. I understand the effect of the bill to be that if any one or more States of the Union should apply to the Secretary of War to purchase all there are on hand, it would be within his power to sell them under the provisions of this bill.

Mr. DAVIS. If the Senator will read the amendment, I think he will change his opinion.

Mr. DOOLITTLE. Let the section be read as it has been amended.

The Secretary read it.

The question being taken by yeas and nays on striking out the first section, resulted—yeas 20, nays 29, as follows:

YEAS—Messrs. Anthony, Bingham, Chandler, Clark, Colburn, Dixon, Doolittle, Durkee, Fessenden, Foster, Grimes, Hale, Hamlin, Harlan, Ransom, Trumbull, Wade, Wilkinson, and Wilson—29.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Briggs, Clay, Clingman, Crittenden, Davis, Douglas, Fish, Fitzpatrick, Fowler, Grimes, Hunter, Iremson, Johnson of Tennessee, Kennedy, Lane, Latham, Mallon, Powell, Rice, Sebastian, Tompkins, and Wigfall—20.

So the motion was not agreed to.

Mr. DOUGLAS. I now move to strike out the second section. I will not detain the Senate by an argument on the question. We have had it argued frequently in the Senate. I have always been for the civil against the military superintendence, and I am unwilling to restore the military system. I desire a vote on that question. I ask for the yeas and nays upon it.

Mr. JOHNSON, of Tennessee. Read the second section.

Mr. FESSENDEN. I should like to know whether the amendment has not been put and failed.

Mr. DOUGLAS. That was in committee, not in the Senate.

Mr. DAVIS. I should like to know whether it was in committee or in the Senate that the motion was made.

Mr. FESSENDEN. The record will show.

THE PRESIDING OFFICER. The present occupant of the chair was not in the chair at the time the question was taken; but he is informed that by the record it appears that this motion has already been passed upon by the Senate. It is not, therefore, in order now.

Mr. HALE. Let the second section be read.

The Secretary read it, as follows:

Sec. 2. And he is further enacted, That so much of the act approved August 5, 1854, as authorizes the appointment of a superintendent of each of the national arsenals, be, and the same is hereby, repealed; and that the superintendents of those arsenals shall hereafter be selected from the Ordnance corps.

Mr. HALE. Is it not in order to move to amend that section now in the Senate? A motion has been made to strike it all out, and that has been voted down. I understand.

THE PRESIDING OFFICER. The Chair is of opinion that it is not in order to move to amend that section in the Senate. It can be moved to be recommitted to the Committee of the Whole, and there amended.

Mr. HALE. My impression is, that the only vote taken on it has been a motion to strike it all out, which has been negatived.

THE PRESIDING OFFICER. That is so.

Mr. HALE. That does not imply that we cannot move to strike out a portion of it.

Mr. DOUGLAS. I desire to suggest to the Chair, that if I understand it is competent in the Senate to offer any amendment that could have been made in committee; and, although a motion to strike out the whole section has been rejected, we can still amend it by striking out a part; otherwise, by offering a motion to strike out and rejecting it, you cut off all amendments. It strikes me that it is perfectly in order to amend the section.

THE PRESIDING OFFICER. The Chair will entertain a motion to amend the section.

Mr. HALE. I move to amend it by striking out the enacting clause of the section.

Mr. DOUGLAS. That does not reach the question.

Mr. HALE. Perhaps it does not.

Mr. ANTHONY. It is apparent that this is going to lead to a long debate, and we shall lose the time that belongs to private legislation. I move that the further consideration of the bill be postponed, and that we proceed to the consideration of the Private Calendar.

Mr. DAVIS. I will merely say, that if it is not the courtesy of the Senate to allow votes to be taken on the bill, and they propose to make a discussion which has no legitimate end, I will not ask the Senate longer to waste time about it.

Mr. ANTHONY. I did not propose to debate it, but I thought it was evidently going to lead to a discussion of the whole day.

Mr. HALE. I do not want to get up any dis-

cussion at all; but I want a vote on this proposition, and I move to strike out all after the word "repealed" in the fifth line of the second section.

THE PRESIDING OFFICER. The motion before the Senate is to postpone the further consideration of this bill, and take up the order of the day, which is the Private Calendar.

Mr. DAVIS. If there is to be no debate, I suppose the Senator from Rhode Island does not desire to put his motion.

Mr. ANTHONY. Not if there is to be no debate. My object is to save the special order, the Private Calendar.

Mr. DOOLITTLE. I do not rise to discuss the question; but I wish to suggest to the honorable Senator from Mississippi, that from a careful reading of the first section with the proviso he has put in, I do not see that the section and proviso taken together are very clear, to say the least, in the construction to be given to them. I confess that, for one, I cannot understand the precise meaning of the first section and the proviso, and I do not see how they can be practically construed and acted upon. I suggest that they be postponed, and that the two sections considered together by the honorable Senator himself. At all events I cannot see what is to be their practical effect. The section itself goes on to say that the Secretary of War may dispose of all the arms which are not necessary in the service of the Government. The proviso says that the sales in no one year shall exceed the proceeds which are received. I do not see how it can be operated at all. We have got to sell before we receive any proceeds, and we must manufacture before we can understand whether the proceeds equal the manufacture of a given year, or the manufacture equals the proceeds.

THE PRESIDING OFFICER. It is moved to postpone the further consideration of this bill, and to take up the Private Calendar.

The motion was agreed to.

Mr. IVERSON. I move that the Senate proceed to the consideration of those bills on the Private Calendar which shall not be objected to or give rise to debate. ["No! no!"] There are a number of cases that have precedence which will consume time. ["No! no!"] Well, I withdraw the motion.

Mr. DAVIS. A division was asked for on the motion to postpone before the Chair announced the result; but I suppose it was not heard.

Mr. LANE. I asked for a division. I think we had better go through with the bill of the Senator from Mississippi.

THE PRESIDING OFFICER. The Chair did not hear the call for a division, and he waited to ascertain whether a division was asked. The Chair, however, certainly will not assume the prerogative of deciding, and will put the question again.

Mr. LANE. My opinion is that we shall gain time by finishing this bill while we have it up.

THE PRESIDING OFFICER. The Chair will put the question again.

Mr. DAVIS. I must interpose. I have yielded now for more than half an hour on the promise of the chairman of the Military Committee, who reported this bill, as well as the Senator from Alabama, that if it occupied over twenty minutes, the floor would yield, and let the bill go over. It has occupied thirty minutes. I trust they will not press the consideration of it any further.

Mr. DAVIS. If the chairman of the Committee on Claims wishes to proceed with the Private Calendar, I shall not insist on the motion.

Mr. LANE. Very well. I withdraw the call for a division on the motion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Foster, its Clerk, announced that the House had passed a bill (H. R. No. 315) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1861.

The message further announced that the House had ordered, this day, at twelve o'clock and thirteen minutes, the printing of a letter from the Secretary of War, in answer to a resolution of the House of Representatives, communicating a report in reference to the nature of the relations in Bayou Manchac, in the Mississippi river.

In June Captain Blaney received five thousand brick, and paid for them.

In July, 1836, the contract was forwarded by Captain Blaney to the engineer department, and on the 30th of the same month it was returned, with the objection, from the engineer, that there was no readily ascertainable value of a good accompanying it.

There was no agreement between the petitioner and Blaney that the contract should be altered, rescinded, or reconfirmed by either party, or that its approval by any superior officer was necessary.

On receiving the communication from the engineer department, Blaney refused to fulfill the contract. He alleged that the petitioner had not the means to fulfill it, and that it was defective. But he owed Potter nearly six hundred dollars, and if Blaney had paid him for his bricks, he would, in the contract, he would have been relieved from his indebtedness.

Blaney utterly refused to comply with the stipulations of the contract on the part of the petitioner. He refused to sign upon the petitioner's transferring his property to Potter, which, by the arbitrary and unjustifiable conduct of the officer, the petitioner, he was compelled to do.

Blaney having thus rescinded the contract, then accepted from Potter the bricks made by the petitioner, for which he paid him from eight dollars to eight dollars and fifty cents per thousand.

The petitioner in this case sought relief in the Court of Claims, and a full hearing was had in that tribunal, and the facts above recited were established. The court gave an opinion in the case, contained in the following language:

"The question is, whether the petitioner is entitled to be paid for the bricks which he delivered to the Government. We think also that the evidence shows no good reason for rescinding it; that Blaney refused absolutely to receive any more of the bricks, that Crown, who was the contractor, delivered to the Government five hundred thousand bricks, for which he should have been paid \$3,500 under his contract; for which sum we report a bill."

The bill thus reported passed both Houses of Congress, and Crown received the money.

There was a bill actually due to Crown at the time he was ready to deliver the bricks to the United States, in 1836, and which was detained in the Treasury of the United States by the arbitrary rescinding of Crown's contract. Your committee consider that the Government is not justly due and payable to the petitioner from the time that Blaney improperly refused to fulfill the contract, and that the Government is liable for the bricks delivered to it, as mentioned, on the 3d of March, 1837, although the petitioner has repeatedly sought it for the long period of thirty years, and yet no action by Government has been taken to fulfill the contract, and determined the amount which was justly due, should not be paid interest thereon.

On the basis of opinion that interest, at six per cent. per annum, should be paid to Mr. Crown on the said sum of \$3,500, from October 1, 1840, to the 3d day of March, 1860, amounting to \$2,360.

Your committee now proceed to consider the question as to the allowance to the petitioner of damages, in consequence of the breach of his contract by the Government.

Where a contract is made between two individuals, and the conditions of it are such as to bind one of the parties, there is no doubt that it is liable for the breach. The question is, whether there should be any distinction between a contract made by an individual with the Government, and one effected where an individual contracting with the Government, and not fulfilling his contract, has been subjected to damages, and who should not the Government be equally liable? Your committee are of opinion that they are.

It is in evidence that the petitioner entered into a contract with the Government, in good faith, through its authorized agent, to deliver, for the use of the Government, three million bricks, and was at considerable expense in arranging the preliminaries for the fulfillment of his contract. Mr. Crown made eight hundred thousand bricks; five hundred thousand of them were received by the officer, and have been paid for; three hundred thousand were found unsatisfactory, and rejected, leaving two million two hundred thousand still to be made by Crown when his contract was abandoned.

For reasons not apparent to your committee, the petitioner was thus compelled to retire from his enterprise, and the Government was left with the unfinished contract on his contract.

Laying aside the years of delay in the receipt of the price for the bricks, for five hundred thousand bricks, it is by no means clear that such a price is adequate to reimburse the petitioner for his preparation for the performance of an extensive and arduous undertaking. Be this as it may, the contract was rescinded by the Government without legal right, and the petitioner may be said to have been injured. It is not made in that portion of the contract which he was prevented from fulfilling.

In evidence that the bricks of the character of those furnished at Oak Island were worth, in Alexandria, in the fall of 1837, five dollars per one thousand. Allowing for the increase of the price of the bricks, and the increase of the value of the money, the price in Alexandria, and making the allowance of seventy-five cents per one thousand for the delivery of the bricks, leaving a net profit of one dollar on every thousand contracted for.

Mr. Crown is, therefore, in the opinion of your committee, entitled to the one dollar damage on every thousand of the two million two hundred thousand bricks which he was entitled to furnish under his contract at the time of its abandonment, amounting to \$2,200,000. He is also entitled, for the use of Mr. Crown, as interest, \$6,389.53, and as damages, \$1,300, amounting to \$6,589.53; for which sum they report a bill.

Mr. CLAY. This bill appears to me to be in violation of the authority of the Senate, and in violation of the practice of almost all Governments—certainly of this. In the first place, as to the damages; according to my understanding of this contract as presented in the report, it is not

compensating him for any actual damage that he incurred—

Mr. IVERSON. Will the Senator from Alabama allow me to interrupt him a moment?

Mr. CLAY. I would rather get through; but as the Senator reported the bill, I yield to him.

Mr. IVERSON. There are no damages in this bill. I will explain to the Senator from Alabama that the report which was read was the report made by the committee, and the bill as reported allowed damages and interest both; but the Committee on Claims at the present session refused to allow damages, and only allowed interest. The present bill does not allow damages.

Mr. CLARK. I think the bill was reported as having that provision as not to confound the question of interest with the question of damages. This session the committee have left out the damages, and presented the question of interest on the sum which was not paid for over thirty years, and to which the claimant was justly entitled in 1836.

Mr. IVERSON. The question is in a nutshell. Under this contract, Congress has adjudicated that this party was entitled to a certain amount of money—and it ought to have been paid at the time that the contract was taken from him by the Government. If he had actually performed it, and which the Government subsequently used; but he did not get his pay until 1857. The Government then admitted that the amount was due to him, and therefore ought to have been paid long ago; and the question now is, whether he ought to have any more than that amount. If he had received the money at the time it was due to him, he could have made interest on it undoubtedly.

Mr. BENJAMIN. I will ask a question of the Senator from Georgia. Is there any reason given by the Court of Claims why the principal was allowed by that court? A bill was reported by the court and passed, and the principal paid. Now, what I should like to get at, is this: was interest allowed in the Court of Claims? If not, why not? If it was claimed, and was not allowed, what happened to it? Does it happen that the interest has been segregated?

Mr. IVERSON. I do not remember distinctly the facts in relation to that question; but my impression is, that the Court of Claims refused to allow interest on the general practice of the Government. They admitted the principal was due, but said that inasmuch as the Government was not in the habit of allowing interest, they would not allow it in this instance.

Mr. CLARK. The explanation cuts off most of what I intended to say in opposition to the bill; but still I think it will be a very vicious precedent, and will return to plague us here at each session of Congress. If this Government undertakes to pay interest in all such cases, the Treasury of the United States will soon be empty. There is one class of cases which have come frequently under my observation, in which the amount of interest accumulated against the Government would be a frightful sum, and that is in respect to money paid for lands where the title was not secured.

I have a case of that kind where a man, thirty or forty years ago, paid the Government for a tract of land which it was supposed they had a right to take at the time. Afterwards it was ascertained that they had no title, and he was dispossessed of land which is now worth fifty dollars an acre. The Government refused to pay him anything for the money he advanced without interest, and after examining carefully for precedents to sustain his claim to interest, which would not even indemnify him, I could not find a single case. On corresponding with the Commissioner of the General Land Office, he has been told that he has the power to pay the Government to pay interest in such a case. The case of my constituent, to which I have referred, is a much harder one than that of Mr. Crown. In that case he actually advanced his money to the Government; the Government had the benefit and the use of his money for a long period of time, and they refused to pay him anything beyond the principal. Interest is, I believe, conceded on all hands to be a matter of bargain where it is not specially provided for by law; it is merely conventional, and the Government is not bound to adhere to legal principles, for interest, and does not undertake to do so without hazarding her own credit. I am opposed to the principle, and I shall ask for the yeas and nays on the passage of the bill.

Mr. TRUMBULL. Mr. President, I think it is only necessary that the Senate should understand this bill, to prevent its passage. There is a very grave principle involved in it, and I trust it will not be entered to pass the Senate as a private claim of no importance. The amount involved here is only some six thousand dollars, but the principle will reach to millions and millions of dollars if it is to be established.

The case is simply this: a contract was violated; the party to it has suffered by the violation of the contract has brought a suit, recovered his damages, and they have been paid to him. The contract was made nearly forty years ago. He sued for damages against the party violating the contract, and recovered, and has been paid his damages; and now, what? Now he comes and asks to have interest on those damages which he has recovered. The original damages being \$3,500, he now asks to have \$6,389 paid to him as interest upon the damages he has recovered and received for a violation of his contract. I think if the case were between private individuals interest could not be recovered in such a case. Was it ever heard of, that when one individual sues another for a violation of contract, and recovers damages for a violation of the contract, he can also get interest on the damages? They may take into consideration, and perhaps they may, the loss he might have suffered from the length of time he had lost in prosecuting his claim, but the idea that a separate claim is to come in for damages on the amount he recovered, is a new principle in the law.

I trust that such a bill as this will not pass the Senate, and I shall unite with the Senator from Alabama in asking for the yeas and nays. I am not disposed to argue the question. A statement of the case is enough. The bill shows on its face what it is. It is a violation of the principle covered for a violation of a contract made nearly forty years ago.

Mr. BENJAMIN. I have been looking at the decision of the Court of Claims—it is somewhat long—to endeavor to get at the basis of this claim. I do not think there is any merit in it at all. If I understand the decision of the Court of Claims, from a very hasty perusal, there was a judgment given in favor of this claimant for \$3,500, for the value of five hundred thousand bricks which he was to have delivered under his contract, and which the officer refused to receive. The court held that the delivery of the bricks entitled him to payment therefor, and that the refusal of the officer to receive them could not defeat that right. The court therefore gave him a judgment for the value of the bricks. It does not appear that the Government ever received them; but these \$3,500 were paid for the bricks without their being received by the Government. Nobody knows what he did with the bricks afterwards. He may have sold them afterwards. I think it looks, from the decision, as if the Government had received the second time to another contractor. At all events, I see nothing in the decision to show that any pretense was made at the time to interest, and I cannot see on what ground interest is to be allowed on the damages which the Government has paid for the non-compliance with the contract. I cannot vote for the bill.

Mr. CLARK. I think both the Senator from Illinois and the Senator from Louisiana, have mistaken the nature of the claim. I examined this claim with great care, and last session of Congress, and I came to the conclusion that not only was it a just claim, but that the Government was in great fault for not having paid it before. There was allowed to Mr. Crown \$3,500 for bricks actually made and delivered, which they refused to pay for. For some reason, the delivery of the contract was broken by the officer in charge. A portion of the bricks had been delivered, and he refused to pay, and Mr. Crown was not paid for the bricks which he had delivered—the sum of \$3,500—until thirty-one years after it was due. Mr. BENJAMIN. If the bill passes, it will mean that I shall pass a message from the decision of the Court of Claims, upon which I base my observations. It is the very last sentence of the opinion of the court:

"Our opinion is, that the contract was a valid one. We think, also, that the Government was in fault in not rescinding it; that Blaney refused absolutely to receive any bricks of Crown, and that Crown then had to carry away

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showing of this discrepancy. The Secretary, Governor Ford, behaved with his characteristic courtesy and candor. Upon looking into the case again, he saw, at a glance, that several items had been omitted, which the Second Auditor allowed; but, as the case was then closed, and the law, or joint resolution, had performed its office, he doubted his authority to reopen it. But, as he had no disposition to deprive the estate of the deceased of a single dollar justly due it, if Congress would confer the power to reexamine the case, it would give him pleasure to correct what was clearly an omission, and that the case should be brought to be restored.

A resolution, similar to that now before the Senate, was passed at the last session, unanimously, but failed, with very other Senate bills, in the House of Representatives, for want of time. I make no appropriation.

Mr. TRUMBULL. I should like to know the amount involved in this joint resolution. There are some things in it to which I should have no objection, such as allowing the authentication of evidence that was improperly authenticated before; but as to allowing or directing officers to allow certain claims, without knowing their extent or what they are, it seems to me to be hazardous.

Mr. BROWN. This case is an old acquaintance of mine. The only point in the case, I think, is this—I had occasion once, as a member of the Finance Committee, to investigate a case by the heirs, or representatives of George Fisher, brought a claim before Congress arising out of Indian spoliation in Florida, which Congress allowed. When the Second Auditor of the Treasury undertook to settle the account, he found some items amounting perhaps to fifteen or eighteen hundred dollars, well proved; but the testimony was not certified under the seal of any court, or of the Governor of Alabama; and, therefore, and therefore alone, the items were rejected. The representatives of the claimant then went to Alabama and got this testimony certified under the seal; that is, they got the Governor of Alabama to certify that the justice before whom it was taken, was in fact a justice of the peace, thus covering the hiatus in the case, and returned it to Washington; but the accounting officers said, "they had not closed the case; it is *res adjudicata*," I think, in the mean time, there had been probably a change of Administration. At all events, they refused to open the case. The claimant comes, and now simply asks that, having perfected the testimony in this way, they let it pass. The accounting officers, for judgment rendered in the case *non pro tunc*, that the accounting officers shall treat the testimony now as they would have treated it in the beginning, if it had been well authenticated. That is the whole case. They are not required to take the testimony as true, not required to allow any money; but just to take up this testimony, now well authenticated by the certificate under the seal of Alabama, and treat it as they would have done originally if it had been thus certified. That is the whole case.

Mr. TRUMBULL. This looks to me very much like opening a case which has been once passed upon by Congress, and which the officer to whom it was referred has passed upon; and opening it in this blind way without any report, without any evidence, and without any basis from the Senator from Mississippi as to the amount involved. If the amount is only eighteen hundred or two thousand dollars, it is no great matter to content about; but I think it is a very bad practice after a claim has passed Congress, and has been referred to the proper officers for adjustment, if the parties are not satisfied with the adjustment, to get other testimony which they think would entitle them to more, and then come back and ask to have it partially reopened. I look upon this as a very loose and dangerous practice; but I shall not take up time.

Mr. BROWN. I will now remind the Senator in a single word that this is not reopening the case. The case was settled as far as it went; but items in the account were rejected on a technical ground; that the testimony was not properly authenticated, and all you propose to do now is, to give him the benefit of that testimony, he having supplied the deficiency in the attestation of it. Whether he will get anything at all, is altogether a different question. I do not know that he will;

but certainly if he has a fair case, which has been rejected simply because he had not the seal of the State, or of a court to his affidavit, when he last put the seal to it he has a right, I think, to have that testimony examined, and be allowed whatever it shows him to be entitled to.

Mr. BAYARD. Is there any report from the committee of the Senate in reference to this joint resolution?

The PRESIDING OFFICER. There is no report at the present session; but the Chair is informed that there is a report which was made at a former session.

Mr. BAYARD. I observed that reference was made to a report of a committee of the House of Representatives, in 1857; and I have looked at that report cursorily. Congress authorized an officer of the executive department to hear and settle a claim against the Government; and after he has so settled the claim, he is authorized by the resolution to revise his action—I do not care on what ground—and become themselves an administrative or judicial body. I cannot vote for any resolution of that kind. Congress intrusted the authority to the proper officer to settle it, and he was to act just judicially. He did exercise it; and I think the party ought to abide by the decision made by him, and Congress ought not to undertake to enter into the details, for the purpose of revising the action of the officer.

Mr. BROWN. If I regarded this, or could be brought to regard it, as an attempt on the part of this claimant to revise the action of the accounting officers by courts, I would oppose it; but that is not the state of the case. I never read the report to which the Senator refers, but I am perfectly familiar with all the facts in the case; and they are, I tell you again, as I stated them: that certain items in the account were rejected for no other reason than that the testimony upon which they were based was not authenticated according to the legal requirements of the law. That defect has now been supplied, and all the party asks is, that he be allowed the benefit of his perfect testimony. Whether it will establish his claim or not, nobody pretends to say.

Mr. IVERSON. The case, as I understand it, is this: The claimant has a claim for the salary of an individual, which Government troops used during the Creek war of 1836 and 1837. He came to Congress, and Congress passed a joint resolution authorizing the officers of the Treasury to audit and settle the accounts. The Second Auditor and Comptroller audited a portion of the accounts, but rejected a large portion of the vouchers, because they were not authenticated; that is to say, they did not have a certificate of authenticity from the Governor of Alabama. The claimant then withdrew these vouchers, for the purpose of obtaining the necessary certificate. The auditor was not then complete. The claimant had the depositions authenticated properly, and then came to the Secretary of War to have them finally acted upon. When the Secretary now comes to act on the case finally, he leaves out some items that have been previously allowed by the Second Auditor and the Comptroller. He takes in these authenticated certificates and allows a portion, but leaves out, by mistake or accident, some of the original vouchers. The claimant had been adjudged in favor of the claim by the Auditor and the Comptroller; and when this mistake is brought to the attention of the Secretary of War by Mr. SIMMONS, who went to see him personally on the subject, he admitted that it was an error, that he omitted them by mistake, and he gave a mere accident, and now he suggests that Congress pass a resolution to authorize him to go back and allow those items that were thus accidentally omitted. That is the whole case. The amount, as I understand, is very small; it is not a matter of great consequence, but still it is a matter which the party should have its rights.

Now, has not Congress the right to reopen this case? The Senator from Delaware says that, as the question has been settled, and the case has been adjudicated by the officers of the Government, he is not for reopening it on any account.

Why, sir, it is the peculiar province of a court of chancery always to correct mistakes; and if this mistake were open to a court of chancery into which the party could go, on the very answer of the defendant, the Secretary of War, a court of chancery would not hesitate to open the case and correct these items. That is a clear principle; and I am astonished that the Senator from Delaware, so good a lawyer, and so good a man, as he is, should say that a party should be bound by a mere error, mistake, or accident on the part of your accounting officer; and when that officer himself, the Secretary of War, admits the fact, as he has admitted to one of the committee in person, that it was an error, an accident.

Mr. BAYARD. I do not think my objection is answered at all, when I come to look at this joint resolution. I am not at all familiar with the facts of the case, and know nothing about it, except what I have gathered from the report of the Secretary of War in the papers. We have no report from the committee; we have no communication from the Department; we have only one side of the case; but we have a report of a committee of the House of Representatives, made in 1857, which on the face of it, I am free to say, is in my mind a very loose report. I have great respect myself for the judgment and integrity of the late Secretary of the Treasury, Mr. Guthrie. He did not make these allowances; and the object of this joint resolution is now to do so. As I said, to revise the action of the accounting officers where you have intrusted them to the authority judicially to decide upon this claim, and on more grounds than one. The want of authentication of certain depositions is referred to as one ground, and he is directed to admit these depositions and statements of the Second Auditor of the Treasury, under date of 30th January, 1858.

"Allow such terms and valuations in said accounts as are proved to be due and are anywise affected by said testimony."

That is a very dangerous doctrine to hold—without disturbing those who do not object; and to furnish the adjustment of the Secretary of War, to give the said joint resolution as to require that the claimant shall be credited with the items and valuations contained or specified in the official certificate and statement of the Second Auditor of the Treasury, under date of 30th January, 1858.

What is this but an attempt at a part adjudication on our part, after we have intrusted to the accounting officer the settlement of the account, and he has made the statement? Now you want to control him so that he must make the settlement exactly in a particular mode. If the parties want to have this account settled on principles of equity and justice, and they think it has not been, why not pass another general law? If there has been a mere mistake, a mere error, a mere defect of testimony, why not simply pass a general law authorizing the accounting officers to correct the claim on principles of equity and justice, as you often do? Why put in all these restrictions and direct him to allow this and to allow that, and to credit this and to credit that? I do not consider that is part of the duty of Congress. I have always believed that it is to grant money, and I do not think that many members of the body would ever take the trouble to inquire into the character of the testimony by which a claim was authenticated; but where you send it to an accounting officer, he always does, as far as he can, require that the evidence shall be sufficient to sustain the claim.

Therefore, I am not disposed to vote for a resolution which combines such limitations; which are partly an authority to audit the account, but which, at the same time, really undertakes to audit and determine the account itself; when we have no testimony before us, not even a report from the committee. I shall ask for the yeas and nays on its passage.

Mr. TRUMBULL. I move as an amendment to the joint resolution to add these words: "and that not exceeding \$2,000 shall be allowed by the Secretary of War, under the provisions of this joint resolution;" so that it shall have some limit. I understand from the Senator from Mississippi that the amount is less than \$2,000.

Mr. BROWN. I think that would be quite sufficient for any emergency; but I will suggest to the Senator that these limitations are generally construed by the accounting officers to mean that they shall pay up to your limit. If you put on the provision, they might pay the whole \$2,000. It might not be so much. I am sure it would not be more than a little over it. The accounting officers will warrant the Senator, who will be almost certain to pay the \$2,000, if you put that in.

Mr. TRUMBULL. I apprehend that the Secretary of War certainly would not allow \$2,000, unless the proof justified it.

Mr. BENJAMIN. If the Senator from Illinois will permit me a moment, I will suggest that as we have no report upon this bill, and really we all seem somewhat befogged about the facts, it be passed over informally; it can go back to the committee, and the facts be ascertained and reported to us. None of us seem to know exactly what the bill is and what the amount is.

Mr. IVERSON. I read the facts here in a printed statement.

Mr. BENJAMIN. I understand the Senator read the facts as reported to him by Mr. IVERSON, on a conversation with the Secretary of War; but can the Senator tell us now what amount is involved in the bill?

Mr. IVERSON. So I do not know, and neither does anybody know, I apprehend, because it depends on items.

Mr. BENJAMIN. I wish to know what the amount is, what these allowances are, that are to be made? In fact, I want information, and I suppose other Senators want it, and for the purpose of enabling them to vote understandingly on the bill. Let us put it over informally, and take it up next Friday, and the friends of it may then be able to give us information. I move that we pass it over informally.

Mr. CLARK. Why not recommend it for a report?

Mr. BENJAMIN. I am perfectly willing that it be recommended.

Mr. IVERSON. I hope not, because that will throw it behind.

Mr. BENJAMIN. Well, let it be passed over informally.

Mr. CLARK. I do not wish to put it behind other bills; but I should like some information on the subject.

The PRESIDING OFFICER. The question before the Senate is on the amendment of the Senator from Illinois. It can be passed over, by common consent.

Mr. TRUMBULL. I do not desire to press that amendment, if it can be passed over.

The PRESIDING OFFICER. By unanimous consent, this joint resolution will be passed by informally.

Mr. BROWN. That does not lose its place on the Calendar? ("No!")

The PRESIDING OFFICER. It retains its place. The joint resolution will be passed over.

THOMAS MADDIN.

The Senate, as in Committee of the Whole, next proceeded to consider the bill (S. No. 49) to confirm the title in a certain tract of land, in the State of Missouri, to the heirs and legal representatives of Thomas Maddin, deceased. The Committee on Private Land Claims reported the bill, with an amendment, to strike out after the enacting clause of the original bill, and insert in lieu thereof:

"That the heirs and legal representatives of Thomas Maddin, deceased, late of the State of Missouri, and they are hereby authorized to enter and purchase, at the price of \$25 per acre, a tract of land, containing eight hundred and eighty acres, or six hundred and eighty acres, situate six hundred and eighty acres, surveyed for the said Thomas Maddin, in his own right, as per patent certificate of survey No. 1831, reported to the General Land Office, by Surveyor General Leavenworth, as having been surveyed on the 16th day of March, 1816, and situated on the waters of Joachim creek, to township forty-one north, of range the east, of the fifth principal meridian, in the county of Jefferson, and State of Missouri. Sec. 5. And be it further enacted, That the Commissioners of the General Land Office be, and they are hereby, authorized and directed, upon the entry and payment aforesaid, to cause a patent, in the form of and to the effect of the said bill, to be issued to the heirs and legal representatives of the said Thomas Maddin, deceased, in conformity with the description given in patent certificate No. 1831, and to be recorded in the books, then recorder in the office of recorder of land titles in St. Louis, in the said State of Missouri, bearing date, in said office, on the 1st day of November, 1846, and to be valid, from and after the date of the said tract of land as having been confirmed to the said Thomas Maddin, pursuant to the acts of Congress reporting claims to lands in the Territories of

(Oregon and Louisiana, and the Territory of Missouri, and as having been regularly surveyed on the 16th day of March, 1816, and designated on the connected plat of United States surveys, in the United States surveyor general's office at St. Louis, Missouri, as No. 1831; and in which said patent certificate No. 92 is certified that the said Thomas Maddin is entitled to receive a patent for the said tract of land, according to the said patent certificate of survey, as aforesaid. No. 1831: Provided, however, That the right of preemption in the said tract of land shall cease at the end of two years from the date of the passage of this act, and that the right and title of the United States in and to said tract of land shall be preserved and maintained in and to the provisions of this act in the event of the failure of the said heirs and legal representatives of Thomas Maddin to secure the said tract of land by preemption and purchase within the said period of two years.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. TRUMBULL. I see in the original bill there was a proviso, that the patent when issued should only operate as a relinquishment of title to the said tract of land to the United States, and that the legal rights of third persons. That is left out in the amendment. It is a very proper provision to insert in a bill like this, that directs a patent to issue.

Mr. BENJAMIN. There is no objection to that provision; but it is not usual in cases where land is sold. That is the usual proviso in cases where land is confirmed. The original bill proposed to confirm this title. The Committee on Private Land Claims, on examining the title, did not think it was one that ought to be confirmed gratuitously. They did not think it a good title, but they thought there was an equity in favor of the parties from long cultivation and possession, and that they should have a preemption right—the right to purchase it.

Mr. TRUMBULL. I would inquire if there are any conflicting rights of third parties claiming the land?

Mr. BENJAMIN. We understand that this is a case in which these parties have been living on the land twenty-five or thirty years; but their title we do not think a good one. It is a title under an old grant; and we therefore reported a bill that they might buy it.

Mr. TRUMBULL. As between the Government and individual, I certainly have no objection to it, if it gives no third party are interfered with. I saw that provision in the original bill, which I think very proper in such bills. I will not propose any amendment, however.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BENJAMIN. I move that the title of the bill be amended so as to read: A bill to grant the right of preemption to a certain tract of land, in the State of Missouri, to the heirs and legal representatives of Thomas Maddin, deceased.

ADJOURNMENT TO MONDAY.

On motion of Mr. HALE, it was Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

EXECUTIVE SESSION.

Mr. MASON. I move to postpone the further consideration of the Private Land bill for the purpose of proceeding to the consideration of executive business. I do this in order that we may complete the business which was left unfinished yesterday.

Mr. IVERSON. The question of postponement is debatable. I object to it, and hope the Senate will not postpone the Private Calendar. We have only been an hour and a half on it.

The question being put, on a division there were—yeas 28, nays 11; no quorum voting.

Mr. IVERSON. There is no question certainly. I must ask for the yeas and nays on the motion.

The yeas and nays were ordered; and, being taken, resulted—yeas 29, nays 16; as follows:

YEAS.—Messrs. Benjamin, Bigler, Briggs, Bright, Chas. Clay, Clifton, Colburn, Davis, Fitch, Fitzpatrick, Fox, Green, Gwin, Johnson of Arkansas, Johnson of Tennessee, Lane, Latham, Mason, Nicholson, Pearce, Schaffner, Sibley, Sumner, Thomas, Towner, Wright, Wilson, and Yates—29.

NAYS.—Messrs. Burleigh, Chandler, Clark, Crittenden, Daniel, Foster, Hays, Hildreth, Harlan, Humphreys, Ingersoll, King, Ten Eyck, Wade, and Wilkinson—16.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, March 16, 1860.

The House met at twelve o'clock, Mr. Prayor by the Chaplain, Rev. Thomas H. Brockton. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from W. R. Drinkard, the acting Secretary of War, transmitting a report of the chief topographical engineer, with its inclosure, communicating the only information in the Department on the subject of the resolution of the House of Representatives of the 16th ultimo, by which the Secretary of War is requested to furnish to the House of Representatives with copies of any orders which may be on file in his Department of General Andrew Jackson, or any officer acting under his directions, or under the authority of the United States, during the war with Great Britain of 1812, closing the communication between the Gulf of Mexico and Mississippi river, by placing obstructions in the Pass Manchac, to prevent the passage of British troops and munitions of war through the channel, from the Gulf to the Mississippi river; also, any other information referred to in the resolutions, by authority of the Government, which may be on file in the War Office.

The communication was laid upon the table, and ordered to be printed.

THE PUBLIC PRINTING.

Mr. PENDLETON. I ask the unanimous consent of the House to offer the following resolution:

Whereas the chairman of the Committee on Public Printing stated to the House, in debate, on Friday, the 8th instant, that the prices for composition now allowed by law are too large, and that with half pay for type-setting, the printer is more than satisfied; and whereas, by the terms of the resolution under which the Printer to this House was elected, the right was reserved to renege the contract in the event of work to be executed by him; Therefore,

Resolved, That the Committee on Public Printing be instructed to report by which the prices of composition shall be fixed at one half the amount now allowed by law.

Mr. WASHBURN, of Maine. I object to that resolution. I know that it will lead to discussion if it is adopted. I think it is a very good resolution, and that the House resolve itself into the Committee of the Whole on the state of the Union, on the special order.

Mr. HOUSTON. The gentleman from Maine will hardly object to the resolution if it is made one of inquiry. Let it go as a resolution of inquiry.

Mr. WASHBURN, of Maine. If it will not lead to debate, I will not object.

Mr. HOUSTON. Let the committee be instructed to inquire into the expediency of doing this thing.

Mr. PENDLETON. I prefer that the resolution should stand as it is.

Mr. HOUSTON. So do I.

Mr. PENDLETON. We have an expression of opinion of the Chairman of the Committee on Printing, and I take it for granted that it is the expression of the opinion of the whole committee.

Mr. HOUSTON. I would prefer that the resolution should stand as it is; but if we cannot get it in that way, I prefer to get it in the best way we can.

Mr. PENDLETON. I move the previous question on the resolution.

Mr. WASHBURN, of Maine. I object to the resolution, and it cannot be received except by unanimous consent.

Mr. HOUSTON. The resolution is not before the House, having been objected to.

PRINTING OF EXTRA COPIES.

Mr. WASHBURN, of Maine. I ask now that my motion may be put.

Mr. PHELPS. I desire merely to submit a motion to print extra copies of a communication made to the House of Representatives, in order that it may be referred to the Committee on Printing. I was not here when the document was communicated to the House, having been detained by sickness. It is the report of Beale upon his wagon road. I move that five thousand extra copies be printed.

The motion was referred, under the rules, to the Committee on Printing.

ORDER OF BUSINESS.

Mr. FENTON. I move to postpone the special order for one hour.

Mr. WASHBURN, of Maine. That is not in order. That cannot be done.

The SPEAKER. The motion is not in order. Mr. REAGAN. There was a question before the House when it adjourned last evening. I hope it will be acted on now.

The SPEAKER. The question is on the motion of the gentleman from Maine.

Mr. BURNETT. I desire to appeal to the gentleman from Maine to permit me to report a bill from the Committee for the District of Columbia this morning, merely for reference. I was not here when that committee was called.

Mr. WASHBURN, of Maine. I will state to the gentleman from Kentucky, that several applications of a similar character have been made to me, and I have felt myself obliged to decline. I think if we go into the Committee of the Whole now, we may get through with the rules in an hour or two, and then gentlemen will have an opportunity to make their reports.

Mr. REAGAN. I rise to a question of order. It will be recollected, that yesterday evening the question before the House was on its adjournment, was on the motion of my colleague to refer the Military Academy bill to the Committee on Military Affairs, and the motion of the gentleman from Ohio [Mr. SUMNER] to refer it to the Committee of Ways and Means. I ask if that is not the first question on this morning?

The SPEAKER. The motion of the gentleman from Maine takes precedence, in the opinion of the Chair.

Mr. REAGAN. I appeal, then, to the gentleman from Maine to allow that question to be disposed of.

Mr. WASHBURN, of Maine. I must decline. Mr. TAPPAN. I am opposed to going into the Committee of the Whole on the state of the Union on the special order, at this time, and appeal to the gentleman from Maine to allow the morning hour to be devoted to private business.

Mr. WASHBURN, of Maine. Gentlemen will have the morning hour to-morrow, which is private bill day, and we shall expedite business if we go into the Committee of the Whole now and finish the amendment of the rules.

Mr. TAPPAN. To-day is the day set apart for private business. Last Friday was taken up by a privileged report from the Committee on Printing; and I now think that it would be no more than right to devote at least one hour to private business.

Mr. WASHBURN, of Maine. We can do that to-morrow, which is also private bill day. Besides, if we go into the Committee of the Whole on the state of the Union, and adopt the amendments of the rules, it will be the first thing in order to-morrow, under the amended rules, to devote one hour to that purpose.

Mr. TAPPAN. I would ask whether, if the motion of the gentleman from Maine is voted down, the regular order of business will not be called in question by the report of the Committee?

The SPEAKER. No, sir; the question will be on the reference of the Military Academy bill.

Mr. REAGAN. The special order to which the gentleman from Maine refers, is the special order in the Committee of the Whole on the state of the Union. The question to which I refer is the regular order of business in the House; and it is to the consideration of that that I ask the House to proceed.

The SPEAKER. The Chair supposes the motion of the gentleman from Maine to be in order, and it must be decided by the House.

Mr. TAPPAN. I hope it will be voted down.

AMENDMENT OF THE RULES.

The question was taken on Mr. WASHBURN's motion; and it was agreed to by the House.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STAYTON in the chair), and resumed the consideration—as a special order—of the report of the Committee on Rules; the pending question being upon the adoption of the following amendment, reported by the committee, on which the gentleman from Pennsylvania [Mr. FLORENCE] was entitled to the floor:

Eleventh amendment:

Amended rule 34, by adding at the end thereof the words, "Provided further, That the House may, by the vote of a majority of the members present, at any time after five minutes' debate has taken place upon proposed amendments to any bill, close all debate upon such sections;" so that it will read:

No member shall occupy more than one hour in debate on any bill in the House or in committee, but a member reporting the measure under consideration from a committee may open and close the debate: *Provided*, That the debate shall be closed by order of the House; no amendment may be offered in committee, five minutes to explain any amendment be may offer—December 18, 1847—after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be a further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and the same limitation not so amendable to the amendment as shall be withdrawn by the member offering it, by the unanimous consent of the committee—August 14, 1850: *Provided further*, That the House may, at any time after five minutes' debate has taken place upon proposed amendments to any section of a bill, close all debate upon such sections.

Mr. FLORENCE. Mr. Chairman, I was very much struck yesterday by the reasoning of the gentleman from Virginia, (Mr. GARNETT); not the gentleman from Virginia who referred to my position—I will notice him before I take my seat—but the gentleman who referred to the position of the gentleman from Kentucky practiced upon this floor, which prevents the consideration of important questions upon which we are called to act.

Now, Mr. Chairman, I think the gentlemen who have jurisdiction of the question of rules, so far as the consideration of the amendment now before the House is concerned, have lost sight of that feature of reform which I think would be most valuable in this connection, in making to provision to prevent this wide latitude of debate in the Committee of the Whole on the state of the Union. If this special committee had reported an amendment requiring that the chairman of the Committee of the Whole on the state of the Union shall confine gentlemen strictly to the discussion of the question under consideration, when appropriation bills, if you will, were before the House, the difficulty would have been avoided; and this wide, rapid, silly, nonsensical debate—I speak with all due respect to every gentleman—would be avoided, and the matter under consideration would receive full discussion. I think an amendment should be introduced here, by which that debate, which has been accomplished, and this disposition of the majority, which was so eloquently deprecated by the gentleman from Virginia, would be avoided, and we should have that legitimate discussion upon the matter under consideration, which is so much desired; and the result so much desired by the gentleman from Ohio, [Mr. VALLANDIGHAM], in reference to the character of discussion, would be, to a very great extent, accomplished.

I had no idea that this subject would come up so soon this morning, and I have not examined the amendment reported by the committee sufficiently to be able to frame an amendment which shall accomplish the object which I desire; but I will look it over, and perhaps move an amendment before the committee passes from the consideration of the subject.

Now, sir, one word in reference to the remarks made yesterday by the gentleman from Virginia, [Mr. BOGGS]. The gentleman was very much surprised at my abandonment of the principles of the House as a government in its position which I occupy upon this floor, as the friend of the widow and orphan, and as the poor man's advocate.

Mr. Chairman, I do not intend to get off that platform at all. I stand squarely upon it. It is true, I do not offer a proposition to admit foreign ministers upon the floor of this House; but I did it in order to enable me to sustain my position more completely upon that platform. The reason why I proposed that these representatives of foreign countries should be admitted upon this floor was, that they might facilitate our business in our course with them. The people whom I represent are an inventive, hard-working, industrious people. They frequently suggest propositions, mechanical and otherwise, which may be of benefit to the people of foreign countries. They write to me, and they suggest subjects, and we communicate with foreign ministers upon the subject, that they may have the benefit of introducing their inventions into foreign countries, and extending the advantage of them to the whole world. Now,

sir, I stated yesterday that I frequently have occasion to call on these representatives of foreign nations, and do not find them at their offices; and when they come to this House to call upon me here, they have to stand knocking at these doors until I come out to see them. It was, therefore, to enable us to meet business engagements with these gentlemen, and thus to meet the wants of my constituents, that I made the suggestion which I made yesterday; and the gentleman will see that it was in strict accordance with the position which he says I occupy as the friend of the workman. It was not that I have any love for foreign ministers particularly; I have no special love for foreign ministers, or foreign anything; but I am for maintaining the same relations, and am for providing interest in our domestic and social relations. I want to cultivate peace and good will with all men, and therefore I am for encouraging social intercourse with foreign ministers. The gentleman from Virginia, therefore, will see that there has been no abandonment, on my part, of my platform. I stand fairly upon it, and I will not abandon it.

Mr. COX. I desire to ask the gentleman from Pennsylvania one question. He says his people are an industrious people. I have heard it charged, that during the recent election the gentleman charged men to work a plank. I ask the gentleman if that is a specimen of their hard work? [Laughter.]

Mr. FLORENCE. Yes, sir; it took a hundred men to carry a plank, and it is the work of the many slanders that are being circulated. But, sir, I will say that so far as my efforts are concerned, I intend to secure, if I can by honest and fair means, an appropriation, so that there may be more planks carried, for we have suffered late for the means of carrying on the Government business there. I am, therefore, in favor of providing the means of employing several hundred men to carry a plank—physically, I want the committee to understand, and not politically. Mr. REAGAN. I have no amendment of the committee by adding to the end as follows:

And that no debate shall be allowed, either in the House or in the Committee of the Whole, except on the measure under consideration.

Mr. Chairman, I desire to say a word in relation to that amendment. I am persuaded that its adoption would work a greater benefit to this nation than the adoption of any measure which has been presented to this Congress. It has become a great grievance in this House, that the large part of our time is consumed in a general debate in the Committee of the Whole on the state of the Union. We are compelled day after day to listen to discussion in committees which is not limited to the subject under consideration. These discussions are in the main confined to a question over which the House has no jurisdiction, the question which it has no rightful concern, and which does not amount to debate. Several days or weeks are spent in the discussion of a general appropriation bill, and during that whole time, not one word will be said upon the subject of the bill under consideration and action. At last, to get the bill where it can be considered in fact, and not in name, where it can be brought to a vote, a motion is made in the House that further general debate shall be terminated in perhaps one or two hours. During that time of course the discussion is strictly confined to the bill itself. Days and weeks are consumed without any consideration of the bill, and then we are left only an hour or two, before the question is taken from the Committee of the Whole, for general remarks upon the merits of the pending proposition to be allowed, it is true, by the five minutes' debate which, in reality, is the only practical discussion of the subject. We thus waste the time of the House in not merely unnecessary, but absolutely injurious debates, injurious not only to the reputation of this House, but to the interests of the country. Instead of pertinent remarks upon the pending question, we are, as you know, Mr. Chairman, wearied during many days with agitating hour speeches upon questions with which, as legislators, we have little or nothing to do. It is a disgrace to do away with this recognized evil that I ask the House to adopt the amendment I have proposed.

Mr. Chairman, I am apprised it is considered

that general debate in the Committee of the Whole contributes, in some degree, to the public welfare. I am not prepared to deny that, under proper restrictions, good may result from general debate. But, sir, I do think, and I believe the concurrent judgment of the members of this House is with me—certain I am that the popular sentiment of the country is with me—that that general debate has been the prolific source of unnumbered abuses, far overwhelming any good that may be effected by it. I do not deny this, with others, on occasions, I have participated in those abuses. I do not, in moving for their correction, pretend that I am free from the sin I ask may be prevented in others.

In addition to the waste of time I have referred to, in addition to the expense of including written essays in the columns of the Congressional Globe, what is said and printed is not really in the nature of debate. It does not develop the policy of the country; it does not develop the views of Congress upon administrative subjects, with which we have to deal; it does none of these, to do which would be proper and profitable; but the member who takes the floor in the Committee of the Whole consumes an hour with his general remarks upon some question, and the House is left to treat—generally not the pending question before the House for consideration, but something, it may be, not before Congress, and which will not come before it; and he will not permit interruptions, because of the fact that he is confined to the limit of an hour.

Now, it is within the knowledge of all of us that it frequently happens members in hour speeches make mistakes of fact, or proceed upon false hypotheses which deserve instantaneous correction; yet when gentlemen rise to make that correction they are treated the private. Besides that, members feel a delicacy in trespassing upon the courtesy of the House when a member is upon the floor occupying an hour in making a speech. In this manner loose and inaccurate statements go out to the country, and the wrong and injurious impressions are made upon the public mind where these statements circulate. If, with every such statement, the proper correction could go out, then there would not exist the objection which I now urge. Because incorrect statements go out, and the wrong impressions are promulgated, leading to false impressions, I insist that general debate in the Committee of the Whole is a real grievance to the country.

It is not only a useless consumption of time, but questions are discussed not before us for legislation, which agitate the public mind, and, sir, I am sorry to say, which are too often designed to agitate the public mind. In that committee it would seem that we put ourselves up for political schoolmasters of the people, and their teachers as well, in matters of morality. I think that is all wrong. I believe that we are here, in the contemplation of the Constitution, to legislate upon practical governmental measures which come before us for our action; and that, when we undertake to make speeches outside of our legislative duties, we act outside of our constitutional duty. I think we should communicate with their constituents—and it may often happen that such a proceeding is necessary—there is a convenient channel to do that, which is alike open to all, and that is to be found in the columns of the public press. When members make speeches here, they have to publish them at their own expense, and to circulate them at their own expense, except so far as the postage is concerned. I imagine that it would be just as cheap, when a member desires to address his constituents, to write a letter to them and have it published, instead of making a public speech to that end. Upon that ground, therefore, general debate cannot be considered as necessary for a proper communication between members and their constituents. When members communicate with their constituents in many different ways, they will be considered to communicate their own particular views, isolated from any debate where the views of others would be reported. Speeches are made here in the Committee of the Whole when, in reality, but very few members are present, which go out to the country as if made in the presence of a full House—speeches stating propositions of importance, citing facts of importance, and assuming important premises. They go out uncontested, and the impression is made upon the public

mind that they could not be controverted, however wrong they may be, when, in truth, there was no opportunity presented for any correction to go out with them.

Mr. Chairman, in this general debate in the Committee of the Whole consumes, I will venture to say, one fourth of the time of the House. Perhaps I am too low in my estimate, and I had better state that it consumes one third of our time. It is a most beneficial objects of legislation; it lowers us in the scale of public estimation; it induces that disregard of our proceedings, so pertinently referred to yesterday by the gentleman from Virginia, [Mr. GARNETT]; it entails heavy expense upon the country, by unnecessarily incumbering the columns of the Congressional Globe with extraneous matter; and, more than all, it diverts the minds of members from the proper and legitimate business of the session. However inconvenient it may be felt to be in this House, and however strongly it may be condemned by us, it is still more favorable to the country, and still more strongly condemned by the people of the country. There is nothing to which my attention has been often directed by the people of the country than the crying evil of this useless consumption of time. In the House we call general debate in the Committee of the Whole, of questions not before us for consideration. I am assured that the country will feel grateful to us, that it will be benefited by the beneficial results to our legislation, if we adopt my amendment or something like it, in relation to the subject.

I know, sir, that in the thirty-second amendment there is, to some extent, a limitation imposed upon abuse of general debate; but it does not go far enough. It only relates to the discussion of questions which are made special orders. It will not reach the question of trust, sir, that my amendment will be adopted.

Mr. WASHBURN, of Maine. I do not desire, as I do not intend, to occupy the time of the committee beyond a few minutes; for I am anxious that we may get through the amendments as soon as possible. And I will say, just here, that I trust there will be no more debate than is necessary to the elucidation of the questions which are really before the committee. Mr. Chairman, I cannot concur with the gentleman from Texas in the suggestion which he has just offered. I think that it is unnecessary and unwise. I believe that the committee on the revision of the rules have gone as far as they deemed prudent, and as far as they thought the House would sustain them in going, where they confined debate to the questions directly before the committee. It is known, sir, that now debate in the House is confined strictly to the question immediately pending, and that it is only in Committee of the Whole, that great safety-valve, that there can be general debate. Yet the gentleman from Texas [Mr. REAGAN] proposes that debate shall be limited there, or prevented altogether; because, under his amendment, it will be within the power of a majority of the Committee of the Whole to take the President's message into the House, or within the power of the majority of the House to refer it to that committee; so that there will be no question there whatever upon which general, political, and, I believe, salutary, wholesome, and necessary debate will be in order.

Mr. MILLSON, of Mr. Chairman, as I think a great deal of misapprehension exists upon this subject, I desire to say a word, or two upon it. Upon inquiry of my friend from Texas, [Mr. REAGAN], I learn that the object of his amendment is to require the discussion in Committee of the Whole of all questions which are referred to that committee. My friend from Maine [Mr. WASHBURN] seems to oppose this suggestion, and thinks that in the Committee of the Whole on the state of the Union debate need not be confined to the subject under discussion. Now, sir, I differ with both gentlemen. I think, however, that the strongest assertion may seem, that, under the existing rules of the House, applied to discussion, either in the Committee of the Whole on the state of the Union or in the House, no debate is in order at any time except upon the subject under consideration. The gentleman from Texas [Mr. REAGAN] is not advertent to the fact that, when the Committee of the Whole on the state of the Union is charged with the consideration of any question, it is the state of the Union which is the

subject under consideration; and I have been surprised, and sometimes annoyed, at the effort of gentlemen to amend our rules by providing that all discussion shall be confined to the subject under consideration. It needs no amendment of the rules to require discussion to be confined to the subject under consideration; and the House, in referring any bill to the Committee of the Whole on the state of the Union, declares that the state of the Union shall be the subject under discussion. It would be absurd, as the gentleman from Maine [Mr. WASHBURN] has suggested, with very mischievous results, if this House should confine debate, at any time, to the very bill referred to the consideration of the committee.

A brief historical reference to the origin of the Committee of the Whole on the state of the Union may not be uninteresting. It is connected with the struggle of liberty against despotism. It was a contrivance of the British Parliament to escape from the supervision of the Speaker, who was formerly the creature of the Crown, appointed by the Crown, and whose election, even at this day, is subject to the approbation of the Crown. It was to enable them to carry on discussions freed from the supervision of this officer, and to be controlled only by a chairman of the committee appointed by themselves. Thus, when the House became important to consider the state of the nation; whenever it became important to escape from the strict rules applied by the Speaker, the House of Commons would resolve itself into a committee of the whole, and the Speaker would then go into the committee of the whole on the state of the nation for the very purpose of discussing those questions which it might not be permitted them to discuss by the proposition actually before the House. And, in voting the supplies, over the objection of the Crown, they would first to determine upon administration, and to refuse all supplies until there should be a redress of grievances. And so it is now, Mr. Chairman, in England and in this country.

If we wish to escape the confinement debate in Committee of the Whole to the bill referred to that committee, they have nothing to do but to refer it to the Committee of the Whole House; and when a bill is referred to the Committee of the Whole House, there can be no discussion except upon the subject referred to the Committee of the Whole; but the subject can be considered in connection with a bill so referred. We have fallen into the mistake here, from the practice of the House to refer nothing to the Committee of the Whole House but private bills. If the House please, they may refer a bill to the Committee of the Whole House, and not to the Committee of the Whole House upon the state of the Union. If we wish to escape this irrelevant discussion upon any bill, refer it to the Committee of the Whole House, usually called the Committee of the Whole on the Private Calendar, but not necessarily so; but it is only because we are not in the habit, of late years, of referring any question to the Committee of the Whole House except private bills. But it is within the power of the House to refer any question to the Committee of the Whole House; but whenever they refer a bill to the Committee of the Whole House on the state of the Union, then you put the state of the Union in question; you invite debate upon all questions that relate to the condition and state of the Union. And it is a very great mistake to suppose that any discussion which relates, however remotely, to the condition of the Union, is out of order or irrelevant to the subject referred to that committee. I think, then, sir, that it would be attended with very great mischievous results, if we were to amend the rules so as to require that all discussion proposed by the gentleman from Texas, [Mr. REAGAN], it would be striking down the most valuable privilege of the Representatives of the people; it would be taking from them the privilege of discussing the condition of the Union in connection with appropriation bills, or with all other bills, the success of which may be in some degree dependent upon the opinion of members as to the state of the Union. I hope, therefore, this amendment will not be adopted.

Mr. REAGAN. Let me here say one word. What I mean is this: I mean that in the discussion in relation to the state of the Union is concerned, no man who has witnessed the discussions on the state of the Union in this House will deny that these discussions have done more

to disrupt the bonds of the Union and to destroy the Union itself, that anything that has ever been done in the Congress of this country. That is the very evil I desire to avoid, and to confine our debates to questions that are connected with practical administrative questions, and to prevent the publication of pabulum for the destruction of the Union.

Mr. FLORENCE. There is a proposition to amend here which I did not see when I made the remarks I did; I had intended to offer an amendment; to come in here, that as a member shall occupy more than one hour in debate on any question, either in the House or in committee, and which debate must be confined to the subject immediately under consideration in the appropriation bills.

Mr. WASHBURN, of Maine. That is already provided for.

Mr. FLORENCE. I understand that this whole purpose can be attained by an amendment to the 34th rule, by making the appropriation bills the special order, and the majority of the House can always control it.

The question was taken upon the amendment of Mr. FLORENCE, and was agreed to.

Mr. JONES. I move to amend the amendment by striking out all that part of the eleventh amendment which limits debate to one hour.

Mr. WASHBURN, of Maine. I rise to a point of order upon this amendment.

Mr. VALLANDIGHAM. That is not the same question which was acted on yesterday.

Mr. WASHBURN, of Maine. The same question was voted down yesterday.

Mr. VALLANDIGHAM. My proposition yesterday in reference to one hour rule, was accompanied by a limitation.

Mr. JONES. I do not desire to discuss this hour rule. It was fully and ably discussed yesterday. I merely desire to test the sense of the House.

Mr. WASHBURN, of Maine. The question was tested yesterday, and therefore I insist upon my point of order.

The CHAIRMAN. The Chair thinks the point of order is very well taken. The Chair does not very well see how the amendment can be made intelligible in connection with, or by incorporation into, the section. It does not propose to strike out any line or clause. The Chair supposes it is not in order, inasmuch as it does not propose any specific modification or amendment.

Mr. JONES. I will modify that amendment and move to strike out the words "no member shall occupy more than one hour in debate on any question in the House or in committee."

The amendment was not agreed to.

Mr. FLORENCE. I move to amend by inserting, after the word "committee," the words "all debate must be confined to the subject-matter under consideration in the appropriation bills."

Mr. WASHBURN, of Maine. There is no necessity for that amendment, for if we adopt the third and fourth amendments, the question is in order on appropriation bills whenever they are made a special order, and it is competent for a majority of the House to make appropriation bills the special order at any time.

The amendment was not agreed to.

Twelfth amendment:

Amend rule 41, by inserting after the word "commenced," in the fifth line, the words "and before the main question is offered to be put;" so that it will read:

"Whenever a member shall be in the House on the question to put shall give his vote, unless the House shall otherwise order. All motions to excuse a member from voting shall be made before the House adjourns, or before the call of the year and yeas is commenced, and before the main question is ordered to be put; and the question shall then be taken without debate."

The amendment was agreed to.

Thirteenth amendment:

Amend rule 50, by striking out all after "January 14, 1860," in the tenth line, and inserting in lieu thereof the following: "But its only effect, if a motion to postpone is pending, shall be to bring the House to a vote upon such motion. Whenever the House shall refuse to order the main question, the consideration of the subject shall be resumed on the next day, unless the House shall otherwise order. A call of the House shall be in order after the previous question is seconded, unless it shall appear, upon a verbal count by the Speaker, that no question is present;" so that it will read:

"Whenever a motion shall be in this form: 'I shall the main question be put.' It shall only be admitted when demanded by a majority of the members present; and its effect shall be to put an end to all debate, and to bring the House to a direct vote upon a motion to commit, if such

motion shall have been made; and if this motion does not prevail, then upon amendments reported by the committee; if any; then upon pending amendments, and then upon the main question; but its only effect, if a motion to postpone is pending, shall be to bring the House to a vote upon such motion. Whenever the House shall refuse to order the main question, the consideration of the subject shall be resumed as though no motion for the previous question had been made. A call of the House shall be in order after the previous question is seconded, unless it shall appear, upon an actual count by the Speaker, that no question is present."

Mr. NOELL. I have an amendment to offer here. I propose to amend by adding to the end of the rule, as it will stand if the amendment of the committee is adopted, the following:

Provided, That when a bill or resolution is introduced by a member, or reported from a select or standing committee, and it is proposed to put the same on its passage without referring it to the Committee of the Whole, and the previous question shall be demanded, then, before there shall be a second to the previous question, at least one member shall be allowed to speak in opposition to such bill or resolution; and the Speaker shall not put the question until such opportunity shall be allowed.

I will say a word or two in reference to this proposed amendment. I do not profess to understand the rules of this House; and if there is any reputation on earth I least desire, it is that of understanding the little technicalities and details of parliamentary proceedings. But I should have less than common sense if I failed to appreciate the importance of the previous question, on it has been disclosed since I have been a member of this body. I have, on different occasions, seen its effects in cases of propositions coming from committees, or introduced by members upon the floor, on which the thumb-screw of the previous question has been applied; and gentlemen who were opposed to the proposition or the resolution were precluded from all opportunity of making objection. It is fresh in our recollection, that when one of the most important bills ever presented for the consideration of the House was recently reported from a standing committee of the House by the gentleman from Illinois, [Mr. LOVEJOY]—I refer to the national homestead bill—this previous question was demanded upon it, and no gentleman who was opposed to that measure was allowed the privilege of giving the reasons which actuated his vote. I desired, upon that particular occasion, to say to the House and to the country that I regarded the fourth section of that bill as a violation of the Constitution, and as an attempt to intrude the purposes of the Federal Government between the individual and the foreign State and the State authorities themselves.

The CHAIRMAN. The Chair hardly supposes that the homestead bill is under consideration.

Mr. NOELL. I am only referring to the action on that bill to illustrate the effect of our rules. I was opposed to the character of that bill, and was desirous to state to the House the effect of the provisions of the fourth section of that bill; but I was precluded from doing so by the operation of the previous question.

A few days previous to that time, the gentleman from Ohio, [Mr. GRAVEL], the chairman of the Committee on Printing, introduced from that committee an important resolution upon the subject of printing. He did generously and magnanimously concede to say to the minority in this House, that they should be permitted to ask his questions, and to receive from his lips the law and gospel upon the subject under consideration; but no gentleman upon this side of the House was permitted to interpose any objection to the resolution, or to show why it should not be adopted. So it has been in reference to other important propositions. Resolutions were introduced here for the purpose of raising investigating committees, and gentlemen were not permitted to ask those who introduced these resolutions to make their charges against the Administration more specific.

The previous question, in the hands and under the control of this despotic majority, seems to me to be designed, in its present form, to crush all opportunity to interpose objections or to offer amendments. Unless this rule is modified by the adoption of some such amendment as I have proposed, I desire to announce to this committee that I will oppose any proposition, good or bad, which is introduced from a committee, when the previous question is demanded, unless it shall be sent to the Committee of the Whole on the

state of the Union; where opportunity is afforded for discussion and amendment. I regard it as a despotic rule, the operation of which is to cut off all discussion and all amendment on the part of the minority. As such, I take my stand against it from this time, and unless some such modification as I have proposed is made to the rule, I shall vote, during the session which I have the honor to occupy a seat upon this floor, against all bills and all resolutions upon which the demand for the previous question is sustained, before reference or discussion.

Mr. GROW. I have only a word or two to say; and I should not trespass upon the time of the committee at all, but for the fact that this very point has been made a number of times. Gentlemen seem to think it a very great hardship to have the previous question called, and all the remarks of the gentleman from Missouri apply to the calling of the previous question at all. If you are to have a previous question at all, of course it must cut off debate, and bring the House to a vote. That is the object of it.

The gentleman complains that the previous question was demanded on the homestead bill. But that bill has been discussed for eight years, more or less, at every session of Congress; and yet gentlemen think they can enlighten the judgment of this House by talking an hour, so as to change their votes upon the question which has been long before the House. That bill had been discussed and amended in committee three times, and had been before the House eight years; and yet the gentleman complains because the previous question was called and we would not waste a week or two again on the same subject.

Now, the previous question, if it does exist in our rules at all, must exist as we have left it here. When called, it must close debate; otherwise it is of no use; and the majority must take the responsibility of passing the bill. They do not ask the minority to be responsible for the calling of the question; but they put themselves on record as opposed to it.

Mr. NOELL. I desire to ask the gentleman a question just at this point. I believe the question of a protective tariff has been discussed in this country for many years. Is it not the intention of a majority of the House to spring the previous question when the tariff bill is reported?

Mr. GROW. I do not know.

Mr. NOELL. I ask him if he believes it would be the intention of the minority of the House with justice to introduce such a measure as that, and spring the previous question upon it, for the simple reason that it has been the subject of discussion for fifty years?

Mr. GROW. I do not know whether the previous question will be called or not, because I have not the measure in charge; but I say that whenever the majority of the House put the previous question upon me, if I do not like the measure, I call the yeas and nays, and place myself on the record as opposed to it, and am not responsible for the action of the majority.

Mr. NOELL. I desire the gentleman from Pennsylvania to understand that I was not sent here for the purpose of evading responsibility; but to endeavor to do justice to the House with justice to introduce such a measure as that, and spring the previous question upon it, for the simple reason that it has been the subject of discussion for fifty years?

Mr. GROW. I do discharge my duty, in my estimation, when I vote against what I believe to be wrong, and vote for what I believe to be right, whether I have a chance to speak on it or not. I never believed that I was to influence votes in the House by speaking, and therefore it is not a question with me whether I shall have a chance to be heard or not, so far as discharging my duty to my country, to myself, and to my God, is concerned. If the House chooses to pass iniquitous measures, the vote will show who is responsible for it; and those who vote against it are not responsible.

Mr. NOELL. Then I say, let us adopt a rule suppressing the freedom of speech in this Hall eternally.

Mr. GROW. Unless you have some rule to stop debate on any vote, you can never pass any measure. I am, therefore, in favor of the previous question sometimes, and will trust to the majority of the House that the previous question will not be abused; but the majority must take the responsibility of any abuse that results from it. I do not put the responsibility of the measure which has been thrown out a number of times during this session that the previous question, as it ex-

ists in our rules, invades the rights of the Representative, and prevents him from properly discharging his duties. I do not so regard it; and I think we have thrown around the right of debate greater safeguards than before. If the majority at any time desire action of the House, and that one person shall not consume time that every other member in the House does not want consumed, then they call the previous question; and it is right that they should have that power; otherwise, nine tenths of the House may be placed in the power of three men who want to talk. Now, I am opposed to any such freedom of debate as that. Whenever a majority want discussion, let them stop it; and when they want to stop it, let them stop it.

Mr. NOELL. I do not propose that every member on the floor shall have the privilege of debates but only to allow one member to speak in opposition to a measure before the previous question is ordered.

Mr. GROW. And if no one in the House wants to hear him, they will be obliged to do so. That is the very point I am making. You place the House in the power of one man who wants to be heard, because he thinks he can change the votes of other members; and all the other members must sit still and hear him.

Mr. NOELL. Let me ask the gentleman what is the reason of the rule which allows the member reporting a measure to speak in favor of it; and if the same reasoning would not apply to that?

Mr. GROW. The object of that rule is, that the gentleman who reports a measure may give to the House what information the committee has collected upon the subject. The committee have spent time and labor in investigating the question which they report, and have gathered facts in an official shape, and they communicate these facts to the House, and leave the House to act on the proposition.

Now, all I wanted to say was, that, if you have the previous question at all, it will cut off debate. You can have no previous question, and you can allow every gentleman to go who wants to talk.

Mr. STOUT. I desire to offer a substitute for the amendment of the gentleman from Missouri. It is in these words:

Added at the end of the amendment of the committee as follows:

And in all cases where a bill is put upon its passage without first having been referred to and considered in the Committee of the Whole, it shall remain in that committee until it sustain the demand for the previous question as said bill.

The object of that amendment is to avoid, in the first place, unnecessary discussion, and at the same time, unless a bill meets with such favor as that it is able to receive the support of two-thirds of the members present, it is still open for discussion, so that a majority of the members present cannot cut off discussion upon a bill which has not been referred and considered in Committee of the Whole. It only applies to such bills as are put upon their passage without first having been referred, and it seems to me that no member would desire to put a bill through the House without reference to the Committee of the Whole, the merits of which would not address themselves to the favorable consideration of at least two thirds of the members of the House. It seems to me that no injustice could be done by the adoption of the amendment, and at the same time it will properly guard against passing bills which we ought not to pass hastily and without due consideration.

Mr. NOELL. I will accept that in lieu of my own amendment.

Mr. WASHBURN, of Maine. That amendment would almost destroy the entire value of the previous question. If it is to be the rule of the House that it shall require a two-thirds vote to sustain the previous question upon any matter that has not been referred to the Committee of the Whole, we might as well abolish the previous question altogether; for it will practically place it in the power of one third of the members of the House to prevent any business from being done.

Mr. PENDLETON. I hope this amendment will be adopted. I have very little knowledge of the rules of this House. I certainly do not know all the evil that is connected with them; for I hear more of it every day; nor do I know the good that is connected with them, for, as they are applied in the practice of the House, it seems to me almost impossible to discover it. I am in favor of this

amendment, because it will to some extent cut off the arbitrary power of the majority over the whole business of the House in violation of every right of the minority. As I understand it, the committee have already adopted an amendment providing that the five minutes' debate may be terminated by a majority after there has been one five minutes' speech upon a measure. Now, I appeal to every member of the House, whether the five minutes' debate is a good thing or not, whether it is or is not the most profitable debate which we have; whether it does not do more for the elucidation of the matter under consideration, by drawing out the information which may be in possession of members in reference to them, than any other species of debate. The tendency of the rules now is to curtail all legitimate debate upon pending measures, and I think the committee has only intensified the evil.

Mr. Chairman, it seems to me that the rules of this House are so constructed as to render it almost impossible for a new member to learn them, and when he has learned them, it is almost impossible to accomplish anything under them. There is but one day in the week, as I understand it, when a resolution or bill can be introduced into the House, and that is upon the Monday of the members' present. That day is Monday. And it has so happened during the present session that, upon every Monday except one, it has been impossible to offer a resolution or introduce a bill, except upon the suffrage of two thirds of the members present. The States and Territories have been called for bills and resolutions once during the present session, but that was so near the commencement of the session that few members were prepared with their bills and resolutions. I suggest the floor time and again on Monday, for the purpose of introducing two bills affecting the interests of my constituents, and not in any great degree affecting the interests of any one else; yet I have found it impossible to obtain the floor on Mondays, and when I obtained the floor on an amendment to the resolution from Pennsylvania [Mr. Grew] called for the regular order of business, and would not give way to allow them to be introduced. What was his reason? That so many others would want to do the same thing? And the fact that there were many other members desirous of the privilege of introducing bills and of their constituents, by introducing bills and resolutions of importance to them, was the reason why he would not give way.

Mr. GROW. I did not object to the introduction of the gentleman's bills yesterday.

Mr. PENDLETON. The gentleman did not. I was about to say that I did yesterday introduce them by the unanimous consent of the House. But, Mr. Chairman, I ought not to be obliged to ask unanimous consent; I ought not to be constrained to appeal to the courtesy of all or any of the members of the House. I think it is the right of every member of a legislative body to introduce whatever propositions he may deem important to have considered, and have them referred to the organs of the House, which are its committees. Sir, I say this debating society is a mistake; one is now considering, have presented an amendment which will, in some measure, obviate this difficulty. They have provided, as I understand it, that upon each alternate Monday the States and Territories shall be called for the introduction of bills and resolutions, and that it shall not be in order to go into Committee of the Whole until one hour shall have been devoted to that call. Yes, sir; one hour in two weeks is allowed to the two hundred and thirty-seven members of the House to introduce bills and resolutions, when it is within the knowledge of every member of this body that three, four, or five hours of every day of every week will be devoted to the debating society in Committee of the Whole, when, by general agreement, no business is to be transacted. Sir, I say this debating society is a disreputable in every respect, and ought to be discontinued.

Mr. BRANCH. Will the gentleman from Ohio allow me to make a single suggestion?

Mr. PENDLETON. Certainly.

Mr. BRANCH. The evil of which the gentleman speaks is certainly a mistake; one, and yet, I think, it is an evil growing out of our practice under rules, rather than of the rules themselves. The rules provide that the call of committees for reports shall be first in order, and then the call of

the States and Territories for the introduction of bills and resolutions; and the reason why the call of the States and Territories is never gone through with is, that there is another motion which is always in order; the motion is to go into the Committee of the Whole on the state of the Union; and the anxiety of gentlemen to go into committee to make Buncombe speeches is so great that they do not allow the call to be gone through with. Now, if the gentleman from Ohio and all others, would watch the business of the House, and whenever a motion is made to go into committee before the expiration of the morning hour, vote it down, there will be no difficulty in getting in all the bills and resolutions that any gentleman may desire to propose, or in making any report that any committee may desire.

Mr. WASHBURN, of Maine. The gentleman will also observe that, under the amendment which we have reported, it will not be in order to move to go into committee or to suspend the rules for any purpose on each alternate Monday; and one hour shall have been spent in the call of the States and Territories for bills and resolutions, which will be sufficient to enable every member to present every bill and resolution which he may wish to introduce.

Mr. PENDLETON. The statement of the gentleman from North Carolina [Mr. BRANCH] has a great deal of truth in it, but it does not meet exactly the objection which I am now making. The gentleman states that the business in order during the morning hour is the introduction of reports. That is true; and if the House does not go into committee, and there is no unfinished business holding over from a former day, the committees will be called for reports. But that does not meet the difficulty. I know that the committees are occasionally called for Monday morning, but the difficulty is, that the call is never gone through with, and gentlemen have no opportunity of introducing their propositions to be referred to committees. It is true that one hour may be spent for that purpose, under the plan proposed by the committee, in two weeks; but one or two hours in two weeks will not be sufficient to go through with the call. I venture to say, that whenever the States and Territories have been called for this purpose, since I have been a member of this House, it has not been gone through with in less than three or four hours. You would scarcely commence the call in one hour.

Mr. WASHBURN, of Maine. I will suggest to the gentleman that the reason has been that we have not adhered to the rule prohibiting all debate and discussion of bills and resolutions, but merely for reference. I think it has been within the experience of every member who has been here during the last Congress, that the call was frequently gone through with within an hour; and I think the House will find that, if this rule is adopted and adhered to, the time provided will be ample to enable gentlemen to introduce all their bills and resolutions.

Mr. PENDLETON. It may have been within the experience of the gentleman, for he has been here but a short time.

Mr. WASHBURN, of Maine. Within the time in which the gentleman has been a member of the House.

Mr. PENDLETON. It may have been, but I have no recollection of any such occasion. I do not mean to say that the call is never completed. It has occurred once, and I believe only once, in the two months since this House has been organized. I only give my own experience in relation to the matter.

And, Mr. Chairman, when a member finally succeeds in his measure, it is almost impossible for him to get them before the House for consideration. They go before a committee, and that committee reports when it pleases and as it pleases. What is the result? Just this: that a measure is made, and it is not carried through under the operation of the previous question—a bill, sir, that commits this House to a course of legislation as to the propriety of which there is great doubt; a bill which makes criminal

certain practices in the Territory of Utah—with out the House knowing really what are its provisions, what the penalties, and what the reasons for them.

What is the excuse for cutting off the five minutes' debate, and insisting upon an arbitrary power to call the previous question? It is the same in both cases; it is, that members have not time to consider matters of practical legislation; that the business of the House would be retarded by them. If we are to legislate at all, let us legislate upon the subjects before us. If we are to consider these bills, and to pass upon them, let us do so intelligently and after discussion and consideration. If the bill in reference to Utah Territory is introduced, let it be passed after discussion; let it be done when we all understand what it is. Do not let us pass any measure without fair and proper consideration. Yet, sir, as the rules now stand, if a majority, immediately upon the submission of a report from a committee, deem that the bill shall be passed, by calling the previous question and sustaining that call the bill can be passed, without giving to a single member the privilege of saying a word beyond uttering upon a call of the roll his "ay" or "no." I say that that is not right; that it is not in accordance with the rights and the rights of his constituents.

And what is the reason always given for it? That must hurry through with all important legislation, in order that gentlemen may go into the Committee of the Whole on the state of the Union, for the discussion of every important question in politics, in law, in philosophy; everything, indeed, except the matters which are fairly and legitimately before us. You cannot give an hour or two to the consideration of a practical question, when you give every day and week to the discussion of the ever-varying subject of the negro. And that, sir, has gone so far that it is the daily practice of the House—not just now, but it has been so within my experience, and it doubtless will be during this session—at two or three o'clock to go into the Committee of the Whole on the state of the Union, by unanimous consent, with the understanding that no action shall be taken on any question. Then members address empty benches, or half a dozen pages, reading written essays, which are pertinent or impertinent, as the case may be, to the subject in hand; and the subject which can ever come before the House for consideration; and, as my colleague has said, the whole country is told next morning, by telegraph, that the House was electrified by the power and eloquence of the honorable gentleman who introduced the bill. Mr. Chairman, is this proposition? Why, sir, that two thirds of this House shall be necessary to cut off debate. Is it not right? If the gentleman is not afraid that the majority will abuse this power of cutting off debate, I would like to ask him whether he is afraid that one third of the House will exercise its power improperly by protracting debate?

Mr. NEILL here made a remark which could not be heard at the reporters' desk.

Mr. WASHBURN, of Maine. I want to ask the gentleman from Ohio, Will he contribute to the business of the House to bring into this House the operation substantially of the two-thirds rule? Will he accomplish any good by providing that no bill shall come from the Committee of the Whole to the state of the Union until two thirds of the members shall be ready for that proceeding? Will it not place the legislation of the country in the hands of one third of this House? I do not believe that the members of this House are prepared to adopt that two-thirds rule. If they did, then but few measures would ever come before the Committee of the Whole on the state of the Union; for, sir, even as it is now, it is next to impossible to get any bill from that committee. If you enlarge the number of bills upon the Calendar, put more bills there than there are now, you may do so, but you will not even get one bill under the operation of the previous question.

Mr. PENDLETON. The gentleman from Maine can ask me a great many questions in relation to the rules which I cannot answer; a great many to which any attention has not been given; a great many to which I could not give the proper answer, even though I understood it, if I were required to point out the rule to be changed; for, sir, I commenced by stating that I knew very lit-

tle about the rules of this House. I have seen and felt their practical operation in some particular cases. Now, in answer to the gentleman, I am prepared to admit that if you will confine the debate in this House to the subject which is pending for consideration, and if you then permit two thirds of the House only to call for the previous question, I think that it would be a great improvement upon the present system.

Now, sir, in my admission for this discussion in the Committee of the Whole on the state of the Union on the President's message and other general matters. I do not think that it answers any good purpose. I do not think that it informs the country. I do not think that the consideration of the bill which is pending in that body, in that way, is of any benefit. The speeches made in this House ought to be made for the purpose of convincing the minds of members who are to vote upon specific propositions. Whenever you propose to embody in a bill or joint resolution any suggestions or recommendations of the President's message, and that bill or joint resolution is up for consideration and action, then I think that the particular policy to be pursued in that regard is properly up for discussion; but I am entirely opposed—no, I will not say opposed; I am opposed to admit it; I do not think it proper. I do not think it answers any good end for members here, day after day, to neglect the practical legislation of the country upon the pretense that we have not time, when we are here, or rather the House sits here nominally, and we ought to sit here actually, doing duty, discussing subjects which are not before us, and which probably never will come before us—discussing, I said—I mean reading essays upon such subjects, in bad taste, in a worse spirit, one-sided, partial, embittered essays, full of reckless assertion of facts, full of vituperation and abuse, discreditable to this House, discreditable to the authors, and useful only for evil.

Now, sir, I do not think a better illustration of this whole difficulty could be presented than is provided by the bill, read by the other gentleman from the Committee on the Judiciary, which I do not say that it did not come here under the rule; I do not say that it could not be voted on; but I say that the practical question then presented to the House was this: Will you pass this bill without first discussing it, and without knowing what it is, or will you send it to the Committee of the Whole on the state of the Union, where you will never get at it? I do not know that that was necessarily the alternative upon that bill; but I inferred it from the expressions then made use of by gentlemen.

Now, sir, if there is any receptacle to which bills go, and out of which they cannot come; if the Committee of the Whole on the state of the Union is such a receptacle, then I want the rules of this House reformed in such a manner so that bills can be got out and brought before the House and considered; that they shall be brought here and subjected to the judgment of the House, and be passed or rejected. It does strike me, and I think that it will strike every one who comes here from the House, that the House is reduced to one or two sessions, that instead of aiding discussion; instead of making this House a deliberative assembly; instead of enabling us to do that, which we were sent here to do—to compare views, to correct our opinions by comparison with the opinions of others—the rules are contrived in such a way as to defeat the consideration of matters of practical legislation, and to give every advantage to questions of general political interest only. Now, it may be the fault is not in the rules; it may be in the temper of the members of the House; but certain it is, that the difficulty exists, and that we all know it.

The gentleman from Maine [Mr. WASHBURN] knows it as well as any other gentleman of this House; for his long experience must have forced it upon him. The gentleman from Tennessee [Mr. EVERETT] spoke of the growth through the country of the codes of practice; and he gave, as I think, a very good reason for the abolition of the original system of special pleading. He said that those who were opposed to that system, generally made the mistake of talking about it, and not about the remedy of that difficulty by abolishing the system altogether; whereas, the true course would have been to make the old rules more stringent, to abolish common counts and general issues. I am not pre-

pared to say that that is not the case here. My friend from Virginia, [Mr. BOCCO], and the gentleman from Maine, [Mr. WASHBURN], may know better than I do; but my long experience may lead them to say that the only reform needed is to make the rules still more stringent. But if that is the case, I should like to see those gentlemen who have undertaken to accomplish an amendment of the rules make us a report from which we can determine somewhat for ourselves whether this is a true reform. It is a reform proposed to deal in general denunciation of these rules; I do not understand the half of them; for when I read them, they are almost as unmeaning to me as before I did so. But I speak of two great evils under these rules which have not been noticed, and under which I have somewhat suffered. The first is the impossibility of getting a measure before the House, and the next is the impossibility of considering that which is practical which enters into the legislation of the country, instead of those matters which come up in the Committee of the Whole on the state of the Union, and which embrace every conceivable subject, of every character and description, which at any time it may enter into the brain of any gentleman upon this floor ought to be discussed before the House or the country, or his constituents, or for his amusement, without the least regard to the practical legislation which the country requires.

Mr. GROW. Mr. Chairman—
Mr. VALLANDIGHAM. I would like to ask the gentleman from Maryland [Mr. GROW] how many times in the eight or nine instances of the gentleman, has this House failed to second the demand for the previous question?

Mr. GROW. I do not recollect.

Mr. VALLANDIGHAM. Name one instance.

Mr. GROW. There was one instance in Speaker Banks's time, and it got us into a great deal of difficulty, as the matter went over until the next day. I desire to correct an impression of the gentleman from Ohio [Mr. PENDLETON] about the rules. He is suffering under a slight mistake in supposing that there is no way in which gentlemen can have anything done except by unanimous consent, or by a vote of two thirds of the House. If all our rules are adhered to as they now stand, all our business can be disposed of. There is no way in which business can be reached and disposed of if our rules are adhered to.

And now, one word in regard to a point referred to by the gentleman from Ohio, [Mr. PENDLETON], that in my objection to certain measures being received by the House I was in order to accomplish what the gentleman says now he wants to have done. The rules require the committees to be called, and after they have been gone through with, then the States and Territories are to be called, when the gentleman here would have an equal chance. So that what I wanted done, is exactly what the gentleman says he wants done. But gentlemen never appreciate objections made to what they desire to have done, and are disposed to think all such objections as captious and unwarrantable. Of course, if nothing being done out of the regular order, and thus we would be enabled to facilitate the business of the House. What the gentleman says he wants done can be done by doing the business of the House in regular order. Let your committee be called, and no one committee can occupy more than one day, and when the committees are called through then the call of the States is next in order, when any gentleman can bring forward his measures. But if you allow gentlemen to come in during the morning hours and make any number of motions to introduce measures, you will consume all your time and you never will reach the States.

Mr. PENDLETON. Has there ever been a call through the regular order of business upon any day?

Mr. GROW. Yes, sir; since we adopted this provision to the rules.

Mr. PENDLETON. In one session?

Mr. GROW. Yes, sir.

Mr. PENDLETON. How often?

Mr. GROW. Only one, I believe; because we adopted the rule only the Congress before the last, and have not practiced it.

Mr. PENDLETON. Is it not perfectly in accordance with the rules of this House, at any time after the morning hour has expired, to move

to go into Committee of the Whole and cannot a majority, by doing so, interrupt the call, and prevent the introduction of measures. And it is not in order, on Monday, for any gentleman to object. Upon those days does it not require two thirds to introduce any proposition?

Mr. GROW. In the first place, your committees are required to be called in order. After one hour has expired any member can move to proceed to the business upon the Speaker's table; and you cannot take the floor from any gentleman, except for that purpose. If the House does not consent to proceed to the consideration of the business upon the Speaker's table, then any member can move to go into Committee of the Whole. But you cannot take the floor from a member who has it to go into Committee of the Whole, even if the hour has expired. If the hour has expired, and you are on the floor, you are entitled to your hour, unless some gentleman rises and moves to proceed to the business upon the Speaker's table, which, if it is agreed to, postpones your business until the next day. Thus you have one hour for the dispatch of the committees' reports. When you have gone through all your regular committees in order, then you select one of the committees, and after they are concluded you commence the call of the States.

I desire to speak more particularly now in reference to the gentleman speaking of my objection. I know, as I said before, that it is an objection; but, without any intention of making reference to any gentleman, or without any desire to prevent what he seeks to attain, I make the general objection, in order that we may once more get to the regular order of business of the House according to its rules; for I must say, that our practice here for eight weeks did not inculcate much notion of regular business, and the House seemed a little loth to go to its work regularly. And I am anxious to get at our business in regular order, so that we may discharge the business.

Now, in regard to the amendment of the gentleman from Oregon, [Mr. STOUT.] If that amendment passes, no bill can pass this House without a two-thirds vote, I do not care what the bills are that are necessary to be passed. Under your present system of rules, no amendment is referred to the Committee of the Whole, if it is below the call on the Calendar and is not reached, cannot be taken out of the Committee of the Whole without a two-thirds vote.

Mr. REAGAN. The gentleman will recollect that the amendment is not yet to bill which are not referred to the Committee of the Whole.

Mr. GROW. Whatever is referred to the committee under the present system practically requires two thirds to take it out of committee, unless the bill should be near the top of the Calendar.

Mr. NOELL. Does the gentleman mean to say that no bills can pass this House without the previous question being sprung upon them?

Mr. GROW. I did not say that if the amendment of the gentleman from Oregon is adopted, no bill can pass without it has a two-thirds vote, but practically that will be the effect, because you require two thirds to pass a bill, should you desire to pass it without sending it to the Committee of the Whole. If you send it to committee, and desire to bring it again, it is not there, in most cases, at a two-thirds vote, because you cannot well reach it if it should be low down on the Calendar without two thirds are in favor of it. Thus you virtually put the power of the House, in reference to the passage of all bills, into the hands of a third of the House.

Mr. NOELL. I desire to ask the gentleman from Pennsylvania a question for information. Is it not the regular order for a bill reported from a standing committee or a select committee to go to the Committee of the Whole?

Mr. GROW. No more than it is to put a bill upon its passage. The rules provide for both. The one is as much in order as the other. The rule only provides that if there is a motion to commit to the Committee of the Whole, or to the Committee of the Whole on the state of the Union, that motion must be first put. If it fails, the bill is to be put upon its passage. So both are equal orders. The proposition of the gentleman from Oregon would have the effect in practice—I do not know if it would have the effect in theory—of putting the Calendar, because there might be a few bills

upon the Calendar of the Committee of the Whole on the state of the Union which you might reach; but I say it would have the practical effect of preventing any bill upon the Calendar passing without a two-thirds vote, because when a bill is reported the amendment provides expressly that it shall require a two-thirds vote, unless it is sent to the Committee of the Whole; and if sent to the Committee of the Whole, it will never be reached, for it practically requires two thirds to take it up. So you put the power of defeating a bill in the hands of one third of the House.

When a special order is made in committee, you must confine debate to the special order—and a majority may make an appropriation bill a special order—and that will meet the objection of the gentlemen from Missouri and Oregon, who want the discussion confined to the subject under consideration. We have a class of legislation, I grant—and that is the expenditures for the support of the Government—upon which we ought to have discussion. Now, do gentlemen propose to fix this matter in such a way that no general debate in this House can be had, either on the President's message, or the recommendation of the President, or the Department of the Interior? The way gentlemen seem to want this matter fixed would close the mouths of the Representatives of the people upon almost everything of national importance, such as Presidents' messages, reports of Departments, or any other communications to Congress not requiring legislative action. If you do not leave some time for general discussion of measures such as those which are contained in the messages and documents to which I have referred, you place a gag upon the Representatives of the people, and confine debate upon their lips to except matters relating to the expenditures of money by the Government. I am not in favor of that. I am in favor of confining debate upon expenditures strictly to the subject under consideration, and then you have all the advantage gentlemen want.

Now, in regard to the bill which requires a special order. Now it will require only a majority to make an appropriation bill a special order, and you leave other subjects open to general debate—the foreign policy of the Government, for instance. I ask, how could you do that? You have legitimate debate upon questions before Congress as to the intercourse of this Government with Russia, and other foreign Powers? You cannot bring in a bill to say that the intercourse between this country and Russia shall be in a particular way. The bill is not within the scope of legislation. How are you to discuss the great questions of your relations with the world, or your relations to each other at home as independent States, or the relations of the General Government to our common Territories? In reference to the latter, it is true, you may have an appropriation bill for building a penitentiary in one of your Territories; but could you then discuss the relations which exist between the people of a Territory and the general Government upon a bill making appropriation for that purpose? If that is the only place where you could discuss it, if this theory of legislation is carried out. The same would be true in reference to many other important questions; because, unless you should have some bill relating to the particular subject, there would be no opportunity when and where you could discuss those matters.

I have been led into this discussion by discussing the amendment of the gentleman from Oregon, and I will close by restating the two points I desire to make. One was, that if you bring the House to the regular order prescribed by the rules, there is a time for every class of business, and that it is under the control of a majority; that if you depart from the regular order, I grant that the evils which have been pointed out by the gentleman from Oregon will result, and it is to be avoided by asking unanimous consent, or attempting to get up some particular business out of its order, that all this confusion occurs. A member desires to accomplish a particular object out of its regular order, when, if he had insisted on business being conducted in regular order, he and others would have had an opportunity to introduce their propositions under the rules. The other object was, to call the attention of the committee to the fact that the amendment of the gentleman from Oregon will, in effect, prevent the passage of any bill unless there are two thirds in favor of it.

Mr. PENDLETON. Mr. Chairman—
A MEMBER. You have occupied the floor once. Mr. PENDLETON. He is a practical illustration of the difficulty of which I complain; it is, that we are not willing to attend to any of these matters which directly affect the House or the country. When I first rose to make two or three remarks, I heard a member upon the other remark "we shall never get through with this change of rule." Although we have occupied only three or four hours upon it; and now when I rise again, I hear another gentleman remark, "you have occupied the floor once." I do not know that there is any rule of the House which prevents a gentleman occupying the floor twice; but if there is, the Chair need only remind me of the fact, and I will take my seat. These gentlemen are both impatient; they want to get into the debating society again. They cannot bear the tediousness of a practical question.

It is, however, unfortunate that I alluded to my own difficulties under the rules of the House, because the gentleman from Pennsylvania seemed to think I was capriciously complaining of his interposition and of the application of the rules to myself.

Mr. GROW. I had no such feeling. I took occasion to say what I did in justice to myself, because many seemed to think there had been capriciousness upon my part.

Mr. PENDLETON. I had no reason to suppose so. I was speaking with a disposition to find fault with the gentleman, or to complain particularly of the application of the rules of the House to myself. I am well aware that there is a great deal of good sense in these rules; and I have seen them carried out in other legislative bodies, where they operated very well. What I complain of is, of being a member of the Senate of the State of Ohio, rules very similar to these were in operation. The body was small, and the subjects which came before us were comparatively few. Day after day the regular order of business was carried out, and the gentleman, at the close of a day or two every gentleman had a vote upon them. I think, however, that when a body becomes larger, and when the subjects of legislation are so different kind, different rules should be adopted.

The gentleman from Pennsylvania seems to be under great apprehension that members will be precluded from debating subjects of general interest. I ask him if he is not afraid that members will be precluded from debating subjects of special and specific interest in relation to the matters in hand? He says that he is afraid that members will be precluded from discussing the relations of the people to each other here, and their relations with foreign nations. When those matters are in any way connected with legislation, they can be discussed; at all other times their discussion should be subordinate to the other business of the House. I would like to know if he is not afraid that members will be precluded from giving their views upon the merits of the bills reported by the House can cut off debate by the previous question? I agree that general debate ought not to be cut off, that all matters of general interest should have a fair hearing in the House; but I object to a system of rules by which it is the regular order of business to cut off debate every day, and at all hours of the day except the first hour, to discuss matters of general interest, or of merely political significance, while all other subjects can only come up by sufferance of the House, excepting once or twice during the session.

Mr. STOUT. I wish to detain the committee but a moment, to answer some remarks which have been made by the gentleman from Pennsylvania. Perhaps modesty would have dictated that I should not have taken the ground I have attempted to participate at all in the amendment of these rules, with which I am not very familiar; but I have seen the difficulties growing out of the conduct of business in this House, which have struck me somewhat in the same manner as they have struck the gentleman from Ohio, [Mr. PENDLETON], and I desire, if possible, to obviate one of the great and serious difficulties which I think attend us in our legislation.

I did not suppose that the amendment which I proposed would have the effect which is suggested by the gentleman from Pennsylvania, nor do I

believe so now. But admit, for the purpose of argument, that it would have the effect of requiring a two-thirds vote to take a bill out of its regular order for the purpose of passing it; I apprehend that it would not be wrong or unjust to do it in most cases. And the effect of such a rule would be to compel us to go to work regularly; to go into the Committee of the Whole, and, when we get there, not make long and unimportant speeches, but go to work, and dispose of the business on the Calendar, in order that we may get to that which most interests us.

As matters now stand, the members generally have only one little bill each for the relief of some of the constituents, in which they are specially interested. They bring those bills before the House, and persuade the House to pass them without referring them to the Committee of the Whole, and then they have no further interest in the business on the Calendar; and those of us who have important measures which we wish to have taken up and disposed of, are unable to bring about any legislation for ourselves and our constituents, simply because many other members get their bills passed without their being referred to the Committee of the Whole.

Now, if all bills were required to go to the Committee of the Whole and take the regular order, unless by a two-thirds vote, we should do much more business, and do it more understandingly, and with more efficiency than we now do. We should then all be put upon an equal footing; and it would take two thirds at least to give one member a preference over another.

I have no desire to obstruct legislation, or to interfere with the due action of the majority; and I have not the same confidence in my own judgment in relation to these matters that I have in that of many others here of greater experience than myself; but it does strike me that this amendment would work well, and would tend to aid in the progress of legislation.

The amendment to the amendment was disagreed to.

Mr. MILLSON. I offer the following amendment to the amendment of the committee, to come in between the last sentence and the preceding one:

Wherever the House shall refuse to order the main question, the consideration of the subject of debate upon which no motion for the previous question had been made, the House may also, at any time, on motion, suspend the order of the members of the House, and suspend pending amendment or an amendment thereof, and cause the question to be put thereon, and this shall not preclude any further amendment by the House.

The object of this amendment is to establish in the House the same practice that the Committee of the Whole yesterday, on the report of the committee on the rules, established for the Committee of the Whole.

Mr. GROW. I will say that as far as the gentleman from Maine [Mr. WASHBURN] and myself are concerned, we are perfectly agreed to that. It makes the rule uniform in the House and in the Committee of the Whole.

Mr. MILLSON. I was about to say that I understand the committee on rules approve and adopt the amendment. It is intended to remove a difficulty which is very often felt by the House. When a bill is under consideration or discussion in the House—it may be bill of the House, or a twelve sections—an amendment may be offered to the first section, and an amendment to that, and we can go no further. A debate may spring up lasting several days. You cannot get rid of that debate except by killing the previous question. That precludes all further amendments in the House, and the House may not wish to do that. This amendment will give the House an opportunity of closing debate upon the pending amendment only, and then going on to receive and consider other amendments to other parts of the bill.

I will say, sir, in closing the brief remarks I am now submitting to the committee, that I hardly regard these suggestions of mine as implying any inadvertence or omission on the part of the committee. I believe they intended to embrace these very topics. I have examined over the amendments reported by the committee, and I may say that nearly all of them—perhaps all of them—meet my entire approbation. I think that this committee have performed the duty intrusted to them with nearly great judgment. I believe that nearly every change, and every change they propose, is desirable, and will be found to be advantageous;

and I do not regard these suggestions of mine so much as amendments to their propositions as the carrying out of their own ideas as expressed in their report, but not carried out to the extent which my amendment provides.

Mr. WASHBURN, of Maine. I will state that I think I have consulted all the members of the committee who are present, and they agree to the amendment proposed by the gentleman from Virginia, and suppose it is necessary to carry out their idea in regard to this matter.

The amendment to the amendment was agreed to.

The amendment of the committee, as amended, was then adopted.

Fifteenth amendment:

Amend rule 58, by striking out all, and inserting in lieu thereof the following:

The consideration of the unfinished business in which the House may be engaged at an adjournment, shall be resumed as soon as the Journal of the next day is read, and at the same time each day thereafter until disposed of; and from any cause, other business shall intervene, it shall be resumed as soon as such other business is disposed of. And the consideration of all other unfinished business shall be resumed after the close of the business to which it belongs shall be in order under the rules.

The amendment was agreed to.

Sixteenth amendment:

Strike out all after the word "General," in the fourth line, and insert the word "General," in the fourth line of the following rule:

"61. A proposition requesting information from the President of the United States or directing it to be made by the head of either of the Executive Departments, or by the Postmaster General, (or to print an extra number of any document or other matter, excepting messages of the President to both Houses at the commencement of each session of Congress, and the reports and documents connected with or referred to in it) shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House; and all such propositions shall be amended for consideration in the order they were presented, immediately after reports are called for from select committees, and when adopted, the Clerk shall cause the same to be printed."

The amendment was agreed to.

Seventeenth amendment:

Amend rule 67, by striking out from the beginning to and including the word "be," in the third line, and inserting in lieu thereof the words, "it shall lie on the table one day for consideration," and also by inserting after the word "afore," in the same line, the words "to aid in the enforcement of the order under the direction of the Speaker," so that it will read:

It shall be the duty of the Sergeant-at-Arm to attend the House, and to be ready to aid in the enforcement of the order, under the direction of the Speaker; to execute the commands of the House from time to time, together with such other orders under the direction of the Speaker, as shall be directed to him by the Speaker.

The amendment was agreed to.

Eighteenth amendment:

Strike out the 7th rule, as follows:

"The Sergeant-at-Arm shall be sworn to keep the secrets of the House." (Provided for by proposed amendment to rule 14.)

The amendment was agreed to.

Nineteenth amendment:

Strike out rule 73, as follows:

"The Sergeant-at-Arm shall be appointed for the service of the House." (Provided for by proposed amendment to rule 14.)

The amendment was agreed to.

Twentieth amendment:

Strike out rule 74, as follows:

"The Sergeant-at-Arm shall be sworn to keep the secrets of the House." (Provided for by proposed amendment to rule 14.)

The amendment was agreed to.

Twenty-first amendment:

Strike out all of rule 75, as follows:

"The Sergeant-at-Arm shall be appointed for the post office kept in the Capitol for the accommodation of the members, shall be appointed by the House," and insert:

"The Sergeant-at-Arm shall be appointed for the post office kept in the Capitol for the accommodations of the members."

The amendment was agreed to.

Twenty-second amendment:

Amend rule 76, by striking out the word "eight," in the first line, and inserting in lieu thereof the word "seven," and also by striking out the word "accused," in the second line, and inserting in lieu thereof the word "Congress," so that it will read:

"Twenty-seven standing committees shall be appointed at the commencement of each Congress, viz:—

1. A Committee on Engraving, to consist of three members."

The amendment was agreed to.

Twenty-third amendment:

Amend by striking out the words in brackets in the following rule:

"78. It shall be the duty of the Committee of Ways and

Means to take into consideration all such reports of the Treasury Department and all such propositions. Also, (if the revenue, as may be referred to them by the House) to inquire into the state of the public debt or the revenue, and of the expenditures of the Government, from time to time, that may be referred to them, and to report thereon; (to examine into the state of the several public Departments, and particularly into the laws making appropriations of money, and to report thereon; and to have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the Departments and the accountability of their officers.")

The amendment was agreed to.

Twenty-fourth amendment:

Amend by striking out the words "and also to audit the accounts of the members for their travel to and from the seat of Government," in the following rule:

"102. It shall be the duty of the Committee of Accounts to supervise and audit the expenditures of the contingent fund of the House of Representatives; also to audit and settle all accounts which may be charged thereon; and also to audit the accounts of the members for their travel to and from the seat of Government, and their attendance in the House."

The amendment was agreed to.

Twenty-fifth amendment:

Amend rule 103 by striking out the word "six," in the first line, and inserting in lieu thereof the word "seven," by inserting at the end of the rule "7." A committee on so much of the public accounts and expenditures as relates to the Interior Department shall be read as follows:

"103. Seven additional standing committees shall be appointed at the commencement of each first session in each Congress, whose duties shall continue until the first session of the ensuing Congress.

To consist of five members each.

1. A committee on so much of the public accounts and expenditures as relates to the Department of State;
2. A committee on so much of the public accounts and expenditures as relates to the Department of War;
3. A committee on so much of the public accounts and expenditures as relates to the Department of the Navy;
4. A committee on so much of the public accounts and expenditures as relates to the Public Buildings;
5. A committee on so much of the public accounts and expenditures as relates to the Interior Department.

(This amendment simply provides for the appointment of a committee on so much of the Department organized since the last revision of the rules.)

The amendment was agreed to.

Twenty-sixth amendment:

Amend rule 104, by striking out the words "there shall be appointed a standing committee of this House, to consist of three members, to be called the Committee on Engraving, to whom shall be referred, by the Clerk," and inserting in lieu thereof the words "there shall be appointed, by the Clerk, to the members of the Committee on Printing on the part of the House," so that it will read:

There shall be appointed, by the Clerk, to the members of the Committee on Printing on the part of the House, all drawings, maps, charts or other papers, which may at any time come before the House for engraving, lithographing or publishing in any way; which committee shall report to the House whether the same ought, in their opinion, to be published; and if the House order the publication of the same, that said committee shall direct the size and manner of execution of all such maps, charts, drawings, or other papers, and control the printing, engraving, lithographing, engraving, and coloring, as may be ordered by the House, which agreement shall be written and signed by the members of the Committee of Accounts, to govern said committee in all allowances for such work; and it shall be in order for said committee to report at any time.

The amendment was agreed to.

Twenty-seventh amendment:

Strike out rule 116, as follows:

"Not more than three bills, originating in the House, shall be committed to the Committee of the Whole; and such bills shall be analogous in their nature, which analogy shall be determined by the Speaker."

Mr. VALLANDIGHAM. Without any very strong hope, I move the amendment which I am about to propose will meet the approval of the committee, I move to substitute the following for rule 118, which the committee propose to strike out, and I submit the amendment without comment:

Insert after the figure 8, the words "No bill shall contain more than one subject which shall be clearly expressed in its title; no amendment upon a subject not so expressed in the title, shall be in order; and no bill or joint resolution requiring the approval of the President shall be in order unless it contain the entire act or joint resolution proposed to be revived, or the section or sections thereof to be amended, and contain also a repeal of such section or sections."

The amendment to the amendment was not agreed to.

The amendment as reported by the committee was then agreed to.

Twenty-eighth amendment:

Amend rule 117, by adding at the end thereof the words,

"and to report thereon."

The amendment was agreed to.

"whenever a bill is reported from a Committee of the Whole, and such recommendation is disagreed to by the House, the bill shall stand recommended to the said committee without further action by the House;" so that it will read:

"motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and if carried, shall be considered equivalent to its rejection."

Whenever a bill is reported from a Committee of the Whole, with a recommendation to strike out the enacting words, and such recommendation is disagreed to by the House, the bill shall stand recommended to the said committee without further action by the House.

The amendment was agreed to.

Twenty-ninth amendment:

Amend rule 119, by adding at the end the words, "and should such recommendation take effect (its disagreement, and an amendment be reported and agreed to by the House, the question shall be again put on the engrossment of the bill)" so that it will read:

After the committee and report thereof to the House, or at any time before its passage, a bill may be recommitted, and should such recommendation take place after its engrossment, and an amendment be reported and agreed to by the House, the question shall be again put on the engrossment of the bill.

The amendment was agreed to.

Thirtieth amendment:

Strike out the 124th rule, which reads as follows, provision having been made for it in the 123rd rule, as amended, by the committee:

"It shall be a standing order of the day, throughout the session, for the House to receive itself into a Committee of the Whole House on the state of the Union."

The amendment was agreed to.

Thirty-first amendment:

Amend rule 120, by striking out the words "all questions, whether in committee or in the House, shall be propounded in the order in which they were moved, except this;" so that it will read:

In filling up blanks the largest sum and longest time shall be put first.

Thirty-second amendment:

Amend rule 125, by adding at the end thereof "and all debate on special orders shall be considered subsidiary in the measure under consideration;" so that it will read:

"The Committee of the Whole House shall have the bills shall be taken up and disposed of in their order on the Calendar; but when objection is made in the consideration of a bill, a majority of the committee shall decide whether the debate thereon it shall be taken up and disposed of or laid aside: *Provided*, That general appropriation bills, and, in case of war, bills raising money, and bills concerning a treaty of peace, shall be preferred to all other bills at the discretion of the committee; and when disagreed to by any member, the question shall now prevail here; and all debate on special orders shall be confined strictly to the measure under consideration."

Mr. CASE. I move to amend by adding the following:

And all debate in violation of the rules of the House, except such as shall be indulged in by the unanimous consent of its members, shall be excluded from the official reports of the debates of this body.

Mr. Chairman, I do not propose to occupy the time of the committee at any considerable length in the discussion of the amendment I have submitted. I believe that if it is adopted it will prove to be one of the best remedies we could have devised for a great deal of the disorder and confusion which prevail in this House. I am not in the habit of speaking in this House, nor in the Committee of the Whole, when I can avoid doing so. I am in the habit of listening to what is said by others, and the difficulty I have experienced in doing this seems to be generally the same. I have been compelled to listen to about a dozen speeches at the same time. When we are under the operation of the previous question, or under the operation of other rules cutting off debate, gentlemen rise up here, and in defiance of the rules and calls of order, make remarks which are prohibited by the rules, but which members are anxious to get out for the purpose of explaining their position. They are not made, Mr. Chairman, for the purpose of setting members right upon this floor—and I will say that I make reference to no particular number—but, if I may use the expression, for Buncombe, and that they may be referred to by the member when he is before his constituents. If we exclude from the Globe all proceedings which are not in order, we will, I think, get rid of much of the disorder and confusion which now prevail here. During the call of the roll, or when we are acting under the previous question, and when debate is not in order, it seems to me that much of the lawlessness and disregard of the rules occur. Then members seem determined to utter something which shall get into the Globe, and be read elsewhere; for it is done, I am sure, with no expectation of influencing the vote of any member

in this House. I submit the amendment, and ask that the sense of the committee be taken on it.

Mr. WASHBURN, of Maine. I think that the reform contemplated by the amendment of the gentleman from Indiana is a good and needful one, and I am sure we can do it, and be accomplished by an amendment to the rules.

Mr. NOELL. The country, sir, only needs this amendment of the gentleman from Indiana to complete the work begun by the previous question. Freedom of speech has already been granted by the adoption of the previous question, in addition to that, it is now proposed to suppress the freedom of the press. Not only are we not permitted to make objections here, but it is now asked that power be conferred upon the Speaker of this House to determine when remarks made by a gentleman upon this floor are or are not in order, and shall or shall not be published in the record of our debates. I object to the amendment.

Mr. CASE. That power is not proposed to be vested in the Speaker any more than it is vested in him now.

Mr. MAYNARD. Mr. Chairman, I would cheerfully be willing to adopt a measure to do away with the official reports of our proceedings, and to exclude our friends, the reporters, from this floor, for the purpose of preventing the publication of our proceedings in the press; but, in order that the proceedings of this House, it is necessary that they should be fairly and fully reported; that all that is said and done should be put down. And I submit to the gentleman from Indiana that his proposition, if adopted, would be an exceedingly unwise one, for the reason that in many instances it would exclude many things that ought to be preserved.

The question was taken; and the amendment to the amendment was rejected.

Mr. MAYNARD. I move to insert in the rule as amended, after the word "on," these words, "on appropriation bills when made;" so that it will read "all debate on appropriation bills when made special orders," &c.

Mr. Chairman, I certainly do not agree in opinion with some of the gentlemen who have addressed the committee on the subject of what is called general debate, or, as sometimes denominated, "Buncombe" speeches. This is a kind of debate, a sort of rhetoric, upon which many gentlemen look with little favor. It is complained, and with just reason, that the great mass of speeches and come here and read them. So far as my observation extends, the gentlemen who make the most complaint of written speeches are themselves the silver-tongued eloquist of the House. Now, so far as I am concerned, I would prefer that when a gentleman who is not gifted, as many are not, with the graces and beauties of oratory, attempts to address the House, that he should give us his best thoughts clothed in the best language that he can command, even if he is obliged to reduce the length of his speech. I have myself made a speech of the character complained of, for I have never spoken on any subject which was not directly a matter of legislation. Still, sir, I do think it is an important privilege that members of the House ought to enjoy, for in many instances it is the only way in which they can give their power to do, to raise a voice of protest against the action of a majority.

The rules of this House were designed for the protection of minorities against the action of a proud, triumphant, domineering, tyrannical majority, carried away by the very lust and greed of the power they possess. As the amendment is now proposed—though I am aware that the chairman of the committee for the revival of the rules [Mr. WASHBURN, of Maine.] differs with me in that respect—it seems to me that it would give the minority wholly in the power of the majority to determine what questions shall be debated; for it is known that in the House no debate is legitimate except upon the matter immediately under consideration. Our general debate occurs only when the Committee of the Whole is in session, and the amendment of the committee on the revision of the rules is adopted—in that the Committee of the Whole debate on special orders shall be limited to the subjects of the special orders—it does seem to me that it puts it closely within the power of the majority to control the whole of the debate in Committee of the Whole by never going into Committee of the Whole, except upon special orders.

The consequence, therefore, would be, that the majority of the House would hold the key to the entire debates of the House during the whole session.

Yesterday when the gentleman from Maine [Mr. WASHBURN] was explaining the amendment that had been proposed by the committee, I called his attention to this amendment, with the view of ascertaining whether it was the purpose of the committee, in the report they had made, to cut off what is called general debate, and prevent members from speaking on any subject except that which was, for the time being, formally and nominally under consideration. He assured us that such was not their purpose; that they did not design to do any such thing. Now, if that had been their intention, then the question would have arisen directly for the House to decide whether they were prepared so to amend the rules as to cut off the general debates. I understand that that was not the purpose of the committee. But from the discussions which we have already had, and which I do not desire to renew, it is manifestly the intention of this Committee of the Whole not so to amend the rules as to change the present practice of the House. I therefore propose to limit the application of the amendment of the revising committee to general appropriation bills, which, as was said, is the only class of bills which the committee, [Mr. WASHBURN, of Maine.] are sometimes exceedingly necessary to be passed, in order to enable the business of the Government to be carried on. There is no other legislation of such high necessity, and consequently none which should receive the same consideration from the House in the construction and administration of its rules.

I fully sympathize with all that has been said by the gentleman from Missouri [Mr. NOELL], yesterday, and I am sure that he would be as proper of urging important legislation upon the House, and pressing it upon the country, without any opportunity for investigation and debate; requiring us to decide important questions upon first impressions, without an opportunity to deliberate and decide. It is unnecessary to do so; and I were in a position to give advice to our friends of the Republican party, I would suggest to them that, unless they have a great deal more confidence in the decisions of their committees than I think most committees are entitled to enjoy, I should think they would be very hazardous to put important legislation through the House with as little consideration as they gave to the homestead bill and the printing bill, passed upon us during the present session. Having explained my reasons for offering this amendment, I will not extend my remarks any further.

Mr. WASHBURN, of Maine. I was opposed to the amendment of the gentleman from Texas, [Mr. REAGAN,] for the reason that I did not desire to suppress general debate in Committee of the Whole. I do not desire to see the House placed in a position in which there might be a general debate; where the Union generally, and all matters pertaining to the Union and to the interests of the country, might be discussed. But I think the gentleman from Tennessee [Mr. MAYNARD] errs in assuming that the Committee of the Whole, if a committee, if adopted, would tend in any degree to suppress general debate in the Committee of the Whole. Under the rules of the House, as they now stand, debate is not in order upon special orders. Formerly general debate was in order, even when the Committee of the Whole had under consideration special orders. The practice of the House in that regard was changed in 1852 or 1853, growing out of the practical mischief and inconvenience resulting from permitting general debate upon special orders. The Committee of the Whole were considering special orders. It was, I believe, upon the consideration of the Pacific railroad bill, or some other bill perhaps, that the entire time of its session given to the consideration of that question was exhausted by general debate, without one word of the subject of the bill being said in the special order. In consequence of that, and by the general and universal acquiescence of the House, the practice of the House was changed in that respect, so that now, whenever we are in Committee of the Whole upon a special order, general debate is not in order.

And what do we propose now? Simply that: that in addition to that, whenever the appropri-

Mr. WASHBURN, of Maine. The House makes it own rules. It has the right and power under the Constitution to do so.

Mr. NOELL. I desire to know of the gentleman from Maine what he intends to do with that provision of the Constitution which gives to "each House" the right to make its own rules of procedure; not that one House shall have a right to make rules for the next House, but each House shall have a right to make its own rules. I would like to know what he intends to do with that provision of the Constitution?

Mr. GROW. This amendment does not so provide. It does not confer the action of any succeeding House in making its rules. They can make them when they please; but until they do make rules, these will stand just as Jefferson's Manual is now regarded, as the authority until rules are adopted which interfere with it. The amendment only provides that these shall continue in force until the next House chooses to change them.

Mr. NOELL. The gentleman does not answer my question. My question is, what this House has got to do with making rules for the next House?

Mr. GROW. That is just what I am trying to answer.

Mr. NOELL. How can you make rules that will apply to the action of the House not now in existence?

Mr. GROW. We do not make rules for the next House. We only provide that these rules shall continue in force until the next House chooses to change them; and, if they choose to not during the whole session without altering them, then they accept them as their rules by their own action. The House of Representatives continues under the Constitution, without interregnum, just as much as the Senate. This idea that there is a period of time when there is no Congress, under our Constitution, goes on the supposition that there is a period of time when there is no Government. There is a Congress in existence, under the Constitution, all the time; and when the House meets here, the Constitution says they shall select their Speaker. If you have not a House, how are you going to elect a Speaker? They are just as much a House of Representatives, under the Constitution, the day they meet, as they are after they have elected a Speaker; they are not organized under the forms they choose to adopt; that is all. Up to the time when they choose to adopt rules, by their acquiescence in the rules at any meeting, their own rules, so that they will not be left any time without rules.

Mr. WASHBURN, of Maine, called for tellers on the amendment.

The committee was divided; and the tellers reported—yeas seventy-eight; a further count not being demanded.

So the amendment was agreed to.

Mr. BURNETT. Do I understand that the amendment offered by the gentleman from Maine has been adopted?

The CHAIRMAN. It has.

Mr. BURNETT. Will it be in order to move to reconsider the vote by which it was adopted?

Mr. WASHBURN, of Maine. A motion to reconsider is not in order in the committee; but the gentleman can say the yeas and nays upon the amendment in the House.

Mr. BURNETT. Well, sir, I think, if the gentleman from Maine wants to pass these rules in the House, he had better withdraw that amendment.

Mr. BOCKOC. I have one or two amendments which I wish to propose; they relate to mere matters of form, and I presume there will be no objection to them. The first amendment I shall propose is to the 69th rule, which I ask the Clerk to read.

The Clerk read, as follows:

"The fees of the Sergeant-at-Arms shall be, for every arrest, the sum of two dollars; for each day's custody and maintenance, one dollar; and for travelling expenses for himself, or a special messenger, going and returning, one tenth of a dollar per mile."

Mr. BOCKOC. I move to amend by adding to the end of that rule as follows:

"For each mile necessarily and actually traveled by such officer or other person in the execution of such precept or summons."

There is a law which provides what shall be the

fees of the Sergeant-at-Arms; and this is merely to make the rules of the House conform to that law, and for the purpose of having it before us, so that we may always understand how they are to be computed.

The amendment was agreed to.

Mr. BOCKOC. I have another amendment which I propose to offer to the 79th rule, which I now ask the Clerk to read.

The Clerk read, as follows:

"It shall also be the duty of the Committee of Ways and Means, within thirty days after their appointment, at every session of Congress commencing on the first Monday of January, to report the general appropriations for the civil and diplomatic expenses of Government; for the Army; for the Navy; and for the Indian Department and Indian annuities; or, in failure thereof, the reasons of such failure."

Mr. BOCKOC. I move to amend that rule by striking out all after "appropriation bills," in the fourth line, and to insert the word "annuities," in the seventh line, and inserting in lieu thereof:

"For legislative, executive, and judicial expenses; for sundry civil expenses; for consular and diplomatic expenses; for the Army; for the Navy; for the expenses of the Indian department; for the payment of invalid and other pensions; for the support of the Military Academy; for provisions; for the service of the Post Office Department, and for mail transportation by ocean steamers."

The object of the amendment is merely to adapt our rules to the designations which have been given to the regular appropriation bills, and which have been changed since that rule was adopted. Within the last two Congresses, gentlemen who have been here will remember that we have divided one of the appropriation bills, known as the civil and diplomatic bill, into three several bills, called by different names; and the object of this amendment is merely to designate the bills by the titles which are now given them. It makes no other change.

Mr. SHERMAN. I would suggest to the gentleman from Virginia whether it would not be well to add to the amendment the provision giving the Committee of Ways and Means the right to report these general appropriation bills and revenue bills at any time?

Mr. BOCKOC. I refer to appropriation bills; I do not refer to revenue bills. I would suggest as to give the Committee of Ways and Means leave to report at any time. My amendment refers only to appropriation bills; and if the gentleman wishes, I will add at the end of it, "and the Committee of Ways and Means shall have the right to report revenue bills at any time."

Mr. SHERMAN. "These bills and revenue bills."

Mr. BOCKOC. That would give rise to debate here certainly, before the committee would consent to adopt it, and I do not care to incubate my amendment with it. Unless the gentleman wishes me to modify it, as I have suggested, I will allow my amendment to stand as I originally offered it.

Mr. SHERMAN. It is a matter of no importance to me, that you should give the Committee of Ways and Means the right to report appropriation bills at any time, unless you include also revenue bills; because it is useless to report bills making appropriations of money unless we are allowed also to report bills to provide for raising the money. Unless the amendment is put in that shape, it can see no use in its adoption.

Mr. BOCKOC. The gentleman wishes that the Committee of Ways and Means shall have the right to report at any time a tariff bill.

Mr. SHERMAN. For revenue. For revenue.

Mr. NOELL. Do I understand the gentleman to mean that an appropriation bill is to be at the same time connected with a tariff bill as a matter of necessity?

Mr. SHERMAN. An appropriation is not necessarily a tariff bill. A tariff bill is a tariff bill.

Mr. NOELL. Do you mean that revenue bills necessarily include appropriation bills?

Mr. SHERMAN. Revenue bills are necessary if appropriation bills are to be passed. I move the amendment, and I submit the bill from Virginia by inserting "and revenue bills."

Mr. BOCKOC. I appeal to the gentleman from Ohio to withdraw that motion. I say to the gentleman that the Committee of Ways and Means will have very little difficulty in reporting any tariff bill they shall agree upon, and it is very easy to bring such a bill before the House, and to

give a bill of that description this peculiar privilege will do us good. It will certainly create discussion, and perhaps preclude the adoption of this amendment altogether.

Mr. GROW. I desire to know whether I understand the amendment of the gentleman from Virginia. Is it simply to specify in the 79th rule such bills as have been created since that rule was originally adopted?

Mr. BOCKOC. That is all. It is simply to define the appropriation bills as they are defined in the practice of the House.

Mr. SHERMAN. I see no objection to that. Mr. SHERMAN will not put a word of amendment upon that of the gentleman from Virginia at this time, if he wishes me to withdraw it.

Mr. BOCKOC's amendment was agreed to.

Mr. SHERMAN. Now, Mr. Chairman, I will offer, in connection with the amendment which has just been adopted, the following addition: That the Committee of Ways and Means have leave to report general appropriation bills and revenue bills, for reference merely, at any time.

Mr. HOUSTON. I understand this amendment to include a tariff bill with the appropriation bills.

Mr. SHERMAN. It simply authorizes the Committee of Ways and Means to report them for reference.

Mr. HOUSTON. I believe the first branch of this amendment ought to be adopted; but the latter branch of it is certainly wrong, and ought not to be adopted. It is not one session in ten that anything like a modification, or change in the rates of duties to be levied on imports is proposed. It is very seldom that you will want to exercise the power, and without this privilege, whenever you want to report a tariff bill, there will be no difficulty in getting any bill that the Committee of Ways and Means shall have agreed on before the House; especially under the regulations contained in one of the changes which have been made to-day, by which all business unplaced upon at the close of one session resumes its place at the beginning of the next session of the same Congress, as if no recess had taken place. Under that rule, if a bill is introduced at any time during the first session of a Congress, it may be taken and acted upon in its order at any time before the close of the last session.

But, Mr. Chairman, I do not know to what this amendment is to be attached. I understood the Chair to decide yesterday that the rule of the House was to be left to the committee of that body, the rule to which this has reference is not before us, and, as a matter of course, this amendment cannot be in order. If the Chairman decides in this regard as he did yesterday, then I make the point of order that this amendment cannot be received, because there is nothing under consideration to which it can attach.

Mr. GROW. The amendment of the gentleman from Virginia, (Mr. BOCKOC), just adopted, is the matter to which, I suppose, this amendment attaches.

Mr. HOUSTON. That amendment has been adopted, and is not before the committee.

The CHAIRMAN. The Chair understands the amendment of the gentleman from Ohio to be offered as an additional rule.

Mr. HOUSTON. Do I not understand that it can be offered as such under the ruling of the Chair?

The CHAIRMAN. The Chair supposes the report of the special committee to be the matter before us, and that you should give the committee to make additions to that report.

Mr. HOUSTON. Then that brings all the rules of the House practically before the committee. Now, sir, I do not understand that there is an absolute necessity even for the first branch of this amendment. The 79th rule, as it is, makes it the duty of the Committee of Ways and Means to report the general appropriation bills; and, as I understand it, gives the committee the right to report them at any time. Under the decision of the Chair yesterday, the rules of the House are not before this committee; and I submit that this amendment—which, if adopted at all, should be attached to the 79th rule—cannot be properly received. It is the same, in fact, if received, as an additional rule; as if the 79th rule were before us, and it is not before us, and it is added to that.

Mr. OLIN. I think the gentleman from Ala-

bama is mistaken in reference to the ruling of the Chair. I remember that I attempted to offer an amendment to the 64th rule, which had not been referred to in the report of the committee. I was told then that these amendments were before the committee; and the gentleman upon my left raised the point of order that it was not then in order for me to propose my amendment, but that it would be when the amendments of the committee on the revision of the rules had been gone through with.

Mr. HOUSTON. The gentleman is wholly mistaken, for the point of order was made upon me.

Mr. OLIN. I am not mistaken.

Mr. HOUSTON. The point of order was made upon me. It may also have been made upon the gentleman. The Chair will remember that I presented the direct and positive point for the decision of the Chair. I put the question whether the rules of the House were not before this committee so that we could propose amendments to them. The Chair decided that the rules were not before the committee, and that it was not within my power to propose an amendment to any rule which the report of the committee did not bring before this committee of the Whole.

Mr. SHERMAN. I do not want to discuss this question, and, in order to save the time of the committee, I withdraw my amendment and move to add to the amendment of the gentleman from Virginia [Mr. Bocock], "and the officers of the House," for revising revenue for reference. That will make the amendment include all we design to provide for.

The CHAIRMAN. The Chair will state how he understands this question of order. The gentleman from Alabama [Mr. Hooper] yesterday made the point that an amendment to an amendment to an amendment of the committee on the revision of the rules was an amendment in the third degree, and therefore not in order. He considered that the rules of the House were the text. The Chair holds that the report of the committee was in the same manner to be considered as amendments of the Senate to a House bill; that it was the text, and that it was in order to move to that report amendments in the second degree. This select committee was organized for the purpose of examining, revising, and reporting amendments to the rules of the House. They have reported thirty-eight amendments. As those amendments were being passed upon, the question was made as to whether it was in order to interpose an amendment to one of the amendments. The committee had not proposed to amend. The Chair decided that it was not in order to act upon other amendments to the rules until the amendments of the committee were disposed of; and that then, when the amendments reported by the committee were acted upon, it would be in order to move additional amendments to the rules. Therefore the Chair now holds that the amendment of the gentleman from Ohio is in order, as an addition to the amendments of the rules reported by the committee.

Mr. BOECK. Mr. Chairman, I regret very much that the gentleman from Ohio [Mr. Sweeney] has thought it incumbent upon him to submit this amendment. The committee on the revision of the rules, as the Chair has just stated, came forward with thirty-six or thirty-seven amendments to the rules. Those amendments, taking everything into consideration, have been received here with a remarkable degree of favor. My honorable colleague from the Norfolk district, [Mr. Murtz], who had his name submitted to this subject during the last Congress, and who was a member of the special committee on the rules of the last Congress, did us the credit to say that he had examined our amendments thoroughly, and was of the belief that every single one of them would work advantage and reform in the rules as they now stand. We had progressed in our action entirely through them. They would have gone through the House; and I think that they would have been received by the country—at least by those who attend and submit subject to the great deal of favor. I am sure that they would have facilitated the business of the House. The state of mind in which the action of this committee upon the amendments had left the members of the House was a pleasant and agreeable one, but the gentleman from Ohio comes forward with a proposition that has just now

one which will excite a great deal of opposition; one which will be received with a great deal of disfavor, because it is a proposition to give precedence to party legislation.

I tell gentlemen upon the other side that if they want some change of the tariff, they will have opportunity to bring forward any bill for that purpose upon which the Committee of Ways and Means may agree. There will be no difficulty, I think, in that particular. Sooner or later the committee will get an opportunity to bring it into the House.

Gentlemen ask me why, then, not allow this amendment to pass? What, I am asked, is the difference between a revenue measure and an appropriation bill? I will tell gentlemen. There is a difference between them as clear as sunlight and as broad as truth from error. Why let the Committee of Ways and Means report the appropriation bills at any time? Every appropriation bill lasts for only a certain fixed time. The gentleman from Ohio [Mr. Sweeney] reports a bill for the fiscal year ending 30th of June, 1861. Unless there is additional legislation at the time named that appropriation bill will exhaust itself, and the officers will then be without money to carry on the operations of the Government. It is necessary, therefore, at stated periods, to bring in appropriation bills for the purpose of executing the laws and carrying on the functions of the Government. It is necessary that they should be brought forward early in the session and put through in time.

How is it with a revenue bill? A revenue bill when passed into law stands upon the statute-book until it is repealed. It does not expire, like an appropriation bill, upon the 30th of June; therefore it is that I state that appropriation bills and revenue bills do not occupy the same position. One of them is as much independent legislation as anything that can be brought before this House. And, sir, there is no good reason for allowing the Committee of Ways and Means to give precedence to a tariff bill which would not equally apply in favor of allowing the Committee on Commerce to report a river and harbor bill, or of allowing the Committee on Public Lands to report a bill to the Government. I am sure that the argument is wrong and ought not to be adopted; for we certainly, in the state of affairs now existing, ought not to have a rule permanently established which is meant to give precedence to a party measure at this time. I say that there is no need for it. A revenue bill stands upon a totally different ground from appropriation bills. Revenue bills remain upon the statute-book until repealed, whereas appropriation bills exhaust themselves at the end of the fiscal year for which they are passed. I trust that the amendment will be rejected.

Mr. CAMPBELL took the floor.

Mr. HOUSTON. I ask the gentleman to yield to me.

Mr. CAMPBELL. Not at this point of order.

Mr. HOUSTON. I rise to a point of order. I want to know the precise condition of this amendment, and what is the Chair's decision.

The CHAIRMAN. The Chair has decided that the amendment is in order as an addition to the amendments of the committee.

Mr. HOUSTON. That it is in order as an amendment to the report of the committee which has been adopted, and which it is now within the power of this committee to alter?

The CHAIRMAN. The report of the committee on the revision of the rules is acted upon, one amendment after the other, and the Chair thinks that it is in order now to move additional amendments to that report.

Mr. HOUSTON. That is the point I make. I differ with the Chair in respect to what occurred between him and myself yesterday. I have been looking for the decision of the Chair, but have been unable to find it.

Mr. CAMPBELL. I have the floor.

Mr. HOUSTON. I rise to a point of order. Mr. CAMPBELL. It has been decided, and is not now before the committee.

The CHAIRMAN. The gentleman has a right to take an appeal.

Mr. HOUSTON. I understood, yesterday, that the Chair decided that the rules were not before the committee. I make a point of that report of the committee on the revision of the

rules having been agreed to, there is nothing left for this committee to add to. The report has been agreed to; it has been acted on, and not a line and not a word of it can be touched by us. We cannot in this committee change a sentence of it; we cannot take from it or add to it, for it has passed from us and is out of our jurisdiction, having been agreed to by the Committee of the Whole on the subject of the revision of the rules.

Now, sir, I make the point of order, that that being true, such an amendment is not in order now; and more especially is it not in order, unless it come in the shape of a distinct and independent section, as it were, of a bill. And even that, by action of the presiding officers of this House, has been overruled. And in this case, where you are acting upon a set of rules, upon a matter which your special committee have presented to you for your action, your authority over it ceases whenever you have acted upon the last part of the subject-matter in the report.

The CHAIRMAN. The report of the committee is not yet disposed of. There is yet a resolution in the report of the committee to be acted upon, and therefore the report of the committee has not been acted upon.

Mr. HOUSTON. Is there a part of the report yet to be acted upon?

The CHAIRMAN. There is. The resolution still remains unacted upon; the report of the committee is not yet disposed of; and the officers of the House stand further that, acting upon the construction now placed upon it, he advised gentlemen yesterday that their amendments would be in order when we had gone through with the amendments reported by the committee; and he will adhere to that.

Mr. HOUSTON. If this amendment is germane to the remaining portion of the report yet to be acted upon, then it is clearly in order; if not, then it stands as I have stated.

The CHAIRMAN. The Chair holds that everything that is germane to the rules of the House. But the amendment of the gentleman from Ohio [Mr. Sweeney] cannot be attached to the amendment of the gentleman from Virginia, [Mr. Bocock], because the amendment of the gentleman from Ohio is not germane to it.

Mr. SHERMAN called for the reading of the amendment offered by Mr. Bocock, which had been adopted; and it was accordingly read, as follows:

Strike out of rule 73 the words "for the civil and diplomatic expenses of the Government" for the Army, for the Navy; and for the Indian department and Indian annuities; and insert in lieu thereof

"For legislative, circuit, and judicial expenses; for sundry civil expenses; for consular and diplomatic expenses; for the Army; for the Navy; for the expenses of the Indian department; for the payment of land and other pensions for the support of the Military Academy; for fortifications; for the service of the Post Office Department; and for mail transportation by ocean steamers—; in fullness thereof the reasons of such failure."

Mr. GROW. Will the Clerk read the rule as it will stand if amended in the way proposed?

The rule was then read, as follows:

"I shall also be the duty of the Committee of Ways and Means to report the following bills: for the civil and diplomatic expenses of the Government, on the first Monday of December, to report the general appropriation bills—for legislative, executive, and judicial expenses; for consular and diplomatic expenses; for the Army; for the Navy; for the expenses of the Indian department; for the payment of land and other pensions for the support of the Military Academy; for fortifications; for the service of the Post Office Department; and for mail transportation by ocean steamers—in fullness thereof the reasons of such failure."

Mr. CAMPBELL. What is the amendment of the gentleman from Ohio, [Mr. Sweeney]?

The amendment was reported, as follows:

Add to the amendment already adopted—

And that said committee shall have leave to report said bills and bills for raising revenue, for reference only, at any time.

Mr. SHERMAN. I understand that the gentleman from Virginia [Mr. Bocock] does not object to the first clause of that amendment.

Mr. BOECK. I do not object to anything in the amendment, except the words "and bills for raising revenue."

Mr. SHERMAN. I am willing that those words should be stricken out, and that the question be taken upon the amendment so modified.

The question was then taken upon the amendment of Mr. SHERMAN, as modified; and it was agreed to.

Mr. OLIN. I propose to offer an amendment

to the 24th rule of the House; and, in order that it may be fully understood, I will read that rule as it now stands, and then read the amendment I propose to offer to it. The rule now reads:

"Members having petitions and memorials to present may hand them to the Clerk, indorsing the same with their names, and the reference or disposition to be made thereon; and such petitions and memorials shall be entered on the Journal, subject to the control and direction of the Speaker; if any petition or memorial is so handed in, without the judgment of the Speaker, it is excluded by the rules; the same shall be returned to the member from whom it was received."

I propose to amend, by adding the following:

Provided, No memorial, petition, or claim, that has once been presented to either House, referred to a committee, and reported upon adversely, shall be again presented in the House, by filing with the Clerk; but may be presented in the House accompanied by a statement indorsed thereon, of the reason why a further investigation is desired.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and the Speaker resuming the chair, the House received a message from the Senate, by Mr. HICKER, its Clerk, that the Senate had passed the following bills, in which they asked the concurrence of the House:

• A resolution (No. 6) authorizing the enlargement of, and construction of, a branch to the Louisville and Portland canal;

• An act (No. 386) to amend the existing laws relative to the compensation of the district attorneys, marshals, and clerks of the circuit and district courts of the United States; and

• An act (No. 347) for the relief of Mary E. Casner.

AMENDMENT OF THE RULES—AGAIN.

The Committee of the Whole again resumed its session.

The question was upon the amendment offered by Mr. OLIN to the 24th rule of the House.

Mr. OLIN. The object of that amendment is this: a great labor is imposed upon the committees of this House, who are obliged to investigate claims that are constantly thrust before them; and in being obliged to reinvestigate over and again the same claim, who there is no possibility of furnishing any additional proof whatever. Nay, so far has this practice gone under that rule that during the same session of Congress, after a claim has been presented and referred to one committee, acted upon by that committee, and reported adversely, the same claimant will come forward through your Departments here, get the papers again, and, under that rule, refer them to a different committee, who will also examine them, and report adversely upon the claim. And if you will examine your printed volumes of the indexing of these claims, you will see that a great variety of these claims have been reported upon over and over again adversely by various committees.

Now the rule, standing as it does now, but with the addition I propose, will leave every claim occasionally presented to the House, and referred to the committees under the rule. But when a claim has been once referred, and has been reported upon adversely, my amendment proposes to require that the claimant shall bring it before the House with the reasons indorsed upon it, why a reconsideration of the claim is required. I think the adoption of this amendment would save our committee a vast amount of labor: I know that some gentlemen have said to me, that when these claims are repeatedly referred, all they do is to ascertain whether they have been once examined and reported upon adversely, and then they lay them aside. But I hardly think that such a course is consistent with the proper discharge of the duties devolved upon the committees. When a claim is referred for examination a second time, that second examination is just as laborious and difficult as the first examination was, although the committee arrive at the same conclusion. I hope, therefore, this amendment will be adopted.

Mr. BURNETT. I do not think there is any necessity for that amendment of the rules, for the reason that memorials and petitions are very frequently referred to committees, who report upon them adversely, and that, too, when they ought not to be so reported. No injury can result either to the business of the House, or to the parties interested in those papers, by not adopting the amendment which the gentleman proposes.

The more investigation, it strikes me, we may have in reference to any matter, the more likely we shall be to arrive at just and correct conclusions. I know it is repeatedly the case, that the action of a former committee has been reversed by the action of the House, and that, too, in a great number of instances, where it was not to do so. It seems to me, that the adoption of the amendment of the gentleman from New York will tend to embarrass the business of the House, instead of doing any good in any way.

Mr. JOHN COCHRANE. With all due respect to my colleague, it seems to me that this amendment would be a very unwise one to adopt. If the gentleman would consent to accept an alteration of the phraseology of the amendment, to the effect that a memorial or petition should not be presented a second time during the same Congress, I could vote for it. But, sir, if we take the position that the decision of a general or special committee of this House, adverse to the memorial, shall be conclusive for all future time, we are assuming the position of a court of law, and the House may at all times interfere the plea of *res adjudicata* to any case which may be presented a second time.

Mr. OLIN. The gentleman evidently does not understand the force of the amendment I have proposed. It does not preclude the petitioner from having his claim reexamined. It only compels him to show upon the face of the papers that his claim has been once examined and reported upon adversely, and to state briefly why he insists upon a reexamination. It does not interfere with the right of the petitioner to only appear in the House if the claim has been once adjudicated, and why the petitioner insists upon a readjudication. It does not deprive the petitioner of any substantial right whatever. While I am upon the floor, permit me to suggest a modification of my amendment, which may be useful to some gentlemen in interpretation. It is to insert, after the words "that the claim has been reported upon adversely," the words "and the report adopted by the House."

Mr. JOHN COCHRANE. As my colleague expresses his amendment, I see, in fact, no great objection to it, except that it is a work of supererogation. It may, perhaps, tend to facilitate the business of the committee, to which petitions are referred. Whether a memorial or petition has been referred to the committee or not, I do not know, whether action has been had upon it, as shown upon the Journals of the House. At no time has there been any difficulty in ascertaining the antecedents of a memorial or petition. I do not know that it is very important, though it may be of some advantage to the committee, to know by indorsement, what has been the previous history of the memorial or petition, and for what reason it is again referred to the committee. If, therefore, that be the extent of the amendment, and no more, I do not see that it is very objectionable, nor do I see any good reason for its adoption.

Mr. GROW. I do not see any advantage to result from this amendment, except that it may relieve the committee from a little labor.

Mr. WHITELEY. I desire to offer an amendment to the twenty-sixth amendment proposed by the committee.

The CHAIRMAN. The Chair thinks it is not in order now to amend any amendment reported by the committee.

Mr. WHITELEY. Then I will offer it as an independent amendment. I had my amendment drawn up as an amendment to the amendment; but I will have it phraseology altered. It will be necessary to state the connection in which it comes in before I offer it. The committee propose to abolish the Committee on Engraving, and to devote its duties upon the Committee on Printing. My amendment proposes that all engraving, lithographing, printing, drawing, and coloring, shall be given over to the Committee on Printing, who are established in two of the newspapers in Washington; and then, that the committee shall contract for such work with the lowest bidder.

Mr. REAGAN. I suggest to the gentleman that the amendment which he proposes is but a rule, and not an amendment.

Mr. WHITELEY. I assume that the House of Representatives can regulate the giving out of

their own work by contract as well as by agreement. Why can they not?

The CHAIRMAN. The Chair would remind the gentleman that no debate is in order until the amendment has been presented.

Mr. WHITELEY. My amendment reads as follows:

All contracts shall be made by the Committee on Printing with the lowest bidder, for the engraving, lithographing, printing, drawing, and coloring, upon proposals issued by the committee, and published in two of the newspapers printed in the city of Washington.

Mr. CHAIRMAN, there have been various rumors in reference to the bestowment of these contracts or agreements by the committees of this House for years.

Mr. GROW. I rise to a point of order. There is a law controlling the joint Committee on Printing. They are bound by that law, and the rules of the House cannot change it. This amendment is not germane to the rules or to any amendment which the committee on rules has reported.

Mr. WHITELEY. I would like to ask the gentleman from Pennsylvania: there is a law of the United States, or provision of law, which prohibits this House from giving its own work by contract, or letting the Committee on Printing and the Committee on Engraving do any private agreements between themselves and other persons?

Mr. GROW. My point of order is, that a rule of the House cannot supersede a law of Congress, and that the committee will be bound to observe the law and not the rule, if you pass it.

The CHAIRMAN. It may be very difficult for the Chair to say whether the amendment is in conflict with the law, unless he had the law before him. Besides that, it may be a question whether it is in conflict with the law or not; and it is for the committee to determine that question, not for the Chair to decide it, and question of order.

Mr. WHITELEY. In reference to the binding, a clause in an appropriation bill says that the Committee on Printing shall do so and so; but I defy the gentleman from Pennsylvania to point to any law which in any manner prohibits the Committee on Representatives from letting the lithography and engraving shall be done by contract, after asking for bids, rather than in the way it is now done—by an agreement between the committee and the parties proposing to do the work.

But, sir, what I was about to say when I was interrupted by the gentleman from Pennsylvania was, that this work is now done under an agreement made between the committee and the persons applying for it, with no knowledge further than what the committee may have in reference to the agreement which they make. Now, without entering into the reflections which have been cast on the Committee on Engraving and Printing, both in this and in past Congresses, I say that this amendment will relieve them from the liability of such charges, and shall have no work done properly. There can certainly be no harm in providing that when the House has any work to be done it shall be done by contract; that it shall be thrown open to public competition, and that every person shall have an opportunity of bidding. It is not in the least to be reflected from these charges and the work will certainly be done more economically.

The work is now done by an arrangement between the committee and any persons who come before them. The plan I propose is certainly more fair, more just, and more economical. I therefore hope that my amendment may be adopted.

Mr. WASHBURN, of Maine. While I have no desire to throw obstruction in the way of the gentleman from Delaware in obtaining such legislation, or such order or resolution of the House as he supposes may be expedient in reference to this matter of binding, engraving, &c., I wish to suggest to him and to the committee, that the rules of the House are hardly the proper place for the amendment of any such purpose; but I think the rule can be amended so as to make the provision which he desires. In case the measure should operate unfavorably, it would be too inconvenient and difficult to change it if we place it in this position. If there is a necessity for some amendment in regard to this matter, there is another way, and the gentleman knows it very well, in which he can accomplish what he desires.

Mr. FLORENCE. I think the practice of the Committee on Engraving and the Committee on Printing now is, to invite bids for contracts. The Committee on Engraving invites proposals for contracts for the lithography and engraving ordered by the House. I do not think that they advertise for proposals, but I think I have seen in the papers an advertisement from the Superintendent of the Public Printing for proposals for the lithography and wood cuts to be executed under the order of the House.

Mr. WHITELEY. If the gentleman will read the twenty-sixth amendment proposed by the committee on the revision of the rules, he will find that the committee are authorized to make an agreement for the lithographing, engraving, coloring, &c., with any persons, and there is no law upon the statute-book compelling them to receive any bids or make any contracts. My amendment proposes that, before they make any agreement, they shall advertise for bids, and give the work to the lowest bidder. Now, I would ask for the law.

Mr. FLORENCE. I am not prepared to refer to the law. I am speaking of the practice and usage, and I will tell the gentleman how it grew up. Gentlemen who were here three or four years ago will recollect that at that time there was some suspicion attached to the acts of the Committee on Engraving of the House, if I recollect distinctly; and it was said that fairness had not been exercised. One of the positions of the committee was, that the House had adopted a resolution, and authorized the Superintendent of the Public Printing to advertise for bids for the lithography and wood cuts to be executed for documents printed by order of the House. That practice has continued from that day to this; and while there may be no objection to the authority being given, as proposed by the gentleman from Delaware, I do not think that it is necessary, for the work is now executed under that system.

But if the gentleman asks me what I think of the present system, I will tell him. I think it a very bad system indeed. Take the binding executed for this House as an illustration. It is given to the lowest bidder. The price fixed for it, or by resolution of the House—for I do not know what authority they have for this—has been the practice and usage—the price fixed for a certain description of binding is twelve and a half cents a volume. Proposals are invited and received for executing the binding, and the work is done for ten cents a volume. Well, it is "cheap and handy," on the Canal street plan [Laughter.] It is not executed as it ought to be. If gentlemen examine the documents which are bound at the low price of ten cents a volume, they will find that they are stuck together with glue, or some such substance, and not stitched together, as they ought to be. The consequence is, that if, by any accident, a mail-bag containing such documents is thrown into the water, the documents drop to pieces; whereas, if they were properly bound, and for a fair compensation, they would not fall to pieces if water got into them. I have seen them tested, and it is the experience of every one who has investigated the matter.

That is the result of the contract system. Go into the market and make a fair contract, taking the fundamental principle upon which we ought to run the superintendence here, that every man who comes on this floor is an honest man, and intends to perform his duty conscientiously and honestly. Let the committee go out and make an arrangement with practical binders—not speculators, not advertising men, but practical men going round here at the organization of the House to get jobs, but practical men, and my word for it, you will get the work well done. [Cries of "Louders!"] Yes, sir, I wish I could halloo loud enough to impress upon gentlemen the fact, that if we are to have loyalty, integrity, and fair dealing in the transaction of the business of the Government, we must have a fair price for the work to be done, as the basis upon which it is to be done.

Mr. REAGAN. I merely want to make a suggestion. I understand that the object of the adoption of the rules of this House is to provide regulations for the government of this body, and that all matters of contract should be regulated by a law of Congress. I agree perfectly with the gentleman from Delaware, as to the object of his

amendment, but without having examined the subject with any degree of care, it is my impression that the mode of letting these contracts should be a matter of reservation by law.

Mr. WHITELEY. The 26th rule provides for an agreement between the Committee on Printing and Engraving.

Mr. GROW. I rise to a question of order. Both of these gentlemen have already addressed the committee upon this amendment. I ask that the question shall be taken.

The amendment was disagreed to.

Mr. WASHBURN, of Maine. I now move that the resolution at the close of the report be voted on.

The resolution was agreed to, as follows:

Resolved, That John M. Barclay, assistant clerk of the House of Representatives, be, and he is hereby, authorized and empowered to rearrange the rules of the House of Representatives of the United States, amended, with a view to make the connection and subject of said rules correspond as nearly as practicable; and that said rearrangement be to be made under the direction of the committee on the revision of the rules, together with the Constitution of the United States, Jefferson's Manual, the rules of the Senate, the joint rules of the two Houses, and a revised edition of the Manual lately prepared by said Barclay, be furnished by him for the use of the House.

Mr. VALLANDIGHAM. I would suggest the committee which has had this matter in charge also perform the work of correcting the numerous typographical errors which are in the rules as they are now printed. I understand the work is stereotyped, and that they will not be corrected unless some such arrangement is made.

Mr. HARDEMAN. I move that the following resolution be adopted:

Resolved, That in addition to the standing committees appointed by this House, there shall be a committee appointed whose address shall consist in codifying, amending, and explaining the present standing rules of this House. [Laughter.]

The CHAIRMAN. That resolution is not in order.

The resolution reported by the committee was agreed to.

Mr. WASHBURN, of Maine. I move that the committee rise and report the amendments to the House.

The motion was agreed to. The committee rose, and the Speaker resumed the chair. The Chairman (Mr. STANTON) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the question of the select committee on the rules, and had instructed him to report the same back to the House with sundry amendments, and with a recommendation that they be passed.

Mr. WASHBURN, of Maine. I call the previous question upon the adoption of the report.

Mr. REAGAN. I rise to a question of order. I have no wish to interfere with this report, but I understand that the question of reference of the Military Academy bill, with the amendments of the Senate, is the first question before the House as the unfinished business of yesterday.

The SPEAKER. The Chair reserves the right that the report of the committee on rules, having been made the special order, will take precedence.

Mr. REAGAN. I have no objection to this report being disposed of now, supposing that the report which I have referred will come up next in order.

Mr. BOGOCK. I would suggest, that without reading all these amendments, gentlemen should designate such as they wish a separate vote upon, and that the vote be taken upon the others in the aggregate.

The SPEAKER. The Chair will pursue that course, if no objection be made.

Mr. VALLANDIGHAM. I ask the gentleman from Maine to withdraw the demand for the previous question for a moment. Gentlemen around me are desirous that a vote shall be taken by yeas and nays upon the motion to abolish this hour rule. I ask the gentleman to allow that motion to be made, and a vote taken upon it.

Mr. WASHBURN, of Maine. Gentlemen around me are desirous that they would like to have a vote upon that proposition, and also upon the amendment which I submitted in committee to fix the hour of daily meeting at two o'clock. I am willing to allow both these amendments to be considered as pending, and withdraw the demand for the previous question for that purpose.

Mr. VALLANDIGHAM. I move, then, to adjourn to the first clause of the 34th rule.

Mr. WASHBURN, of Maine. I submit the amendment which I have indicated, and I now call the previous question.

ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. I rise to a privileged question. I move that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. PEYTON demanded tellers. Tellers were ordered; and Messrs. HARRIS, of Virginia, and CECILY were appointed.

The House was divided; and the tellers reported—yeas 85, nays 42.

Mr. TAPPAN demanded the yeas and nays. The yeas and nays were ordered.

Mr. BRANCH. I move that the motion to adjourn over be withdrawn, and that we will not be subjected to the infliction of hearing the roll called upon it. I am in favor of the adjournment over, but I do not want to see half an hour consumed with a roll-call.

Mr. HUTCHINS. I hope the demand for the yeas and nays will be insisted on.

The question was taken; and it was decided in the affirmative—yeas 92, nays 70; as follows:

YEAS—Messrs. Adams, Aldrich, William C. Anderson, Babbitt, Baskin, Barr, Biscoe, Bingham, Butler, Branch, Burch, Burnett, Campbell, John B. Clark, Chapin, Cobb, John Cochrane, Conkling, Cooper, Borah, Crager, Crary, Custer, Curtis, H. W. Davis, David, G. Davis, De Jarnette, Fenton, Ferry, Folsom, French, Garrett, Gervill, Guiler, Hall, Hamilton, J. Morrison, Harris, John T. Harris, Haskin, R. H. Hendricks, Holmes, Hoopes, Jenkins, Jones, William Kellogg, Kilgore, Kunkel, Landrum, Larrabee, James M. Leach, Logan, Longprecher, Love, Lovejoy, Maynard, McCall, McCallister, McCallister, Montgomery, Latham T. Moore, Hyde, Hamner, Morrill, Mussey, Nelson, Nisbitt, Neill, Phelps, Potter, Pryor, Pugh, Reagan, Rice, Riggs, R. H. Roberts, Russell, Stewart, Sherman, Ricker, William N. Smith, Stevenson, Stout, Taylor, Train, Vallandigham, Vandever, Walden, Caldwell, C. W. Washburn, Webster, Windsor, Woodson, and Wright—92.

NAYS—Messrs. Charles F. Adams, Allen, Avery, Bigelow, Blair, Bland, Brewster, Breyer, Brown, Coffey, Coffey, Cox, James Craig, Dawes, Dwell, Dunn, Edwards, Elton, Elkhart, Foster, Frank, Lusk, Graham, Cron, George H. Hale, Hansman, Helms, Hoar, Houston, Humphrey, Hutchins, Jackson, Francis W. Kellogg, Killinger, DeWitt C. Leach, Lewis, Leavitt, Malloy, Marston, Martin, May, Maynard, McKelzie, McPherson, Milton, Monroah, Ohio, Pendleton, Peyton, Porter, Christopher, R. H. Roberts, Russell, Sherman, Spinner, Stanton, James A. Stewart, William Stewart, Stokes, Tappan, Tompkins, Underwood, Verree, Watson, Isaac Washburn, Wiley, and Wright—42.

So the House agreed that when it adjourned, it would adjourn to meet on Monday next.

Pending the above call, Mr. BUFFINTON stated that his colleague, Mr. ALLEY, was paired with Mr. VANCE.

Mr. LEACH, of Michigan, stated that Mr. AVERY was still detained at his room by illness.

Mr. MALLORY stated that his colleague, Mr. BRISTOW, was paired, but with what member he could not recollect.

Mr. ALDRICH stated that Mr. CARTER was paired with Mr. HARRIS.

Mr. BURNETT stated that Mr. CASE was paired with Mr. MARTIN, of Virginia.

Mr. DELANO stated that he was paired with Mr. FORCE.

Mr. FLORENCE stated that he was paired with Mr. HAYWARD, of Massachusetts, but that he had reserved to himself the right of voting on the adjournment over, and would vote in the affirmative.

Mr. UNDERWOOD stated that his colleague, Mr. JACKSON, was paired with Mr. BENHAM.

Mr. LARABEE stated that he was paired with Mr. BERLINGSAME for a week from Tuesday on political questions merely; that he did not consider this a political question, and would therefore vote in the affirmative.

Mr. PALMER stated that he was paired with Mr. RICE, of Maryland.

Mr. MAYNARD stated that Mr. GARBLE was paired with Mr. PETTIT.

Mr. HUTCHINS stated that Mr. WADS was paired with Mr. LEAKE.

Mr. STOLB said that he was paired with Mr. STRATTON.

Mr. WILSON stated that he was paired with Mr. KEITT.

On motion of Mr. JOHN COCHRANE, the reading of the names of those who had voted was dispensed with.

NEW YORK CITY CONTESTED ELECTION.

Mr. DAWES. Mr. Speaker, as the House has adjourned until Monday next, and as I cannot call up the case of Williams and Sickles to-morrow, I give notice that I will call it on Monday next, at one o'clock.

AMENDMENT OF THE RULES—AGAIN.

Mr. WASHBURN, of Maine. The main question has been ordered upon the report of the Committee of the Whole on the state of the Union, and I now suggest that the amendments reported in the rules, upon which separate votes are not asked, be voted upon en masse. I do not believe it is necessary to read them all over again, for they must be fresh in the memory of every gentleman here.

The SPEAKER. That course will be adopted, if there is no objection.

Mr. GARNETT. I move that the House adjourn.

Mr. WASHBURN, of Maine. I ask the gentleman from Virginia to withdraw his motion to adjourn until we can act upon the amendments which are not objected to, and upon which separate votes are not asked.

ANNULMENT OF MORMON LAWS.

Mr. BRANCH. I ask my friend to withdraw his motion until I can move that an amendment which I propose to offer to the report of the Committee on the Judiciary, in favor of the annulment of certain laws of the Territory of Utah, be ordered to be printed.

Mr. GARNETT. I withdraw the motion to adjourn.

Mr. BRANCH. I move that the amendment I have stated be ordered to be printed.

There was no objection; and it was ordered accordingly.

AMENDMENT OF THE RULES—AGAIN.

Mr. WASHBURN, of Maine. I ask that members now state what amendments they desire the House shall separately vote upon.

Mr. STANTON. I want a separate vote on the twenty-sixth amendment, in relation to the contracting for the engraving.

Mr. WELLS. I ask for a separate vote on the fourth amendment.

Mr. VALLANDIGHAM. I ask for a separate vote on the amendment of the 34th rule.

The question was then taken on the amendments reported from the Committee of the Whole on the state of the Union to which there was no objection, and they were concurred in en masse.

Mr. WASHBURN, of Maine, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WASHBURN, of Maine. Did the vote just taken include the resolution reported from the committee?

The SPEAKER. The Speaker understood that it did.

Mr. BURNETT. No, sir. I want a separate vote on that.

Mr. WASHBURN, of Maine. Let it be read. The resolution was read, as follows:

Resolved, That John M. Barclay, assistant clerk of the House of Representatives, be, and he is hereby, authorized and empowered to rearrange the rules of the House of Representatives of the United States, as amended, with a view to make the contents and subject of said rules as compact as nearly as practicable; and that said rearrangement, to be made under the direction of the committee on the revision of the rules, together with the Constitution of the United States, Jefferson's Manual, the rules of the Senate, the joint rules of the two Houses, and a revised edition of the Manual lately prepared by said Barclay, be furnished by him for the use of the House.

Mr. BURNETT. I do not know but that I will vote for the resolution, if the gentleman from Maine will satisfactorily answer a question I will put to him. Has the committee on the revision of the rules made any estimate of what will be the cost of this work which they recommend?

Mr. WASHBURN, of Maine. I have not, for one. I do not know whether any estimate has been made.

Mr. BURNETT. I ask the gentleman, furthermore, what will be the size of the book containing the Constitution of the United States, Jefferson's Manual and the rules compiled as suggested by the committee?

Mr. WASHBURN, of Maine. About one fourth larger than the present book.

Mr. GROW. That is about what will be its size.

Mr. BURNETT. I do not want to do anything that will interfere with any good reform that may be proposed by this committee. I think that the amendments proposed, so far as I have examined them, are good ones. I do hope, however, that the committee will not urge upon this House the publication of a book when they are unable to inform us what will be its cost.

Mr. WASHBURN, of Maine. The present book containing the Manual and rules is stereotyped, and consequently there will be little advantage. It is necessary that we should have these rules rearranged, and that we should have the admirable digest made by Mr. Barclay.

Mr. GROW. Unless that is done we will be led into inextricable confusion in reference to the rules.

The question was taken, and the resolution adopted.

Mr. GROW moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WEST POINT MILITARY ACADEMY.

Mr. HAMILTON. Mr. Speaker, I believe there is nothing now pending before the House.

Mr. WASHBURN, of Maine. The amendment of the rules is now before the House. I ask for a vote upon that amendment upon which a separate vote was demanded by the gentleman from New York, [Mr. WELLS].

Mr. JOHN COCHRANE. I move that the House do now adjourn.

Mr. HAMILTON. I thought that you, Mr. Speaker, decided that I was entitled to the floor.

The SPEAKER. The Chair is of opinion that if from Maine [Mr. WASHBURN] presents the matter of which he has the charge, it will be first in order. If the House agrees to the motion of the gentleman from New York, [Mr. JOHN COCHRANE], to adjourn, the subject of the amendment of the rules will be first in order when the House meets again.

Mr. HAMILTON. I hope the gentleman from New York [Mr. JOHN COCHRANE] will withdraw his motion to adjourn, as I desire but a few moments of the time of the House.

Mr. JOHN COCHRANE. I will withdraw the motion for that purpose.

The motion to adjourn was accordingly withdrawn.

Mr. HAMILTON. Mr. Speaker—

Mr. MALLORY. Will the gentleman from Texas [Mr. HAMILTON] allow me to make a motion to refer a bill to a committee?

Mr. HAMILTON. I would like to oblige the gentleman from Kentucky, [Mr. MALLORY], but the matter I have in hand is very important.

Mr. MALLORY. You will have the floor when I get through, and it will take but a moment.

Mr. HAMILTON. With that understanding I will yield the floor.

Mr. MALLORY. I move to take up from the table, and refer to the Committee on Roads and Canals, the joint resolution of the Senate, authorizing the enlargement of, and the construction of a branch of the Louisville and Portland canal.

Mr. NIBLACK objected to taking up the joint resolution.

Mr. HAMILTON. I wish to say to the House that when the adjournment occurred on yesterday there were two motions pending: one by myself, to refer the appropriation bill for the Military Academy, at West Point, to the Committee on Military Affairs; and the other motion by the gentleman from Ohio, [Mr. SUMNER], charging the Committee of Ways and Means, to have the bill referred to his committee. The House adjourned pending the consideration of these motions; and I suppose that, in the regular order of business, had it not been for the precedence of the subject of the amendment of the rules, it would have been the first business to-day. I now ask the indulgence of the House to dispose of these motions at this time. The reason why I ask it, is that the State that I and my colleague [Mr. REAGAN] have the honor to represent upon this floor demands that there should be speedy action. It must be known to all gentlemen who have given

any attention to the subject that we have a line of frontier of more than two thousand miles—

Mr. WASHBURN, of Maine. I must object to this, for we are now acting under the previous question.

The SPEAKER. The Chair will state that if the special order, the amendment of the rules, is insisted on by the gentleman from Maine, [Mr. WASHBURN], it must be gone through with before the gentleman from Texas [Mr. HAMILTON] will be in order.

Mr. GARNETT. I move that the House adjourn.

And the House accordingly (at half past four o'clock, p. m.) adjourned until Monday next.

IN SENATE.

Monday, March 19, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit a copy of the convention between the United States and the Republic of Paraguay, concluded on the 4th February, 1860, and proclaimed on the 10th instant, and invite the attention of Congress to the expediency of such legislation as may be deemed necessary to carry into effect the stipulations of the convention relative to the organization of the commission provided for therein. The commissioner on the part of Paraguay is now in this city, and is prepared to enter upon the duties devolved upon the joint commission.

JAMES BUCHANAN.

WASHINGTON, March 16, 1860.

On motion of Mr. HAMILIN, the message was referred to the Committee on Foreign Relations.

The VICE PRESIDENT also laid before the Senate a message from the President of the United States, transmitting a report of the acting Secretary of War, with the accompanying papers, communicating the information called for by the resolution of the Senate, of the 9th instant, respecting the marble columns for the Capitol extension; which was on motion of Mr. SILLIE, referred to the Committee on Pensions, Invalids and Soldiers; and a motion by him to print the message was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT. The Chair has received, and will present to the Senate, certain memorials of manufacturers, coal operators, merchants, business men, farmers, mechanics, laborers, and miners, in Schuylkill county, Pennsylvania, representing that the great industrial and productive interests of the country are suffering from the want of adequate protection. They are opposed to the present low tariff. They ask Congress to abolish or make a radical change in the present warehouse system. They desire the substitution of a tariff for the present duties on goods, and represent that they do not ask protection for coal and iron alone, but desire to extend it to the different interests requiring protection North and South, and East and West. The memorials will be referred to the Committee on Finance.

Mr. THOMSON presented a petition of citizens of New York, praying Congress to pass a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in farms and lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. KING presented papers in relation to the claim of John Reed to a pension, on account of an injury received while in the military service, during the war of 1812; which was referred to the Committee on Pensions.

He also presented a petition of James W. Nye and other citizens of New York, praying Congress to pass a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in farms and lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

He also presented a petition of citizens of New York, praying the enactment of a uniform bankruptcy law; which was referred to the Committee on the Judiciary.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

TUESDAY, MARCH 30, 1860.

NEW SERIES.....NO. 77.

Mr. LANE presented the memorial of the Legislative Assembly of Washington Territory, praying that treaties may be formed with the Chehalis and other tribes of Indians in that Territory; which was referred to the Committee on Indian Affairs.

Mr. BIGLER presented a petition of citizens of Elk county, Pennsylvania, praying the establishment of a mail route from Hellen to Bengtzen, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. LATHAM presented resolutions of the Legislature of California, in favor of the establishment of a new land district in that State; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of California, in favor of an extension of the period of the preemption privilege to actual settlers on the public lands in that State; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of California, in favor of the establishment of a daily mail between Stockton and Mariposa, and all intermediate post offices; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented resolutions of the Legislature of California, requesting arms for the use of that State; which were referred to the Committee on Military Affairs and Militia, and ordered to be printed.

Mr. GRIMES presented the petition of James H. Montrose and other citizens of New York, praying Congress to pass a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in farms and lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. BROWN presented the memorial of citizens of Washington Territory, for the improvement of North Capitol street; which was referred to the Committee on the District of Columbia.

Mr. SLIDELL presented the petition of John M. and George O. Poote, praying the right to locate certain land scrips; which was referred to the Committee on Private Land Claims.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of New York, praying Congress to pass a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in farms and lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. DAVIS presented the petition of C. Champ and others, praying that land may be granted to the heirs of those who, if living, would be entitled to bounty for services in the war of 1812, and the various wars against Indian tribes; which was referred to the Committee on Pensions.

Mr. TRUMBULL presented the petition of Robert A. Matthews, for the confirmation of the entry of a tract of land in the Sioux City district, Iowa, by Charles W. Tash, or for the refunding of the purchase-money to the said Matthews, as his attorney; which was referred to the Committee on Private Land Claims.

Mr. SEBASTIAN presented a memorial of citizens of Fort Smith, Arkansas, in favor of the revocation of the African slave trade; which was referred to the Committee on Commerce.

Mr. HARLAN presented a resolution of the Legislature of Iowa, praying the establishment of a daily mail from Eddyville to Des Moines, in that State; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented a petition of Joseph Applegate and others, praying that pensions may be allowed to the surviving militia of the war of 1812, who served in the United States for four years or more in battle, and to the widows of those deceased; which was referred to the Committee on Pensions.

He also presented a petition of S. W. Hilliard and other citizens of New York, praying the pas-

sage of a law to prevent all further traffic in and monopoly of the publiclands of the United States, and that they be laid out in farms and lots for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. GWIN presented the petition of Susan Rhind, and other daughters of Charles Rhind, deceased, praying the compensation due their father for negotiating a treaty, with the Ottomian Porte; which was referred to the Committee on Foreign Relations.

Mr. CHANDLER presented a petition of citizens of Pontiac, Michigan, praying the enactment of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BIGLER, it was

Ordered, That the report of the Secretary of State, communicating, in compliance with a resolution of the Senate, the papers relating to the claims of James Keruan, United States consul at Hong Kong, in China, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. KING, it was

Ordered, That the petition of the heirs of Lieutenant Nathan Weeks, for seven years' half pay, and the back pay due him, in compliance with a resolution of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. WADE, it was

Ordered, That the petition of Lieutenant William F. Lovell, of the United States Navy, praying that the same additional compensation may be paid to the officer and seaman who accompanied the expedition in search of Dr. Kane, as was allowed to those who accompanied the expedition of Lieutenant Dr. Haven, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. TRUMBULL, it was

Ordered, That the petition and accompanying papers of John C. Rose, of Virginia (deceased), and the heirs and legal representatives of Captain Alexander Rose, of the revolutionary war, praying the allowance of one hundred dollars, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. MALLORY, it was

Ordered, That the memorial of the watchmen in the Washington yard, praying to be allowed the benefit of the seventh section of the act of 3d March, 1851, "making appropriations for civil and diplomatic expenses," &c., and the memorial of the watchmen in the Capitol, praying to amend the third section of an act making appropriations for civil and diplomatic expenses," &c., on the files of the Senate, be referred to the Committee on Naval Affairs.

BILLS INTRODUCED.

Mr. JOHNSON, of Arkansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 291) for the relief of Mary Preston, widow of George Preston; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 292) for the protection of disbursing officers acting in obedience to law, and to insure the execution of measures for which appropriations are made; which was read twice by its title, and referred to the Committee on Finance.

Mr. LANE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 293) to provide two additional superintendencies of Indian affairs for the State of Oregon and Territory of Washington; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 294) to extend the right of preemption over unreserved lands in the State of Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. BIGLER. The Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 10) in addition to "An act to promote the progress of the useful arts," have instructed me to report it back with an amendment in the shape of a substitute. I desire to say that this is a very important bill, in relation to the interests of the Patent Office and the inventor of the country, and so soon as it can be printed, I shall endeavor to secure its consideration by the Senate.

The memorial of John L. Hayes, in relation to

discrimination in charges and fees against citizens of foreign countries who apply for patents, was referred to the Committee on Patents, and the Patent Office. That committee have instructed me to report it back, and ask to be discharged from the further consideration of the subject, for the reason that the object is accomplished in the general bill which I have just reported.

The committee were discharged.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom was referred the memorial of William Vance & Brothers, for reimbursement of expenses incurred in furnishing outfits to certain volunteers for the Mexican war, who were marched to the place of rendezvous, but were not finally mustered into the service of the United States, submitted a report, accompanied by a bill (S. No. 290) for the relief of Vance & Brothers. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the petition of Israel Johnson, praying compensation for services rendered and supplies furnished to the Miami and Potawatomi Indians by the Government of the United States Indian agents, submitted a report, accompanied by a bill (S. No. 293) to compensate Israel Johnson for services performed by direction of the Indian agents, at the treaty ground at the forks of the Walush, in 1833. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. HAMMOND, from the Committee on Naval Affairs, to whom was referred the petition of William B. Shubrick, praying to be released on the books of the Treasury Department from liability for a certain sum of money expended for public service by him, as commander-in-chief of the naval force of the Pacific, submitted a report, accompanied by a bill (S. No. 295) for the relief of William B. Shubrick. The bill was read, and passed to a second reading; and the report was ordered to be printed.

MARKS ON NEWSPAPER WRAPPERS.

Mr. YULEE. The Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 341) authorizing publishers to print on their papers the date when subscriptions expire, have directed me to report it back with amendments. There is no pressing necessity, in the opinion of the committee, for action on the bill; but I believe the parties who have interested themselves in it are very anxious to have it disposed of. If any Senator desires present action on it, I will move that it be acted on now. If not, I ask that the amendments be printed, and that the bill be taken up.

Mr. TRUMBULL. I hope the bill will be permitted to pass at once. I believe there is no objection to it.

Mr. YULEE. I have no objection to taking it up now.

The bill was considered as a Committee of the Whole. It proposes to modify the second clause of the third section of the act of 30th of August, 1852, "establishing the rates of postage on printed matter," so as to make it read:

"They shall be no word or communication printed on the name after the title, the ledger account sheet, or wrapper thereof, nor any writing nor mark upon it, nor upon the cover or wrapper thereof, except the name, the ledger account sheet, the date when the subscription expires, the wrapper number, and the address of the person to whom it is to be sent."

The amendments of the committee were to strike out the words "the ledger account sheet," and also the words "the wrapper number;" so as to make it read:

"There shall be no word or communication printed on the name after its publication, or upon the cover or wrapper thereof, nor any writing nor mark upon it, nor upon the cover or wrapper thereof, except the name, the date when the subscription expires, and the address of the person to whom it is to be sent."

And to add as an additional section:

Sec. 2. And be it further enacted, That all laws declaring that postage at the rate of one cent each shall be charged

on all drop letters or letters placed in any post office not for transportation, but for delivery only, be, and the same are hereby repealed so far as they apply to drop letters delivered within the limits of any city or town by carriers under the authority of the Post Office Department, on which letters the rate of postage imposed by the act of the carrier system in such city or town shall be collected, and no more.

The VICE PRESIDENT. The question is on the first amendment of the committee.

Mr. BENJAMIN. If I understand this amendment, it is this: the bill proposes to allow publishers to put upon the envelop or wrapper, in addition to the address of the person to whom the newspaper is sent, a statement of the date when the subscription expires; and the amendment prohibits putting upon the envelop also a statement of the amount due by him.

Mr. YULEE. No, sir.

Mr. BENJAMIN. I so understood it.

Mr. YULEE. Not at all.

Mr. BENJAMIN. I should like to understand the effect of it.

Mr. YULEE. I will state precisely what it is. By the existing laws, publishers are permitted to send, without charge of postage, under the wrappers containing the names of the subscribers, their subscribers, their bills and receipts. It is proposed now to allow them, instead of that privilege, to indorse, together with the address of the subscriber, the date to which he has paid his subscription. To this there is no objection. For this purpose the bill appears to have been intended, as seems by its title, "An act authorizing publishers to print on their papers the date when subscriptions expire." The amendments made by the committee are intended to extend to the publishers of newspapers the privilege desired, and to carry out fully the purpose of the bill as declared in its title, but to relieve the publishers from the condition which the phraseology of the bill would otherwise impose upon them, of using a particular patent which has been recently taken out, and no other. The bill, as amended by the House, would be to put the publishers under the necessity, as the only condition upon which they can avail themselves of the more liberal provision of this enactment, of using a particular machine which has been invented, and which may be substituted for any other of the same kind, and which some publishers may prefer to dispense with, and save the expense of paying to the inventor the charge which he requires, when they can accomplish the same purpose by other means, and by a little labor. It is the amount of it. The purpose is to put the publishers at all pray, without subjecting them to the obligation of using a particular invention, which they would have to do if we adhered to the words of the bill as it came from the House.

The amendment was agreed to.

The VICE PRESIDENT. The question now is on the second amendment of the committee.

Mr. TRUMBULL. What is that?

Mr. YULEE. I will state what the purpose of the amendment is. Under the existing law, there is a charge of one cent made for all drop letters.

Mr. TRUMBULL. Have we passed upon the amendments to the first section?

Mr. YULEE. Yes, sir.

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The question now is on the second amendment, reported by the committee, which is, in line eleven to strike out the words "the wrapper number."

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the committee to insert as a new section:

Sec. 3. And be it further enacted, That all laws declaring that postage at the rate of one cent each shall be charged on all drop letters or letters placed in any post office not for transportation, but for delivery only, be, and the same are hereby repealed, so far as they apply to drop letters delivered within the limits of any city or town by carriers, under the authority of the Post Office Department, on which letters the rate of postage imposed by the act of the carrier system in such city or town shall be collected, and no more.

Mr. TRUMBULL. I do not know that there is any objection in the world to the amendment which the Senator from Florida has introduced; but it is legislation upon another subject. This bill now only provides for one simple thing, which is it is very desirable should pass. The other matter just introduced is not connected with it

at all. The only object, as I understand, of this bill, is to obviate an inconvenience which publishers of newspapers are laboring under, and which is also an inconvenience to the subscribers, and merely to allow the publishers to put upon their papers, with the address, the date when the subscription expires. That is substantially all there is in the bill; and it is a provision to which I presume no one has any objection. The verbal amendment suggested by the Senator from Florida, which he indicated seemed to be very proper; but now, to introduce a separate clause in regard to another subject, it seems to me, will embarrass the passage of the bill. I hope it will not be insisted upon by the Committee on the Post Office and Post Roads. I am not prepared to discuss it at all. I do not know that I have any objection to it by itself; but if we go into other legislation, I think the result of it will be that it will retard this simple matter, which I think every member of the Senate understands and appreciates, and would be willing to let pass by itself. I hope that the other amendment will not be pressed.

Mr. YULEE. I presume there can be no objection to adopting this amendment upon the bill which is now before the Senate. It is an amendment to which there can be no objection from any quarter. It is for the relief of the public from a very great annoyance and a great injustice. It is to enable the Department to make the carrier service effective and useful in the large cities. No one can object to it. My reason for proposing this amendment to this bill is simply this: no objection is made in the other House to amendments having reference to general legislation upon appropriation bills. The bills which go from the Senate are apt to be upon their Calendar, in consequence of the obstruction thrown in the House by the minority. I would not be disposed to put upon this bill anything that would lead to discussion or debate, or could be objectionable at all; but here is an amendment which is entirely unobjectionable, and which will be useful; and as the bill has been amended, and must necessarily go back to the House, and no one can object to this any more than to the other amendments already made, I see no reason why we should not take advantage of this opportunity to correct an evil and to relieve the people from a burden. At the same time, we were relieving the publishers from what they alleged to be a burden, and extending to them a privilege, I thought that we should also give to the inhabitants of large cities the very important benefit of the carrier system for their express matter in the cities, which they may have the responsibility and regularity and care of the Post Office Department, instead of being obliged to depend, in consequence of the difference of charge, upon city express for the conveyance of all their city matter. I can see no objection to its being adopted as an amendment to this bill.

Mr. KING. I should judge that the construction of the amendment would require that all letters dropped in the post office should be sent through the carriers. It may be that the party who leaves a letter in the post office may desire that it should be delivered from the office through his box. I would inquire of the Senator from Florida, how he understands that; if his attention has been directed to that point? A great many persons in the cities have their boxes, and they therefore do not prefer to have their letters sent by the carriers.

Mr. YULEE. Of course they will not go into the hands of the carriers. You relieve them from the cost. They will be distributed, under the existing system of the Department, precisely as they are now. The only difference is, that, instead of charges for the cost, we shall charge no cent, in the case of the delivery of a drop letter by a carrier.

Mr. KING. My impression is—and that is the point to which I desire to call the attention of the Senator—that the construction of the amendment requires that it should go through the carrier, and be charged carrier's price.

Mr. YULEE. That depends upon the option of the party receiving. He may pay one cent without delivery by the carrier, or course.

Mr. KING. Let the Secretary read the amendment.

Mr. YULEE. All letters for persons having boxes are put in their boxes, whether drop letters or otherwise.

Mr. KING. Let us see what the amendment says.

The Secretary read it.

Mr. KING. Now, I understand that section to provide that the charge for a letter delivered by the carrier, is to be made upon every drop letter.

Mr. YULEE. No, sir; not at all.

Mr. KING. I so understand the language; it is that that shall be charged, "and no more."

Mr. YULEE. I think it means to read: "and for all letters intended for delivery, and which are delivered by carriers, the only charge that be one cent, which is the rate charged by city express."

Now we are obliged to charge two cents: one cent for the carrier and one cent for the drop. The section was prepared as it is, and is very much desired and very necessary.

Mr. MASON. I should like to learn of the honorable chairman of the committee whether the effect of this bill will be to diminish the revenue of the Department.

Mr. YULEE. No, sir. On the contrary, it will probably increase them. It is expected at the Department to increase the revenue by enabling the Post Office to do what is now done by city express altogether in large cities, and to accomplish the same thing at a less cost.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

The title of the bill is, "An act authorizing publishers to print on their papers the date when subscriptions expire, and in relation to the postage on drop letters."

BOUNDARY OF OREGON.

Mr. LANE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of making provision for running and marking the forty-six parallel of latitude, so far as said parallel is the boundary line between the State of Oregon and the Territory of Washington.

CAPTAIN WALLER'S REPORT.

Mr. LANE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the report of Captain L. D. Waller of the expedition made in 1855, from Dallas City to Great Salt Lake, and back.

PREEMPTION TO LAND.

Mr. JOHNSON, of Arkansas. I am directed by the Committee on Public Lands, to whom was referred the bill (S. No. 142) to secure the right of preemption to certain settlers on land temporarily occupied as an Indian reserve in Oregon, and for other purposes, to report it back, with an amendment in the nature of a substitute, and to ask that it be put on its passage. It is a bill that ought to pass at once. It will lead to no debate at all.

Mr. MASON. I have an earnest desire to preserve the resolution as it was reported, but I will ask if that bill will take any time, it had better go over.

Mr. JOHNSON, of Arkansas. It will take any time, or is disputed at all, I will consent that it shall go over.

Mr. TRUMBULL. I would ask if that is not a private bill?

Mr. JOHNSON, of Arkansas. No, sir; it is not. The Senator will see that it is not when it is read.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 142) to secure the right of preemption to certain settlers on lands temporarily occupied as an Indian reserve in Oregon, and for other purposes. The Committee on Public Lands report and recommend that the amendment be adopted, and all after the word "whereas" in the preamble, and insert in lieu thereof:

By a treaty entered into on the 16th September, 1852, between the Government of the United States and the Rogue River tribe of Indians, in Oregon, to make a reservation of Indians should be allowed to occupy, temporarily, a certain tract or district of territory described in the second article of said treaty, and which year to be struck out and inserted in the preamble, and all after the word "whereas" in the preamble, and insert in lieu thereof:

ing said tract temporarily set apart for their use were returned to the Grant, Bland and Sibley reserves, which have been selected for their permanent residence; and whereas certain individuals, citizens of the United States, have settled upon and improved a portion of the tract described in the second article of said treaty of 18th September, 1853, and still reside thereon, or who were compelled to abandon the same on the issue of the Indian, as a part of the reserve: Therefore

Resolved, That the Committee on House of Representatives of the United States do hereby recommend that every such settler upon said tract who now resides, or has settled and resided upon and cultivated the same, or made substantial improvements in good faith, with a view to permanent residence and cultivation of the same, and who has not received the benefits of the act of September 27, 1850, entitled "An act to create the office of surveyor general of public lands in Oregon, and to provide for the survey and sale of the public lands in Oregon," be and he is hereby authorized, upon application at the land office of the district in which said land is situated, to him may be situated, allowed to purchase the same, not exceeding three hundred and twenty acres, at the rate of \$1 35 per acre, the preemption right hereby conferred on such settler to be adjudicated and enforced in all cases in accordance with the provisions of the act of September 27, 1850, and acts amendatory thereto.

And he is further authorized that the records of said tract heretofore referred to, not claimed by actual settlers, and sold as herein provided, within twelve months after the passage of this act, and the title to the same, hereby, declared subject in all respects whatever to the existing laws relating to the survey and disposal of the public lands in Oregon.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and the bill was ordered to be engrossed and read a third time. It was read the third time, and passed.

POST ROUTE IN MISSISSIPPI.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be and they are hereby authorized to cause the establishment of a post route from Greenwood to Sharkey, in the State of Mississippi.

MOUNTAIN MEADOW MASSACRE.

Mr. JOHNSON, of Arkansas. I desire to offer a resolution which I shall ask the Senate to consider and adopt at this time. It will lead to no debate whatever. It calls for information in regard to the Mountain Meadow massacre, and the information has never been collected and thrown into such a shape that a fair and just judgment could be made upon it:

Resolved, That the President of the United States be, and he is hereby, requested to furnish to the Senate the correspondence and facts, with such information as may be in the possession of any branch or Department of the Government, tending to establish the guilt or innocence and attitude of the Mountain Meadow massacre, in August, 1857, or any subsequent massacre in Utah Territory; and also to inform the Senate what steps, if any, have been taken to discover the authors, or to direct inquiry towards the parties guilty of a crime so perfidious and unparagoned of age, sex, and condition; and to furnish to the Senate all the facts in connection with the recovery of the survivors of the Mountain Meadow massacre; giving the names of the survivors, the parties connected to their death in the United States, and their present condition, so far as is known.

I ask the Senate now to adopt the resolution. All those facts ought to be before the Senate.

The resolution was considered, by unanimous consent, and agreed to.

JAPANESE MISDEED.

Mr. MASON submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of State be directed to communicate to the Senate copies of any correspondence between the Japanese and American Governments, and the resident of the United States in Japan, concerning the proposed diplomatic mission from Japan to the United States; and that the Government be and it is hereby authorized to acquire upon the propriety of providing by law for the receipt of said mission in the mode usual in the country from which it comes.

COMMITTEE SERVICE.

Mr. MASON. I rise to ask that I may be excused from further service in the Committee on the District of Columbia. I do so with regret; but I find it impossible, from the other duties of committee service devolving on me, to remain on it without doing great injustice to that committee and to myself. I have told the chairman reluctantly that I should be obliged to ask to be excused.

The motion was agreed to.

ALTERATION OF THE SENATE CHAMBER.

Mr. HALE. I have a resolution of inquiry,

which I offer and ask for its immediate consideration:

Resolved, That the architect of the Capitol extension be instructed to report to the Senate on the practicability and expense of so altering and reconstructing the present room occupied by the Senate, that it may be extended to the windows on the north end, or east or west side of the north wing of the Capitol.

Mr. MASON. As I understand the resolution, it does not leave it to the committee to inquire into the expediency of the proposed alteration.

Mr. HALE. It is an instruction to the architect simply to report on the practicability and expense.

Mr. DAVIS. Let the resolution be read again.

The Secretary read the resolution.

Mr. DAVIS. I hope the resolution will not be adopted. I do not wish to inject its consideration; but I hope it will not be adopted at all for two reasons. First, there is a superintendent in charge of the work, who, if he knows any thing, must be a better constructor than the architect.

Mr. HALE. Well, I am willing that he should take it.

Mr. DAVIS. The next objection is, we have a Committee on Public Buildings and Grounds, and it is not an inquiry ought to be referred if it is one that ought to be made.

Mr. HALE. Does the Senator object to the consideration of the resolution?

Mr. DAVIS. No.

Mr. HALE. I simply want to get the plan to see if it is practicable, and also the estimate of the expense. When we have that statement, I shall move to refer it to the Committee on Public Buildings; but I want the plan first.

Mr. DAVIS. I move, as a matter of respect to the officer in charge of the work, that the inquiry be made by the superintendent in charge of the extension, and not by the architect.

The amendment was agreed to; and the resolution, as amended, was adopted.

ST. CLAIR FLATS.

Mr. CHANDLER. I move that Senate bill No. 37 be taken up for the purpose of fixing a day for its consideration.

Mr. CLAY. What bill is it?

Mr. CHANDLER. The bill for deepening the channel over the St. Clair Flats. I move that it be made the special order for Thursday, at one o'clock, if there be no special order for that day.

The PRESIDING OFFICER. The first question is to take up the bill.

Mr. CHANDLER called for the yeas and nays;

and they were ordered; and being taken, resulted—yeas 22, nays 29; as follows:

YEAS—Messrs. Anthony, Bingham, Chandler, Clark, Colburn, Critchfield, Hildes, Doolittle, Douglas, Durkee, Fessenden, Foster, Giddings, Hale, Hamlin, Harlan, King, Sawyer, Trumbull, Wade, Wilkinson, and Wilson—22.

NAYS—Messrs. Bayard, Benjamin, Bright, Briggs, Butler, Cass, Clay, Clingman, Davis, Fitch, Fitzpatrick, Gwin, Hammond, Humphreys, Hunter, Iveson, John, Johnston, Johnson, Johnson of Tennessee, Mallory, Mason, Nichols, Pender, Rice, Schuyler, Sebastian, Russell, Tomlinson, and Vance—29.

ORDER OF BUSINESS.

Mr. JOHNSON, of Tennessee. I move that the Senate now proceed to the consideration of the homestead bill, which, I believe, is regularly on the calendar of the unfinished business. The morning hour has expired.

Mr. MALLORY. The special order at two o'clock is the bill for the payment of the Florida interest claims. If there is no business before the Senate but the unfinished business, I move to postpone the prior orders for the purpose of proceeding to the consideration of that bill.

The PRESIDING OFFICER. The motion of the Senator from Tennessee has precedence. It is moved and seconded that the Senate proceed to the consideration of the homestead bill.

It is not the bill which was under consideration when we adjourned on Thursday, and which was interrupted by the consideration of private bills on Friday, the unfinished business for to-day—I allude to the bill to sell arms to the Seneca. It was under discussion when we adjourned to the consideration of private bills on Friday.

The PRESIDING OFFICER. The Chair will state to the Senator from Mississippi that the bill to which he alludes was postponed by order of the Senate, and consequently it is not the unfinished business.

Mr. DAVIS. I thought it was only laid aside because of the special order to take up the private bills, and would now recur as the unfinished business.

The PRESIDING OFFICER. The Chair understands that that is not the rule. The rule gives precedence only to the unfinished business of the last preceding adjournment of the Senate.

Mr. DAVIS. Very much obliged.

Mr. MALLORY. Is my motion in order?

The PRESIDING OFFICER. The first question is on the motion made by the Senator from Tennessee, which has precedence of the motion of the Senator from Florida.

Mr. TOOMBS. Does the Chair decide that the homestead bill is first in order? There is a special order for to-day.

The PRESIDING OFFICER. The question now pending is the motion of the Senator from Tennessee, to proceed to the consideration of the homestead bill. It is in order for a Senator to give reasons why it should or should not be taken up, but not to discuss the merits of the bill.

Mr. TOOMBS. There is a special order for to-day, that was made some time ago.

The PRESIDING OFFICER. One o'clock is the time fixed for the special order referred to—the bill in relation to the Florida claims.

Mr. MALLORY. What is the pending motion?

The PRESIDING OFFICER. To proceed to the consideration of the homestead bill.

Mr. MALLORY. I trust the special order will be called up at two o'clock.

The PRESIDING OFFICER. That will be the order, unless the Senate see proper to postpone it.

The motion of Mr. JOHNSON, of Tennessee, was agreed to.

So the Senate proceeded to consider the bill (S. No. 1) to grant to every person who is the head of a family and a citizen of the United States, a homestead of not exceeding eighty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period therein specified.

The PRESIDING OFFICER. The bill will be read at length.

Mr. NICHOLSON. I suppose it is not necessary to read the bill. Every one knows what it is.

The PRESIDING OFFICER. The reading will be dispensed with, if there be no objection.

Mr. CLINGMAN. Before the Senator from Tennessee proceeds, I desire to submit an amendment to the first section. It is to strike out all after the word "entitled," in the fifth line, and substitute for the words stricken out:

To have issued to him or her, by the Commissioner of Public Lands, a warrant for one hundred and sixty acres of land, to be located in the same manner as that under which the homestead warrants heretofore issued have been located, on any of the public lands of the United States subject to entry under the act, to present any valid claim or support of his claim in such manner and under such regulations as may be prescribed by the Secretary of the Interior.

Mr. NICHOLSON. Mr. President, my only objection, as a matter of courtesy, to the floor on this bill, and has yielded to me with the understanding that I shall explain the object and character of this bill and assign the reasons which, in my judgment, commend it to our support. His intimate connection with this subject since the year 1846, when the measure was originated by him in the other House, qualifies him much better than myself to perform this task; but as he prefers to hear the objections which may be made before addressing the Senate himself, I will proceed, as briefly as I can, to present my own view of the subject. On examining the bill which came from the House of Representatives, I find in it provisions which are so objectionable to my mind that I cannot support it. The bill matured by the Senate committee, and now before the Senate, is relieved of these objectionable provisions, and to that I shall confine my remarks.

It provides that any person who is the head of a family and a citizen of the United States, or who shall have filed his intention to become a citizen in pursuance of our naturalization laws, shall have the right to enter one quarter section of the unappropriated public domain; but in exercising this right, such person is to be restricted to those lands that have been surveyed, proclaimed, and offered for sale, and are consequently subject to private entry under existing laws. This privilege of entry is

further restricted to the odd sections, and no patent is to be issued until it shall be satisfactorily shown that the land has been surveyed and cultivated for five continuous years from the date of the entry, and that the patentee is then a citizen of the United States. It is further provided that this act shall in no wise impair or interfere with existing laws on the subject of preemptions, donations, or gradations.

These, Mr. President, are the general provisions of the bill. They indicate, with sufficient distinctness, the nature and object of the measure, without further reference to its details. The policy proposed to be adopted is based upon the assumption that the great leading purpose of the Government, in regard to our public domain, are its occupancy and cultivation, with a view to the ultimate formation of sovereign States. In carrying out this policy, it is not proposed to disturb the existing enactments, which provide the rules and regulations that constitute our present land law system. This system has grown up and matured in the light of many years of observation and experience. It has proved eminently beneficial and successful in its practical operations. Its machinery is now working smoothly, and it proposes no modification or addition that, in the least degree, impede its continued successful operation.

Nor is it proposed by this measure, Mr. President, to repeal or interfere with any of that series of laws which constitute the established policy of the Government in respect to the disposition and appropriation of the public lands. The several statutes which provide and secure rights, privileges, and benefits by means of donations, gradations, and preemptions are, in express terms, intended to be permanent. Those who have already acquired interests and rights under these laws, will continue to enjoy them as fully as they do at present. Those who may hereafter desire to avail themselves of the benefits and privileges of these laws, will do so as completely as they could do now. The provisions of the bill now before the Senate in strict conformity with the policy of the graduation, donation, and preemption laws, and therefore does not in any way interfere with or disturb them.

The bill proposes no change in the established policy of extending the right of entry to the public lands at a rate proportionate to the progressive disposition thereof. On this subject the Secretary of the Interior, in his last report, makes the following remarks:

"As Congress has, for a series of years, sanctioned, by its legislation, the extension of the right of entry to the lands, at a rate proportionate to the progressive disposition thereof, this basis has been assumed in preparing and submitting the estimates for the surveys to be made during the next fiscal year.

"During the five quarters ending September 30, 1859, 16,618,165 acres of the public lands were disposed of; 4,929,500 acres were sold for cash, yielding \$4,107,476; 2,617,440 acres were located with homestead warrants; 1,120,000 acres were approved to be surveyed and settled to land, under the swamp grants of March 2, 1849, and September 28, 1850; and 6,358,225 acres were certified, as being in them under the grants for the purpose of settlement.

"During the same period of time, 13,671,231 acres were surveyed and prepared for sale, and 16,735,552 acres proffered and offered at public sale.

"The aggregate quantity of public land that has been surveyed, but not yet proffered for sale at public sale, on the 30th of September, 1859, was 56,970,941 acres; and the estimated quantity which had been offered at public sale, but remained subject to private entry at the various land offices, was 50,000,000 acres."

It appears, from this statement, Mr. President, that the entire area of the public lands subject to private entry, and within which the present measure will operate, contains eighty million acres. For this quantity, I learn by a letter from the Commissioner of the Land Office, that forty-four million have been in market for ten to thirty years, and are therefore subject to entry under the graduation law.

The statement of the Secretary of the Interior further shows that the quantity made proffered for all purposes, during the last five quarters, is sixteen million acres, or at the rate of twelve million for the last year. Assuming that no change should be made in the laws, and that the operations of our land system during the past year furnish a fair index to the future operations, the annual amounts of land surveyed and disposed of would be twelve million acres. If the present measure should become a law, these amounts, to be annually surveyed and disposed of, will be increased in proportion to the extent to

which they may increase settlements. We have no data on which to estimate, with certainty, the amount of the increased settlements. Any estimate, therefore, must be conjectural. If we assume that as many settlers will avail themselves of this law as availed themselves during the past year of the preemption law, the annual increase of settlements will amount to about twenty thousand families, requiring that number of quarter sections, or about three million acres, for their homesteads. Upon this estimate, which is entirely conjectural, though high enough in my judgment, it would be necessary to add about three million acres more to about twenty thousand acres disposed of, making in all the annual amount of about fifteen and a half million acres. Upon the same estimate this amount would be disposed of as follows:

For cash.....	3,279,575	\$1,200,000
For military bounties.....	2,713,080	"
For swamp lands.....	1,984,000	"
For railroads.....	4,728,000	"
For homesteads.....	2,304,000	"
Total.....	15,662,505	\$1,500,000

I repeat, Mr. President, that this estimate is made upon the assumption that the operations of our system of land laws for the past year furnish a fair guide in judging of their operations hereafter, and upon the further conjecture that, if the present bill passes, its provisions will increase twenty thousand heads of families, annually, to seek its benefits. I will have occasion hereafter to state more fully the reasons on which I adopt this estimate as to the increase of settlements under the influence of the pending measure. For the present, I do not propose to present it by way of illustrating the practical working of the policy on which the present measure is based. It is apparent that, upon the usual estimate of five individuals to a family, the Government will by this bill furnish homes annually to one hundred thousand persons, and that, without any change in our land policy, we have public land sufficient to furnish homes to a like number annually for a hundred years to come. And this, too, contemplates the continuance of the grants under our donation, preemption, swamp, railroad, and military bounty laws at the same rate at which they were made during the past year.

But, Mr. President, we are met here with the intertongue: have we the constitutional authority to enact the provisions of this bill into a law? We have the right, in other words, to take from market and sell annually three million acres of the public domain, to be appropriated to homesteads for twenty thousand families, upon the sole consideration of actual occupancy and cultivation of their respective quarter sections during a period of five years? This question is entirely pertinent, and if it cannot be answered satisfactorily in the affirmative the bill ought to be rejected. I shall proceed, therefore, to state the grounds on which my own mind repose, upon the conviction that the bill is not only in perfect harmony with our present land policy, but entirely consistent with the Constitution.

In discussing the powers of Congress over the public lands, it is customary, Mr. President, to look alone to the clause in the Constitution which confers on Congress power to dispose of and to make all needful rules and regulations in respect to the territory. So far as those lands are concerned, which had been ceded to the United States at the time the Constitution was formed, or which were then expected to be so ceded, no doubt can be entertained that this clause was intended to confer on Congress its powers for their disposition and government. But in construing this clause, with a view of ascertaining the character and extent of the powers conferred, it is necessary to consider the language of the Constitution in connection with the provisions relating to the deeds of cession. It is matter of history that these cessions grew out of a serious controversy among those States which had no waste lands within their limits and those which had, as to the disposition which ought to be made of them at the close of the revolutionary war. The question was, whether they should be the exclusive property of the States within whose limits they were situated, or whether they should be regarded as common property of all the States, upon the ground that they had been acquired in a common

cause, and by the joint toils and sacrifices and expenditures of all the States. The fact that all of the States were heavily burdened with the revolutionary debt, gave to the controversy its chief interest. To quiet the dispute, the Congress of the Confederation, in 1780, recommended to the States within whose geographical boundaries the waste lands were situated, to cede them, and relinquish their claims to the United States, to be "disposed of for the common benefit of the United States, and be settled and formed into distinct republican States," &c. Virginia took the lead in responding to this recommendation. As the terms employed in her deed of cession were substantially followed by the other States in making their cessions, it will answer my purpose to quote only from the Virginia deed of cession, made in 1784. The language of that deed was, that the lands ceded—

"shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the Confederation or Federal Union of said States, Virginia having no objection fully and honestly to dispose of that purpose, and for no other use or purpose whatever."

The necessary legal effect of this deed, as well as those of the States that succeeded by the other States, was to vest the title of the lands in the United States, as a trustee for the use and benefit of all the States. The objects of the trust are distinctly enumerated: the lands were to constitute a common fund; and were to be faithfully disposed of, without any view to the use of the same as a fund, and for no other use or purpose whatever; and in due time, after settlements should be made thereon, they were to be formed into States, and be admitted as such into the Confederation. The paramount consideration that gave interest to the original controversy was the substantial value of the lands, in connection with the heavy pecuniary embarrassments under which the States were all laboring. Hence the leading idea in the deed of cession looks to the money value of the lands. They were to be a common fund; they were to be faithfully disposed of for the purpose of a common fund—and for no other use or purpose whatever but a common fund.

It was to authorize the new Government to execute the trusts raised in the cession deeds, that the clause in the Constitution was inserted, and make all needful rules and regulations respecting the territory; and for ascertaining the nature and extent of the power, the language of the deeds of cession furnishes the true exposition. This clause, construed in connection with the cession deeds, would give to Congress the power to dispose of and make all needful rules and regulations respecting the territory," for the purpose of raising a common fund for the use and benefit of all the States. It is thus conclusively shown, that the first great object of the deeds of cession, and of the clause in the Constitution made to enable Congress to execute the trusts, was the raising of revenue by selling the lands, and that the encouragement of settlements with a view to the early formation of States was then a secondary object.

In view of the objects of the cessions and the power of Congress under the territorial clause of the Constitution, I am fully sustained by the Supreme Court, in the late *Dred Scott* case. The following extracts from the opinion of the Court bear directly on the subject.

Speaking of the cession by Virginia, the Chief Justice says:

"The only object of the State in making this cession was to put an end to the threatening and exciting controversy, and to the war which had been waged on the lands, and to appropriate the proceeds as a common fund for the common benefit of the States."

Again:

"The example of Virginia was soon afterwards followed by other States." "The main object for which these cessions were desired and made, was the raising of revenue to be applied to the discharge of the public debt, and to the support of the Government, and to the dangerous controversy, as to who was to decide to the proceeds when the lands should be sold."

Speaking of the territorial clause in the Constitution, the Chief Justice says:

"It begins its enumeration of powers by that of disposing—in other words, making sale of the lands, or raising money from them, which, as we have already said, was the main object of the cession, and was accordingly the first thing provided for in the article."

It would be difficult, Mr. President, if not impossible, to reconcile much of our legislation in regard to the public lands to this construction of

the Constitution, if it be conceded that the powers of Congress, as to all our public domain, are to be deduced from the territorial clause of the Constitution. It could only be done upon the assumption that when Congress provided for the future sale of the lands of the Revolution, and the Federal Government became responsible for their payment, and especially after they had been actually paid, the great purpose of the cession was accomplished, and the Government thereby so far released from its fiduciary obligation as to be justified in its subsequent management of the trust, in looking chiefly to the consummation of its second object—the encouragement of settlements on the public lands, with a view to the formation and admission of new States into the Union. It was upon this view of the subject that President Jackson, in 1823, suggested to Congress the propriety of abandoning the idea of raising a future revenue out of the public lands. He regarded the public lands as having been pledged for the payment of the revolutionary debt, and when this object was accomplished he considered the trust as discharged. However plausible this view may be, it is certain that it has not been adopted as universally satisfactory. Many of our statesmen still insist that the territorial clause of the Constitution forbids Congress from making any disposition of public lands, which does not look to revenue and money equivalent as essential considerations. This opinion recognizes no distinction between the lands ceded and those acquired by purchase, and derives the power of Congress over all of our public domain from the territorial clause in the Constitution. If it can be shown that the territorial clause in the Constitution has no application to the public lands, obtained by purchase or treaty from foreign nations, the error of deducing the powers of Congress over those lands from that clause will be manifest. This conclusion is of great importance in the present discussion, inasmuch as the bill before the Senate is confined in its operation to the lands acquired by purchase or treaty.

Fortunately, Mr. President, I am relieved from the necessity of arguing the question by the reasoning and adjudication of the Supreme Court in the same case from which I have already made quotations. In the course of the very elaborate examination of the source from whence Congress derives its power over the Territories, the chief justice, in regard to the territorial clause, says:

"The language used in the clause, the arrangement and combination of the powers, and the somewhat unusual phraseology it uses, when it speaks of the political power to be given to the government of the territory, in the design and meaning of the clause to be such as we have maintained. It does not speak of any territory, nor of Territories, but uses language which, according to its legitimate meaning, points to a particular thing. The power is given only in relation to the territory of the United States; that is, to a territory then in existence, and then known or claimed as the territory of the United States."

He announces the conclusion of the court on the question in language still more pointed. He says:

"Therefore, whether, then, we take the particular clause in question (the territorial clause) by itself, or in connection with the other portions of the Constitution, we think it clear that it applies only to the territory then in existence which we have spoken of (the ceded territory), and hence, by any just rule of interpretation, be extended to territory which the Government might afterwards obtain from a foreign nation."

This Government, Mr. President, is direct to the point, and is conclusive; it explodes the error that the powers of Congress over the purchased domain are deducible from the territorial clause in the Constitution; it explodes, at the same time, the idea based on that clause and the cession deeds, that, in disposing of the purchased domain, Congress is bound to regard revenue and a money equivalent as essential considerations. If any restrictive obligation or condition be insisted upon Congress, it is now made manifest that it must be found in some other than the territorial clause of the Constitution.

It devolves upon us next, Mr. President, to find the clause in the Constitution from which Congress derives its power over the territory acquired by purchase or treaty. The court, in the case already referred to, has removed all difficulty in locating this power, as will be manifest from the following extracts from that opinion. The Chief Justice says:

"The power to acquire the territory of the United States, by the admission of new States, is plainly given; and in

the construction of this power by all the departments of the Government, it has been held to authorize the acquisition of territory by the admission of new States, as it is admitted as soon as its population and situation would enable it to admission. It is required to become a State, and not to be admitted as a territory, and it is not to be admitted as a territory; and as the property of admitting a new State is committed to the sound discretion of Congress, the same is committed to that authority for that purpose for the United States until it is in a suitable condition to become a State upon an equal footing with the other States, must be applied to the acquisition of territory by the admission of new States."

"As the people of the United States could act in this matter only through the Government which represented them, and through which they acted, and as the territory was acquired, it was not only within the scope of its powers, but it was its duty to pass such laws and establish such a government as would enable those by whose authority they acted, to reap the advantages anticipated from its acquisition, and to gather there a population which would be able to assume the position to which it was entitled among the States of the Union. The power to acquire necessarily carries with it the power to preserve and apply to the purposes for which it was acquired."

"Whenever it (the Federal Government) acquires, it acquires for the benefit of the people of the several States who created it. It is their trustee acting for them, and charged with the duty of promoting the interests of the whole of the Union in the exercise of the powers specifically granted."

It follows, Mr. President, that the relation of the Federal Government to our public domain, whether obtained by cessions from States or purchases from foreign nations, is that of a trustee for the benefit of the people of the several States.

The lands of the United States, whether obtained by cession or purchase, are essentially different in regard to the two kinds of domain in this: that, as to the ceded domain, the trustee was expressly required, by the terms of the deed, to dispose of the lands for money, as the means of providing a common fund, to be applied to the benefit of the people of the several States to the purchase domain, no such specific instruction or obligation is imposed upon the trustee. In both cases, the formation of new States is the ultimate object to be accomplished; in both cases, the trustee has to look to the constitution for his authority for the limitations there laid down. In both cases, the power is found in the territorial clause; and that, coupled with the cession deeds, limits the power of the trustee to dispositions of the lands for money; in the other case, the power is found in the fiscal clause, and the cession deeds, with it the power to make all laws which shall be necessary and proper for carrying into execution the specific grant to admit new States into the Union. The public domain obtained by purchase was not acquired for the purpose of making profit for the Government, but for the purpose of gathering a population, to be formed into new States. Laws, therefore, necessary and proper for carrying into execution the power to admit new States, must look directly and legitimately to the accomplishment of that purpose. If that purpose can be better accomplished, or if it can be as well accomplished, by selling the lands for profit, such disposition would be legitimate and proper. As a faithful trustee, the Federal Government is bound not to squander or misappropriate the lands, and therefore, on sound principles of equity, ought to be held responsible to reimburse the Government for all outlays in acquiring and preserving the lands. As the lands sold have already reimbursed the Government for these outlays, the trust, in this respect, has been faithfully executed. But the grant of the power of disposal and protection, and further, executing the trust should be that every law passed providing for the disposal of the lands should be "necessary and proper," in the sense of the Constitution, for accomplishing the object for which they were acquired. By this the bill before the Senate, as well as much of the existing land legislation, must be tested.

But, Mr. President, before proceeding to apply this test, I desire to allude to certain opinions and propositions in regard to the public lands, from the correctness of which I entirely dissent. A large number of our statesmen, and a large portion of the existing land legislation, must be tested. As a faithful trustee, the Federal Government is bound not to squander or misappropriate the lands, and therefore, on sound principles of equity, ought to be held responsible to reimburse the Government for all outlays in acquiring and preserving the lands. As the lands sold have already reimbursed the Government for these outlays, the trust, in this respect, has been faithfully executed. But the grant of the power of disposal and protection, and further, executing the trust should be that every law passed providing for the disposal of the lands should be "necessary and proper," in the sense of the Constitution, for accomplishing the object for which they were acquired. By this the bill before the Senate, as well as much of the existing land legislation, must be tested.

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These receipts, when no disturbing causes interfere, average about three million dollars a year—the interest on a permanent investment of \$50,000,000—which would be thus indicated as the money value of the public lands; an amount less than the receipts for a single year from customs. The true way of establishing and increasing the public credit is, to induce settlements of the public lands; and by developing the resources of the uncultivated soil, to swell the annual products of labor, and thereby add to the prosperity and wealth of the country. Our present rich credit rests upon the agricultural, mechanical, manufacturing, and commercial resources of a population numbering thirty million, sustained by individual industry and enterprise, and protected by the firmness, stability, and strength of our Federal system of government, and not upon our thousand millions of uncultivated lands.

Originating in the same erroneous estimate as to the money value of our public lands, propositions have been made that the Federal Government should divide out the public domain among the States, and thereby divest itself entirely or partially of the trust. Notwithstanding its absurdity, and its violation of all sound principle, this proposition still has its advocates. Estimating the lands to be worth \$2,000,000,000, and giving this sum to be divided among the States, the sum would fall to each State, an urgent appeal is made to the supposed cupidity of the people in behalf of the distribution of the public domain among the States. Besides being utterly false in its assumption as to the value of the lands, the proposition is so palpably repugnant to the obligations and duties of the Government as a faithful trustee, that it needs no other refutation than the mere statement of its absurdity.

Equally inconsistent with the constitutional obligations of the Government as a trustee, and all propositions for giving public lands to associations or institutions within States where the public lands proposed to be given are not situated, based upon reasons of charity or humanity, or other local considerations, is enough to say of all such propositions, that they are as repugnant to reaching the Treasury of the nation for local objects. The lands are wanted to be converted into money for the benefit of the objects sought to be promoted. The Government has no more right to give lands for such purposes, than to give money out of the Treasury for which the lands may be sold, or which may have been derived from imposts. Such donations, not being necessary or proper as means of promoting the object for which the lands were acquired, are not sanctioned by the Constitution.

The distribution of the proceeds arising from the sales of the public lands can, under no pretense, be regarded as a policy necessary and proper in carrying out the power to admit new States. Its claim to constitutionality, therefore, must rest upon some other basis than the Constitution. If any clause can be found, and I am sure none exists, which authorizes Congress to take money from the Treasury and distribute it among the States, then the distribution policy may be defended, and I will support it to the hilt. If any clause can be found, and I am sure none exists, which authorizes Congress to take money from the Treasury and distribute it among the States, then the distribution policy may be defended, and I will support it to the hilt. If any clause can be found, and I am sure none exists, which authorizes Congress to take money from the Treasury and distribute it among the States, then the distribution policy may be defended, and I will support it to the hilt.

I come now, Mr. President, to speak of that series of enactments which make up our present system of land laws, and to state, as they all rest upon the same principle on which the homestead policy is based. Under these laws, grants of lands have been made to States for schools,

for internal improvements, for the reclamation of swamps, and for the construction of railroads and public buildings. These grants were made without compensation, or a money equivalent; the Government received no money for them, although, in the aggregate, they amount to more than one hundred and fifty million acres. The question arises: on what principle has the trustee given away an amount of the trust property, which, at the minimum price, would have brought into the Treasury nearly two hundred million dollars? The answer given is, that the principle on which this policy has been inaugurated and sanctioned is, that the United States, as proprietor, receives, from the application of the grants to the prescribed uses, a compensation in the enhanced value and salubrity of the remaining lands. Upon an allegation of waste against the trustee for having disposed of the trust property without a money equivalent, this answer would probably be deemed sufficient, especially if the fact were shown that the remaining lands were enhanced in value and salubrity sufficiently to compensate for those given away. To my mind, however, the answer would have been greatly strengthened, if it had proceeded to state that the lands were acquired to be peopled and formed into States; that so long as the trust continued, it was the duty of the trustee to add to the revenue necessary and proper to gather population on the lands; that the granting of donations for schools, for internal improvements, for the reclamation of uninhabitable swamps, and for the construction of railroads and public buildings, were obviously necessary and proper means to be resorted to on the public lands, and thus to execute and carry out the leading object of the trust; and that the results had fully demonstrated the wisdom of the policy. Such an answer, with the additional statement that the remaining and adjoining lands had been enhanced in value and salubrity, would be conclusive as to the fidelity of the trustee.

The graduation and preemption laws stand with equal firmness on the principle that they were necessary and proper means for carrying out the object for which the lands were acquired. If the raising of revenue was the chief purpose to be accomplished in disposing of the public lands, it would be exceedingly difficult to comprehend the political ethics which would excuse a trustee for assuming that the lands of the United States thirty years are worth only twelve and a half cents an acre, when the minimum price as to other lands subject to private entry, but which have not been in market ten years, is \$1.25. To object to the reason for the policy, and not to the policy itself. Put it upon the ground that the great object is to induce settlement of the public lands, and not to raise revenue from them, and then the policy rests on a principle which requires no apology for adopting it. The preemption law grants peculiar privileges to preceptors. It authorizes them to follow on the lands of the United States, and make selections of the choice lands, to hold, improve, and cultivate them, or to assign away their preemption claims, up to the day when the lands are proclaimed and offered for sale. The Secretary of the Interior, early as I think, proposed to give away these lands two years from the date of their entries for payment. This policy has my cordial approval; it had my support nineteen years ago, in this body. The Secretary of the Interior has well said that "the advantages and profits arising from the first settlement of a new country ought to be enjoyed by the early settlers. They have peculiar hardships and privations to undergo, especial dangers and labors to encounter. The law does not contemplate that they shall have any competition, except from other actual settlers, in selecting the most fertile lands and the choicest locations." That is all well and truly said, but does it furnish a sufficient reason for granting the privilege of securing, without competition, lands worth ten or twenty dollars an acre, at the price of \$1.25, or, if revenue, or a money equivalent, is the object, to be looked to in disposing of the lands? Upon the hypothesis that the settlement of the lands is the main object, and the raising of revenue merely a secondary consideration, the reasons of the Secretary for granting this valuable preference to the pioneers, and of not competing with them, are amply sufficient. They place the law on the principle that the trustee is in the discharge of his duty

when he adopts measures so manifestly necessary and proper in carrying out the objects of the trust.

It remains now, Mr. President, for me to show that the bill before the Senate stands upon the same principle on which the entire system of laws for the present land policy is based, and is justified. The direct, immediate, and only object sought to be accomplished by the bill, is the gathering on the public lands of population, with the view of forming new States. The Constitution was formed upon the assumption that the formation and admission of new States were great objects, calculated to promote the prosperity, happiness, and greatness of the Federal Republic. It was for these purposes, and these alone, that our Federal system was endowed with the power of expansion. This measure, like all the others embraced in our system of land laws, looks to the accomplishment of these cardinal constitutional objects. After the preceptors have made their selections, and after the purchasers at the public sales have made their investments, an invitation is extended to all kinds of families to make homes on the unappropriated odd lands, subject to private entry; and, as an inducement to do so, a title in fee is tendered to a quarter section, upon the condition of five years' occupancy and cultivation. If it be objected, that the measure is intended to increase the revenue to the Government, in the first place, that occupancy and cultivation of the soil, with a view to new States and not revenue, are the great constitutional objects to be accomplished. In the second place, that no revenue is derived from the grants for railroads, internal improvements, public buildings, or schools on the public lands, though more than one hundred and fifty million acres have been thus disposed of. In the third place, that whilst no present revenue is derived from the homestead bill, nor from the grants for the several objects just enumerated, yet, in the articles of the bill, it is provided that, in order that it may be made a permanent law, there shall be an increase of population and application of labor and industry in developing the resources of the soil, as to enable the population to trouble and quadruple in an early day, their ability to use and render service to each other, and to the country, so that it may be made a permanent law, and that it may be made a fruitful measure of revenue. In the fourth place, that whilst neither the homestead bill nor either of the other measures produces present revenue, yet they all have a direct and necessary tendency to increase the revenue to the Government on the remaining and adjacent lands. And, in the last place, that the receipts from graduation, preemption, and private entries, and from public sales, (these being the only sources from which land revenue is now derived,) are not interfered with by the bill, except as to the odd sections subject to private entry, its only effect being to appropriate these odd sections as homesteads for a class of settlers who would never be purchasers for cost, and therefore producing no diminution in the present revenue to the Government. On the score of policy, therefore, no distinction can be drawn between the bill now before the Senate and the other measures of the land system, and, on the score of principle, they all rest firmly together on the same constitutional platform.

I have made the conjectural estimate, that under the provisions of this measure, twenty thousand families would be annually induced to emigrate from the States to the public lands to become freeholders. The inducements held out are certainly not so great as to produce any very extensive exodus from the States. The new settlers are coupled with necessary privations, sacrifices, dangers, and toils, in making settlements in a new country, which will deter most of those who now have comfortable means of subsistence from changing their habitations. It must be kept in mind, that the best offer is only one hundred and sixty acres of wild land, worth no more than two hundred dollars. To make it comfortable as a home, much labor must be expended, to say nothing of the hardships and sufferings to be endured.

The new country must be reclaimed from the hands of the freeholders can be secured only after years of toilsome industry and close economy. Such

considerations will operate to repel the families now in independent circumstances, as well as those who lack the energy and enterprise to tear themselves away from a condition of dependence and poverty. There are none of the attractions of sudden wealth to be realized in this measure.

THE PRESIDING OFFICER. The Senator will suspend his remarks. It becomes the duty of the Chair to call up at this hour the special order, which is the bill (S. No. 230) for carrying into effect the ninth article of the treaty of 1819, between the United States and Spain, and this bill is now before the Senate, unless some motion to postpone be made.

MR. JOHNSON, of Tennessee. I hope that proposition will be waived until my colleague has concluded his speech.

MR. MALLORY. I suppose my friend from Tennessee will take but a short time to finish his remarks.

MR. NICHOLSON. I shall occupy but about half an hour more.

MR. TOOMBS. The bill can be passed over informally until the Senator has concluded, provided it does not lose its priority. I shall not object to that.

MR. MALLORY. I have no objection to allowing the special order to be passed over informally for a week or two, if the Senator will, so that I may not lose its place, with a view to allow the Senator from Tennessee to conclude his speech.

THE PRESIDING OFFICER. That will be considered as the sense of the Senate unless objected to.

MR. NICHOLSON. I am very much obliged to Senators for allowing me to conclude my remarks.

It promises homes to those who have the courage to encounter the sacrifices and dangers of a frontier life, and who have the industry to seek for utility and improvement in the pursuit of labor and privation. Few of those who crowd our cities, the victims of want and misery, will ever be induced by the bill to surrender the habits which enslave them to a life of precarious subsistence in order to secure its benefits. Wherever capital presses too heavily upon labor, and will possess the necessary energy and courage to avail themselves of the inducements of the measure. In every State will be found, here and there, families in necessitous circumstances willing to respond to the call of the public lands. The inducements held out by the preemption policy, the number of preceptors for the last year was about twenty thousand. Under all the circumstances, and inasmuch as the last year was marked by very little of the land speculation mania, I have ventured to take this number as a criterion by which to estimate the operation of the homestead bill. Will the annual transfer of twenty thousand families, embracing probably one hundred thousand individuals from the old States, where their labor is now producing a scanty subsistence to the public lands, where the labor will be employed in developing their rich resources, be productive of beneficial results to the country? If it be true—and it will not be doubted—that the ties which bind us to homes and friends are our own strength, the best security which attach to our country and our Government, it is a matter of no small moment to inaugurate a measure which, in a single decade of years, elevates two hundred thousand families, embracing one million souls, from a condition of dependence to a dignity and independence and love of country which characterize the landholder. They become better soldiers in time of peace, make better soldiers in time of war, and rear up families with sentiments of ardent devotion to the Government which has contributed so materially to their freedom from their former dependent condition. But to appreciate properly the public benefits of this policy, we should be able to call up and pass in review the results of ten years of labor and industry by the twenty thousand families annually availing themselves of the inducements of the bill. The results already produced by our system of encouraging the settlement of the public lands, to render it necessary for me to attempt such a review. It will be sufficient for my purpose to remark, that, as the country progresses in improving their towns and condition, the best contributors of the revenue of the Government, by

becoming consumers of articles of comfort and even of luxury, from the enjoyment of which they were debarred by their former necessities in their former condition. In this way, whilst the labor and industry of the individuals advance their own prosperity, they contribute to the prosperity of the country. Instead of diminishing the revenue of the Government, as some apprehend, it is no difficult matter to show that the necessary consequence of the progressive development of the agricultural nature of the country, and of its rich soil, annually brought into cultivation, must be to swell immensely the exports of the country, and in like proportion to increase the imports; thus operating as a measure for constantly increasing the public revenue, as well as the power and prosperity of the Government.

But, Mr. President, if it be conceded, as I do not doubt will be, that labor, and especially agricultural labor, is the basis of national prosperity, the question under consideration is readily solved. It follows, that the greater the amount of labor, and the more productive it is, just in that proportion the interest of the nation is promoted. The measure before us has for its leading object the increase of agricultural labor, and it invites that labor to a field where it can be employed with the greatest advantage to all interests, and consequently with the greatest benefit to the country. It says to the laboring man in the crowded States, where competition for employment has reduced his wages to a scanty subsistence, "Here, in the far West, is employment, without ruinous competition, where your labor and industry shall inure to the benefit of yourself and family." The nation, as well as himself and his family, is interested in his acceptance of the invitation.

The measure before us, Mr. President, bears strongly upon another subject connected with the interests of republican Government, which is too important to be overlooked. Mr. Madison said, that "the most difficult of all political arrangements is that of so adjusting the claims of those with and those without property, as to give security to each and promote the welfare of all." This man as he lived and died, and who, when we are bound to know that there will always be one portion with and another portion without property. As property, as well as personal rights, is an essential object of laws, the question was early presented to our legislatures, and the time might not come when the answer would be without property, and whether, in that state of society, the interests of property would be safe under the control of such a majority? This danger was not apprehended until population should become dense, and the competition for employment should reduce labor to the subsistence point. The results in other countries forewarned the founders of our Government that, in the unavoidable contest between capital and labor, property accumulates and concentrates in the hands of the few, whilst it dissolves in the hands of the many. It was known that the Federal principle in our system of Government would prove efficient in checking this tendency to social inequality. Much, too, was expected by the abolition of the laws of primogeniture and entailments, and the substitution of the law of descent and distribution, which would make property of all kinds transmissible and diffusible. These laws have operated beneficially; but it may be well doubted whether the ingenious devices of capital, in procuring exemption from the general laws, by means of incorporation and associations, has not materially counteracted that influence in those localities where population has become crowded and the competition for employment great. But the great preventive in our country against the evil consequences of a crowded population is the interest of labor in the land, which has been found in the vast public domain which has been added to our original territorial possessions. It is in this point of view that the wisdom of those territorial acquisitions which we have made is most signally illustrated and demonstrated. The results of the laws have confirmed the wisdom of our growing and crowding population in the old States, has proved a powerful protection to labor in its conflict with capital. If we could now imagine the condition of things which would exist, with our entire population confined and crowded together within the original limits of our Government, we should be able to appreciate the value of our acquisitions of territory and the successful

operation of our system of land laws, which give encouragement to settlements on the public lands.

It cannot be assumed, however, that the outlet to labor furnished by our public lands has proved entirely effective in preventing the evils to the interests of labor apprehended from too dense a population. Within a few weeks past we have witnessed indications of dissatisfaction amongst laboring men and women in some of the New England States, which show that the competition for employment has reduced the wages of labor to a point at which it looks out for relief from the oppressions of capital. We have had placed on our tables a paper, purporting to be a memorial to the Legislature of New York, containing statements as to the growth and prevalence of pauperism in that State, which are so astounding that it is difficult to give them credit. In that paper it is said:

"The Governor, in his annual message, declares, that 'while in twenty years, from 1831 to 1851, the population of the State increased only sixty-one per cent, pauperism increased seven hundred and six per cent. In 1851, there was one person relieved to every one hundred and twenty-two in 1841, one to every thirty in 1831, and one to every twenty-four in 1820, one to every seven in 1810.'"

If these be facts, they show a state of social inequality that fully justifies the apprehensions on this subject manifested by the founders of our Government, and furnishes a pointed illustration of the truth, that

"It throws the land, to hasten this a prey,

"Where wealth accumulates, and woe beguile."

These words were impressively quoted in the Senate, a few days ago, by one of the Senators from that State, [Mr. SEWARD.]

I do not allude to this subject with the view of criticising the social system in the States where these inequalities of condition are thus exhibited, but with the view of showing the bearing of the bill before the Senate on the interests of labor in its competitions for employment, and its contest with capital for remunerative wages. Its influence on this subject will be apparent when it is remembered that its direct tendency will be to diminish the competition for employment, by drawing off a portion of those seeking it, and thus benefiting those who remain behind; whilst it furnishes remunerative employment to that portion which shall accept the terms offered by the bill. Whether we look at the measure in this way, or whether, in the Territories, the measure will be productive of beneficial results. At the same time, it secures a large annual increase in the number of those having the interests of property as well as of personal rights to strengthen their attachment to the Government, thus diminishing the evils apprehended from too great a proportion of those having no sympathy with the rights and interests of property.

When the policy proposed by this bill, Mr. President, was originated, in 1816, in the House of Representatives, by my colleague, I examined the bill, and came to the conclusion that it was a measure of great national moment. At that time the spirit of sectional agitation had not progressed so far as to array the two sections against each other in dangerous antagonism. Hence the fact, then as now, discernible as it is now, that the measure would be sought for by enterprising and needy families in all sections of the country, yet that its operation would be greatest in the northern States, did not induce me to hesitate as to the propriety of its adoption. It became a grave question, now, however, when sectionalism has been formally installed by a distinct political organization, and when it is believed to be actuated by sentiments inconsistent with the full enjoyment of their constitutional rights by southern men, whether, in this altered condition of things, the measure should not be withheld until holding support from the measure. In considering this question, I am bound to concede that the majority of those who will be attracted to the public domain by this bill, will be opposed in sentiment to my views on the subject of slavery. I am bound to concede that the force that will be formed upon the population thus gathered together will be free States. I am bound, further, to know that every new State thus formed and admitted into the Confederacy, will increase the preponderance of free political power against the South. I am bound to believe, from the facts around me, that when this preponderance reaches a certain point, if the sectional spirit that now predominates

in the free States shall then prevail, an attempt will be made to destroy the institution of slavery by means of an amendment of the Federal Constitution. On the other hand, I cannot shut my eyes to the fact, that the public domain, to be peopled under the operation of this bill, is inevitably destined to be free territory—that this is the fact of the laws of nature if not of our law. I cannot avoid seeing that the tide of emigration westward, under the influence of our present land laws, must, at no very distant period, reach the public domain such an amount of population as will render the formation and admission of new free States unavoidable. I cannot see any other result from the growth of population on our public lands, under existing laws, than the continual increase of the political preponderance of free States, until that point shall be reached when the power will exist to amend the Constitution by the exercise of a pure sectional strength. Whether this bill, then, passes or not, the result is to be the same—new free States are to be formed and added to the Union until they are to constitute a controlling political power in the Government.

The question then assumes this attitude: the public lands were acquired to be settled and prepared for admission as States. Congress holds in its trust the property, and the people, authorized by the Constitution to adopt the measures necessary and proper to execute the trust. The homestead policy is, in my judgment, such a measure. Shall I then decline to discharge what I regard as the duty of the trustee, because a political organization has sprung into existence, which shows so much hostility to an institution essential to the interests of the South that nothing but lack of political power restrains it from destroying that institution? Am I to assume that sectionalism is destined to rule our politics, to control until there shall be such a preponderance of free States as to enable it to accomplish its ultimate purpose? In my judgment, this sectional antagonism must end, and end soon, or the southern States will be constrained to adopt effectual measures of resistance and redress. The former course, however, the homestead policy will be in operation, in giving expansion, growth, prosperity, and strength to our Federal system. If the latter result must come, it must come long before the homestead policy shall have brought any new free States into the Confederacy.

I therefore discard all sectional considerations, as entitled to no legitimate influence in deciding upon the merits of the measure. If men opposed to the institution of slavery avail themselves of its benefits, they will certainly not molest or oppose it on their farms in the far West, than in the localities from which they may emigrate. Having been familiar with the character of pioneers; having observed the influence on that character exerted by the habits which distinguish the early settlers who encounter the hardships and sacrifices and dangers of frontier life, I cherish the confident belief and hope that the emigrants, when withdrawn from constant contact with professional agitators in the crowded towns and cities, and when removed from the influence of that mysterious and malignant influence which is the source of domestic populations, will become liberalized, and be taught moderation and conservatism in their new homes. The open-handed generosity, unselfish hospitality, whole-souled sense of honor, and uncalculating courage which characterize pioneer life, are wholly inconsistent with the contracted, bigoted, and fanatical spirit which characterizes sectionalism. When the settlers begin to reap the fruits of their agricultural labor, and to become contributors to the commercial resources of the country, they will lead a more useful and patriotic life in the different sections are real elements of harmony and strength, and not of dissension and weakness. They will be taught by experience that their interests and those of southern labor are mutually dependent and mutually beneficial, and that both are promoted by cultivating sentiments and relations of fraternity. From such a population it would be strange if sentiments of disloyalty to the Federal Government should ever proceed. The danger is not in that quarter, and therefore I will not subject myself to the reproaches of the seceders, should I complain of others, by withholding my support from the bill on such grounds.

Mr. JOHNSON, of Tennessee. I move that

the American Army," provided for by the ninth article of the treaty. In Spain the judges, of course, stopped receiving the testimony. To remedy that evil, the Congress of the United States, on the 26th of June, 1834, passed an additional act to this effect:

"An act for the relief of certain inhabitants of East Florida."

"Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of the Treasury not more than six hundred and sixty thousand dollars, or the amount awarded by the judge of the superior court of St. Augustine, in the Territory of Florida, under the authority of the several laws and sixth first chapter of the act of the Seventeenth Congress, approved March 3, 1813, for losses occasioned in East Florida by the troops of the United States in the year 1813 and 1814, in all cases where the decision of the said judge shall be deemed by the Secretary of the Treasury to be just and equitable. This award shall be paid except in the case of those who, at the time of suffering the loss, were actual subjects of the Spanish Government, and provided also, that no award be made for depredations committed in East Florida previous to the entrance into that province of the agent or troops of the United States."

That was to pay for the existing adjudicated claims, which were about forty-three thousand dollars: that it has been alleged, I think, in some of the reports, was stated by the then Delegate of Florida to be the whole amount of the claims; which was not true. He did not say so, but that that had been then adjudicated. But the second section of the same act went on further to provide:

"Sec. 2. And be it further enacted, That the judge of the superior court of St. Augustine be, and he is hereby, authorized and directed to examine and decide upon the claims for losses occasioned by the troops aforesaid, in 1813 and 1814, not heretofore presented to the said judge, and the evidence was withheld, in consequence of the decision of the Secretary of the Treasury, that such claims were not proper for the benefit of the United States, and that the Governments of the United States and Spain: Provided, That such claims be presented to the said judge in the space of one year from the passage of this act, and that the decision of the Secretary of the Treasury, that such claims were not proper for the benefit of the United States and Spain: Provided, That the authority herein given shall be subject to the restrictions created by the provisions to the preceding section."

This act overruled the decision of the Secretary of the Treasury, and directed the claims to be going out of the institution of 1812 and 1813 to be adjudicated. It had been decided at the Treasury Department that these claims were not within the treaty. Then the claimants came to Congress, and a law was passed by the legislative and executive departments overruling the decision of the Secretary of the Treasury, and declaring they were within the operation of the treaty, and giving jurisdiction to the courts; and telling them to go on; and this act has been decided by all the judges of all the courts, and by all the Attorneys General, by everybody who has been consulted, to be *in pari materia* with the act of 1823, and expressly upon its face to carry out the ninth article of the treaty of 1819 with Spain. Then, I say, on the face of the treaty itself these claims were under it; but whether they were or not, it was a question adjudicated twenty-six years ago by this department of the Government, who had a right to decide on it, that they were within it. Congress then overruled expressly, as I have read, by the second section, the decision of the Secretary of the Treasury, and directed the claims to be going out of the institution of 1812 and 1813 to be adjudicated by putting this class of cases under the judicial determination of the courts of Florida.

Another question subsequently arose. Mr. Rush, then Secretary of the Treasury, after the passage of this act, when the adjudications of the courts in Florida were first commenced, he decided that, according to the custom of the Department, they did not pay interest, and therefore they would not pay it. They claimed the right even to review the judicial decision. It was always contended by the claimants, and contended by the Treasury, that the courts of Florida had no right to review the judicial decisions of the courts in Florida; but that question has passed away; it is not now involved. We bound ourselves by a treaty with a foreign nation, whose subjects have been injured, that we would satisfy their claims for damages, which it should be ascertained, "by process of law," they had sustained. These are technical terms, as old as *Magna Charta*, which have been vindicated and approved for between six and seven centuries. I believe it was in 1237 that they were first mentioned in the *Magna Charta*. At least for six hundred years these particular words have had a certain definite technical legal meaning. It was by "process of law" that they were to be determined. They were to be judicially determined; they were to be determined by the courts. Under another clause of the same

treaty with Spain, by which we were to receive damages from her, it was provided that they should be settled by a commission; but in regard to this class of cases, where she turned over to us her subjects who remained in Florida up to the exchange of flags, Spain, in royal good faith to those subjects, not only provided that they should be redressed, but provided that in due manner, and said they should have a right to have their claims determined judicially, "by process of law," and not by a commission. The reason for it, Senators can see, was very obvious. They then became our citizens, except those who chose to leave Florida—some of them did go; they went to the Spanish islands; some of these claimants are now foreigners—but the great number of them are citizens of the United States, who did not leave the country, and could not do it, and did not desire to do it, preferring allegiance to us rather than to Spain.

Congress, in 1823, in order to carry out this treaty, appointed a judicial tribunal to determine the question. They appointed the highest judicial tribunal in the Territory. The Federal court of the Territory heard and decided upon the claims. Florida came into the Union, and that class of cases then went to the United States district judge. The clause of the act of 1823, as you will perceive, seems to give the control to the Secretary of the Treasury; but that we are not complaining of. The principle of the act is, that if Mr. Crawford and Mr. Rush having decided that these claims were not within the treaty, Congress reversed that decision, and put them under the treaty expressly by the act of 1834. Then they decided, as a purely municipal rule in the Treasury, as it appears from all the records and from the Secretary's own statements of the Treasury and Attorneys General since—I have them all before me—not to allow interest, on the ground that it was a regulation of the Treasury with reference to our domestic affairs. I think it is very common with all men to lay a general rule, as between the Government and the citizen, that the Government is not to pay interest. The reason given is, that sovereigns are presumed always to be ready to pay; and that is the sole reason. This sovereign has not been ready or willing to pay on these pending judgments to the courts. So even if it had been a domestic debt, the reason has ceased, for the claimants have gone, from time to time, to all the departments, from court to court; and one of these cases, to test this question, went to the Supreme Court of the United States, and determined they had no jurisdiction; that Congress had given this special jurisdiction to the district court of Florida, subject to be revised by the Secretary of the Treasury, and therefore they dismissed it. They went to the Court of Claims. There Judge Seaburg declared, in strong and emphatic language, that they had jurisdiction, and that nothing could release us but payment; that we were under every obligation of good faith, of national honor, of justice, and of right, to pay the utmost farthing of these decrees according to the terms of the law according to the law according to justice; and one of the other judges held that the claim for interest was clearly right, and that he had no doubt about it; but two of the judges said they had no jurisdiction to hear an appeal from the Secretary of the Treasury. Judge Blackford said he expressed no opinion on the claims either way, and only that they had no jurisdiction, and there stands the cause.

Where then are they to go? You agreed to determine their rights by judicial principles. They went to the judicial tribunals and got the decrees. They were scanned, and scanned closely, as any one will find who will look into them as I have done. In some of the cases the Government had counsel, who appeared and argued for the United States. They were critically examined, and then, when the time came, when the reviewing officer, the Secretary of the Treasury for the time being, He reviewed them critically, and paid so much as he thought was just of the principal, and rejected the balance. Subsequently, where one Secretary of the Treasury had refused to pay the principal of the principal, others made additional allowances to the whole extent. I believe now that probably the whole principal has been paid, and there is nothing left but the mere question of interest, which is the only thing in this bill.

Mr. BENJAMIN. Will the Senator from Georgia wish to ask him a question there?

Mr. TOOMBS. With great pleasure.

Mr. BENJAMIN. It is in relation to the decision of the Supreme Court of the United States. I read that decision some time ago; I have not read it recently; but I understood that decision at the time I read it, and I understand it as follows, that under the treaty, Congress bound itself to establish a special tribunal for the adjudication of these cases; and that it had done so by enabling the Florida judges in the first instance to investigate them; second, that Congress had created the Secretary of the Treasury as a special tribunal for the determination of these cases; that that was within the constitutional power of Congress, and was in conformity to the treaty; and thirdly, that when the Secretary of the Treasury had exercised this special jurisdiction, by determining finally the amount due, that was conclusive; and it was upon that ground that there was no appeal either to the Supreme Court or the Court of Claims; that being a final adjudication of the question as a judicial question. I understood that to be the decision.

Mr. TOOMBS. I understand that a great part of the United States decided that the Florida judges, in examining these cases, were not judges, but commissioners; and therefore there was no appeal to the Supreme Court. That was the only point that was really decided. They said that they were commissioners, and not judges; and they held that the claimants were entitled to due process of law, and subsequently, in a note to that decision, the Senator will find an explanation by the judges. They did decide at that time that Congress had a right to make the judges commissioners, though it was decided in 1793 that they had not. The Supreme Court decided that Congress had made them commissioners, and therefore that an appeal to the Secretary of the Treasury was right, and in accordance with the treaty; and hence there can be no appeal either to the Supreme Court of Florida to the Supreme Court. If it acted as a court, the claimants had a right to appeal under the law; if the judges acted as commissioners, they could not appeal; but the Secretary could determine. That was the decision; and they dismissed the case solely on the ground that they had no jurisdiction.

That decision, though, which was made by the Supreme Court, was itself modified, as the Senator will find by examining the case, by a note in Howard's Reports. It was made upon a mistake in the facts of the case. But, if they held that they shall have due process of law, which a commission is not. They give a commission on the other class of claims between Spain and the United States. Congress, in 1823, went on to carry out the treaty; and they directed the Secretary of the Treasury to pay the allowances made by the judges if they were equitable and just, and within the provisions of the treaty. Under that clause of the act, the Secretaries claimed a right to review them. The propriety of that claim is doubtful, but that is the fact. They were not paid. After the decision of the judges of the district of Florida, the Secretaries of the Treasury examined the evidence, and frequently withheld a portion of the amount decreed; but I know some of them have since been paid in full, and I assume that, for the principle on which all the later Secretaries of the Treasury considering that they were bound to pay the whole principal sum of the awards, if the claims were within the treaty and the allowances were equitable and just.

Then, I say, they have gone to the Secretary on the question of interest. They were entitled to a decision of the courts by the treaty. You gave them courts; you gave them a review power; and they went to the Supreme Court when the Secretary of the Treasury decided against them. The Supreme Court decided against them. They decided. They went to the Court of Claims, and two of those judges declared that they were entitled to every dollar they claimed by the treaty, by justice, by the laws of nations, and by our own laws; though one of them declared that the court had no jurisdiction over the cases, and the judge expressed an opinion upon it, holding that there was a want of jurisdiction. There stand the judicial determinations. No judicial tribunal in these thirty odd years ever expressed an opinion against the principle of this bill, or against the debt one way or the other; not a judge, not a Sec-

retary of the Treasury since the act of 1834; not an Attorney General. Fifteen committees of Congress have reported in favor of the allowance, and among those who made these reports may be named some of the ablest men—Mr. Everett, of the Committee on Foreign Affairs, in the other House, and Mr. Webster in this. Fifteen committees of the House have also declared that it is in conformity with the treaty, and that these people are entitled to it. What are the objections to it?

Mr. BENJAMIN. If the Senator will permit me, as I should like to give my vote on principle, I wish to ask a question.

Mr. TOOMBS. Certainly.

Mr. BENJAMIN. I understand Mr. Crittenden reported against this claim.

Mr. BAYARD. No, sir.

Mr. BENJAMIN. It is so stated, I think, in the reports I looked at at this morning. I will refer the Senator to the report.

Mr. TOOMBS. I have the opinion of six or seven Attorneys General before me.

Mr. BENJAMIN. The report of the committee gives the opinion of Mr. Webster in favor of these claims; and Mr. How has declared that it says, that his views "are more or less in conflict with opinions which have been given in these cases by recent Attorneys General of the United States—Mr. Crittenden, Mr. Legare, and Mr. Nelson."

Mr. TOOMBS. I have the opinions of Mr. Legare and Mr. Crittenden before me. They gave opinions in favor of it.

Mr. BENJAMIN. I have the report before me. Mr. TOOMBS. That is on another portion of the case—the question of jurisdiction.

Mr. BENJAMIN. I merely called the Senator's attention to this for explanation, as he stated there was no Attorney General against it.

Mr. TOOMBS. I have them all. Attorneys General Crittenden, Legare, and Cushing, have all decided that the act of 1834 was a *bona fide* matter, and both intended to carry into effect the ninth article of the treaty. That was the main point. The point on which the claims have been attacked was, that the act of 1834 did not bring them within the treaty. On the question of interest, there has been much diversity. No doubt, Mr. Webster was correct; there was diversity on some points; and you must look to those points to know on which he differed with those gentlemen. These very gentlemen—Attorneys General Crittenden, Nelson, and Legare—decided that the Government could not sue under the treaty, under the ruling of the Department, but that Congress was the tribunal for them to come to. I read their opinions with great care. They decided that the Treasury could not pay, because they would not overrule the decision of the Treasury Department, commencing, in 1836 or 1837, with Mr. Woodbury, and running down to 1851 or 1853. They all held, however, that, after all, the claims were just; that, in their opinion, they came within the treaty and the act of 1834, but, at the same time, they said, they must refer the case to the Department. That is the way their opinions were given—that they ought not to overrule the previous adjudications which had been made. Mr. Attorney General Legare said:

"The act of 1834 associated, in the same time, the operations referred to in the treaty, and the claims in 1812."

Again he said, speaking of the treaty:

"By one of its stipulations, the Government was bound to make compensation for injuries admitted to have been done by the troops in 1812, and to submit the alleged injury to examination, according to the usual course of judicial authority."

That is the only point necessary to carry this case. The parties who oppose the claim deny this. They put their objections on the ground, first, that the operations of the army of 1812 and 1813 were not within the ninth article of the treaty of 1819; and, in the second place, that the act of 1834 did not put them there; that that was a gratuity. To-day, as far as I am informed, these are the only objections to the payment of these claims. There may be others; but I am answering those which were hitherto when I reported on this case four years ago. They were put then solely on that ground.

I recollect that some person with very little knowledge of the subject, probably a gentleman of some distinction in the House of Representatives, four or five years ago made a random

speech about it, and said that in looking at the testimony he found that fifty cents a pound had been charged by these people for San Island cotton, and I presume two thirds of that very learned body, although not well skilled in cotton, thought of course that was proof of fraud. There was not a pound of San Island cotton in the United States in 1812. The cotton was not in the market. He thought he had discovered a mare's nest, and no doubt misled many intelligent men like himself. But now all question as to the reasonableness, as to the justice of the original claims, has been decided even by the Secretary of the Treasury. It has been decided that they were not excessive and should get their money, and that the Government was bound to give a judicial decision to these people. She attempted it, and she established the courts. The cases were tried in her own way, in conformity to her own policy, her judges; and the Secretaries of the Treasury passed on these people's claims, and the Government has paid the principal; but she says it is not the custom of the Treasury to pay interest, and there is the difficulty of the case; and that is all this bill proposes to do. I have no dissenting opinion.

In this stage of the proceeding, I will merely state some of the leading principles, namely: I doubt not to most Senators, on that question. We had a difficulty with England under the treaty of 1783, as I believe we have had with regard to the treaty now before us, and we were unable to get on. On the settlement of the difficulties and the allowance of pecuniary satisfaction interest was paid. We had a difficulty with her about the treaty of Ghent. We referred it to the Emperor, and we decided that we should have full satisfaction, even for our slaves who she carried away in contravention of the treaty of peace. Subsequently, she said she would not pay interest. The question was argued before the two Governments, and she finally paid five per cent. interest to us. I have no dissenting opinion. I have no objection to our Government: "you are paying us in 1825 or 1830 for damages done in 1815 when you took away the property; paying now for the property you took away then; is no indemnification; it is no satisfaction for the wrong; but in order to do away with the wrong, we have been obliged to use it;" and that is most usual among all civilized countries, and it is generally ascertained, if they choose, some what arbitrarily, by fixing upon some rate of interest. She paid us five per cent.

Not long ago, another case arose in our relations with England, and I have before me a communication from Mr. Stevenson, who was our minister to England, and Lord Palmerston, on the point. The Comet and Encomium were taken into a British island, and they agreed to pay for them. We demanded interest. Lord Palmerston admitted that it was the settled policy of the laws of nations, whenever indemnity or satisfaction was to be made for an injury under treaty stipulations, that there should be interest, and he paid five per cent. interest. Our Government has no objection to the payment of interest on all nations. It is in conformity to our own publicist, one of the ablest in the world—Mr. Wheaton—and recognized by Vattel and by Grotius. It is a principle founded in justice. It is the ordinary principle of the common law. Take the case of a trespass for the recovery of real property, or trover—which is the common law action most common to recover the possession of the property taken—the measure of damages is the thing taken and interest upon its value for the depreciation of its use up to the time of satisfaction is rendered. That is the universal rule of common law. I believe it is the same with the civil law; but my friend from Louisiana is better acquainted with that. Of course, it would be very far short of that measure of complete justice which the Government would be bound to give, if it were the value of the thing destroyed, though satisfaction be not made for ten or fifteen years afterwards.

I say this is the general principle of the common law; it is founded in justice; it is a universal principle of the laws of nations. It has been recognized by our Government; it is a principle by ourselves to others. Our Mexican commission allowed interest; and the Government, through your whole diplomacy, from the first treaty of peace and independence, from 1783 until now, in all your commissions, in all your judicial tribunals, everywhere, you have demanded it, and to every-

body else you have paid it, and why not, then, to these people? Why shall they be made an exception? The words here are, that you shall give "satisfaction;" and is paying the value of the property taken forty years ago, satisfaction? Upon what principle do you call it satisfaction? It is part satisfaction, to be sure. You destroyed a man's property, and you have not made satisfaction to him in 1840 what their value was in 1813? I am arguing now on the ground that you have agreed to pay, and of course when you paid the principal, you admitted that. The judge gave a judgment for the principal and five per cent. interest, the interest was about one-third the injury was done up to the time the judgments were rendered. The Government of the United States paid the principal, but refused to pay the interest. Now, I wish to know to what principle? It was under this mistake: Mr. Woodbury said it was not the custom to pay interest on domestic debts. We have heard a great deal about that. It is not for the reason I have stated, though the rule is by no means universal, but is constantly departed from by Congress; constantly varying with the times, and the necessities of the country. I have shown, that Governments being always presumed to be ready to pay their acknowledged debts, it is deemed to be the fault of the creditor if he does not come up and demand it; and therefore the Government is not bound, and ought not to be bound, to show that it has been ready to pay. But in this case you opened your courts, and your creditors went in upon your own limitation, as meager as your justice was, and presented their claims within twelve months, and pursued your through the courts; went to the Secretary of the Treasury, demanded justice; then went to your Supreme Court, demanded it there; went to your Court of Claims, demanded it there; came to Congress, demanded it here day after day, and year after year. They have stood before the tribunals of the country, and demanded their right, not for a moment being in default, not for a moment abandoning it, not for an instant discontinuing it; but, greatly to the grievance of my old friend, Judge Butler, as he said, pursuing him with a zeal very inconsistent with his comfort and convenience. I have before me the arguments which were made against this measure some four years ago. No argument is made in any of the courts against it, for its justice is admitted by all the judges who have expressed an opinion on the subject. There is no antagonism to be there, that is what Mr. Crittenden and when the report I have before me, made by myself and Mr. Pettit at that time, was presented to the Senate of the United States; and we argued it, as you will find by turning to that document, exclusively on the question that interest should be paid. Then a majority of the Judiciary Committee said it should not be paid, because "late operations" meant not the invasion of 1812 and 1813, but the invasion of 1814 or 1818; but Congress, by the act of 1834, as I have stated, settled that, and settled the Government's right to the claim. The measure was the property party to settle it. These claimants came to them and demanded of them to correct the decision of the Treasury Department, and the Congress of the United States carried out their treaty stipulations with fidelity and honor by declaring that they were true to the treaty of 1819, and telling the claimants to go to the proper tribunal for those damages of 1812 and 1813. That was the decision, final and just, and in conformity with the treaty itself. Therefore, I say, I dismiss these questions, and will not go into them. It is settled, though, that the measure of the act of 1834 was, that nothing should be paid unless the damage was done after troops of the United States entered the Territory. Well, General Matthews entered the Territory. The judges were ordered to try the case, and the Government had no damage before he went in there, except for the two or three days they were marching to Fernandina. They embodied themselves on the Spanish side of the St. Mary's, and took Fernandina. These operations at Fernandina were excluded. The American agent tried to possess the island by American army marched under the walls of Fernandina, devastating the State and destroying property. That was one of the questions to be decided; and it has been judicially determined. You agreed to give a judicial determination; it has been had; and now we are asked to go behind that

The language of this paper cannot be harmonized with the construction sought (in violation of a substantiating law, in full force, on the statute-book to be placed on the English version of the treaty.

This protocol contains the proposition of Spain, accepted by the United States. That was the basis of the treaty; and here I will remark that these by no means were the only outstanding matters of importance between the United States and Spain. Our promise to Spain is embodied in the Spanish version. If the two versions cannot be harmonized, then the language of the promisor governs. I think that is a principle of international law that cannot be controverted. I hold, therefore, where two parties make a treaty, and one makes a promise upon a condition, and that condition has been complied with, if the promise can be harmonized with the condition precedent, the language must be taken most strongly against the promisor. That is the common-law rule as to the construction of deeds. Upon that subject, Yattel says:

"In making construction, attention ought principally to be paid to the words of the promising party."—*Fattel*, book 17, art. 267.

If the treaty had only intended to cover the invasion of West Florida by General Jackson, in 1818, the language would have embraced the two provinces, ("las Floridas.") both East and West Florida. The act of 1823, "to carry into effect the treaty," need not have given jurisdiction to be "in the territory ceded to the United States at St. Augustine," for there would have been no cases "within his jurisdiction," as the act assumes there were.

As I have said before, it would hardly have been probable that they would have used the word "latest," at all, if they intended only to include the invasion of 1818. They would have used the word "last" or "latest," because six years before was certainly "late" as between these two contracting parties. It was not as late, to be sure, as one year, but in common treaty-making parlance it was as terrible legal and as much of the same as all the treaties we have ever made.

I further contend—and I beg leave to dwell on this particularly; because, in my judgment, the votes of all those Senators who will not sustain this measure will turn on this point—that the word "late" in the American version of the treaty, which has no place and no equivalent in the Spanish version, may be interpreted by the condition of things which then existed between Spain and ourselves. The treaty of 1795, between the United States and Spain, was claimed by each Government to have been violated in the disturbances and was growing out of the French Revolution, before the year 1802; and in that year a convention was negotiated between these two Governments, stipulating mutual indemnities for certain past injuries. This convention was accepted by the United States, and sent to Spain for her ratification; which she declined. In consequence of this refusal, all those injuries, extending from the date of the treaty of 1795 to the date of the convention of 1802, were subjects of mutual controversy in the negotiations which led to the treaty of 1819; and a careful examination will show that in these negotiations the injuries provided for by that unratified convention (unratified by Spain) are distinguished from those which occurred after the date of said convention. Thus, in a letter from Mr. Ewing, the American Minister, to the Spanish Secretary of State, of the 26th August, 1816, the injuries anterior to the date of the said convention are denominated "ancient causes of misunderstanding," and those of a subsequent date, "recent occurrences."—The injuries subsequent to the date of said convention, and "similar injuries subsequent to its date." (American State Papers, vol. 4 of Foreign Affairs, p. 434.)

Again, in a letter from the same to the same, dated August 17, 1817, injuries occurring since the said convention are denominated "more recent occurrences."—(*Ibid.*, p. 446.)

In another letter from the same to the same, dated August 19, 1817, claims for injuries anterior and subsequent to said convention, are styled causes "as ancient as of recent date." (*Ibid.*, volume of State Papers, p. 449.)

This language and this distinction are continued down to the treaty of 1819.

At the date of the treaty of 1819, the injuries of

1812 and 1813 (all one series of acts) were less than six years old, while those which occurred between the date of the treaty of 1795 and the convention of 1802, were from eight to twenty-five years old. Those of 1812 and 1813 were, therefore, most properly denominated "late" and "recent events" and operations, in contradistinction to those originating anterior to the convention of 1802. This convention of 1802, and the injuries provided for, are designated and named and settled by the same ninth article of the treaty of 1819, by which the injuries in both the Floridas (not West Florida alone, as contended) are provided for as "recent events," "late operations of the American army," in the English version, (but not in the Spanish,) "late operations," but not the latest or last, "recent" or "late," in contradistinction to those anterior to 1802, provided for in the same article. (For the convention of 11th August, 1802, *ibid.*, volume State Papers, p. 407. For the nineteenth article of the treaty of 1819, *ibid.*, p. 623.)

Mutual indemnities for all injuries in violation of the treaty of 1795, or of the law of nations, were fully agreed upon in the negotiation which terminated in the treaty of 1819, before General Jackson entered West Florida, in 1818. I wish to draw attention to this important circumstance, as one of very great consequence. The negotiations which contemplated the formation of a treaty to provide for the very claims that we are now considering, were commenced before General Jackson commenced his operations in 1818, and which altogether amounted to less than \$25,000. Here is another common-sense view of this question which it is impossible to get over. From the beginning, the negotiation was upon the basis of mutual indemnities, for all injuries, on the part of Spain. (See the American State Papers, p. 446, 447.)

It is a letter from Mr. Onís to Mr. Adams, dated January 24, 1818, Mr. Onís says:

"I now proceed to state the most obvious and essential difficulties which render your three proposals for the settlement of indemnities inadmissible. I observe that, in speaking of the injuries of the United States, you speak of injuries suffered by American citizens, and claim that which is equivalent to indemnities for injuries sustained by the citizens and authorities of this Republic, in violation of the law of nations and the existing treaty. I also observe that you do not omit this consideration of reciprocity and common justice, but propose the immediate cessation of both the Floridas—which two Spanish provinces have been ceded to the United States in return for the payment of what may appear to be due by Spain to American citizens, according to the arbitration of the joint commission."

Mr. Onís proceeded in this letter to enforce the injustice of this want of mutuality and of reciprocity, which he pronounces, "offensive to the dignity and honor of Spain." (*Ibid.*, vol. of State Papers, p. 465.)

In a letter to Mr. Adams, dated February 10, 1818, Mr. Onís said:

"The question of indemnities can be attended with no difficulty. The Spanish Government has always been willing to give due satisfaction for the losses and injuries sustained by the citizens of this Republic, and committed to Spain, in violation of the law of nations and the existing treaty; but it cannot relinquish its claim to comprehend, in like manner, the adjustment of those losses and injuries as may have been committed by citizens and authorities of this Republic on the Crown and subjects of Spain, in violation of the law of nations and the existing treaty. Your Government, in making the justice of this demand, cannot fail to see that it is, thus, ratifying the convention agreed on in 1802, as I have said, proposed to you, the question of indemnities will be easily settled and determined."

In reply to these propositions for mutual indemnities, Mr. Adams, United States Secretary of State, in a communication to Mr. Onís, dated March 12, 1818, said:

"You express the willingness of your Government to reimburse the United States for the injuries of 1795, and to extend its stipulations to the cases of complaint of a similar character to those provided for in it, which have since that time occurred. It is undoubtedly the intention of the Government that its engagements should be reciprocal; and if this was not expressly declared in my note of the 16th of January, it was merely because the President was not aware that any such claims of Spanish subjects for indemnities from the United States Government were in contemplation."

It was the predecessor of the President then in office who acted under the secret act for the invasion of East Florida:

"I am authorized to assure you that there will be no difficulty in including any such as may exist in the convention now pending in the United States, and that all such indemnities which may be justly due by them."—*Ibid.*, vol. of State Papers, p. 425.

This letter, thus explicitly agreeing to mutual

indemnities for all injuries in violation of the law of nations and of the treaty of 1795, bears date, let it be remembered, on the 12th of March, 1818.

The records of the Government show beyond all possible question that at that date General Jackson had not entered Florida. I wish the Senate to recollect that fact as one which I think is conclusive of the entire argument made by the Senate from Delaware. When Mr. Adams, as Secretary of State, told Don Onís that he designed expressly to provide for these claims of 1812 and 1813, General Jackson had not then entered the Floridas, and his operations were confined to West Florida, and consequently that could not have been in his mind during the negotiations. The fact that General Jackson had not then been in West Florida is shown by the correspondence between the War Department and General Jackson, printed in the American State Papers, Military Affairs, vol. 1, pp. 690, 695, 696, 697, 698, 699, 700, 701, 702, 704.

At page 695, it is shown that General Jackson had not entered Florida on the 25th of March, 1818—thirteen days after the date of Mr. Adams's communication to the Spanish Minister.

Mr. Onís made his first complaint to the Secretary of State, against this invasion of West Florida by General Jackson, on the 17th of June, 1818; which was about as early as the news, at that day, could have reached the seat of Government.

The remonstrance of Mr. Onís against the act, bearing date the 8th July, 1818. (American State Papers, Foreign Relations, vol. 4, p. 495.)

Sir, the question whether the injuries of 1812 and 1813, in East Florida, are within the ninth article of the treaty of 1819, has been fully considered by the Senate, and Congress, by a declaratory law, (the act of 1834,) under which the claimants have proceeded, in the manner therein prescribed, to establish their rights. That law is binding on the United States; and the rights of the claimants under the judgments they have obtained, (for such a great expense of time and money,) are vested irrevocably in them, and are protected by the Constitution, as well as by the honor and good faith of the United States.

The question is no longer an open one, having been settled by a valid constitutional law, which is in full force on the statute-book, though not fully executed.

The final decision of this question belonged to Congress. That body has made a decision in favor of the claimants, by a valid law, and that decision is binding on the Executive, as Congress confirming a contract grant of land; which act would operate as a grant, and could be recalled, even though a gratuity.

The second section of the act of 1834 clearly and distinctly recognizes the injuries of 1812 and 1813 to be within the ninth article of the treaty, and directs them to be adjudged and paid accordingly, under the act of 1823 passed "to carry into effect" that article; and the claimants have a legal right to the execution of that law. There is no question open but that of the faithful execution of that law, and that the Secretary has a constitutional right. A subsequent Congress cannot constitutionally retract or annihilate rights given by the legislation of a previous Congress, even in doubtful cases, which this is not. If they could it would be most extraordinary. They could, contented cases and questions would never be settled, and the whole doctrine of vested rights under congressional legislation would perish in endless conflicts of opinion between different legislative bodies; and rights, in the constitutional sense, could not exist as an act of Congress. Every right thus attempted to be given would depend upon the volition of subsequent Congress. This, it is submitted, is not the basis of the rights of the people of the United States under the legislation of Congress.

The act of 1834, recognizing the injuries of 1812 and 1813 to be within the treaty, has stood upon the statute-book for twenty-six years! And in all that long period, no officer of the United States has questioned its validity, or suggested a doubt that the treaty question was not finally and forever settled by that act. The Secretary, Woodbury, Trevelyan, Spencer, Bibb, Meredith, Forward, Walker, and Corwin; and Attorneys General Crittenden, Legare, Nelson, Johnson, and Cush-

of the United States. In consequence of their travels and cargoes having been taken by the subjects of his Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the decision of commissioners, to be appointed in the following manner:—*Sc. 1.* The commissioners shall be three, one to be chosen by the United States, one by Spain, and the third to be chosen a third, and the award of the commissioners, or two of them, will be final, and the Spanish Government to pay the amount in specie.

"This commission awarded interest as part of the damages. (See American State Papers, vol. 1, *Intercourse*, p. 285.) So in the case of claims of American citizens against Brazil, settled by Mr. Tudor, United States Minister, interest was claimed and allowed. (See American Document, first session, Twenty-Fifth Congress, House of Representatives, Dec. 22, p. 249.)

"Interest is in the controversy with Mexico of the 11th of April, 1839, by which provision was made by Mexico for the payment of claims of American citizens for injuries to persons and property by the Mexican authority, a civil commission was provided for, and this commission allowed interest in all cases. (See communication of the President to the House of Representatives, including the report of the commissioners, under date of the 25th August, 1842, Executive Document, House of Representatives, second session of Twenty-fifth Congress, vol. 2, Doc. 291.)

"So, also, under the late treaty with Mexico of 24 February, 1847. The board of commissioners for the adjustment of claims under that treaty, with interest, was constituted, allowed interest, in all cases, for property lost, from the origin of the claim until the day when the commission terminated.

"Other cases might be shown in which the United States has authorized diplomatic agents, here claimed interest in such cases, or where it has been done. (See Mr. Russell's letter to the Count de Eginberg, Paris, 18th Aug., 1845, Am. State Papers, vol. 4, *Foreign Relations*, p. 738, and proceedings of the United States, vol. 2, *Foreign Relations*, of October, 1852, Elliott's Dip. Code, page 131.) But I think it can hardly be necessary to pursue this subject further in order to show the proper treatment with foreign nations, or with claimants under treaties.

Judge Bronson then goes on to give the common law rule upon the subject.

"The rule of the common law on this point is the same as that already laid down as the rule of the public international law.

"In the case of *Comard against the Pacific Insurance Company*, it was stated by Judge Baldwin that, in actions of trespass, or for torts, 'the general rule of damage is the value of the property taken, with interest from the date of taking down to the time of trial. This is generally correct as legal compensation, which refers solely to the injury done to the property taken, and not to any consequential damages resulting to the owner by the injury.' There are taken into consideration only a case of trespass, or tort, or injury, and not any consequential damages. The Supreme Court affirm the correctness of this rule.

"See *Baldwin on the Measure of Damages*, pp. 549 and 550 says:

"When trespass is brought for personal property, and an circumstance of aggravation are shown, the value of the property, with interest, furnishes the measure of damages."

"In the case of injury to property, the measure of damages is the value of the property at the time of the injury, with interest thereon from that time to the measure of damages, and not to any consequential damages, and in various cases of trespass, trover, case, replevin, &c., this rule is abundantly supported by the following authorities:—*Wilson vs. Cooke*, 9 Johnston's Rep., p. 208, 94 Greenleaf Evidence, p. 282, and cases there cited;—*Particularly 14 Pickering*, pp. 245 and 261, 14 Johns. 372; 15 Id., 195, 205, *deducted on Damages*, 37, 17 Pickering, p. 11; 31 Id., p. 256, 7 Moore, 399; 1 Metcalf, 172; 9 Hall, 131; 3 Dane, 97; 7 Metcalf, 394; 3 Little, 65; Also, *Butler vs. Foster*, 10 Johns. p. 549, and *Boyd vs. 1792*, (Am. State Papers, vol. 1, *Foreign Relations*, vol. 1, p. 291, 213, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.)

"In fact, this principle must be familiar to every common law lawyer, that it is perhaps true that every common law lawyer, more than to accumulate them, which they are entitled to do almost of themselves. I will only add two or three illustrations, drawn from the cases of *United States vs. Smith*, where damages were awarded in cases of wrongful taking of property; as part of the damages, by Justice. (See *11 Id.*, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.)

He says further:

"To the course of the argument my attention was called by the well-known letter from Mr. Jefferson to Mr. Hammond, the British Minister, of 26th May, 1792. (Am. State Papers, vol. 1, *Foreign Relations*, vol. 1, p. 291, 213, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579,

man; which was read a first and second time, and referred to a Committee of the Whole House, and the bill and report ordered to be printed.

MOSES MEEKER.

Mr. WALTON, from the same committee, also reported a bill for the relief of Moses Meeker; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

JAMES PHELAN.

Mr. WALTON, from the same committee, also reported a bill for the relief of James Phelan; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

Mr. WALTON, I now ask leave to withdraw from the files of the House the papers in the case of—

Mr. WASHBURN, of Maine. I must object.

The SPEAKER. Objection being made, it is not in order.

GEORGE HALL.

Mr. HUTCHINS, from the Committee of Claims, reported back the memorial of George Hall; which was referred to the Committee on Military Affairs.

JAMES MONROE.

Mr. HUTCHINS, from the same committee, also reported back the memorial of James Monroe; which was referred to the Committee on Military Affairs.

Mr. HUTCHINS. I am instructed by the Committee of Claims to make several adverse reports.

Mr. WASHBURN, of Maine. I object to the reception, during this hour, of any reports which are not to be referred to a Committee of the Whole House, or to the Committee of the Whole on the state of the Union.

The SPEAKER. The objection is well taken.

EDWARD JARVIS.

Mr. HUTCHINS, from the Committee of Claims, reported a bill for the relief of Edward Jarvis; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

SYLVESTER DAY.

Mr. HUTCHINS, from the same committee, also reported back a bill (C. C. No. 91) for the relief of the legal representatives of Sylvester Day, late surgeon in the United States Army; which was referred to a Committee of the Whole House, and the bill and report ordered to be printed.

THOMAS FILLBROWN.

Mr. HUTCHINS, from the same committee, also reported a bill for the relief of Thomas Fillbrown; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

DAVID MYERLE.

Mr. TAPPAN, from the same committee, reported a bill for the relief of David Myerle; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

OLIVER HARRIS.

Mr. TAPPAN, from the same committee, also reported a bill for the relief of Oliver Harris; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

HANNIBAL GRAHAM.

Mr. TAPPAN, from the same committee, also reported a bill for the relief of Hannibal Graham; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

P. P. HALL.

Mr. TAPPAN, from the same committee, also reported a bill for the relief of the legal representatives of P. P. Hall, deceased; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

Mr. WASHBURN, of Illinois. I am directed

by the Committee on Commerce to make several adverse reports.

Mr. WASHBURN, of Maine. I have already objected to receiving any adverse reports during the morning hour.

The SPEAKER. Adverse reports are not in order. The rule only contemplates the reception of bills.

PETER ROGERSON & SONS.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported a bill for the relief of Peter Rogerson & Sons, of St. Johns, Newfoundland, owners of the British brig Jessie; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

LIGHT-HOUSE APPROPRIATION BILL.

Mr. ELIOT, from the same committee, reported a bill making appropriations for light-houses, life-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

TENCH TILGHMAN.

Mr. JOHN COCHRANE, from the same committee, reported back a bill (S. No. 79) for the relief of Tench Tilghman; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FRANCIS HUTTMANN.

Mr. JOHN COCHRANE, from the same committee, also reported back a bill (S. No. 78) for the relief of Francis Huttman; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ARTHUR EDWARDS AND OTHERS.

Mr. HELMICK, from the Committee on the Post Office and Post Roads, reported back a bill (H. R. No. 221) for the relief of Arthur Edwards and others; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ALLEN L. PORTER.

Mr. HELMICK, from the same committee, also reported a bill for the relief of Allen L. Porter; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN SCOTT AND OTHERS.

Mr. COLFAX, from the same committee, reported back an act (S. No. 29) for the relief of John Scott, Hill W. House, and Samuel O. House; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES HOOTEN.

Mr. WOODRUFF, from the same committee, reported a bill for the relief of James Hooten; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THOMAS R. LIVINGSTON.

Mr. CRAIG, of Missouri, from the same committee, reported a bill for the relief of Thomas R. Livingston; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

J. C. FERRY.

Mr. LEE, from the same committee, reported a bill for the relief of J. C. Ferry, for carrying the mail for one quarter from Pittsburg to Franklin; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ST. JOHN O. GIBBS.

Mr. DAVIS, of Mississippi, from the same committee, reported a bill for the relief of St. John O. Gibbs; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN KELLY.

Mr. DAVIS, of Mississippi, from the same committee, also reported a bill for the relief of John Kelly; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ALEXANDER ALBERTSON.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, reported a bill for the relief of Alexander Albertson, of Platte county, in the Territory of Nebraska; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM H. DE GROTE.

Mr. BURNETT, from the Committee for the District of Columbia, reported a joint resolution for the relief of William H. De Grote; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MICHAEL NASH.

Mr. BURNETT, from the same committee, also reported back an act (S. No. 63) for the relief of Michael Nash, of the District of Columbia; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DANIEL B. VONDERSMITH.

Mr. HINDMAN, from the Committee on the Judiciary, reported a bill for the relief of the creditors of Daniel B. Vondermuth; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN MOSHER.

Mr. FENTON, from the Committee on Revolutionary Claims, reported a bill for the relief of the legal representatives of John Mosher; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HARRIET DE LA PALM BAKER.

Mr. FENTON, from the same committee, also reported a bill for the relief of the children of Mrs. Harriet de la Palm Baker, widow, deceased, daughter and legal heir of the late Lieutenant Colonel Frederick W. Wieseneis, of the army of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REPRESENTATIVES OF SAMUEL JONES.

Mr. FENTON, from the same committee, also reported a bill for the relief of the legal representatives of Captain Samuel Jones, of the Virginia continental line during the revolutionary war; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHILDREN OF ISRAEL FISHER.

Mr. DUELL, from the same committee, reported a bill for the relief of the surviving children of Israel Fisher, a revolutionary soldier; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF CAPTAIN HOPPER.

Mr. HOLMAN, from the same committee, reported a bill for the relief of the heirs of Captain John A. Hopper; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLET'S POINT FORTIFICATION.

Mr. HASKIN, from the Committee on Public Expenditures, reported a bill to repeal an act for fortifications opposite Fort Schuyler, at Willet's or Wilkin's Point, New York; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

JOSHUA ATKINS.

Mr. WASHBURN, of Wisconsin, from the Committee on Private Land Claims, reported a bill

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

WEDNESDAY, MARCH 21, 1860.

NEW SERIES.....NO. 78.

for the relief of Josiah Atkins, of Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM PACKWOOD.

Mr. WASHBURN, of Wisconsin, from the same committee, also reported a bill for the relief of William Packwood; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PRIVATE LAND CLAIMS IN MISSOURI.

Mr. BOULIGNY, from the same committee, reported back, with an amendment in the nature of a substitute, a bill (H. R. No. 118) to confirm certain private land claims in the State of Missouri; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BRAXTON BRAGG AND R. L. GIBSON.

Mr. BOULIGNY, from the same committee, also reported a bill for the relief of Braxton Bragg and R. L. Gibson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

TILMAN LEAKE.

Mr. ETHERIDGE, from the Committee on Indian Affairs, reported back, with a recommendation that it do pass, an act (S. No. 55) for the relief of Tilman Leake, which was referred to a Committee of the Whole House, and, with the Senate report adopted by the committee, ordered to be printed.

GEORGE STALEY.

Mr. ETHERIDGE, from the same committee, also reported back, with a recommendation that it do pass, a bill (S. No. 70) for the relief of George Staley; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LIVINGSTON, KINKADEE & CO.

Mr. ETHERIDGE, from the same committee, also reported back, with a recommendation that it do pass, a bill (S. No. 691) for the relief of Livingston, Kinkadee & Co.; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DEPREDACTIONS UPON THE SHAWNEES.

Mr. ETHERIDGE, from the same committee, also reported a bill to provide for payment for depredations committed by the whites upon the Shawnee Indians in Kansas Territory; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MICHAEL T. SIMMONS.

Mr. ETHERIDGE, from the same committee, also reported a bill for the relief of Michael T. Simmons; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. ETHERIDGE. I send to the Clerk's desk a resolution which the Committee on Indian Affairs have instructed me to submit to the House, at the instance of the Commissioner of Indian Affairs, in regard to some contemplated treaty stipulations.

Mr. GROW. I object to that.

The SPEAKER. Objection is made to the reception of anything but bills.

ISRAEL JOHNSON.

Mr. LEACH, of Michigan, from the Committee on Indian Affairs, reported a bill for the relief of Israel Johnson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSEPH B. EATON.

Mr. STANTON, from the Committee on Military Affairs, reported a bill for the relief of Joseph B. Eaton; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN C. M'FARREN.

Mr. BUFFINGTON, from the same committee, reported a bill for the relief of John C. McFarren, of the United States Army; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM HUTCHINSON.

Mr. PENDLETON, from the same committee, reported a bill for the relief of William Hutchinson; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

METHODIST MISSIONARY SOCIETY.

Mr. PENDLETON, from the same committee, also reported a bill for the relief of the Missionary Society of the Methodist Episcopal Church; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MRS. JANE M. M'CRABB.

Mr. CURTIS, from the same committee, reported back Senate bill No. 63, for the relief of Jane M'Crabb, widow of the late Captain John W. M'Crabb, assistant quartermaster in the United States Army; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

RICHARD W. MEADE.

Mr. MORSE, from the Committee on Naval Affairs, reported back Senate bill No. 56, for the relief of Richard W. Meade; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN A. FROST.

Mr. MORSE, from the same committee, also reported back Senate joint resolution No. 77, for the relief of John H. Frost, deceased; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CAPTAIN W. L. HUDSON AND J. K. SANDS.

Mr. SCHWARTZ, from the same committee, reported back Senate joint resolution No. 16, authorizing Captain William L. Hudson and Joseph K. Sands to accept certain testimonials awarded to them by the Government of Great Britain; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HENRY ETING.

Mr. SEDGWICK, from the same committee, reported back Senate bill No. 91, for the relief of Henry Eting; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DAVID D. PORTER.

Mr. POTTLE, from the same committee, reported back Senate bill No. 57, for the relief of David D. Porter; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HIRAM PAULING.

Mr. POTTLE, from the same committee, also reported a bill for the relief of Hiram Pauling; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

INDIAN DEPREDACTIONS.

Mr. SCOTT, from the Committee on Indian Affairs, reported a bill providing for the examination of claims for Indian depredations in the Territory of New Mexico; which was read a first and second time, referred to a Committee of the

Whole House, and, with the report, ordered to be printed.

Mr. SCOTT. I wish to say that the Committee on Indian Affairs were unanimous in their report of that bill, with the exception of the gentleman from New York, [Mr. BRACONER.]

DAVID K. WHITING.

Mr. CASE, from the Committee on Territories, reported a bill for the relief of David K. Whiting; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CHARLES H. MASON.

Mr. WALDRON, from the same committee, reported back House bill (No. 189) for the relief of the legal representatives of the estate of Charles H. Mason; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

REUBEN AND RHODA H. CHAMPTION.

Mr. POTTER, from the Committee on Revolutionary Pensions, reported a bill for the relief of Reuben and Rhoda H. Champion; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

TOUSANT LA VARNWAY.

Mr. POTTER, from the same committee, also reported a bill for the relief of the children of Toussant La Varnway; which was read a first and second time, and, with the report, ordered to be printed.

WIDOWS AND ORPHANS' HALF PAY.

Mr. POTTER, from the same committee, also reported a joint resolution, giving construction to the second section of the act of February 3, 1860, to continue half pay to certain widows and orphans; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

Mr. POTTER. I have been instructed by the committee to ask that this bill be made the special order for next Wednesday week.

The SPEAKER. It can only be done by unanimous consent.

No objection being made, the bill was accordingly made a special order.

SUBANNAH SCOTT.

Mr. JUNKIN, from the Committee on Revolutionary Pensions, reported a bill granting a pension to Subannah Scott, widow of William Scott; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN FORRESTER.

Mr. BABBITT, from the same committee, reported a bill for the relief of the surviving children of John Forrester, a soldier of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JAMES SAXTON.

Mr. BABBITT, from the same committee, also reported a bill for the relief of James Saxton, a soldier of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CHARLES W. BROOKS.

Mr. FENTON, from the Committee on Invalid Pensions, reported back bill of the House No. 214, for the relief of Charles W. Brooks, of New York; which was referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SETTON M. YOUNG.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to Setton M. Young; which was read a first and second time by its title, referred to a Committee of the

Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SYLVANUS BURNHAM.

Mr. FENTON, from the same committee, also reported a bill for the relief of Sylvanus Burnham; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

BERRIAH WRIGHT.

Mr. FENTON, from the same committee, also reported a bill for the relief of Berriah Wright; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ZEINA WILLIAMS.

Mr. FENTON, from the same committee, also reported a bill for the relief of Zeina Williams; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SAMUEL GOODRICH.

Mr. FENTON, from the same committee, also reported a bill for the relief of Samuel Goodrich; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ISAAC CARPENTER.

Mr. FENTON, from the same committee, also reported a bill granting deficiency and increase of pension to Isaac Carpenter; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADAM GARLOCK.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to Adam Garlock; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

STEPHEN BURNELL.

Mr. FENTON, from the same committee, also reported a bill for the relief of Stephen Burnell; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN PIPER.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to John Piper; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

HENRY TAYLOR.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to Henry Taylor; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

NATHAN RANDALL.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to Nathan Randall; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARY J. MADDEX.

Mr. KELLOGG, of Michigan, from the same committee, reported a bill for the relief of Mary J. Maddex; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHAUNCEY W. FULLER.

Mr. KELLOGG, of Michigan, from the same committee, also reported a bill for the relief of Chauncey W. Fuller; which was read a first and

second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

LIEUTENANT MICHAEL B. CLARK.

Mr. BRABSON, from the same committee, reported a bill for the relief of Lieutenant Michael B. Clark; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ANN G. BARKER.

Mr. BRABSON, from the same committee, also reported a bill granting a continuation of pension to Ann G. Barker; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SARAH BLACKWELL.

Mr. BRABSON, from the same committee, also reported a bill granting a pension to Sarah Blackwell; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADELINE CADDIS.

Mr. BRABSON, from the same committee, also reported a bill granting a pension to Adeline Caddis; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES FLOYD.

Mr. BRABSON, from the same committee, also reported a bill for the relief of James Floyd; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

RICHARD DRAZIER.

Mr. FOSTER, from the same committee, reported a bill granting an increased pension to Richard Drazier; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARY BENNETT.

Mr. FOSTER, from the same committee, also reported a bill for the relief of Mary Bennett; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

MICHAEL HANSON.

Mr. FOSTER, from the same committee, also reported a bill granting an invalid pension to Michael Hanson; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOSEPH FILES.

Mr. STOKES, from the same committee, reported a bill granting an increase of pension to Joseph Files; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PHOEBE ANN SHOCKLEY.

Mr. STOKES, from the same committee, also reported a bill granting a pension to Phoebe Ann Shockley; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EZEKIEL JONES.

Mr. STOKES, from the same committee, also reported a bill granting an invalid pension to Ezekiel Jones; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM K. BLAIR.

Mr. STOKES. I am directed by the Committee on Invalid Pensions to ask that that commit-

tee be discharged from the further consideration of the petition of William K. Blair, and to move that it be referred to the Committee on Revolutionary Claims.

Mr. GROW. That cannot come in under the rules, and I object.

The SPEAKER. Then the report cannot be received.

GUSTAVUS B. HORNBER.

Mr. DE JARRETTE, from the Committee on Revolutionary Claims, reported a bill for the relief of the legal representatives of Gustavus B. Hornber, deceased; which was read a first and second time by its title, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a copy of the convention between the United States and the Republic of Paraguay, concluded on the 4th of February, 1859, and proclaimed on the 12th instant, and inviting the attention of Congress to the expediency of such legislation as may be deemed necessary; which went into effect the stipulations of the convention relative to the organization of the commission provided therein; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

Also, a communication from the Department of the Interior, in compliance with the resolution of the House of Representatives, adopted March 14, 1860, transmitting copies of correspondence on file in that Department relative to the charges made against A. D. Donatelli, United States agent for the Menominee Indians, and informing the House that an investigation was ordered on the 18th ultimo, and that a special agent, Mr. Pritchett, has already left for the Menominee country.

AMENDMENT OF RULES.

Mr. SIEMMAN. I desire now to call up the motion made by the gentleman from Pennsylvania, [Mr. FLORENCE.] to reconsider the vote by which certain resolutions introduced by me were referred to the Committee on Expenditures in the Navy Department.

Mr. WASHBURN, of Maine. I call now for the execution of the special order of the House, under the previous question. I refer to the amendment of the rules.

Mr. SIEMMAN. The motion to reconsider is a privileged question.

The SPEAKER. Objection is made, the Chair is of opinion that the amendment of the rules demands the first attention, as the House made that matter a special order.

ADJOURNMENT OVER.

Mr. DAVIS, of Mississippi. I ask unanimous consent to introduce the following joint resolution: Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the two Houses of Congress do adjourn on the 20th of April next, until the 30th of May next, 1860.

Mr. HUTCHINS. I object.

The SPEAKER. The resolution is not in order.

Mr. DAVIS. I move to suspend the rules to enable me to introduce it.

The SPEAKER. That motion is not in order at this time.

Mr. SIMMS. I ask unanimous consent to introduce a private bill, for reference only.

Mr. DURN. I object.

AMENDMENT OF RULES—AGAIN.

The SPEAKER. The first question is upon the amendment of the Committee of the Whole on the state of the Union to the amendment of the committee on the amendment of the rules to the 17th rule.

The amendment recommended by the committee was as follows:

Amend rule 17 by inserting after the word "States," in the fourth line, the words, "and of the Court of Claims;" so that it will read:

No person, except members of the Senate, their Secretary, Justices of the Supreme Court, President's Private Secretary, the Governor for the time being of any State, and judges of the Supreme Court of the United States and of the Court of Claims, shall be admitted within the Hall of the House of Representatives.

The amendment of the Committee of the Whole

Mr. SMITH, of Virginia. I did, sir. I voted with the majority. I voted under a misapprehension, and therefore it is that I move to reconsider. On that proposition I desire to submit a remark or two.

The SPEAKER. No debate is in order, as the gentleman must know. The House is acting upon the previous question.

Mr. SMITH, of Virginia. Cannot I be permitted to change my vote?

[Loud cries of "No!" "No!"]

Mr. SMITH, of Virginia. Well, I move to reconsider, at any rate.

The SPEAKER. The Chair entertains the motion to reconsider.

Mr. McQUEEN. I move to lay that motion upon the table.

Mr. SMITH, of Virginia. I call for the yeas and nays on that motion.

Mr. STANTON. If the yeas and nays are to be called, let them be called but once, and on the motion to reconsider.

Mr. SIMMS. Let us take them on the main question.

The yeas and nays were ordered.

Mr. McQUEEN. At the instance of some of my friends, I wish the yeas and nays to lay the motion to reconsider upon the table.

Mr. STANTON. Now, let us have the yeas and nays on the motion to reconsider.

Mr. SMITH, of Virginia. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FLORENCE. I suggest to the gentleman from Virginia that he had better withdraw the demand for the yeas and nays on the motion to reconsider. I have no doubt the vote will be reconsidered, and then we can have a test vote on the main question.

Mr. GROW. It will be a test vote if we refuse to reconsider.

Mr. FLORENCE. That is a dishonest way, in my judgment.

Mr. SMITH, of Virginia. I yield to the suggestions of others, and will withdraw the demand for the yeas and nays.

The SPEAKER. The yeas and nays having been ordered on the motion, the gentleman cannot withdraw the call except by unanimous consent.

Several Members objected.

The question was taken on the motion to reconsider, and it was decided in the negative—yeas 88, yeas 94; as follows:

YEAS—Messrs. Green, Adams, Aldrich, William C. Anderson, Ashley, Ayer, Balliett, Barr, Barrett, Bingham, Blake, Branson, Bryant, Briggs, Burleigh, Burroughs, Butterfield, Chase, John B. Clark, Cobb, Crocker, James Craig, Davidson, Delano, Doell, Edwards, Eitel, English, Etheridge, Florence, Foster, Frank, French, Grosch, Graham, Hamilton, John T. Harris, Hall, Hoad, Holman, Howard, Hughes, Humphrey, Jackson, Jenkins, Kilgore, Kunkel, James M. Leach, Logan, Mallory, E. B. Martin, Maynard, McFarland, Milburn, L. T. Moore, Moorhead, Morrill, Nelson, Nimitz, North, Olin, Pendleton, Perry, Ripston, Postle, Rayburn, Briggs, Robinson, Thomas, William Smith, William N. H. Smith, Simmon, James A. Stewart, Stokes, Stout, Tappan, Taylor, Theaker, Train, Underwood, Vallentyne, Vernon, Caldwell, W. Washburn, Israel Washburn, Webster, Wilson, Winslow, Woodruff, and Wood—88.

AYE—Messrs. Allen, Johnson, Barkside, Blair, Bock, Bonham, Boyce, Buffum, Bush, Campbell, Carey, Carter, Clifton, John C. Cleburne, Collins, Cocking, Cox, Cushman, Curran, Crawford, Curry, Davis, John D. Davis, Reuben Davis, Dawes, De la Jarrie, Dunn, Edgerston, Farnsworth, Foster, Francis, Garrett, Gilmer, Hove, Humes, Hutton, Hiram, Horst, Hurling, Jenkins, Jones, Kirk, Francis W. Loring, William H. Lyndon, Keeney, James Lindsey, Lee, Loomis, Love, Lurvey, Mackay, Marston, McKean, McPherson, McQueen, McKee, Rice, Wyndham Moore, Edgerton, J. Morris, Palmer, Pease, Phelps, Post, Rags, Christopher Reade, Trimble, Verme, Walden, Washburn, C. Washburn, Ellis B. Washburn, James Washburn, Veits, Whitely, Winslow, Wood, and Woodruff—94.

So the House refused to reconsider the vote by which the amendment was rejected.

During the roll-call, Mr. GOUCHER stated that Mr. Adams, of Massachusetts, had paired off for to-day with Mr. BARNETT, after this vote.

Mr. ALLEN stated that Mr. COOPER had paired off with Mr. LEACH, of Michigan.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, its Chief Clerk, informing the House that the Senate had passed an act (H. R. No. 341)

authorizing publishers to print on their papers the date when subscriptions expire.

AMENDMENT OF THE RULES—AGAIN.

The question recurred on the amendment proposed by Mr. VALLANDIGHAM to abolish the hour rule, upon which the yeas and nays had been ordered.

Mr. SICKLES. Can I be permitted to ask a question of the chairman of the committee on the revision of the rules, to govern my vote? I wish to inquire if there is to be a vote on a proposition to confine debate to the matter in hand?

Mr. WASHBURN, of Maine. I think that has been decided.

Mr. SICKLES. No; it has not been adopted. I would ask the gentleman if he will agree to a vote on a proposition to strike out from the thirty-second amendment the words "on special orders."

Mr. WASHBURN, of Maine. I am not authorized to do such a thing.

Mr. ALDRICH. What would be the effect of the adoption of the amendment on which we are about to vote? Would it allow a member to talk two, three, or four hours, or a week?

The SPEAKER. If we abolish the hour rule, a member may talk as long as he pleases.

The question was taken; and it was decided in the negative—yeas 80, yeas 97; as follows:

YEAS—Messrs. Barr, Blair, Bingham, Bunker, Bonham, Barth, Barnett, Case, John C. Clark, Chapman, John Chace, Cocking, Cobb, James Craig, Barr, Crain, Craig, Crawford, Curry, Davidson, Reuben Davis, De la Jarrie, Edgerston, Ferry, Fletcher, Garrison, Hutton, Hickman, Hill, Holman, Houston, Jackson, Jenkins, Jones, Keith, William Kilgore, Kilgore, Kunkel, Anderson, Landman, Logan, Love, Marley, Maynard, McFarland, McKee, Miles, Milburn, Milward, Lahan T. Moore, Wyndham Moore, Nelson, Nimitz, North, Olin, Pendleton, Post, Rags, Quaker, Reagan, Ruffin, Steele, William Smith, William N. H. Smith, Simmon, Stevenson, James A. Stewart, Stout, Taylor, Underwood, Vallentyne, Vernon, Caldwell, W. Washburn, Winslow, Woodson, and Wright—80.

AYE—Messrs. Green, Adams, Aldrich, Allen, William C. Anderson, Ashley, Ayer, Balliett, Blair, Black, Bonham, Boyce, Bryant, Briggs, Buffum, Burham, Butterfield, Campbell, Carter, Cobb, Collins, Corcoran, Cox, Curran, John D. Davis, De la Jarrie, Dunn, Edgerston, Edwards, English, Farnsworth, Fenton, Foster, Frank, French, Garrett, Gilmer, Grosch, Graham, Grosch, Gurley, Hardman, Hove, Humes, Hutton, Hiram, Horst, Hurling, Jenkins, John T. Harris, Hall, Hoad, Holman, Howard, Hughes, Humphrey, Jackson, Jenkins, Kilgore, Kunkel, James M. Leach, Logan, Mallory, E. B. Martin, Maynard, McFarland, Milburn, L. T. Moore, Moorhead, Morrill, Nelson, Nimitz, North, Olin, Pendleton, Perry, Ripston, Postle, Rayburn, Briggs, Robinson, Thomas, William Smith, William N. H. Smith, Simmon, James A. Stewart, Stokes, Stout, Tappan, Taylor, Theaker, Train, Underwood, Vallentyne, Vernon, Caldwell, W. Washburn, Israel Washburn, Webster, Wilson, Winslow, Woodruff, and Wood—97.

So Mr. VALLANDIGHAM's amendment was rejected.

During the roll-call, Mr. AVERY stated that he had paired off upon this question with Mr. CORWIN, or he would have voted "no."

Mr. ALLEN, when his name was called, said: "I voted in the proceedings of some recent session, as reported in the Globe, it was announced that I had paired off for this week with Mr. ELY. That is an error. I am not paired with any one. I wish further to say, that Mr. MORRIS, of Illinois, in the event of Mr. EBERGAST not requiring a pair, was authorized to pair with me last week upon all votes which might involve party interests, but nothing further."

Mr. POTTLE. I announced the pair, and I did it on the strength of a letter sent by Mr. ELY. That is all I know about it.

Mr. FOSTER stated that he had voted in the affirmative inadvertently. If he could reduce the time to half an hour, he would let the vote stand. If he could not do that, he would vote "no."

The result of the vote having been announced as above recorded.

Mr. WASHBURN, of Maine, moved to reconsider the vote by which the amendment was rejected; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The next amendment, on which separate vote had been called, was reported as follows:

Amend rule 104, by striking out the words "there shall be appointed a standing committee of this House, to consist of thirteen members, to be called by the Committee on Printing, to whom shall be referred by the Clerk, all bills, resolutions, or other matters which may be referred to the members of the House"; so that it will read:

There shall be referred, by the Clerk, to the members of

the Committee on Printing on the part of the House, all bills, resolutions, or other papers, which may be referred to the House before the House for engraving, lithographing, or publishing in any way; which committee shall report to the House whether, in the opinion of the majority, it should be published; and if the House order the publication of the same, that said committee shall direct the size and manner of execution of all such bills, resolutions, or other papers, and contract by agreement, in writing, for all such engraving, lithographing, printing, drawing, and coloring, as may be ordered by the House; which agreement, in writing, shall be furnished by said committee to the Committee of Accounts, to be given said committee in all allowances and appropriations to be done for the House; and said committee to report at all times.

Mr. STANTON. I desire to know whether, if this amendment be voted down, there will be left any authority in contract for the engraving and lithographing to be done for the House?

The SPEAKER. The Chair understands there will not be.

Mr. STANTON. I understand the committee repealed the rule constituting the Committee on Engraving; and that, if this amendment be rejected, no committee will have power to contract for engraving or lithographing. Now, sir, I do not want to give any committee the power to make these contracts, without first submitting them for the ratification of the House.

Mr. GROW. Debate is not in order.

Mr. WASHBURN, of Maine. I understand this rule simply abolishes the Committee on Engraving.

The SPEAKER. The Chair understands that it is simply a substitution of the Committee on Printing for the Committee on Engraving.

Mr. BURNETT. And abolishes the Committee on Engraving.

The SPEAKER. The Chair so understands it.

Mr. HOUSTON. I would like to suggest an amendment, by which the committee should be required to let their contracts out to the lowest bidder.

Mr. WASHBURN, of Maine. I will state that this leaves the rule precisely where it was before, with the exception that it transfers the duty of making these contracts to the Committee on Engraving, which is the Committee on Engraving.

The SPEAKER. It gives no new power or authority.

Mr. STANTON. My objection is that no requirement is made that these contracts shall be first submitted to the House for its approval before being completed.

Mr. WASHBURN, of Maine. That is all provided for by law.

Mr. BURNETT. I understand that this amendment does not make any change in the power of the committee; it simply transfers the power that now exists to the Committee on Printing, and abolishes the Committee on Engraving.

Mr. HOUSTON. I ask the permission of the gentleman from Maine to move that the committee to which this matter is referred shall be required to let out these contracts to the lowest bidder.

Mr. GROW. I think the House does not understand the effect of this amendment. The rule in reference to the letting of these contracts remains where it was before. All bills, resolutions, or other matters which may be referred to the members of the House for engraving, lithographing, or publishing in any way, shall be referred to the members of the House; and the House shall order the publication of the same, that said committee shall direct the size and manner of execution of all such bills, resolutions, or other papers, and contract by agreement, in writing, for all such engraving, lithographing, printing, drawing, and coloring, as may be ordered by the House; which agreement, in writing, shall be furnished by said committee to the Committee of Accounts, to be given said committee in all allowances and appropriations to be done for the House; and said committee to report at all times.

Mr. HOUSTON. But I understand the object of the action of the House now to be to make the rules better. While we are making changes in the rules, I think we should improve them as far as possible.

Mr. GROW. This is a matter that should be referred to the House.

Mr. HOUSTON. My object is to have incorporated into the rule a provision that, under the law, shall guard against fraud, corruption, and favoritism.

Mr. WASHBURN, of Maine. It is not in order to move any amendment at this time.

The SPEAKER. It is not, except by unanimous consent.

Mr. HOUSTON. I ask the unanimous consent of the House, then, to offer the amendment which I have offered.

Mr. WASHBURN, of Maine. I object.

Mr. HOUSTON. I call attention to the fact that the objection comes from the gentleman from Maine.

Mr. COX. I wish to ask a question of the gentleman from Ohio.

Mr. DAWES. I rise to a question of order. No debate is in order.

Mr. COX. I should have been through while the gentleman was making his question of order. I merely desire to ask whether this matter of contract is not regulated by law?

Mr. STANTON. I understand that this rule proposes to give the Committee on Printing the power to contract.

Mr. BURNETT. The gentleman is mistaken. The amendment gives no new power. It simply transfers the power now existing in the Committee on Engraving to the Committee on Printing.

Mr. STANTON. I understand the Committee on Engraving has already been abolished by another rule.

Mr. WASHBURN, of Maine. It is simply a matter of form. Now, Mr. Speaker, I want to make a single remark to this House.

Mr. STANTON. If there is to be debate upon this question, let us have a chance upon both sides. I call for tellers on the amendment.

Tellers were ordered; and Messrs. BURNETT and DAWES were appointed.

The House divided; and the tellers reported—ayes 78, nays 45.

So the amendment was agreed to.

The following is the next amendment, on which a separate vote was asked:

Strike out of rule 70 the words "for the civil and diplomatic expenses of the Government; for the Army; for the Navy; and for the Indian department and Indian annuities," and insert in lieu thereof: "for legislative, executive, and judicial expenses; for military civil expenses; for consular and diplomatic expenses; for the Army; for the Navy; for the expenses of the Indian department; for the payment of invalid and other pensions; for the support of the Military Academy; for fortifications; for the service of the Post Office Department; and for mail transportation by ocean steamers; and said committee shall have leave to report such bills, for reference only, at anytime," so that it will read:

"It shall also be the duty of the Committee of Ways and Means, within thirty days after their appointment, at any time, and at any place, to report to the House, on or before December, to report the general appropriation bills—legislative, executive, and judicial expenses; for military civil expenses; for consular and diplomatic expenses; for the Army; for the Navy; for the expenses of the Indian department; for the payment of invalid and other pensions; for the support of the Military Academy; for fortifications; for the service of the Post Office Department; and for mail transportation by ocean steamers; and said committee shall have leave to report such bills, for reference only, at any time, or in failure thereof the reason of such failure."

The amendment was concurred in.

The following is the next amendment on which a separate vote was asked:

Amend rule 59 by striking out at the end of the rule the words "or mile," and inserting in lieu thereof, "or each mile necessarily and actually traveled by such officer or other person in the execution of such precept or summons," so that it will read:

"The fees of the Sergeant-at-Arms shall be, for every arrest, the sum of two dollars; for each day's custody and imprisonment, one dollar; and for traveling expenses for himself or a special messenger, going and returning, one tenth of a dollar; and for each mile necessarily and actually traveled by such officer or other person in the execution of such precept or summons."

The amendment was concurred in.

The following is the next amendment upon which a separate vote was asked:

Add as a new rule:

All elections of officers of the House, including the Speaker, shall be conducted in accordance with these rules; and the same are applicable to the presiding officer of the House, the Clerk, shall preserve order and decorum, and he shall decide all questions of order that may arise, and he shall appeal to the House.

These rules shall be the rules of the House of Representatives of the present and succeeding Congress, unless otherwise ordered.

The amendment was concurred in.

The Clerk read the following amendment:

Add as a new rule:

The House shall meet at two o'clock, p. m., until otherwise ordered; but this rule may be suspended at any time during the last ten days of the session, by a majority of the members present, who may then sit upon a different hour of the day for the rest of the session.

Mr. STANTON. I want the House to know that that is not an amendment reported from the Committee of the Whole on the state of the Union; but that it is an amendment moved in the House by the gentleman from Maine, [Mr. WASHBURN].

The SPEAKER. That is so.

The question was taken; and the amendment was rejected.

Mr. WASHBURN, of Maine, moved to reconsider the votes by which the amendments were

severally adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CONDUCT OF THE NAVY DEPARTMENT.

Mr. SHERMAN. I call up the motion made by the gentleman from Pennsylvania [Mr. Florence] to reconsider the vote by which, on the 16th of February last, the following resolutions were referred to the Committee on the Expenditures in the Navy Department, and I move that it be laid upon the table.

Resolved, That the Secretary of the Navy has, with the assent of the President, abused his discretionary power in the selection of a coal agent, and in the purchase of fuel for the Government.

Resolved, That the contract made by the Secretary of the Navy, under date of September 23, 1859, with William C. N. Swift, for the delivery of live-oak timber, was made in violation of law, and in a manner manifest, improper, and injurious to the public service.

Resolved, That the distribution, by the Secretary of the Navy, of the patronage in the navy, to its discreditable power in Congress, was destructive of discipline, corrupting in its influence, and highly injurious to the public service.

Resolved, That the President and Secretary of the Navy, by receiving and considering the party relations of bidders for contracts with the United States, and the effect in the minds of the public upon pending elections, have acted in a manner dangerous to the public safety, and deserving the reprobation of the House.

Resolved, That the appointment, by the Secretary of the Navy, of Daniel B. Martin, chief engineer, as a member of a board of engineers to report upon proposed machinery for the United States, the said Martin, as the then, being particularly interested in some of said proposals, is hereby disapproved by this House.

Mr. FLORENCE. I am willing that that course shall be pursued.

The motion to reconsider was laid upon the table.

MILITARY ACADEMY BILL.

Mr. SHERMAN. Mr. Speaker, I ask that the question in reference to the Military Academy bill be now disposed of.

Mr. DAWES. I rise to a question of privilege. I move that the House proceed to the consideration of the report from the Committee on Elections, in the case of Williamson against Sickles.

Mr. DAVIS, of Mississippi. What becomes of my motion, that the rules be suspended in order that a resolution I have just read at the Clerk's desk be introduced? It is a resolution for a recess in April.

The SPEAKER. The gentleman's motion when made was not in order, and it was not entertained. The reference of the Military Academy bill is the first question now in order.

Mr. DAWES. I believe that my motion has precedence.

The SPEAKER. The Chair believes that the question of reference of the Military Academy bill is the first to be considered.

Mr. DAWES. Do I understand the Chair to decide that any motion made here is of higher privilege than the motion I now make in respect to the right of a member to his seat?

The SPEAKER. The Chair decides that the Military Academy bill, having come in upon a common consent, must be first disposed of, and that it is not in order to interrupt it by other business. A motion was submitted that the bill be referred to the Committee of Ways and Means; and that it was moved that it be referred to the Committee on Military Affairs.

Mr. SHERMAN. The motion first made was that the bill be referred to the Committee of Ways and Means. The motion to refer to the Committee on Military Affairs was submitted subsequently.

The SPEAKER. The motion to refer to the Committee on Military Affairs was made as an amendment to the motion to refer to the Committee of Ways and Means, and the question must first be taken upon that amendment. Such has been the practice under the rules of the House.

Mr. REAGAN. I do not wish to debate the proposition at this time, but merely to make a statement which I deem it proper should be in the possession of this House before it decides this question of reference. I regret, sir, of course, that the House should be embarrassed by any difference between the chairmen of the respective committees. The amendment of the Senate concerns the military department of this Government. The subject of that amendment has already been under consideration by the Committee on Military

Affairs, and that committee will be better able, from the information it possesses, to report on the amendment, and to report sooner than probably any other committee of this House. I trust sincerely that the bill will be referred to the Committee on Military Affairs; for that committee, I repeat, have already had the subject under consideration.

Mr. WINSLOW. What is the amendment of the Senate?

Mr. REAGAN. The Senate attached to the Military Academy appropriation bill an amendment making an appropriation to enable the President to call into the service of the United States a regiment of mounted Texas volunteers for the defense of the Texas frontier, if in his discretion their service is required.

Mr. WINSLOW. The whole question, then, is as to the propriety of adding a new regiment to the force for the defense of the Texas frontier.

Mr. WINSLOW. Then, sir, I think it is a matter appropriate to the Committee on Military Affairs—one pertinent to the duties that committee is required under the rules to discharge.

Mr. MORRILL. I have been meeting here a statement made by the gentleman from Ohio [Mr. Stanton] when this question was before the House before. It will be recollected that he stated upon that occasion that the Senate had referred the Military Academy bill to the Committee on Military Affairs. I am now glowing at the proceedings of the Senate, though that was the fact, it was a mere inadvertence; and the action was reconsidered, and the bill was referred unanimously to the Committee on Finance.

Mr. REAGAN. Mr. Speaker, that I was surprised that the gentleman from Ohio should make a second onslaught upon this subject. So far as my experience goes, I am perfectly willing that he should have a second overhauling of this question. I believe the action of the House will be to adhere to its previous action.

In reference to this matter particularly, there is no special haste, as I see by a telegraphic report in the Government newspaper, the Constitution, that the war upon the Texan frontier is already settled.

Mr. REAGAN. The gentleman from Vermont will allow me to say a word just here. It is a fact that there is such an urgent necessity for speedy action as makes us solicitous that this matter should go to the Committee on Military Affairs. I will state to the gentleman from Vermont that the dispatch which he refers to does not have reference to the Indian hostilities which have been pending over us for a number of years; but it has reference to the movements of Cortinas, who, the officer sending this dispatch seems to think, has suspended his hostilities.

But in reference to that I would state that Cortinas commenced his operations by committing a number of murders in the city of Brownsville, upon this side of the Rio Grande. He then collected his forces upon this side of that river, and remained there until he was ordered to return to his lost city. He then withdrew his forces to the other side of the Rio Grande, on Mexican territory. His troops were Mexicans, and his banner was Mexican, not American. From that side he attacked an American steamer, passing up the Rio Grande, and some Texas rangers came to the rescue, and fought him upon the opposite side of the river. They then returned to this side of the river upon United States soil. Cortinas continued his depredations by smaller bands, driving the inhabitants from their homes and destroying their property. Recalled to the Senate, the adjournment of the State Legislature, returned to his home upon the Rio Grande, and found his plantation destroyed, his houses burned, and his property all gone. I refer to Senator Hoard.

Mr. Dougherty, one of the representatives from Hidalgo county, also returned home to find all his property gone, and his possessions burned down. This thing has gone on until the question on the Rio Grande has become almost depopulated. No planting will be done this spring upon the Rio Grande, and some Texas rangers came to the rescue, and fought him upon the opposite side of the river. They then returned to this side of the river upon United States soil. Cortinas continued his depredations at an end. They are temporarily suspended, and may be renewed at any time.

I could answer the gentleman's reference to that

dispatch, by referring to another, stating that Miramon had dispatched instructions to Cortina to hold out until he could send him succor in April. The dispatch may not be correct, but it is one of the rumors which has received currency in connection with this subject.

But the purpose for which I rose was not particularly to dwell upon our difficulties with Mexico, though I may say the further fact, that ours is a boundary between two nations; a boundary upon which there is hostility of feeling; a boundary upon which adventures of our own countrymen congregate, and upon which Mexican smugglers congregate. So there is sufficient necessity for a force there to overawe these elements upon the Mexican frontier. With proper detachments of artillery and dragoons from the regular Army, these evils might be remedied and the peace preserved. But I believe that unless a sufficient force, under the direction of a discreet officer, is placed upon that frontier, there is imminent danger that the two nations will be involved in war—a thing to be deprecated and avoided by all.

But it seems to be supposed, since there is a great deal of talk about our difficulties with Mexico, that that is the sole or controlling object we have in view in making for the frontier. If that opinion prevails, it is erroneous. It is true, and ought to be known, and doubtless is known to members of the House who were here last session—for I made the best presentation of the subject I could, during that session. There is no continuing state of hostilities upon the borders of Texas for the last four or five years. It is true, though it seems not to be comprehended, that during the last eighteen months we have had two bloody battles with the Indians, in each of which more than seventy Indians fell, and a number of whites.

It is also true—and the fact appears in the documents in the War and Interior Departments—that hundreds of thousands of dollars' worth of property has been stolen from the people by the Indians; that there is no doubt in which some of the people of that frontier are not killed or carried away into captivity, and their property destroyed or carried away. There is a universal sense of insecurity and danger. Earnest appeals come by every mail to the Senators and Representatives from the State, requiring that the Government will not afford them protection. Why, sir, within the last six weeks, and within one hundred miles of the State capital, four Indians were attacked by Indians, and carried into captivity. Two of them were found by the parents of the Indians dead; the other two have not been heard from. In a neighborhood close by, two other Indians were captured; a portion of their clothes were found, but they themselves were carried into captivity. Now the correspondence in the War Department and Interior Department shows that these are continual occurrences.

It is answered, that we have a regular force upon that frontier; and it may be said that the regular Army is sufficient to afford us protection. Now, I wish to state that when the Mormon difficulty broke out, the military force we had was the cavalry. Those troops were ordered to Utah. My colleague at that time in this House, and the Senators from Texas in the other end of the Capitol, entered a solemn written protest with the Secretary of War against that removal, representing that our people were being murdered, and their property destroyed. And even when they were there, they were inadequate to our protection.

From 1855 up to this time, I wish it understood by the House, the several Governors of Texas, in answer to continued applications for troops upon the frontier for protection, have ordered company after company into the field to protect that exposed and defenseless frontier. Our State incurred hundreds of thousands of dollars' expense. We applied last Congress for a reimbursement of a portion of that expense, and we were paid only \$55,000 out of an expenditure of \$185,000. The State has had to go on spending additional sums of money in order to give protection to life and property there.

If the murders committed on the frontier of Texas in one single month were committed on the borders of Pennsylvania and Virginia, this whole nation would be horrified at the fact of such murders. Yet because our people are far removed from the Federal capital; because you cannot see

their blood flowing on the soil; because it is not your wives and your children that are being murdered or carried into captivity; because it is not your property that is being stolen, you do not seem to realize that there is a necessity for frontier defenses. It is but the cavalry arm of the service that is of any use in defending the people against Indian hostilities. Artillery cannot be brought to operate against the Indians, and the cavalry is the only force that can be brought to bear. The Indians understand that; for they will come into the immediate vicinity of infantry and commit depredations, and murders, and outrages on our women and children. They know that, with the slow movements of infantry, they can commit crimes with impunity.

The Indians must be dealt with in a different manner. The Government has tried treaties with them. It has tried to civilize them. It has furnished them with reserves, in order to encourage them to cultivate land and become civilized. But still these warriors went on. Then the Government made an effort to remove the Indians from the reserves in Texas, to a country secured for that purpose on the north side of the Red River. But this only seemed to exasperate them. They return from there and commit their depredations; and the Government is stated in a paper, that arrived by the last mail from the frontier, that there were one hundred and fifty Indians advancing on the frontier of the Upper Brazos. The people were greatly alarmed at the danger of attack, and were preparing to fight. The people here are hardly being able to get the Government to incur additional expense, are now organizing companies for their defense. But I submit that it is not just to require them to abandon their homes and their crops, and the immediate protection of their families, in order to defend themselves. It is the duty of the Government to give them protection. Humanity and justice demand protection for them.

There is one other point of view, Mr. Speaker, which I must not omit to mention, before closing the few remarks that I am submitting. It is this: In the present emergency, the Government's hostilities must be pressed against the Indians by a force of a character and capacity to pursue them to their haunts upon the plains and rivers north of us, chastise them there, and visit there on them the effects of their continual marauding on our lives and property. That is the only way to find repose. For that purpose, sir, it is necessary, as all men acquainted with the nature and character of military defenses understand, to put in pursuit of them in the spring, or early part of the summer, light, active men; troops, actually, not from frontier life, acquainted with the habits and mode of warfare of the Indians—troops that can pursue them, and that can and will punish them.

It is for this reason that we think and feel satisfied—and in this the experience of all men acquainted with frontier life accords with what I say—that if the Government give the desired regiment, and give it promptly, let it be mustered into service in time, and make a campaign this spring and summer, the Indians can be chastised, and can be driven to the necessity of suspending their hostilities for the time. The President, in signing this bill, disband the troops so soon as the necessity for their services ceases to exist. I think that a single campaign of six months will secure repose on the frontier; but that will not be sufficient time, unless they may, under the bill passed by the last Congress, in his discretion, continue the service for eighteen months. It is for the full period of eighteen months that appropriations are proposed to be made.

I beg gentlemen not to let mere prejudice, in answer to the question, ought we to consider this matter, control their action. I beg them not to consider it in a merely partisan light; but as citizens of this Government, who have high duties to perform as Representatives of the people, and are to be held responsible for the proper performance of those duties. I beg them, in their consideration, to transfer themselves and their families to a frontier attacked by hostile savages. Let them imagine their families stricken down; their wives carried into captivity; their children torn from the arms of their parents, and raised up as captives in Indian barbaries. Let them think of their families lost under such circumstances, and I am persuaded they will consent to have the State of Texas protected. It is to be borne in mind that the frontier extends from Red river of northern Texas, by its

meanderings, many hundred miles, till it reaches the Rio Grande; and that, by affording protection in this way to the population of the frontier, the regular forces can be transferred to the Rio Grande country to keep the peace between Mexico and the United States.

I trust, Mr. Speaker, that as the Committee on Military Affairs has already before it two propositions for the consideration of the House, it will give attention call to this matter, and will doubtless have to go deeply into its investigation; and as this amendment relates to military defenses, and involves the necessity of investigating the condition of our frontier defenses, the control of the subject will be given to that committee. I trust that the amendment makes an appropriation; but that appropriation is merely incident to the necessity that gives rise to it. I propound the question to the Committee of Ways and Means as to whether that committee can devote sufficient of its time to this matter. That committee has most important duties. It is charged with the most onerous and severe duties of all the other committees of the House. Will it consent to take up the papers in connection with this matter, and consider the necessities of our military defenses, and the military questions involved in this matter, the consideration of which I apprehend the Committee of Ways and Means would find incompatible with their other duties. I have no idea as to what view of this question the Committee of Ways and Means will take. I am sure from any preconceived notion as to whether that committee may report favorably or unfavorably that I ask for the reference of this matter to it. It is because that committee has already the subject before it, and will make the necessary report to the House, that I feel that I am sure it is disposed to rely on that report, going into the facts of the case and showing whether the appropriation ought or ought not to be made.

I trust, therefore, that the matter will be permitted to take that direction, in order that we may have the speedy, prompt action upon it which the emergency requires.

Mr. COX. In speaking to the motion to refer the bill and amendment under consideration, I premise that, before that vote can be intelligently taken, our relations with Mexico must be considered. The military question involved in the bill, and the consideration of which I have the honor to say that the Committee of Ways and Means have not the leisure to devote to this consideration, the Military Committee, which has before it the facts connected with the movements on our Mexican border, should devote its time to a full examination of the subject, and I am sure that this discussion of our relations with Mexico is inappropriate on this motion, I say that the late news from Vera Cruz, before which Miramon is now hovering with his army, and the projected armistice tendered by England to the belligerents, are so important that at no other point of the Mexican boundary should these relations be complicated. Mexicans and Indians are devastating the Rio Grande country. The Governor of Texas asks Federal aid. If it be not granted, he threatens to conquer a peace on Mexican soil. A war between the United States and Mexico would not only embarrass the relations of this country with respect to the late treaty; but it concerns the honor and interests of our citizens commorant in Mexico.

Europe has her continental politics; America has hers. England sends ambassadors, and France armies, to Italy; the one to forestall and foil Austria, the other to fight her; and both to rescue Italy, as well from her invaders as from her own immolation. We have our Italy. Not alone is Mexico our Italy by her natural beauty, her position, soil, and climate, but she is our Mexico by her political Italy. She is torn to shreds by those who are fighting over the parts of her garments.

Such is the present condition of Mexico; and such is our interest in it, that we cannot be careless of her. We are bound to her by the ties of those cases of great public distress which lie at our very doors. We cannot avoid seeing it. It is in our path, as an obstruction to our progress and a menace to our peace. Self-interest, if not republican sympathy, demands from us for Mexico our vigorous help.

Mr. BOYCE. Mexico is our "sick man."

Mr. COX. Yes; she is to America what Turkey is to Europe. If she be not healed of her wounds and set upright on her progressive path,

term—Vittoria, her first President, and Herrera, at the close of our war with Mexico. But these happy exceptions can hardly be called such, when we remember their perils and troubles, their antagonists with pronunciamentos, and their wars to put down insurgents.

Mr. STANTON. The gentleman is surely not in order in discussing the whole Mexican question on this motion to refer.

Mr. COX. If my colleague will hear me through, he may see the application of what I intend to make to the question before us. I do not intend to obtrude my views. I was advised by the best parliamentarians here that such a discussion was in order. I proceed.

The history of this era is but the placement and displacement of presidents—the match and counter-march of generals. A President who is absent from the capital is compelled to fight his way back to the palace; when once in the palace, he has no rest till he marches forth again against his enemies out of the city. The civilian has continually a sword in his hand and a foot in the stirrup. A junta meets in Puebla or Ayuda, and lo! a new constitution and a new Executive! One day it is "*Méjora le General!*" the next, if it is not killed, it is "*Viva le General!*" These vicissitudes continue for more than a century of a century—may, for a half century, be the first struggle, in 1809—with five consecutive years of repose. The fields of Mexico have been fertilized with the blood, bone, and muscle of her children. Intestine feuds, more infuriate than foreign invasions, have done their prey and broken her hopes. During this period, she was twice attacked by Spain, once by France, and once conquered by the United States. Yet, with her marauding Indians, her thieving Iperos, her internal feuds, and her foreign invasions, her energy has been wonderful; her resources and her resources seem inexhaustibly bountiful. What might she not become, under a liberal protection given to her industry, her commerce, and her property!

Our third speech opens on the 5th of February, 1857, when, at an extraordinary Congress called for that purpose—and *nomine contraindiente*—the present constitution was adopted. Comfort be to its Executive. His policy, which was that of a trimmer between the two parties, led to his quitting the post on the 11th of January, 1858. By the seventy-ninth article of the constitution, the president of the supreme court of justice became the President of the Republic. Benito Juárez then held the presidency of the supreme bench, and became *de jure* chief Executive of the nation.

Before Juárez could assume his functions at the capital, Félix Zuloaga, under the "plan of Tacubaya," proclaimed by a body of soldiers who had the tenacity, without the dignity of the Roman Pretorians, usurped the office of President. Force drove Juárez from State to State, until he found himself compelled to flee to the United States, where he landed at Panama to Vera Cruz, where he now administers his office with cabinet of unsurpassed intelligence and patriotism. He demanded the allegiance of the various States, and he received it from all, except a few in the valley and neighborhood of Mexico. I do not think he still retains that allegiance; and that notwithstanding all the changes of the contest since the summer of 1858, he is President in fact as well as in form.

In November, 1858, Zuloaga was deposed by the same power which has set him up—a usurpation aided by mercenary troops, mercenary merchants and mercenary ministers. One of his Generals, Miguel Miramón, young, impetuous, successful, and more plant to the purposes of the masters of the capital, supersedes Robles, who had for two days usurped the usurping Zuloaga's power.

For the past year these parties have not changed their relative strength a great deal, either with respect to the various States or their military occupation. The Liberal and Centralist parties are there. Miramón defeats Degollada at Querétaro, but he loses as he leaves this and that city behind him, in his forward march. When Miramón leaves Mexico to threaten Vera Cruz, a half dozen generals march toward Mexico to arrest him. I suppose a year ago, that Juárez had a majority of the States and nine tenths of the people. He had more, and he has retained all that he had. Let me

try and give a clear picture of this Mexican "situation" by figures and facts, corrected by close observation. From it, will be seen that Miramón is confined mainly to three central States—Querétaro, Puebla, and Mexico—with a temporary and violent occupation of a few places outside. At the coast and frontier, with the custom-houses and ports, are held by Juárez. From these are the revenues. There are eight of these custom-houses on the Gulf, five on the Pacific, and eight on the frontiers. Merchandise, silver, or bullion can enter or depart from the country, unless by smuggling or by consent of the Juárez government. Miramón is hemmed into a small area, and is supported, willingly, but by a very inconsiderable population. Let me present the condition of things, as they now are, in a tabular form:

States.	Population.		Square leagues.	
	Miramón.	Juárez.	Miramón.	Juárez.
Aguascalientes	-	90,000	-	398
Coahuila	-	70,000	-	2,947
Chihuahua	-	100,000	-	5,598
Durango	-	160,000	-	10,000
Guanajuato	600,000	100,000	1,545	6,741
Hidalgo	-	270,000	-	1,302
Jalisco	800,000	100,000	3,721	2,971
Mexico	1,200,000	600,000	8,432	4,318
Nuevo Leon	-	150,000	-	3,918
Oaxaca	-	500,000	-	6,000
Queretaro	600,000	100,000	1,733	609
San Luis Potosi	-	400,000	-	3,914
Sonora	-	100,000	-	10,000
Sonora	-	180,000	-	12,340
Tlaxcala	-	70,000	-	1,719
Tehuacan	-	100,000	-	1,719
Vera Cruz	-	200,000	-	3,501
Yucatan	-	450,000	-	8,601
Zacatecas	-	100,000	-	2,972
Y. California	-	12,000	-	276
Colima	-	70,000	-	677
Guerrero	-	10,000	-	364
Rierra Gorda	-	50,000	-	1,489
Tehuacan	-	30,000	-	364
Tlaxcala	-	100,000	-	1,719
	3,990,000	4,264,000	15,762	99,290

It will be seen that I have given Miramón five States of small area, and of comparatively dense population. I have given Miramón Querétaro, Puebla, and Jalisco, because he holds their capitals, now threatened by his enemies. I have given Miramón Puebla and Querétaro, although Juárez holds some of the towns in each. It would be fair (especially as even one town of Mexico, Tehuacan, is held by Juárez, and as some towns in Vera Cruz are held by Miramón, and as he is besieging its capital by his forces) to divide these first four States between the parties.

This would leave in the hands of Juárez, States having 5,235,000 population, and 1,044.35 square leagues; leaving Miramón 2,708,000 population, and 105.07 square leagues; leaving 2,530,000 of population, and 939.26 of square leagues in favor of Juárez, on a fair computation.

But this geographical and popular element in his favor is utterly useless for government in a country where rapine is the order and the order the exception, unless Juárez is aided by extraneous force and means. I am assured of the fact that he is able to hold his own, including Vera Cruz; while Miramón, since he has left the capital, holds only a few towns, by a precarious tenure. The rumors, that Marquez and Wolf have pronounced against him, and for Santa Anna.

We are apt to draw our analogies from France, and argue that as Paris is held so is France; that the revolution of the capital is that of the empire. The analogy does not hold. France is a centralized Power; Mexico a federative Government. Our own nation will serve as a better illustration. It would hardly follow that a usurper holding Washington city and parts of Maryland and Virginia and Delaware, with no sea-ports, no custom-houses, no revenues, nothing but the soldiers of the District, could be called the Government *de facto*, while all the rest of the country preserved the form, spirit, and functions of the Federal Government at Cincinnati or New Orleans. Nor would the recognition of such a Government, by France or England, make it, *de facto*, the Government. In Mexico, France and England have hitherto held the Central junta to be

the Government *de facto*. Their ostensible reason is, that it is at the capital. England, however, is about to withdraw such recognition, inasmuch as she has found it utterly irresponsible, cruel, rapacious, tyrannical, and barbarous towards her own citizens, even as it has been towards American citizens.

But it may be asked, "if the Juárez Government is so strong in area of territory, population, sea-coast and frontier, why does it not vindicate its authority by the capture of the capital, and stopping these depredations on foreign and domestic interests, lives, and liberty?" This question deserves a fair answer. Our answer is, that the minority are richer than the majority. It can buy the Pretorians. The spurious government is enabled to raise money, because it has intrigued with the French Minister, Gashin, and with the former English Minister, Otway, who were the tools of speculators and bankers. Consequently avarice and greed have beaten patriotism and honesty. The national securities of Juárez go unsung in the market, and bring only a nominal per cent; while the Central securities, guaranteed by foreign conventions, enable that faction to borrow at a fair per cent. Thus have the Centralists kept up their army, corrupted leaders and agents, and swept the land, leaving behind them nothing but insecurity, anarchy, and devastation. What towns or cities they hold is by force and fear; not fairly and respect. With all these advantages to the Central government, the nation is not with them. The Constitutional party has risen defeated at the important point, it is true—in April last, before the city of Mexico, and in November last, near Querétaro. But they now hold all of the northern half of Mexico, and more than half of the southern portion. They have made themselves masters of the entire Pacific coast, including Tehuacan, where Miramón held for a while. They have successfully resisted Miramón's attack on Vera Cruz; and will resist successfully his present attack, if they do not also wrest the capital from him, while he is attempting to take Vera Cruz. This rightful government will maintain itself in the field, as it can in the forum of the *lex gentium*, against the incivism and outrages of its opponents.

Which government is the one for our recognition and support? That is easily determined from the facts I have said. As Mexico, in April last, was thus determined. He has given us a final solution by the treaty now before the Senate.

The present Administration displays a wise, cautious, and just statesmanship, in urging the ratification of the treaty. It has been made with great care and anxiety. The President is reported to have said that the salvation of Mexico depends upon its ratification. I believe it, with all the earnestness of studious conviction.

That treaty concedes to us a safe transit and right of way across Mexico on three lines: one across the Gulf States, one across the States of Sonora and Chihuahua, and one across the States of Sonora and Mazatlan. It authorizes us to lend the naval and military forces of this Government to the Constitutional authorities, at their expense, in order to execute the treaty. Thus we are, in the language of international law, to be considered as allies with the Juárez government, and with power to execute the right. This power, if executed, will end these convulsions of Mexico. By a territorial abrogation, Mexico has given us a foothold upon her soil which cannot be used but for her peace, development, and prosperity.

If this House will observe the articles placed upon the free list by that treaty, they will perceive the ample scope of intercourse which it offers to every part of our country. The Ohio farmer will find a market for his wheat in the Gulf States, as well as the planter of cotton on the Gulf, whose great staple will find a larger market. The iron interest of the Middle States, and the manufacturing interest of New England, are alike the recipients of its results. We may regain the trade with Mexico, which we lost in 1850 to 1851, when \$46,000,000 were exported thither, against only \$18,000,000 from 1840 to 1850! We will do more. Since then, we have carved out empires on the Pacific; and the far Orient of China and Japan has given us treasures of intercourse. Our commerce from Mexico, being unburdened with transit duties, will go north to our possessions on the Pacific, south along the South American

coast, and westward to this Orient—the golden Cathay of Columbus—where our enterprise can play upon every key of traffic, and thus upon every spring of intercourse. Thus will be returned to Mexico, through our Agency, that affluent commerce which, in her early colonial day, made Acapulco the Venice of the New World, and the stately galleons of Cadiz the armada of the world's envy. Our empire's spirit, the world's commerce, the world's peace, or rather the life warrant to Mexico. I trust it may be confirmed by the Senate, as it is by the good sense of the country. I am ready, as one of the Representatives of the people, to vote the \$1,000,000 required to give us the foothold at the Gulf, and the economic terms. I look upon that foothold as not only preventive of all European interference, but, if you please, as the thin end of an entering wedge into Mexico. It is the herald to a circuit of empires all round the Gulf by the magic of a steam marine; and in a coronation of the new States to this Federation, whose wealth and brilliancy will far outshine the gold of California and the silver lodes of Washoe!

It was urged as an objection against the acquisition of Texas that the commercial emporium of the New World was to be transferred from New York to New Orleans. How ill-founded are these fears! The freedom and expansion of our commerce, and the acquisition of territory, have only magnified and glorified New York; and a similar enlargement would have the same result to-day. New York is the nature and order, the pulse and heart; and anything that affects her, affects the minutest nerve at the extremity of the Republic. If adversity visits the South or North, East or West, New York feels it. The present treaty would add another element to its wealth, power, and grandeur.

Two millions of the four are to be in trust for the satisfaction of the claims of our citizens against Mexico. These claims can never be adjusted, much less paid, under either of the Mexican Governments, unless Mexico parts with some valuable interest, by which she can raise what ought to be paid to our citizens.

It is a shame upon the American name among the Spanish republics, that our citizens are utterly remediless for all their wrongs, suffered at the hands of a free and irresponsible power. Especially in Mexico have we caused our people for outrages the most atrocious, and butcheries the most bloody and treacherous. In drawing the picture of this mutilated Republic before an American Congress, that part reserved for the American citizen in Mexico, the picture is the blackest and the darkest shadows. These outrages are partly owing to the false and prejudicial statements everywhere circulated against our name, since the Mexican war, by the Monarchical party. Since the McLane treaty, these stories have recovered the ravest tones of Mexican bragado. As a consequence, the wildest denunciations of American citizens are indulged in; so that no respect is shown, or protection given, by any class, even to the official representatives of our country, where the Miramon government presides, even where the Central Government holds away in there that safety and protection to our interests demanded by international law. One year ago I was compelled by the facts to picture Mexico as debilitated, helpless, bleeding, wringing—a land of rapacity, crime, and fraud, licentiousness, and brutality; indolence only active to wrong, and industry quickened only to vice; laws made for their infraction, and order established to be contemned. Mountain then cried out valley for relief; and from hacienda to city the wail was heard. The picture is the same in Mexico, in whose fate no nation can ever have the interest we have till such a nation conquer us. I was compelled then to ask the question, *Who shall intervene?* And now, with more earnest emphasis, I ask again: if we do not, who will intervene? The picture then, the picture has received added tints of gloom, and more bloody hues of horror. It should be painted by a Rembrandt in chiaroscuro. Let me hold it to the light, if it is not too appalling! Villages deserted; cities in terror and dismay; farms in ruin; the arriero no longer drives loaded mules, the vaquero no longer finds no field safe enough for his lazy life, and his herds and flocks; families in mourning, orphanage and misery; gibbeted at each cross-road; death-crowns lining the highways; a torrent of blood flowing from

cowardly assassination; prisons choked with their rotting victims; the lepers prowling for human prey; guerillas scouring the country; and the ruins thereof only hidden by the rank weeds and luxuriant parasites which the rich land has produced as a garment to cover the shame, confusion, neglect, spoliation and decay. Another year, and the skeleton famine will stalk through the streets, and the victims equal in number to the American and foreign residents has been thrown off. The thin guise and specious pretext are no longer exhibited as the apology for crime, rapacity, and wrong. Do you want instances? Read the cruel murder of Chasé, to which the President refused. What enormity can equal this diabolical craft and cruelty! Go to Tacubaya, with that blood-spotted Marquez—the Nena Sahib of Mexico—as its butcher. From that scene of cowardice and carnage, if from no other, rises the cry of vengeance against the blood-hounds who tore from the sick beds of the hospital the humane American and English physicians, and amid horrible execrations, which made hell laugh, took the lives which were dedicated to the sublime and Christ-like duties of healing and kindness. A brilliant young surgeon, my own reason, one of my Democratic predecessors, Dr. Olds—was one of the victims of that Mexican butchery; from which no employment, however benignant, could exempt the American citizen. "Were I a Mexican, as I am an American," I would, as the first act of revenge, take and render, the same retribution for blood at the hands of these butchers of Tacubaya. Degollada, by his orders of the 17th of April, recited these cold-blooded and merciless assassinations, and declared that all officers of the enemy, taken in arms, should be executed immediately. What is a bloody index to the character of the war. The superintendent of that massacre, Daza y Arguelles, happily for even Mexican humanity, was taken prisoner by Carrvajal, in December last, was shot, and his disfigured body hung up for the hoodlums of even a Mexican republic.

Lately, in the palace of Miramon, Marquez, while there as a guest, had the brutality to strike down the old French lady, Madame Gouges, for enacting the part of Florence Nightingale at this hour of our misdeeds. The same Marquez was imprisoned, by the jealousy of Miramon, along with hundreds of other, but better men, who are now dying in the prisons of Mexico, or working in its *prisiones* with ball and chain. It is to be hoped Marquez will meet with his reward. Recently, when the Central Government, General Wall, has been imitating Coronado and Rojas at Tepic, by filching all the money he could from foreign merchants, and inflicting all the horrors he could upon the English and American victims! After imposing all sorts of new taxes, and making the merchants repay to him all the duties and taxes of the preceding thirteen months, he resorted to imprisonment and death as the means of enforcing his detestable avarice. He even threatened the British Consul for not complying with his demands. He has taken the gold and silver of the British Consul to the Pacific coast from Zacatecas. It has in its care some four million dollars, the hard earnings of English and American residents. It pays the duty on its departures; it reaches Guadalupe; it pays Marquez robe it of \$600,000, and justifies this grand larceny by the necessity of his situation and his service to the cause of good government! Meanwhile the other brigand, Miramon, decrees another forced loan—only for this once, to fill the foreigner and the Englishman with horror. The Central Government of six compulsory loans since the third epoch began! Englishmen, Americans, and other foreigners are forced to pay the expenses of the very system of extortion by which they are crucified between these thieves of Mexico. Take the best instance of this extortion, the Central Government's, which even confounded Lord John Russell. Juarez collects the customs duties at Vera Cruz, which Miramon pledges to foreign nations. The export duty on the staple product, silver, is collected by Miramon in the interior, and the duty on goods is collected on the coast. Neither government has the means to support itself without either spoliation or extraordinary exactions, or by the barter of valuable rights and interests.

Would that I could catalogue the crimes of this

curled cabal of the capital. But where begin? Where end? Shall I begin with the murder of poor Crabbe and his companion, one of General Chasé, by Marquez? Or of the American officer taken prisoner with Alvarez, at Queretaro? Or the imprisonment and assassination of political offenders, by Corona, at Zacatecas, Cordova, Jalapa, and Orizaba? How can I rehearse the robberies of the bodies of the American soldiers? The violation of flags of truce; the destruction of haciendas; the Indians flying before these rapacious soldiers like a herd of mustangs? Or of Bombastes Cortinas, who derisively and defiantly steals the United States mail, and hangs them, with the riders of the bodies of the American soldiers near his fort, above Brownsville; plays both judge and jury on American citizens, within eight miles of Fort Brown, where he lately made his ranch the nest of his robbers and their plunder?

These are but isolated acts, involving, it is true, loss of life, liberty, and property, by American citizens. But there are more important transactions, showing an overruling necessity for our prompt interference. Let me give you one. Juarez holds Vera Cruz, and receives the revenues. His government is not recognized by the United States Government. He is, however, a Frenchman, and his minister, Gabric, by threatening Vera Cruz with French guns, compelled Juarez to pay off the French debt of \$1,000,000. Recently we hear that an addition of \$460,000 of this old-paid-off French-convention debt is to be enforced against the revenues of the Vera Cruz Government. The condition is the result of Gabric's reclamation for French moneys stolen from the conducts by this same robber government at the capital, which Gabric smiles upon. Gabric and his bankers are to get their percent, if he can only give the French seat at Vera Cruz while Miramon holds it by land. If, by French aid, Miramon takes Vera Cruz, what then becomes of our American interests and citizens there? Is it Tacubaya over again? Forced loans, pillage, rapine, and murder?

Already our American people have marched to meet Vera Cruz, before he had reached the *sierras calcadas*, the constitutional bands were prowling through the central States, making reprisals upon the property of wealthy Spaniards, and upon the conducts under the protection of Miramon's government. The Central Government, in 1859, when Miramon threatened Vera Cruz, was again transpiring. Our Rio Grande frontier is desolated with fire and sword, from Tamoules to Chihuahua. Texas, through Governor Houston, is asking the President for his order to protect our citizens. The Central Government is to the frontier, and, by a practical protestation, some repose and security to northern Mexico. Only last month, Chihuahua was overrun by one of Miramon's generals, Cosen, with a band of pardoned felons. The grossest outrages on women and men were perpetrated. The Americans were driven out, and were compelled to leave a million dollars' worth of property at the mercy of the robbers. They sent to vain to Fort Smith for our troops. Their authorities joined in the request for our intervention. The Central Government, with a thousand cut-throats, is marching towards its capital. You can picture the pillage which will result! These are facts just brought to us by Mr. McManus, of my own State, who was compelled to leave his home and interests in Mexico. And now, if Vera Cruz too be endangered, who is there that will not hail the star-spangled banner flying from the battlements of San Juan de Uluca, as a triumphant emblem of the victory of commerce and civilization over craft and barbarism?

Recently I have seen that the Miramon government, in their atreca, have put into the market a new batch of bonds. Mexico is to be added by this Government with \$15,000,000 more of debt, which, added to the \$20,000,000 created in July last, leaves in Miramon's hands the \$35,000,000 of paper debt, foisted on beggared Mexico in five months! Besides this, there are millions of contracts and reclamations unsecured, arising out of spoliations of foreigners. To these is to be added the debt of Mexico, foreign and domestic, amounting in April, 1857, to a total of \$10,000,000, which \$63,393,165 is secured by a certain percentage on the revenues of Mexico, to the English and other bondholders. Then add the millions on millions of ruin heaped on this country by these ambitious and rapacious chiefs, not alone

for arms and equipments, but in the losses to labor and in the idleness consequent upon inactivity and violence. Put these all together, and see the rent land struggling and writhing and wringing its hands in wailing and woe, and you have the poorest of national Samaritans, whom to go over and relieve is the highest duty of a Christian nation.

If our Government fail in its duty now, one thing will happen, and that is, the sudden apparition of Houston, with ten thousand Texans, in northern Mexico. Such movements are as irrepressible as fate. They may even be less responsible than the more reckless than Houston's project. I know that such movements are now in process of organization. They may have a peaceful appearance. They are led by the "Knights of the Golden Circle," whose mystic "K. G. C." has the magic of Prince Arthur's horn, which could not only call his thousand liegemen at the blast, but before whose blast the enemy fell down. Proposals have been made to Juarez, by these adventurous spirits, and among the rest by General Renard & Co., to place him in the capital and loan him \$500,000, on condition that the public lands to be granted in the States of Tamaulipas, New Leon, Zacatecas, Coahuila, Durango, Chihuahua, Sinaloa, Michoacan, Guerrero, and Oajaca. This tender includes a further consideration in the form of currying and plugging the pockets of public lands. The gentlemen in this country connected with these movements are men of military tact and approved courage. They profess to obey our neutrality laws; they will not infract them; but if they go into Mexico they will go as emigrants, on invitation, and carry the arms they are to use, to warfare, and agriculture. [Laughter.] Of course, they cannot go unarmed to such a country! They may reverse the millennium, and beat their plowshares into revolvers and their pruning-hooks into plover knives. [Laughter.] Unless we give to France that aid which the treaty provides, he cannot be blamed if he accept the offer of three thousand emigrants for each of the ten States, in consideration of the public lands of those States. It will be the *ultima ratio* with his Government. He will be driven by our non-action into the arms of his republicans and intervention of this kind.

Can we lie supine while these transactions are transpiring? Can we see these martial elements, which are never wanting where adventure leads the way, combining for this purpose, without some emotion? Better not, if it is to be a mere upbraidings of the pending treaty. But if it is to be rejected, better that our Government should order the regular Army to this post of delicate duty, than that men should go out, even under invitation, in irregular and adventurous bands, without responsibility. But if we fail to do our duty, we cannot reproach either Juarez or our own citizens. He will act on the old Spanish maxim applied to the native Mexican laborers: "*Mal con ellos; peor sin ellos*"—bad with, worse without them.

Can we see external disaster and internal oppression fall upon this ill-starred sister Republic, and have we no protest to make, no protection to give? France can throw her marine into the gulf of Venice; land her troops at Genoa; dash with her armies down the mountains of Corsica, to aid Sardinia and rescue Lombardy. Half a million men are ready to cross bayonets at Solferino, in this cause of Italy; but our nation—equally martial if organized, equally sympathetic with the right, and having more interest in Mexico by far than France can ever have in Italy—must lie upon its back, and wait and wait for Providence to press between its lips the fruits of our advancing civilization.

When we fail to move, that moment our destiny is closed. When we make no protest, the demands of our contemporary mission, and the opportunity of expansion that moment of half is the moment of retrogression; retrogression is decay; and decay is death.

Show me the code in the law of nations which could strip such an outgrowth of national sympathy and succor. Have the common conscience ceased to be a source of international law? Are the customs of civilized nations no criterion for such enlightened action? Consult your publicists. They will tell you that Mexico, if a nation, is independent and equal to any other nation, and is judge of her own actions. Very true. If she

make an ill use of her position, she may be guilty of a breach of duty, but other nations cannot dictate, and must acquiesce in her conduct. True again. Vattel rightly condemns Spain for executing a Peruvian Inca under Spanish laws, because he had oppressed and killed his own subject. But if the threshold of discussion is not inquired might well ask, "Is Mexico a nation now, in the meaning of international law?" Is Mexico "a body-politic, or a society of men, united together for the purpose of promoting their mutual safety and advantage by their combined strength?" If that constitutes a State, her condition is a caricature on nationality. Has she the capacity to preserve herself from insult and oppression, either internal or external? If not, how can she perform her obligations to foreign residents and nations? Will the law of nations, founded on the enlightened sense of mankind, permit such a Government, and, *à fortiori*, two Governments contending for supremacy, to outrage that justice which is the basis of society and the bond of all intercourse? Vattel in his fifth chapter, section 57, severely, and ably, states the relation of such a State with foreign nations. Its rightness to Mexico is plain and emphatic. He says:

"If there were a people who deputed and violated the rights of others wherever they found an opportunity, the interest of human society would authorize all the other nations to unite in order to exterminate such a people as the delinquents. We do not here forget the maxima established in our preliminaries, that it does not belong to nations to employ the power of their judges of each other. In particular cases, where there is room for the smallest doubt, it ought to be supposed that the act of the parties may have been just, and the injustice of the party that committed the injury may proceed from error, and not from a gross design. If that country is a State, and has a government, and by the whole tenor of her conduct, a nation evidently proves herself to be actuated by a mischievous disposition, she is regular in an right to select, the safety of the human race requires that she should be repressed. To form and support an unjust pretension, is only doing an injury to nations; and if the interest of nations is to be preserved, not to despise justice in general, is doing an injury to all nations."

If the Juarez government invite our cooperation, and we intervene, the right to accede to the request is perfectly clear. (Phillimore on International law, volume one, 44th ed.) The duty does it itself say, almost unimpeachable text. But if the treaty fail, does we promulge the doctrine of intervention, irrespective of invitation? To the curious on this point, I refer to the abstruse above cited, where the whole doctrine of intervention is considered, in the first chapter of the second volume of the first volume. Among the causes given, where intervention is justifiable, pertinent to Mexico, are the following: where the peace and safety of the intervening State are endangered; where parties to a civil war invite; where citizens of another State require protection; where intervention will stop the effusion of blood caused by a protracted civil war. The able jurist is reluctant to establish the last instance, as a substantive and solitary, but only as an accessory justification of intervention. The partition of Poland stands as a specimen in his view, and he states blunt in affirm that the abuses so destructive a principle has effected on mankind. But he finds in the case of Greece, in 1827, a justifiable intervention. He displays the long-continued and horrible massacres and anarchy of Greece, and reasons "that when, if ever such reasons could justify the interference of Christendom."

The case of Mexico, however, is not to be determined by that classic law of nations, which has proved so convenient an instrument for the oppression of mankind. In America we have a chapter of our own, written by James Monroe, and fixed as the continental policy of this hemisphere. No international law which omits this chapter, can have application to us or to our own relations with Mexico. But even the maxima of the Old World may be applied to every rising difficulty, and for our prompt intervention by actual possession in Mexico.

Some there are ever ready to oppose every thing which looks even distantly to the aggrandizement of our Republic, and are always ready to say that party which Choate described as "a gay and festive defiance of foreign dictation;" a party which does not go abroad for its rules of conduct. But if there are such who fear our advancement as an unhealthy fever, to fear the authority of foreign journals may be more than to fear our own rights and duties. To such, therefore, I

quote the London Times, the thinking head of the English nation. It is as:

"The English residents who have cast their lot with the inhabitants, and the traders who have invested money in enterprises of the country, are in the same position as the Neapolitan residents. How can we or any other interfere but by taking possession of the country? If those who are to be dispossessed are the subjects of a despotic rule, may be fugitive in a war, and if the rule of this power and wreaks vengeance on all the late officials. Suppose we have no other remedy, but to take the things may have been committed by the other party, or by some independent ruffian bands of miles off, or there may be no persons to be punished, and the wrong done is irreparable. In fact, where there is no settled government, the ordinary international remedies fail."

The London Times, in another article upon this subject, used the following significant language: "Mexico has been a long time a party, and any conclusion may improve the prospect of her foreign creditors. In the present state of things they can have no hope, and their great dread, therefore, is not, lest it should be perpetuated. If some new military dictator were to arise, the country were to be absorbed, without more delay, by the United States, their tenures would be secure, and it might, especially in the latter case, be much better."

"Let the United States, when they are finally prepared for the task, assume a position of responsibility of ownership, and their merchants at Liverpool and elsewhere will be quite content with the trade that may spring out of it."

Since then, Mr. Mathew, the English Minister, has been compelled to protest against the government at the capital of Mexico, and he now threatens to leave it to its fate. There is only one remedy, it seems, for Great Britain and her citizens: possession of the country, and the right of doing that we shall do that office. Mr. Whitehead, the agent of the English bondholders, in a letter of the 26th of September, 1859, could see "no pacification, except by the intervention of some powerful nation;" and he said further, that—

"The English press, very generally among the more sensible part of the Mexicans themselves, who, without desiring annexation, would be glad to see something of an armed intervention, is now very much inclined to believe that we shall do that office."

He more than hints that it is the policy of England to promote it.

Lord John Russell, the head of the Foreign Office, in his letter of the 16th December, 1859, to the Rothschilds, seems to be hovering near that idea. He says:

"The English are in Mexico between two parties, who, only intent on destroying their adversaries, have very little respect for the rules of justice or the safety of property."

"Our Government is vain to meddle by the aid of other Powers, to bring about a termination of the present devastating and sanguinary

As we could permit no European nation to take possession of Mexico without dishonor, so we are bound to pursue this policy, by a rule far more authoritative than any international law. Our code is the law of necessity. It is the same law by which we ought to see our neighbor's burning house, when its burning would imperil our safety and destroy our peace. If we do not do it, what reasonable objection can we make if England or France attempt it? We must anticipate the else inevitable interference of these Powers on this continuing ground of intervention, and we have nothing to save but a desolated land, a demoralized citizenry, an empty exchequer, a mortgaged revenue, a banditti of fractious States, and a government only federative in a league with death, murder, and rapine."

There yet something to be saved in Mexico. If we act promptly, we become partners in her resources. What are these resources? What are, and what should be our relations towards them? We have an authentic account of these resources in the valuable compilation of Colonel Balfour, with whose book the intelligence of the country should be familiar. Mexico has now \$26,000,000 of foreign imports, and \$28,000,000 of exports; making an interchange of \$54,000,000. Of this, England has \$33,400,000; the United States only \$5,700,000; and France only \$1,900,000. Of the one half of this commerce. She has had special permits to import at a reduction of twenty-five to fifty per cent. on duties. She is twenty days distant by steam; while on the Pacific and on the Gulf streams at the very rates of Mexico, of \$8,700,000, on the one hand, and of \$1,900,000, on the other, for our exports for the year ending September 30, 1858, were but \$3,315,825, being \$2,000,000 less than our imports from Mexico. The above fifty odd millions does not include, of course, the immense cotton and wool trade, which, if fairly estimated, runs Mexican commerce up to \$100,000,000.

Thirty millions of this silver, which mostly goes to England. If the produce of our country—the provisions and four of the great West, the varied manufactures of the North in wood and iron, which are finding markets in the West Indies, the shipping of the Gulf and the Pacific, with six thousand miles of Mexican sea-coast, and the mining enterprise of our citizens, had a full range under a good government, with this reciprocal free trade, and this well-ordered treaty, which is a tide of prosperity would flow between us and Mexico! The princely city of London votes Lord Elgin its hospitalities, because he quadrupled the trade between us and Canada by the reciprocity treaty. He becomes, in his response to the gratulation of the merchants of London, that his Chamber, if carried out, would open to high Chilean a treaty, if carried out, would open to high Chilean a treaty with four hundred million people. Yet, at our doors we neglect the rarest clausures of commercial enlargement. There is not a product between our Mexican boundary and Panama which is not wanted by us. There is not a product of our skill and industry that will not find a market in that country. May I not be pardoned for illustrating this view from my own State of Ohio? Its statistics, Mr. Mansfield, in his report for 1859, estimate our great product at an average of one hundred and twelve million eight hundred and eighty-three thousand eight hundred and seventy bushels. Where is the State in the world which can equal this in these elements of life? New York has but twenty-six million six hundred and thirty-nine thousand nine hundred and ten bushels; less acre in cultivation, and a less average to the acre. France, with her ninety-of cultivation, has but an average of thirteen and a half bushels to the acre, while Ohio has twenty-two and a half. Galicia even falls behind this model State of the Mississippi valley, where more people can live well than in any other land on the earth. The value of Ohio live-stock ranges over seventy million dollars, from which are made our smoked and salted meats. These would be free duty under this treaty. Has Ohio any surplus or exportation? no interest in an extended market? If I summoned each Representative to lay before us the specialty of his State, for which free trade is offered in this treaty, what a museum of national exchanges would we not show, to pour into the great current of trade which would follow its ratification?

What can Mexico give us in return? Is it coffee and sugar? Their consumption with us is now almost as general as that of bread. Colima and the other Pacific States offer their rich and sugar lands, unequalled by Cuba, and surpassing Louisiana or Texas. The present supply is inadequate to our demand. We pay too much for both. So with cocoa, cochineal, and the finer qualities of tobacco. So, too, with the tropical fruits. Our iron, in all its shapes of usefulness, would have a fine chance in a country where, at times, it has been of equal value with the precious metals, and where, even yet, wooden plows perform the office in agriculture which we are beginning to perform with iron. And yet you can go to-day in New Orleans thirty thousand Ohio and Pennsylvania plows at thirty-six dollars per dozen! If we could have settled relations with Mexico, and if Mexico herself could be tranquilized, I doubt not that \$50,000,000 of silver per annum would be produced. Every dollar of this would come to us. Our mining interests now give us \$120,000,000, with only twenty thousand persons employed. Think of such an enterprise applied to the silver mines of Mexico! We need the silver to purify our specie currency of its adulterated coin. We need it to pay for the goods now in our midst to aid this production. We must change, by some new enterprise, the ratio between the production of gold and silver. The leads of the eastern slope of the Rocky Mountains have already made that late lonely and the sea of the Pacific waves and remunerative waters. That beautiful plateau, those affluent gulches, those seams of gold-bearing granite, whose amazing extent and richness are described in memorials on our table as lands which have never been equaled or even approached at any time in the history of the earth for their marvellous wealth—those rivers, whose sand is silver, and whose pebbles are gold, are not merely stimuli to our enterprise, but they indicate, by their topographical and geological laws, and by their position as a

part of the great range from Chili to Frazer's river, that they are the approach, the vestibule of that immense temple, whose sunless architecture has its endless colonnade and mystic chambers beneath our continental skies! From these sources Spain alone repletes for centuries, and only and deservedly lost them because she lavished them on a corrupt royalty, and to glut a base ambition.

In Mexico alone, where these resources were only "scratched" by the rude science of the time, from the conquest to 1836, [by official data furnished by the Ministerio De Fomento], we find a coinage of \$2,366,745,351, figures under which the mind reels in its gaze after the wonders of wealth! Of this amount, \$2,534,115,675 were of silver alone! The gold amounted to \$86,892,142. What a fruitage from these sterile mountains! What apices of gold in pictures of silver! No Yankee Aladdin had dreamed to rival this arithmetic of dread and coined cash! Quite a lot of loose change to chink in the pantaloons of Young America! [Laughter.] And yet, this land of sterile sierras, with their untold coffers of wealth, has no parallel for the salubrity of its climate, the richness of its soil, and the beauty and fertility of its fields and its sky. Mexico has her Tierras Calientes, her Tierras Frias; but above all, her Tierras Templadas, which combine the virtues of all soils, and the beauties of all heavens. Homer had poetic glimpses of such a land, when he thus depicted:

*Born winter smiles on that auspicious climate,
The fields are droid with undying prime;
From the bleak pole no winds inclement blow,
Nor does the round ball, or flake the dewy snow;
But from the breezy deep the moist balise
The fragrant marmors of the western gale.*

But alas! civil discord is the serpent of this paradise. Anarchy, like the orange, is here in perpetual fruit and bloom. The murdered corpse is found beneath the palm and the cocoa. Here every prospect pleases, and only man is vile. If it be true that the weaker and disorganized nations still have subsided and continued to flourish, and organized nations, and that nationalities of inferior grade must succumb and surrender to those of superior civilization and polity, then there is no power short of the Almighty which can in time prevent the absorption, aggrandizement, and elevation of this rich and fertile land by its union with these States of confederated and constitutional freedom.

Give the United States, with its steam engine, its uncut, its self-government, and its energy, the protective control of these regions, and you doubt that we would outstrip England in commerce? The commodities for interchange are ready. What we want is settled relations with Mexico. We want a steam communication on the Gulf, such as proposed by Colonel Butterfield, which will be, as has been proved by England in her relations with Spanish America, and by us in our relations with Cuba, the open sea to the riches of this heaven-favored and man-cursed country.

Let us expend our money in opening Japan and China to our commerce. We send ships and ambassadors, and cultivate the humanities and amenities of the age, in persuading, astonishing, and interlocking in mutual interest the lands of the far Orient; but at our very threshold we miss our golden opportunities. In the shape of a well-defined intercontinental policy, such as is proposed in the treaty and in the message of President Buchanan, our interests have suffered not less than \$30,000,000 per annum. For ten years we have been struggling for a safe and quick passage to the East. In vain. Our efforts are worth to venture, for the reason that no adequate protection has been given in its use. Emigration has been meager and uncertain, because there was no stimulus to labor and no certainty of its results.

I need thus shown the condition of Mexico. I have given the reasons why some intervention should be had. There is no reason in the interest of economy and commerce; indemnity for past wrong and security for future immunity; in the interest of our citizens; in the interest of the international or the forum of conscience; in the decrees of Divine Providence, as He works with man in the order and happiness of His creature, which does not appeal to us for intervention in Mexico.

I proceed to notice some of the objections against the policy enunciated:

1. Is it objected that our intervention, under the fifth and sixth of the conventional articles of the treaty, by force, will involve us in war? I believe their simple ratification would bring England into concert with us, drive Miramón from the country, and, by such a partial intervention now, save war and constant intervention hereafter. We must close our eyes to the fact that England will do this duty. We have the opportunity of giving to Mexico the best liberal government which has yet arisen. It is inclined towards us. Even Miramón, when protesting to us against the treaty, considers our recognition of the establishment, as he calls it, of the Republic of San Francisco Cruz, as a thing inexplicable to him—as utterly impossible but a few years ago, when Mexico lived upon the rant of the soldiery about the Yankees, and before her statesmen had learned to understand our aims and institutions.

2. Is it objected that this treaty will prevent annexation? Why, Fuenté, the Mexican Minister of Foreign Affairs, refused to sign it because he feared to give away the sovereignty of Mexico. How can these objections be reconciled? By a violation of some of the conventional articles of the treaty without the concomitant power? What the empty crown of royalty, without the head to plan or the arm to execute. Mexico has the right, but not the power; we furnish the last. If, then, it be objected to this treaty that it will prevent our annexation to this country, because it elevates Mexico into the dignity of an assured independent nation, I ask, if this followed, would annexation be less desirable or less probable?

3. Is it objected that we have territory and people enough for our own happiness and contentment? If Mr. Jefferson had so believed, we never should have had our southwestern empire, with the Mississippi holding by its mobile drops of water this Union in its steadfast poise. If John Quincy Adams had so reasoned, would not Florida still have remained as Cuba was forced to be to our peace, and a clog to our progress? Had Robert J. Walker and John C. Calhoun so believed, we never should have had the lone star of Texas on our flag and her territory in our Union. Had James K. Polk so believed, California would not have been as Cuba was a hindrance to our peace, and a clog to our progress? Had Pierce so believed, the Mesilla would still be a *terra incognita*, and her mineral wealth would have had no chance for development. I have no fear of territorial expansion, with the success to herself and to us to which these acquisitions have witnessed.

4. Is it objected that Mexico has no population suited to our system of self-government? Had not Louisiana her French, Florida and Texas their Spanish, and California and New Mexico a population of that of Mexico? These are becoming homogeneous with the lapse of time. There is no reason why, under our system of local self-government and Federal decentralization, all Mexico should not live and progress under our Government with the same success as herself and to us to which these acquisitions have witnessed.

5. Is it objected that already we have distraction and threats of dissolution? Is it said that more territory would only add to our disquietude? Is the slavery question, as Cuba was, forced to be in the path of empire? Are we to be hemmed in by fear of disunion? If this country, with its present Constitution, reposing on the intelligence of our people and the history of its formation, cannot grow without danger, it cannot live long enough to be a hindrance to our peace and vitality to hold us together, there is vitality with which to expand. Nay, without this expansion, decay is more rapid and disruption more certain. This country has settled one thing, beyond the power of politicians to disturb it; and that is, that the Federal Government shall not intervene in the home affairs of the States; and that when they are in preparation for admission, no power but themselves, guided by their own wants and interests, shall, or of right ought to, prohibit or control, or in any way control, their domestic institutions.

Mr. STANTON. Has the gentleman read the veto messages of Governors Black and McDoy? Perhaps, if he had, he would not regard that doctrine as the fixed policy of the country.

Mr. COX. I do not understand fully the application of my colleague's question to the merits of this doctrine of expansion. This decentralizing doctrine makes expansion safe. If it be accepted as the policy of the country, expansion has no terrors which do not now menace us. May, an active outgroping power would divert attention from internal dissensions. It would pour a vigorous life-blood into the veins of the older States. It would give activity to young and vigorous States, which would hasten under our protecting eyes.

I have no argument to make in the American Congress for or against slavery. Its discussion in an ethical light, was exhausted by Aristotle two thousand years ago. Neither the polemics of New England, nor the responsive big guns of our "Gulf Squadron," do more than echo the words of the Sages. It cannot add anything to this discussion. As an economical question, I remark, that if slavery could be made profitable in Mexico, it would go there. It may, therefore, go to the *tierres calientes*. Mr. Greeley says that it never went under Spanish rule, and cannot go there now, for physical reasons. He would not say that it should cover it, when its soil and production unfit it for slave labor! He would wonder no more if he understood the Ostend manifesto in its comprehensive sense. It is no matter, in so far as it concerns our Federal Union—how much severer may concern our ethical and political position. We have, so long as they are equal under a sacred organic law. Already the preponderance in favor of free States is declared. Southern statesmen like HAMMOND and STEPHENS acquiesce in it as a part of the law of emigration, locomotion, and population. Mexico would aggrandize our slave States if she would not furnish one from her area. Dissimilarity of States in production and institutions is a part of our system. Out of these brotherly dissimilitudes, as out of the vari-colored stones of the quarry, a nation of growth, strength, and majority of proportion and strength are the wonder of art! With this as our policy, our territorial expansion is as inimitable as the continent and as safe as the stars in their appointed orbits. As safe as the stars; for they, too, the nations, are the effluence of God's power, expanding through the universe by the everlasting law of growth! They obey the same law by which the seed bursts into life, rises above the ground, effloresces and decays with perpetual bloom and seed. The same law of growth applies to physical bodies as well as to the ethereal bodies. Without growth, both body and mind decay and die. Growth is the condition of health. It is so with nations. History writes it on the forefront of time, as its foremost, biggest conception. God writes it in the flower, in the globular water drop and in the star, as well as in Egypt, Rome, and Greece. In the feudal ages of darkness, and the later ages of illumination; in the eras of despotism, as well as of liberty; wherever His finger records his fiat upon the everlasting scroll, there is this law: "Be fruitful, multiply, and increase, and grow, and be glad!"

Is the Anglo-Saxon race an exception? Is this great self-government, whose next census will show under its flag thirty-six million people, and whose advancement greater than ever before in material wealth, to be broken up in the century? Will the next seventy years witness the retrogression of this continent into anarchy and ruin? Is Mexico's past thirty years the index to show how far toward the occultation is the orb of our destiny? Or is Mexico to be invigorated and renewed by a new life from the Anglo-Saxon race of ours? May not the mines of Chihuahua and Guanajuato be made to gladden again under our energy? Will not the valley of the Aztec again blossom as the rose, under a better disposition of civil rights and away from the shadows of mysterious palaces, buried deep in the solitudes of Yucatan, whose sculptured facades Stephens desired to rescue from destruction, again resound with the voice of life and blessing? May not the fisheries of the Gulf, the great fisheries of the coast of a new trade, and its people, deck the diadem of a new empire? These may be dreams, but I have yet to see the American who will not say that at some time and in some emergency the United States will "have to take charge" of Mexico, and necessarily gain an empire, and a new position, and, by the charm of our polity, fit them to each other—amalgamate, tendon, muscle, bone, and

sineew—and breathe into the form the soul of an active and benignant juvenescence!

If any Power interfere in Mexico, it must be either France, Spain, England, or the United States. The interference of Spain would only renew, with tenfold force, the antagonisms which have so long existed. Do we think England to make another Canada on our south; to hold us within her iron vice? But England has expressed the wish that we should interfere. The late accomplished colonial Minister, Sir Edward Bulwer Lytton, gave voice to this sentiment of the British Government, in the consideration of the establishment of the British Columbia government on the 8th of July, 1858, when he said:

"I conclude, sir, with a humble trust, that the Divine Disposer of all human events may afford the aid of His blessing to our attempt to add another community of Christian freemen to those by which Great Britain confides the records of her empire, not to pyramids and obelisks, but to States and Commonwealths, whose history will be written in her language."

Some of England's statesmen have taunted us with having no foreign policy. We deserve the taunt. If rightly understood, England, sir, has nothing but pride in these outgrowths—these blossoms and fruits of her secular greatness and magnificent strength; and she will have no protest to make against the honor and advancement of her own empire. Laying England aside, the United States asks, what would be the result of a French interference? Not very remotely, a war of races for supremacy, not alone in Mexico, but on this continent. The Latin race and the Anglo-Saxon contest would be collision. The Anglo-Saxon, rather the Anglo-American race, which is the best development of the Teutonic and Celtic, for adventure, enterprise, and martial success, has already combined the white races of America north of Mexico into liberal governments. His countrymen have no race but the Anglo-American step in its advancement. It is desirable to array these elements here, in the face of this indomitable race?

An intervention by us, supporting a liberal government like that of Juárez, which offers us the most liberal and generous course of non-interference, with a stipulation by which our arms can be called in to crush anarchy and enforce order, is the only mode by which jealousy can be avoided and order established. A sufrage by which the felon and the inferior races of Mexico are attracted for decay and death, and the United States in an inevitable relapse into barbarism, and, at the same time, by enhancing property and promoting prosperity, reconcile every impatient element in Mexico to our salutary protectorate.

A year ago, when I suggested to the Congress that the juncture was upon us when we should stop marking time, and begin moving forward, and that Congress was not up with the enterprise of the nation, the Madrid and Paris presses did me the honor to translate my speech, and to give me the credit of that which I had said. The Congress of what *La Cronica* newspaper was pleased to call the impetuosity of *La Joven America*. It expressed its amazement at the simple remark, "that, if we consider just now the elements of our people—martial, mechanical, intellectual, agricultural, and domestic—who would say that there are a dozen locomotive republics already fired up and ready for movement?" But, Mr. Speaker, I put it to the members of this House, whether there be one here who cannot say that at least one reason for considering such elements as this, mustered in each of the two hundred and thirty-seven districts of the United States? If legal sanction were given, either by the repeal of the neutrality laws or by some other governmental action, quadruple this number could be raised before the telegraphic cables could click; and with this, the vengeance. That this is so, we cannot help. We should not desire to repress, only to restrain it. However much our caution may condemn and guard these elements, there is not an American who does not cherish a lurking, smiling approbation of this element of elastic spirit which springs from the great nation of the New World! Call it what you will—manifest destiny, territorial expansion, star of empire, *La Joven America*, and even filibusterism—it is here. We must make the best of it. If the current of progress is to be kept in the right channel, we neglect, despise, or unduly repress it, it will only spend its force violently and

disastrously, when once it takes its destined way!

Is there any American who wishes to consult European Powers as to the propriety or policy of such an expansion? Is there any one who fears a fatal blow from these Powers? We do not exist by the sufferance of Europe, but by our insuference. We did not spring into a progressive nationality, nor grow to our present greatness by its fostering care; but by its neglect, and in spite of its malevolence. We do not ask its pardon for being born, nor need we apologize for its growing. It has endeavored to prevent even the legitimate extension of our commerce, and to confine us to our own continent. But if we can buy Cuba of Spain, it is our business with Spain. If we have to take it, it is our business with Providence. If we must save Mexico, we must make its weakness our strength, we have no account to render outside Europe or its dynasties. A year ago, in glancing at European politics, I foresaw the portentous storm of the coming war. Scarcely had my language been translated into *La Presse*, before the lightning of power quivered over Europe, and snipped like brittle glass at an imperial new year's greeting in the Tuilleries to the Austrian Minister. Soon the sword of Napoleon was thrown into the scales for Italian independence! The treaties of 1814 fell. The alliances of one year ago were null and void. The cannon of Solferino. As a consequence of this condition, not yet settled, all such alliances cannot be relied on to pursue us to any fatal end on this continent.

If European Powers choose to expand their empire, to energize their people, we have no protests, no arms to prevent them. England may push from India through the Himalayas to sell her calicoes to the numberless people of China, and divide with France the empires of India, Burma, and Ceylon. Russia may push her empire by their expansion. Russia may push her diplomacy upon Peking, and her armies through the Caucasus, and upon Persia and Tartary; she may even plant her Greek cross again on the mosque of St. Sophia, and take the Grecian Levant into her keeping. France may plant her forts and arms upon the shores of the Red sea; complete the canalization of Suez; erect another Carthage on the shores of the Mediterranean; bind her natural limits from front Blanc, in Savoy, to Nice, upon the sea. Sardania might become a province, and give us a new step to Italy a name and a nationality. Even Spain, proud and poor, may fight over again in Africa the romantic wars with the Moroccans, by which she educated that chivalry and adventure which three centuries ago made her the mistress of the New World. She may demand territory of Morocco, as she has, as indemnity for the war. America has no inquiry to make, no protocol to sign. These are the movements of an active age. They indicate health, not disease—growth, not decay. They are the signs of the chain of Providence. They prove the mutability of the most imperial of human institutions; but, to the philosophic observer, they move by a law as fixed as that which makes the decay of autumn the herald of spring. They obey the same law which makes the seed burst into life, and the seedling rise to the sky. Astronomers tell us that the "southern cross," which guided the adventurer upon the Spanish main four centuries ago, and which now can be seen, the most faithful emblem of our salvation, shining down through the Christian and Mexican night—was before the Christian era, a constellation in our northern heavens! The same GREAT will, which knows no North and no South, and which is sending again, by an irreversible law, the southern cross to our northern skies, on its elevating outflow cannot be expected to withhold the institutions of nations, and the vicissitudes of empires? The very stars in their courses are "Knights of the Golden Circle," and illustrate the record of human advancement. They are the type of that territorial expansion from which this American continent cannot be excepted. They are the type of the finger of Providence points to our nation as the guiding star of this progress. Let him who would elude dusk its radiance, or make it the portion of a moment, cast again with nice heed on the main of his people.

In conclusion, then, I favor the proposition to have the fullest and fairest investigation, by the

Military Committee, of all our relations with Mexico; so that those relations shall not be disturbed—

[Here the hammer fell.]

Mr. MORRILL demanded the previous question.

Mr. STANTON. I ask a division on that. This is tolerably short notice.

Mr. REAGAN. I appeal to the gentleman from Vermont to let me say a word.

Mr. WASHBURN, of Maine, called for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. BINGHAM, and ROBINSON, of Illinois, were appointed.

Tell. The House divided; and the tellers reported twenty-nine in the affirmative.

The SPEAKER inquired if a further count was demanded, and several members having responded "No!" and "Give it up!" declared that the previous question was seconded.

Mr. STANTON. Stop! I did not understand that.

The SPEAKER. The Chair understood it very well. [Laughter.]

Mr. STANTON. I asked for a count on the other side.

The SPEAKER. The Chair did not so understand, and thinks it is now too late.

Mr. WINSLOW. If the House adjourns now, will not this come up the first thing to-morrow?

The SPEAKER. It will.

Mr. WINSLOW. Then I move that the House do now adjourn.

Mr. SHERMAN. There are two privileged questions for to-morrow. I hope this question will be disposed of to-day. Let the bill go to the Committee of Ways and Means, as is usual, and we shall have no further trouble.

The question was taken; and the House refused to adjourn.

The main question was then ordered.

Mr. BURNETT. I rise to a question of order.

The demand for a further count upon seconding the previous question was made by the gentleman from Ohio and myself.

Mr. STANTON. And not abandoned.

Mr. BURNETT. It is not too late now. We never abandoned it. The gentleman from Alabama [Mr. Harvey] said out that he gave it up, but the gentleman from Ohio and myself called for it, and did not give it up.

Mr. COLFAX. I was near the gentleman from Kentucky, and he sat in perfect silence while the demand was withdrawn.

The SPEAKER. The Chair thinks it is too late now. The Chair understood the objection of the gentleman from Ohio to be that the question was not understood, and answered that the Chair understood it. The Chair did not understand the gentleman as insisting on a count.

Mr. STANTON. I certainly did.

Mr. HOUSTON. I gave it up as one of the negative voters. I had a right to give up my share, and I did so. [A laugh.] I hope the gentleman from Kentucky does not question my right to do so.

Mr. STANTON. I was standing in the area. The Chair called upon the "noes" to pass between the tellers, and then some one inquired whether the negative side was to be counted, and the Chair said "no." The count was not abandoned. I was there ready to vote.

The SPEAKER. The Chair heard it stated that no count was demanded on the other side.

Mr. HOUSTON. I think the tellers got lost, for some one said, "Pass between the tellers," and some one else asked, "Where are the tellers?" and I looked over and saw no tellers.

Mr. CURTIS. Just as I was about to pass between the tellers they ran away. [Laughter.]

The SPEAKER. The Chair thinks it is too late to have a count now. The main question has been ordered, and is first on referring the bill to the Committee on Military Affairs.

Mr. STANTON. I call for the yeas and nays on that.

The yeas and nays were ordered.

And then, on motion of Mr. JOHN COCHRANE, (at twenty-five minutes after four o'clock, p. m.) the House adjourned

IN SENATE.

TUESDAY, March 30, 1860.

Prayer by the Chaplain, Rev. Dr. GRELEY.

The Journal of yesterday was read and approved.

SLAVERY.

Mr. SUMNER. I hold in my hand a memorial praying Congress to repeal the fugitive slave law of 1850; to abolish slavery in the District of Columbia, and in United States Territories; to prohibit the inter-State slave trade; and to pass a resolution, binding Congress against the admission of any slave State into the Union, the acquisition of any slave territory, and the employment of any slave by any agent, contractor, officer, or Department of the Federal Government. This memorial is signed by Samuel May, a distinguished venerable merchant of Boston, and four hundred and eleven others, citizens of Boston. I now present it, and ask its reference to the Committee on the Judiciary.

The VICE PRESIDENT. If there be no objection, the memorial will be referred to the Committee on the Judiciary.

Mr. DAVIS. I object to the reference. I move that it lie on the table.

Mr. SUMNER. On that I ask for the yeas and nays.

The VICE PRESIDENT. It is moved that the memorial lie on the table. On this question the yeas and nays are asked.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 17; as follows:

YEAS—Messrs. Bayard, Bigler, Bright, Brown, Chas. C. Chapman, Claiborne, Foster, Giddens, Hale, Harris, King, Humphill, Hunter, Iverson, Johnson of Tennessee, Kearney, Lane, Latham, Mallory, Mason, Nicholas, Potter, Sewell, Rice, Seabury, Sill, Smith, Thompson, and Toombs—20.

NAYS—Messrs. Bingham, Chandler, Clark, Dixon, Dodge, Edwards, Fessenden, Foster, Grimes, Hale, Harris, King, Sumner, Trumbull, Wade, and Wilson—17.

So the memorial was ordered to lie on the table.

WASHINGTON MARKET-HOUSE.

Mr. BROWN. The Committee on the District of Columbia, to whom was referred the amendment of the House of Representatives to the bill (S. No. 192) relative to a market-house in this city, have directed me to report it back, with a recommendation that the Senate concur in the amendment of the House, with sundry amendments which the committee recommended as amendments to the House amendment. I ask that the matter be now disposed of. It will take but a little time.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi, that the Senate now proceed to the consideration of the amendment of the House of Representatives to the bill (S. No. 192) to authorize the corporation of Washington city to make a loan and issue stock for \$300,000, for building a market-house.

Mr. MALLORY. I trust that if the bill shall interfere with the unfinished business, at one o'clock, it will then give way.

The VICE PRESIDENT. The Chair will, of course, call up the unfinished business at the hour appointed for its consideration. Is there objection to the consideration of the amendments to this bill?

Mr. DOOLITTLE. I desire to present a petition.

The VICE PRESIDENT. That amounts to an objection.

PETITION.

Mr. DOOLITTLE presented the petition of Hannah M. King, widow of Jeremiah E. King, a soldier of the war of 1812, praying a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN.

On motion of Mr. SUMNER, it was Ordered, That leave be granted in withdrawal from the files of the Senate the memorial of Harvey S. Wyman, widow of Captain Thomas W. Wyman, of the Navy, praying a pension.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 296) for the construction of five steam sloops-of-war, for service on the African coast; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent

obtained, leave to introduce a joint resolution (S. No. 20) to secure the right of search on the coast of Africa, for the more effectual suppression of the African slave trade; which was read twice by its title, and referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 287) to incorporate the National Gallery and School of Arts in the District of Columbia, reported it with amendments.

Mr. GWIN, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 304) providing for carrying the entire mail between the Atlantic and Pacific States on one line, reported it with an amendment, and notified the Senate that he would ask for its consideration in a few days, after the bill and amendment should be printed.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 4) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1861, reported it with amendments.

CAPTAIN RINGGOLD'S SURVEYS.

Mr. FITCH. A memorial from certain insurance companies of New York has been referred to the Committee on Printing, asking for the printing of Captain Ringgold's surveys and the passages through the coral archipelago of the Pacific ocean. The document is not before the committee. For the purpose of having it before the Senate, so that the question of printing may be properly taken on, I offer this resolution:

Resolved, That the Secretary of the Navy be requested to transmit to the Senate the report of the surveys made by Captain Ringgold, of the Navy, of the passages through the coral archipelago of the Pacific ocean.

The resolution was considered by unanimous consent, and agreed to.

AFRICAN SLAVE TRADE.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending the laws of the United States in relation to the suppression of the African slave trade, as to provide a period of imprisonment for life for a participation in such trade, instead of the penalty of forfeiture of life, as now provided; and also an amendment of such laws as will include in the punishment for said offenses all persons who fit out, or are in any way connected with or interested in fitting out, expeditions or vessels for the purpose of engaging in such slave trade.

MORTALITY IN THE ARMY.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, requested to furnish the Senate with a copy of "the statistical report on the sickness and mortality of the Army of the United States," embracing the period of five years, from 1855 to 1860, in continuation of the report of the Surgeon General, communicated to the Senate in 1856.

INDIAN NEGOTIATIONS.

Mr. SEBASTIAN. I offer the following resolution, and ask for its present consideration:

Resolved, That the Commissioner of Indian Affairs be requested to make an estimate of the amount that will be required to make a treaty of peace, amity, &c., with the Kioways, Comanches, and other Indians, who roam near the Arkansas river, west of the one hundredth meridian longitude; with the Arapahoes and Cheyennes, located below the north fork of the Platte river; with the Sioux and other Indians of the plains; to be concentrated at the junction of Deer creek, a tributary of the Platte river; and also for a treaty with the Red Lake Chippewas and the Indians of the Red river, in the State of Minnesota, for the extinguishment of their title to lands in that State.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DAVIS. I would ask the Senator from Arkansas, the gentleman who presides the Committee on Indian Affairs, if he does not deem it more proper to substitute for the words "treaty of peace and amity," wherever they occur, the word "council." I think it has been a misnomer at all times to call a council with Indians a treaty.

With these inroads upon the rights of Indians, without a home, without any of those fixed habits which render it possible to enforce upon them a treaty, I think should be treated as wards and

pupils, not fit to govern themselves, of whom we take care, and with whom we may hold councils.

Mr. SEBASTIAN. If the Department from Mississippi will indicate the amendment which will accomplish his purpose, I will not object to it.

Mr. DAVIS. Strike out the words "treaty of peace, amity, &c.," and insert the word "council."

Mr. SEBASTIAN. That will accomplish my purpose. The object is to get at the expense of holding a council.

Mr. FITCH. I apprehend that the amendment will fall in the object desired by the chairman of the Committee on Indian Affairs in one instance; the instance of the Chippewas of Red Lake. They are different altogether from these nomadic tribes. Many of them, particularly their half-breeds, are an agricultural people. There are whites largely intermingled with them from across the line in the British Settlement, cultivating land to which they have no title. They are a semi-intelligent people, at least, and a treaty may properly be made with them; but I grant that a treaty with wild tribes of the West would be a farce.

Mr. GREEN. I think the Senator from Mississippi is entirely at fault. A council is an interview; it is conferring together. A treaty is an agreement, a conclusion. The object of the Senator from Arkansas is to arrive at an agreement.

Mr. SEBASTIAN. The Senator from Missouri will allow me to ask only a question, a resolution requesting the Secretary of the Interior to make an estimate of the expense for this purpose. I imagine that the expense of one procedure is about the same as of the other. The answer to this resolution by the Department will not conclude the Senate at all. It does not follow, as a matter of course, that we shall make the appropriation. That is a subject for future consideration. I suppose it may as well go as it is.

Mr. GREEN. If it be a mere interview for the purpose of understanding each other, I have no objection.

The VICE PRESIDENT. Does the Senator from Mississippi move the amendment?

Mr. DAVIS. Yes, sir; I move the amendment. I will not press the argument on the Senate, as I suppose it is understood.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Mississippi—in line three strike out the words "make a treaty of peace, amity, &c.," and insert the words "hold a council;" and in line nine strike out the word "treaty," and insert the word "council."

The amendment was agreed to.

Mr. CRITTENDEN. I should like to know how the resolution reads now, with the amendment.

The Secretary read it, as follows:

Resolved, That the Commissioner of Indian Affairs be requested to make an estimate of the amount that will be required to hold a council with the Kiowas, Comanches, and other Indians to reside on the Red River, west of the one hundredth degree of west longitude; and with the Arapahos and Cheyennes, located below the South Fork of the Platte river; with the other tribes of the Great Plains, to be concentrated for the occasion at Deer Creek, a tributary of the Platte river; and also for a council with the Red Lake Chippewas, and the Indians of the Red river, in the State of Minnesota, for the extinguishment of their title to lands in that State.

Mr. CRITTENDEN. I shall make no proposition to amend; but I think the Senate has been entirely satisfied for years past that we have been proceeding with but little policy in making these continued purchases from the Indian tribes. We have, for the purchase of lands which we did not want, involved ourselves in a debt to the Indians in one way or another, which constitutes a very considerable figure in our financial affairs and in our annual bills of appropriation. I think myself we should stop this in career. We do not want the land, and surely it is not our policy to purchase land which we do not want. I believe that we may pay interest on the purchase money. I do not know what the object of these councils is; but I am very much afraid they will eventuate in treaties for extinguishing Indian titles, to which I should be opposed. I believe the Senate will reflect on this subject whether it is their wish or purpose to proceed to the continual acquisition of Indian lands.

Mr. SEBASTIAN. I concur in the views expressed by the Senator from Kentucky as to the acquisition of more territory from the Indians at

this time. The Senator, however, I am sure, misunderstands the object of this resolution. It is not contemplated by the Department to make these treaties for the purpose of acquiring territory. They are to be made with those wild and nomadic tribes who range over the vast plains and mountains in the vicinity of the new territory of Pike's Peak. I suppose it would be very difficult to say that these Indian tribes have any title to the soil right to the soil within any particular limit; but it is necessary for the protection of emigrants that we should have some friendly understanding or accommodation with them, the amount of which is left to the Department to make on their side; not to molest our emigrants, we should pay them a small annuity in goods or money. If the Senator remembers anything about the main features of the stipulations of the treaty of Fort Laramie, that I think is what is in contemplation by the Department—small annual present in goods, as a real or nominal compensation for those advantages which they suppose they do surrender in giving up their country to the free and unmolested intercourse of the whites.

These treaties have been found to be a pretty good thing for the Department, for they cost the Government but little; they cost no land; they are very plain and simple in their provisions. I think we may well venture in this case to continue a little further the policy which has operated very well heretofore. It is not in contemplation, so far as the treaties with the tribes around the Blue Hills of the Stony mountains and of the plains between Missouri and Pike's Peak are concerned, to ask for, or treat for, any cession of territory. What may be precisely in contemplation with the tribes around the Red River, I do not know, but the Senator from Indiana is probably better advised than I am.

Under these circumstances, inasmuch as the Senate does not conclude itself at all by passing this resolution, which only provides for obtaining information, which may be used at a certain contingency, I think it may well be allowed to pass without any further question. The real point will come up afterwards on the propriety of an appropriation for this purpose after we obtain the information.

Mr. MASON. I have looked at the resolution, and I see that the latter clause contemplates a treaty for the acquisition of land and the extinguishment of Indian title.

Mr. SEBASTIAN. What Indians does the Senator mean?

Mr. MASON. The latter clause of the resolution; I do not remember the name of the Indians.

Mr. RICE. Will the Senator yield to me a moment?

Mr. MASON. Yes, sir.

Mr. RICE. In 1854 Congress passed a law authorizing the President to make treaties with certain Indian tribes in the then Territory of Minnesota; and there was an appropriation of \$10,000 made at that time. Negotiations were entered into with the northern tribes in Minnesota, and the treaties were concluded; and there are now some 150,000 Indians there. They never had any definite line of boundary between those different bands. The treaties were concluded with all, except one band at Red Lake, and one upon the Red River of the North. Those two bands own a small tract of country, and they have never concluded any treaty with the United States. One, I believe, was negotiated in 1852, but it was not ratified. A dispute has arisen between those two bands and the other bands that did cede, in regard to the boundary. These Indians are very much dissatisfied, and are giving the people of the State of Minnesota a great deal of trouble. Upon the Red river there is a steamboat; and upon the border of the river the Indian title to the land is held by these two bands. I received letters yesterday which state that the owners of the steamboat are resolved to go on there to prevent the Indians from destroying it. There is a large amount of goods taken to the Hudson's Bay Company through that river annually. The Hudson's Bay Company send two hundred men to guard the goods.

The object now is to make a treaty with these Indians, either for the purpose of extinguishing the title to the small strip they own, or to so much of it as will permit the free navigation of the river, or to enter into some negotiations with them which will satisfy them in regard to the treaties that

were made with the adjoining bands. It is the only strip of country within the boundaries of our State that belongs to the Indians, excepting such as has been specially reserved under former treaties. These two small bands of Indians live upon the extreme northern line of our State. They are very poor. Their game, in consequence of the whites being numerous to the westward, has become scarce. They are without implements, even for the purpose of tilting the soil. They have never received a dollar from the Government. They are not only starving, but are nearly naked.

There are two purposes in view: one is to permit the whites to navigate the river; and the other is to provide for these Indians, so that they may be comfortable—I think they number about three hundred in all—and to carry out an existing law.

Mr. MASON. I remember that, some year or two ago—two years ago, possibly—when there was a proposition here to ratify certain Indian treaties which had provided for the extinguishment of Indian titles, I think on the Pacific slope, and the treaties were not ratified, it was said that in consequence Indian wars would arise out of it; that the treaties having been made by the Indians being of course an ignorant, unenlightened people, would not know anything about the restraints or limitations of our Government; and the failure to confirm the treaties, thus disappointing the whites, would lead to some mischief. There was a good deal in the argument; but it went to allow the imprudence of making such treaties. Now, sir, I have been driven, as far as I am concerned, to the fixed and settled policy of acquiring no further land from the Indian tribes, if it can be avoided. It is not a question of the Indians in the intercourse with the whites who go amongst them, do it, if you please, by soldiery—by force; but the acquisition of Indian territory enlarges the public domain, ennobles the Government, demoralizes it, and leads to the spectacle which we witness here from session to session, of an attempt to bribe the popular mind by largesses of the public lands. Within the last few years, we have passed laws giving a bounty in land to the soldiers of the last war with Great Britain, and so on.

Mr. MASON. I think there is a bill pending before the Senate, which has already passed the other House, for giving gratuities in the public lands to the people—a course of policy that I should think would tend more to demoralize the country, to say nothing of the other objections to a point of property, than any that could be devised.

I cannot look, therefore, on this further acquisition of public lands, other than as one that would tend to increase that growing evil arising out of the public domain. I have no reluctance in the world to exercise the Federal power as far as may be necessary for the protection of our people who go amongst the Indians, if they go there pursuant to law, or for the protection of any course of trade that may grow up with them; but I would not do it with a military force, and I would make no further acquisition of public lands, unless I could certainly not until we get rid of the present burden upon the country in relation to the public lands. I move, therefore, to strike out that clause of the resolution—the last clause—which proposes negotiations to treat for the extinguishment of Indian title.

Mr. DOUGLAS. Mr. President, the avowal of a purpose on the part of two or more Senators not to extinguish any more Indian titles, brings a very grave and serious question before us. I have no idea how we are to avoid making further Indian treaties. It seems to me that it is indispensable, and particularly in the very country referred to by this resolution. The chief part of this resolution relates to the Indians and about Pike's Peak—the gold mines of the Rocky Mountains. We have a large class of people engaged in mining, from twenty to thirty thousand people; and they are men, for there are scarcely any women, and probably no children—men enough to constitute a State—men who, if the Government interfered with them, would give the full population of public lands. I believe that those men are all trespassers upon the public lands. They are there not only without the sanction of law, but in violation of law. I believe they are there in violation of the Indian intercourse law. I may not be accurate, but my

rebellion is that that law imposes a penalty—perhaps six months' imprisonment, and a fine not exceeding \$1,000, for every man that goes there. Still they are there. The laws have not been enforced, preventing those people from trespassing on the Indian lands. You stand by until you have got twenty thousand men there at work, and until millions of dollars' worth of property has been taken there for the purpose of engaging in mining; and then, when it is proposed to treat with the Indians for the purpose of extinguishing their title, and legalizing this possession, which you have stood by and permitted to take place, we are told that we are to extinguish no more Indian title.

You find a curious state of things in the very country to which this resolution refers. Most of the gold miners at Pike's Peak are within the organized Territory of Kansas—within the jurisdiction of the territorial government created by Congress. These twenty thousand men have been there and taken possession of the Indian country, in violation of your Indian intercourse law. They have taken possession of your public lands, and opened gold mines, without any authority of law. They have gone further: they have organized a government of their own, and have taken the government established by Congress. They have erected a squatter government, in virtue of no other title than squatter sovereignty, on this public domain, where they are trespassers; where they have gone in violation of law. Having established a government in derogation of the government which Congress established; having elected a Legislature, denying the authority of the Legislature of the organized Territory created by Congress; having elected a Governor to supercede the functions of Governor Medary, whom the President appointed and the Senate confirmed, they are proceeding to make laws in that country subversive of the authority of Congress; organizing counties, laying out and chartering towns, levying taxes upon property to which they have no title, giving out titles and patents, and doing many things different from those of the Territorial Legislature which you have established.

Are we to stand by and allow this state of things to go on, refuse to enforce the laws by which these people could be kept off the Indian lands, at the same time, refuse to recognize the Indian title and thereby to legalize the settlement? Are we to refuse to sanction what has been done, and yet refuse to break up the settlement, and leave these people with an irregular, unlawful government, in rebellion against the authority of the United States? Will you permit me to bring in a bill to organize a territorial government there and legalize the settlement? Sir, we cannot stand still. We must either retreat or advance. We must either enforce the Indian intercourse law, and drive these people off these lands and away from these mines and protect the Indians, or we must extinguish the Indian title and organize a territorial government, and convert this squatter sovereignty into popular sovereignty, according to the law and the Constitution. That is the only way. For if we refuse to recognize and extinguish the Indian title, we are bound to remove the penalties that hang over these settlers; we are bound to organize a government for them. I will not now go into an argument showing the necessity of doing so. I should not have said as much as I have said, but for the remarks of the Senator from Virginia, who says he is opposed to the extinguishment of any more Indian title, and particularly at the place referred to by this resolution; to wit, the gold region about Pike's Peak.

Mr. MASON. The Senator misunderstands me. I did not say a word of that, at all. I am averse to extinguishing it anywhere. If they have gone there, let them work out their own salvation.

Mr. DOUGLAS. So much the worse. I said "particularly around Pike's Peak," because the resolution referred particularly and specially to that country. The Senator is opposed to extinguishing the Indian title anywhere; and he says, if these people have gone there, let them work out their own salvation. How? They have broken the Indian land, got up an Indian war, running up a debt of five or six million dollars, as was done in Washington Territory, and then come to the Congress of the United States to get us to foot the bill?

That is the way they will work out their salvation. If you do not protect them against the Indians, they will protect themselves. If you do not give them law for the punishment of crime, they will make their own laws. If you do not establish a government for them, they will establish their own government. If you do not extinguish the Indian title, they will take possession, as they have done; the Indians will resist; bloodshed will follow; and so do with what we are the consequence of, it will rage up and down the whole length of your border settlements, not only on this side of the mountains, but on the other; and you will have a war threatening the border of California and Oregon on the west, and of Minnesota and Iowa, and Kansas and Nebraska, and Arkansas and Texas, on the east. The Senator's policy is for us to fold our arms and let them work out their own salvation!

Sir, I am opposed to allowing these people to work out their own salvation, politically, by that way. Let us prescribe by law what country is open to settlement, and what country is not. That which is closed, let it be kept closed. Let the laws against intrusion be firmly, vigorously enforced; let trespassers be kept off Indian reservations, and if the lands, but if the Indians refuse to settlement, give them government, give them law, and do not leave them to work out their own salvation through blood and violence. I repeat, therefore, that we must do one of two things with reference to Pike's Peak and the country surrounding it, including all that gold region, either extinguish the Indian title, or we must enforce the Indian intercourse law, by driving off the settlers and punishing them for having invaded the country.

The same remarks are true in reference to the Territory of Nevada. The Pacific coast now is in a blaze of excitement about the grand discoveries of silver at Washoe, on the east side of the Sierra Nevada mountains, in Carson's Valley, in the Territory of Utah. So far as I know, you have never driven an Indian treaty, and you have begun; they have organized a government at Carson's Valley, which they call the Territory of Nevada. Two thirds of it is within the organized Territory of Utah, and one third within the State of California. A government thus covered with the States of the Union, and yet outside of the States of the Union, has been organized, with a Legislature of its own creation, with a Governor of its own election, and two Delegates have been sent here to Congress to represent the Territory of Nevada—a territory not marked on our maps, a territory unknown to your statute-book; a territory filled with settlers who are trespassers on the Indian lands, trespassers on the public lands. You will not legalize their going, and you will not enforce the laws against them. You will not permit them to submit to the law, and your government you have established, and you will not give them a new one; but you will let them work out their own salvation, through blood, revolution, and violence. That seems to be the policy of the Senator from Virginia.

Sir, the resolution policy will not do in this age of government and of law. You will have more Indian wars on your borders than you contract for, unless you do make Indian treaties; unless you keep your treaties; unless you enforce your Indian intercourse law; unless you give the people of that country an open government, and such a one is not; and unless you organize Territories for the people, instead of leaving them to protect themselves with the rifle and the bow-knife as best they can. Sir, I will not take up the matter, not to say so, but I cannot help but feel compelled to protest against the policy of the Senator from Virginia.

Mr. DAVIS. Mr. President, the remarks of the Senator from Illinois may be very appropriate for or against—and I am not sure which—the resolution, but I cannot act; but I cannot let the resolution they have to the pending resolution. The resolution which is before us, and to which I offered an amendment, is for no such purpose as he supposes. The amendment which I offered

does not at all affect the power of the United States to limit the Indians to certain districts of country in which they shall reside, or to open districts of country to settlement hereafter. To hold a council with them seemed to me appropriate to their dependent condition—following on the great decree that the sons of Japhet should dwell in the tents of Shem. I admit the law; it is not in our power to control it. But what has the resolution to do with that? It has no connection with that, and what Indians would you treat for the country on which these miners have settled in the neighborhood of Pike's Peak?

The VICE PRESIDENT. The Chair must ask the Senator to pause. It is the duty of the Chair to call up the special order at this hour.

Mr. DAVIS. Then I move to postpone the special order, as I shall not occupy the time of the Senate long.

Mr. MALLORY. What is the special order? The VICE PRESIDENT. The unfinished business of yesterday—the bill in relation to the Florida claims.

Mr. MALLORY. I dislike very much to see that postponed. I fear this will run into a discussion; and if we pass over the Florida cases now, there will be no time to discuss them before us again. I trust their friends will not pass them over. They are now fairly before the Senate.

The motion to postpone was agreed to; there being, on a division—ayes twenty-six, noes not counted.

Mr. DAVIS. I was about to ask, Mr. President, with whom would a treaty be made to permit white men to occupy the country about Pike's Peak? It can scarcely be said to be possessed by Indians. Having hands, they are in plain language the long-haired Indians, who creep over it as the tide which ebb and flows, following the buffalo from north to south, and tracking the herd in one direction or the other. Indians coming out of the mountain fastnesses in particular seasons of the year enter upon their migrations. They cannot be said to occupy it. They have no metes and bounds prescribed for particular tribes. They mingle with each other; they are cognate tribes, hunting equally together. I know of no tribe with which you would treat to extinguish a title such as that place; and the resolution of the Committee on Indian Affairs did not direct his resolution to that. The only portion of it relating to the extinguishment of Indian title refers to the country on the Red River of the North, where the Indians, having more of a local habitation, do possess a country, and there he desired to extinguish the Indian title.

The argument of the Senator from Illinois, therefore, was directed to something not contained in the resolution; was outside of anything which the Senate is now considering. Indian wars to occur at Pike's Peak, or excursions against trespassers under the Indian intercourse act, are matters entirely outside of the resolution offered by the chairman of the Committee on Indian Affairs. It is to hold a council with these nomadic people, to secure persons passing over the prairies; not to extinguish the so-called title, but to restrain them from committing depredations upon persons who, for any reason, may wish to cross the intermediate country lying between our settlements on the Rio Grande and the Missouri.

As to the Indian intercourse act, certainly under its terms these people may be said to be trespassers, because the country has not been thrown open to settlement. If a proposition be made to throw that country open to settlement, the act is now occupied, or occupied, or about to be occupied, so that it will be a question for consideration when it arises; and I do not concur with the Senator from Virginia. I do not choose that a hunting race shall hold a large district of country, when an agricultural people require it for their use. They must give way. The very law of nature requires them to recede when pressed by the stronger race. Our own policy has been to retain them within fixed limits. It is the means by which we seek to make them an agricultural people. I consider it a sound policy, and one to be pursued hereafter.

As to the Indians on the Red River of the North, they are the most formidable Indians with whom we shall probably ever have to deal. They are

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to come in immediately before the commencement of the clause that I proposed to strike out.

Provided, That no proposals be made at such councils for the extinguishment of title to Indian lands.

The previous part of the resolution, I understand, authorizes councils to be held with certain Indian tribes for the reasons set forth in the resolution. This is to provide only for the United States, at those councils, shall make no proposals for the extinguishment of Indian title.

Mr. DOOLITTLE. I do hope that amendment will prevail. I do not propose to discuss it, but simply to state my opinion that I hope it will not prevail. I am willing to take the sense of the Senate.

Mr. MASON. I think the effect of the amendment will be to test the sense of the Senate as to the acquisition of Indian title generally, and I hope the years and days will be given upon it.

Mr. SEBASTIAN. I wish to suggest to the Senator from Virginia, that I think he will attain his purpose in another way, without consuming time now, which I know many Senators are anxious to have appropriated to another subject. This resolution scarcely amounts even to the dignity of a preliminary question. It is a mere resolution of inquiry, asking of the Department for certain information, which, of course when it is obtained, will be referred to the Committee on Indian Affairs, and we have no certainty that they will ever even report a bill on the subject. I may undertake to say—I think I feel warranted in doing so—that the Commissioner of Indian Affairs will not undertake to make a treaty, as indicated in this resolution of inquiry, unless Congress make a preliminary appropriation, for the very purpose of testing the question which the Senator from Virginia wishes to see tested. I think it would be more appropriate to ascertain the sense of the Senate on a question of that kind.

Mr. MASON. If Mr. Sebastian will allow me, I will withdraw the amendment; for I find, by examining the resolution, that it only asks for an estimate for an appropriation. I misinterpreted its effect.

The resolution was agreed to.

RELATIONS OF THE STATES.

Mr. MALLORY. I call for the special order. Mr. KENNEDY. With the consent of the Senate from Florida, I ask that the special order be postponed for a few minutes, in order to take up informally the resolutions of the Senator from Mississippi, [Mr. Davis], with a view to offer an amendment, and ask that it be printed. It will tend to no debate.

Mr. VICE PRESIDENT. By unanimous consent the special order may be laid aside informally, to take up the resolutions of the Senator from Mississippi, [Mr. Davis], that the Senator from Maryland may offer an amendment, to be printed. The Chair hears no objection, and the resolutions of the Senator from Mississippi be read.

Mr. KENNEDY. I offer as an amendment, to come in at the end of the seventh resolution:

Resolved, That as the unity of government, ordained and established by the Constitution of the United States, is the basis of the rights of our nation, and the source of support of our tranquility at home, our peace abroad; of our safety, of our prosperity, and of that liberty we so justly prize; all should properly estimate the value of our constitutional Union to our collective and individual happiness; and that all obstructions to the execution of the laws, all combinations and associations of individuals, whether voluntary or involuntary, which are calculated to obstruct the execution of the laws, and the administration of justice, and the authority of our Government, are destructive of this fundamental principle, and of civil liberty.

Resolved, That the principles and purposes of the great northern party, which has so lately authoritatively announced in this place "its only one accepted and adopted principle" is there based upon a denial of the right of the Union to the continued agitation of the slavery question, to the neglect and detriment of the real and material interests of the country, and the sacrifice of the rights that more perfect union, to subvert that justice, to destroy that domestic tranquility, to weaken that common defense, to retard the general welfare, and to deprive the blessings of liberty to ourselves and posterity, which the Constitution of the United States of America was ordained and established to secure.

Resolved, That in respect to the Territories, the common property of the United States, it is the right of the citizens

of the United States, lawfully and permanently residing in any Territory thereof, to frame their constitution and laws and to regulate their domestic and social affairs in their own way, subject to the provisions of the Federal Constitution, with the privilege of admission into the Union whenever they have the requisite population for one Representative Congress. *Provided*, always, That none of those who are citizens of the United States under the Constitution and laws thereof, and who have a fixed residence in any Territory, shall be permitted to participate in the framing of the constitution, or in the enactment of laws for said Territory or State.

The amendment was ordered to be printed.

RECESS OF CONGRESS.

Mr. GREEN. I offer the following resolution: *Resolved*, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the two Houses of Congress do adjourn on the 20th of April next, until the 20th of May next, 1860.

Mr. TOOMBS. I object to that.

Mr. VICE PRESIDENT. Objection being made, it lies over under the rules.

MILEAGE OF EX-SENATOR LINN.

Mr. GREEN. I desire to offer the following resolution:

Resolved, That the Secretary of the Senate be directed to pay out of the contingent fund of the Senate, to Mr. E. A. Linn, widow of the Hon. Lewis F. Linn, late a Senator of the United States from the State of Missouri, the mileage at the special sessions in 1857 and 1861, not reserved by the deceased.

The VICE PRESIDENT. The resolution will go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. GREEN. I ask for its present consideration.

The VICE PRESIDENT. The Chair hears no objection. It appropriates money out of the contingent fund, and must go through the same proceedings as a bill. If there be no objection, the resolution will be read a second time.

The resolution was read a second time, and ordered to a third reading. It was read the third time.

Mr. HUNTER. It seems to me the resolution ought to go to some committee, to examine it.

Mr. GREEN. There is no necessity for a reference to any committee. It is a mere matter of account. The Senator himself, I believe, received the same mileage. Nine tenths of the Senators died. Doctor Linn, out of extreme excitement, nearly lost it remain until he died. Now, I think, his poor widow ought to have it.

The resolution was passed.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. ECHMAN, his Secretary, announced that the President had signed and approved, on the 19th instant, an act (S. No. 329) for the relief of the legal representatives of Charles Pearson, deceased.

FLORIDA CLAIMS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 10) declaratory of the acts for carrying into effect the ninth article of the treaty between the United States and Spain.

Mr. BRAGG. Mr. President, the honorable Senator from Florida [Mr. MALLORY] well remarked that the bill before the Senate is one of considerable importance. If I understand its effect, it involves an appropriation of a sum for the payment of certain claimants, not far, if anything, short of two million dollars. The claim is one of long standing, and although the amount involved is large, if it be right and just that these parties should receive the amount, it is proper that this bill should pass without any further delay; but if it is not right, if the claim is not founded in justice, then it is equally important that the Government should be relieved from the payment of so large a sum.

Now, sir, if what has been said by the honorable Senator from Georgia [Mr. TOOMBS] and the honorable Senator from Florida [Mr. MALLORY] be true; if this whole case has passed into judgment; if by the action of the legislative as

well as the judicial department of the Government we are concluded in not taking any action upon this matter at all, except to pay the demand, all debate and all examination of the case is perfectly idle. If it be true, as they have stated here, that all the departments of the Government have sanctioned this claim, it is a little remarkable, if it at least argues nothing for the justice of this Government, that for more than forty years they have withheld the payment of a just claim. Can it then be true? For one, I do not believe it. As one of the Committee on Claims, it became my duty somewhat to examine into this matter, and having satisfied myself that the gentlemen are mistaken in the representations they make here, and that in point of fact these claimants have no just right to ask of the Government this very large sum of money, I shall undertake, on the present occasion, to give some of the reasons that influenced me in coming to that conclusion; and, in doing so, I shall address myself to the following propositions:

First. That the claims now the subject of discussion are not in fact and in truth within the provisions of the treaty made in the year 1819 with Spain.

Second. That there is nothing in this past legislation of Congress, or in the acts of this Government in any of its departments, to conclude Congress from now passing on the merits of this question.

Third. That even assuming that the claimants were provided for by the treaty, or, if not by the treaty, that they were provided for by the act of 1834, and thus became entitled to satisfaction for injuries to their property, they have now no just claim upon this Government, having already been paid more than they were entitled in justice to receive.

Mr. President, as the Senate was somewhat this yesterday when it was addressed at much length by the Senator from Georgia and I have said, I shall be excused for repeating somewhat at large the history of these claims. What is that history? It appears that in the year 1811, in the month of January, a joint resolution was passed by Congress, authorizing the President, in the event of two contingencies, to take possession of the Florida. The first was, in case it could be done with the sanction of the local Spanish government; and the other contingency was, in case the territory should be seized upon by some foreign Government. The sum of \$100,000 was appropriated for the purpose of enabling the President to carry into effect the resolution of Congress. Soon after the passage of that joint resolution, and in the same month of January, 1811, General Matthews, of Georgia, was appointed by the President to carry out these two contingencies, in case either of these contingencies should arise. The resolution was a secret one; it was not made public. From that time until the year following there was no invasion of Florida whatever; but in the month of March, and I believe about the 15th of March, 1812, General Matthews, with a small force of United States troops, and a portion of the militia of Georgia, crossed the St. Mary's river, and entered Florida. The instructions of General Matthews, given to him by the Secretary of State, on the 26th of January, 1811, were precisely in conformity to the resolution, which passed Congress, and the contents of which I have already stated. He was instructed not to enter the territory, except upon the happening of one or the other of these two contingencies. Having entered the territory in March, 1812, there being then no objection on the part of a portion of the inhabitants of that territory, called patriots, he rapidly proceeded to take possession of Amelia Island, and the town or city of Fernandina, passed over the country lying upon the St. John's river, and on the 25th of March entered the city of St. Augustine, and as soon as the Government ascertained what he had done, they disapproved of his acts, and on the 4th of April, 1812, he was notified of that fact, and was recalled.

I am giving the dates in relation to this invasion,

because I think they will be found to be material in some of the views which I shall present hereafter. On the 10th of April, 1812, Governor Mitchell, of Georgia, was appointed in his stead to carry out the views of the Government with instructions—I have all these instructions here, though I cannot read them now—to remove the troops from Florida as soon as practicable, but not to remove them finally and entirely until some arrangement was made by which an amnesty should be declared on the part of the Spanish Government to the patriot inhabitants of Florida who had joined the American forces in making this incursion. That final arrangement was not made until the month of May, 1812, or thereabouts, when the troops were withdrawn; but I think it must be apparent to any one who will examine into the facts and history of this matter, that active operations in East Florida ceased on the part of the American forces, as well as of the patriots, soon after the displacement of General Matthews, which, as I have already stated, was done by a letter from the Secretary of State, dated April 4, 1812. A portion of the troops were there after withdrawal; but a portion of them, together with the gun-boats in the St. John's, were retained there for the purpose of bringing about this amnesty. They ceased, however, to carry on active operations against the Spanish authorities or the Spanish people.

While this state of things was going on, it seems that the Spanish Government called on the Indians to take part in these difficulties, and it is stated that they were not very particular as to the property they destroyed, or whose it was; whether it belonged to the loyal Spanish subjects, to the patriots, or to others; and to some extent, perhaps, the destruction of property by such a force as that was indiscriminate. I have stated that the American troops were finally withdrawn in the month of May, 1812. They occupy a portion of East Florida from early in the month of March, 1812, until May, 1812; but active operations ceased in April, 1812, or soon thereafter.

Then, Mr. President, there was another branch of the case, relative to the claims of 1814. They arose out of an invasion of the western portion of the Territory of Florida by General Jackson, who crossed over the line and displaced the British, who had taken possession of Pensacola, and were aiding and assisting, and inciting the Indians to cross our frontier. The troops were shortly after withdrawn. Again, in the summer of the Creek war, General Jackson again crossed the Florida line, went as far as Pensacola and St. Mark's, with a view of breaking up the Indians and negroes who were congregated there, and who were producing difficulties and getting up incursions across the line into the United States territory.

There, then, sir, are the three classes of claimants who have, from time to time, sought relief from this Government on account of these invasions, and the alleged destruction of property by them and by the United States troops—known as the claims of 1812, those of 1814, and those of 1818. Before the last invasion, that of 1818, there had been much correspondence, and many proposals submitted between the two Governments for a treaty of amity and commerce, and for the settlement of these various claims; and claims which citizens of the United States had against Spain, as well as claims which Spanish subjects had against the United States. A treaty was finally made on the 24th of February, 1819, by which the claims were ceded to the United States, and by which the United States, in consideration of that cession, agreed to settle the Spanish boundary on the south, leaving to Spain the whole of Texas, and assumed to pay to citizens of the United States the sum of \$5,000,000, for which a loan was to be raised, and the claimants were allowed to go before that board, and have their claims, whatever they might be, examined and settled.

It is under the ninth article of this treaty that the present claimants come before Congress, and ask to be allowed the same relief as is proposed to appropriate by this bill. In 1823, after the treaty was ratified, Congress passed an act for the purpose of carrying this treaty into effect, and by it the judges of the superior courts of the Territory of Florida were authorized to take evidence upon the subject, and to hear the parties, and to report a statement of what they ascertained or found

to be due, with the evidence, to the Secretary of the Treasury; and, if he found that the claims were just and equitable under the treaty, he was authorized to settle them, and pay the amount so ascertained out of any money in the Treasury. The first claims reported were those of 1814, by Jonathan Blackford, Judge of the District Court, I think, it seems, whether the claims of 1814 were within the treaty. He did not report them absolutely due; but they were sent to the Treasury Department. The matter was submitted to Mr. Crawford, who was the Secretary of the Treasury at that time, and he reported that the claims of 1814 were not within the provisions of the treaty. Subsequently to that time, Judge Smith, the judge in East Florida, reported a number of claims for damages by the invasion of 1812, amounting to some forty-one thousand dollars. This, I think, was in the year 1824 or 1825. Mr. Rush being then Secretary of the Treasury, the claims were presented to him for settlement. They were, likewise, held by Mr. Rush and the then Administrator of the land office, under the provisions of the ninth article of the treaty of 1819.

Such being held to be the construction of the treaty by the administrations of Mr. Monroe and of Mr. Adams, these parties came before Congress a second time, and induced Congress to pass an act, in 1826, under which the claims of 1812 set up their claim to damages, and under which they now claim that we are concluded from investigating their claim as to the interest. I shall have more to say of that act hereafter; I am now merely giving a narrative of the facts, in order to present to you the whole of the subject.

When the judge of East Florida came to act on these matters a second time, under the law of 1824, he reported a number of claims to Mr. Woodbury, who was then Secretary of the Treasury, allowing damages for the property which it was said he had destroyed, and for the interest on the value of the property, as ascertained by him, from the time of its destruction. When the cases were presented to Mr. Woodbury, he disallowed the interest, and, in some instances, he disallowed the principal of the claims. He settled the claims in the manner he supposed to be just and right, according to the evidence—for the judge was required to report the evidence to him—and there was supposed to be an end of the matter. However, sir, these parties were not satisfied with the result, and they presented the matter to the Senator from Georgia, telling us that they have made continual claim; and I believe such is the fact. They have never ceased to clamor for the payment of these claims. There is here a very large amount in controversy, so as to justify the employment of the very first and ablest counsel in the land; and I admit they have made continual claim; they make claim now, and they have always done so, and probably will do, until Congress either pays the amount or gets rid of it by some other means.

Failing before Mr. Woodbury, they went before Congress a third time. They asked for further legislation on the subject. The matter was referred to a committee of this body, and the committee reported that no further legislation was necessary, and that for as Congress was concerned the matter was dropped for the time. What next? They went to Mr. Corwin, when he was Secretary of the Treasury; they induced him to reopen these claims—rather an extraordinary proceeding, I think. In one of the cases now presented to us, in the report which is on my table, he requested the matter and undertook to readjust it to the principal which had been allowed by one of his predecessors, and increased the amount; and he not only did that, but, with a view of enabling the claimants to get a better price, he caused the Court of the United States, he sent all the claims back to Florida, submitted them there to the district judge of the United States for the State of Florida, as some of the claimants were authorized to do by a subsequent act, and invited his decision and report, and the district judge was required to appear before the judge on behalf of the United States. That was done, and that case, which was referred to yesterday between the honorable Senator from Louisiana and the honorable Senator from Georgia, the case of Ferreira, administrator of the estate of Ferreira, was brought before the Court of the United States. The judge in Florida

reaffirmed the decision which had been made by his predecessor, and then, on behalf of the United States, an appeal was taken.

After the case reached the Supreme Court of the United States, it was insisted, on the part of the claimants, that the court had no jurisdiction of the matter; and that, says the Senator from Georgia, is all that the Supreme Court of the United States decided in the case. Well, sir, we shall see something about that before I get through. I think the court decided, and decided fully and emphatically, that the idea advanced by these claimants, that the mere award of the judges in Florida entitled the men to payment of the amount awarded, was unfounded; but that the award of the judges in Florida was not of itself binding on the Government, and that the Secretary of the Treasury had a supervisory power, and was made the final arbiter; and that his decision, whatever it was, was final and conclusive under the treaty and under the law. Such was the decision of the court in the case of Ferreira, as reported in 13 Howard.

What did these parties do then? Not satisfied with the decision of the Supreme Court of the United States on that point, they went before the Court of Claims, and made the same point before that court, that the awards of the Florida judges were final and conclusive, that they were judgments or decrees, and that the claimants had a right to rely on them. I think the court in Florida had been reported by the Florida judges. What did the Court of Claims decide? Upon the case, as originally presented, Judge Blackford delivered the opinion of a majority of the court. The case was brought before the court a second time on a review, and the chief justice delivered the opinion. It is intimated here, if I understand gentlemen, that a majority of the court, that all the judges who gave an opinion, said that interest ought to be paid; that it was due; that it was conferred under the treaty, and under the law of 1824. Confessing that, I think I can find nothing of that kind in the decision of the Court of Claims. On the contrary, a majority of the court sustained in so many words, referring to it, the decision made by the Supreme Court, and held that these parties had no right to rely on the interest reported by the Government, and that the decision of the Secretary of the Treasury was final and conclusive of the whole matter. After this decision, having failed in every respect to get the interest, either from Congress or from the Departments or from the Court of Claims, they now ask that interest be paid, and they now ask that this bill may be passed for that benefit, involving the amount which I have stated.

Mr. TOOMBS. Did I understand the Senator to say that the Court of Claims decided that they were not entitled to interest by the treaty and the law?

Mr. BRAGG. I undertake to say this: The Court of Claims were asked to decide that they were entitled to the interest, and the Court of Claims refused to do so. The Secretary of the Treasury was final and conclusive.

Mr. TOOMBS. That is a mistake. My statement was, that two of the judges had declared emphatically that they were entitled to interest under the treaty. That is the record. I read their opinions, and I think they are correct. The decision is before me, and can be read. It is a very important legal fact.

Mr. BRAGG. I think Judge Scarburgh did express that opinion.

Mr. TOOMBS. And so did Judge Gilchrist.

Mr. BRAGG. I think so.

Mr. TOOMBS. Judge Scarburgh held with the claimants on both points. He held that the court had jurisdiction, and that the claim was just. Judge Gilchrist held that interest was due, and that the court had no jurisdiction. The other judge said he could not claim, and he said whether they were entitled to interest, but simply decided that the court had no jurisdiction. That is the way I stated it. That is their decision; and it is before me now.

Mr. BRAGG. The decision will show. Perhaps I have said something to say on that matter before I get through.

I have said, Mr. President, that in my humble opinion these claims are not within the provisions of the ninth article of the treaty of 1819. We were told by the honorable Senator from Florida yesterday, that by reference to the fourth volume

of American State Papers, it would appear that even before General Jackson made the invasion of 1818 it had been agreed to on the part of Mr. Adams the American negotiator, and the Spanish negotiator, Don Onís, that damages for all the various matters then pending between the two Governments—I have not been able to find anything of the kind. I can find propositions to that effect. I can find that, at one time, some of them were accepted and some of them were objected to. But looking through the whole correspondence, up to the ultimatum of Mr. Adams, which was delivered in the latter part of the year 1818, I can find nothing like an agreement between them that anything of the kind was to be done. I admit that it was insisted upon by the Spanish Minister; but many things were insisted upon on both sides. There were propositions and counterpropositions. Some were agreed to for the time being; others were rejected; but, of course, unless all the propositions were agreed to, no one of them was binding. They were put forward and counter propositions, as I have already stated.

Finally, in the month of February, 1819, this treaty came to be made, and upon the basis, as I think the correspondence will show, that there was to be a mutual renunciation by both parties of all claims which either one had against the other. This being the case, they proceeded to draw up the treaty; and when we come to see how the ninth article got into the treaty, we find that, at the eleventh hour, as it were—at the last moment—the proposition came from Mr. De Onís, which was made known to by the honorable Senator from Florida yesterday, and which was read by him, and of which I have a copy before me. This proposition was on the 16th of February, 1819, and the treaty was concluded on the 22d of February:

"The above-mentioned articles of the treaty, which was the claim of the American Minister—

"Mr. De Onís adds that the United States will satisfy all the just claims which the inhabitants and Spanish officers of the Florida may have upon them, in consequence of the invasion of 1818, and that they may be satisfied by the proceedings of the American Army, as is customary with the citizens of the United States under similar circumstances."

It is in this grave omission in that part of the ninth article of the treaty, which has been the cause of so much difficulty as to its construction, and it is insisted that this proposition on the part of Mr. De Onís covers all the claims which any of these parties might have on account of the three invasions of Florida by the United States; but I deny it, sir. I say the honorable Senator is loose out in no such construction, in my humble opinion. "All the just claims," it is said, "which the inhabitants and Spanish officers of the Florida may have upon them, in consequence of the invasion of 1818, and that they may be satisfied by the proceedings of the American Army." What all claims? Claims for damages occasioned "by the operations and proceedings of the American army"—not of the American army, but of the American army in the singular. In the margin it is said that there was written, in the hands of Mr. De Onís, opposite this proposition, the word "agreed." Then follows the treaty itself, as finally agreed upon and signed by the respective plenipotentiaries. As a part of article nine of the treaty, I wish to call the attention of the Senate to the last two clauses:

"And the high contracting parties, respectively, renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the United States."

"The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be found to have been suffered by the Spanish officers and individual Spanish inhabitants, by the late operations of the American army in Florida."

I know it is said that the word "late" is not to be found in the Spanish version of the treaty; but the clause immediately above that, in which there is a mutual renunciation of "all claims to indemnities for any of the recent events or transactions of their respective commanders," is to be read in the identical same words in both the Spanish and English versions. Here, then, was a full renunciation of all claims. I know it is insisted that the indemnity intended to be stipulated

for, and in fact stipulated for, was as large as the renunciation; but that by no means follows. The parties might have renounced without any stipulation for indemnity. There were a great many propositions for indemnity, and for the payment of claims on both sides. The Spanish government, if some were insisted upon; and it does not follow that because there was a renunciation broad enough to carry all these claims, therefore all were to be paid by the American Government, to Spanish subjects. But the clause which I first read goes to show that the word "late" is to be read "recent events;" and the clause which follows it uses in substance the same language when it speaks of "the late operations of the American army in Florida;" again using the singular, showing that the operations of one army were intended to be provided for, and not of the several armies which had invaded Florida.

Such, Mr. President, in brief, is my construction of that part of the treaty. What was the construction of it at the time, and shortly after it was made? We are told now, forty years after the treaty was made, that that is not the true construction. Let us see what was the construction put upon it by the administration of Mr. Monroe, under whom this treaty was negotiated? I have already stated what the decision of the Secretary of the Treasury, Mr. Crawford, has been. It is doubted that he submitted the whole matter to the Cabinet and to the President of that day? What was the construction subsequently put upon it during the administration of Mr. Adams, who himself negotiated the treaty, when Mr. Rush, as his Secretary, refused to pay the claims of 1812 as being outside the ninth article of the treaty? Undoubtedly, the whole Administration sanctioned such a construction; there can be no question about that. I am aware that it is said—it has been said here, it is said in the report which was made yesterday—that in coming to this conclusion Mr. Rush merely applied the decision of Mr. Crawford to the claims of 1812, the former decision as to the claims of 1814 being a precedent; and the honorable Senator from Florida told us that the decision of the Government had been called to the language of the Spanish version of the treaty; but in that it is totally mistaken.

Mr. MALLORY. Of what time is the Senator now speaking?

Mr. BRAGG. Before Mr. Rush made his decision.

Mr. MALLORY. The first time the discrepancy in the two versions of the treaty was noticed, was in the argument of the Delegate from Florida, (Mr. White,) I think.

Mr. BRAGG. When was that?

Mr. MALLORY. In 1832 or 1833.

Mr. BRAGG. I am sure the honorable Senator has not examined the matter with his usual industry. He is incorrect about that.

Mr. MALLORY. I do not look out that fact as a defect; in all, one way or the other. That was my own impression, however.

Mr. BRAGG. It may not be important; but let us see how the fact was. What does the report of the Committee on Claims say? It declares:

"When the decision of the judges of East Florida, in the case of the *United States vs. the Spanish Officers*, in the years 1812 and 1813, were reported to the Treasury, Mr. Secretary Bland, the successor of Mr. Crawford, applied the same decision to those claims; and the honorable States had never attempted to justify that invasion as authorized by the law of nations, as they did the invasions of the 18th of West Florida, by rejecting."

Thus the report declares that Mr. Crawford's decision was applied to the case merely because it had furnished a precedent, leaving the inference that that decision was not right in itself. Well now, sir, what does Mr. Rush say in relation to this? He says that he has already stated that the honorable Senator from Florida said in relation to the Spanish version of the treaty and the attention of our Government had been called to it. I have before me an elaborate argument submitted by the Delegate from Florida (Mr. White) to Mr. Rush, in which all these points are specifically raised for the consideration of the Secretary of the Treasury, before his decision was made. I cannot take time to read that argument in full, but it can be found in the volume which I hold in my hand, entitled *Report of Mr. Forsyth, Chairman of the Committee on Foreign Affairs of the House of Representatives*, to which report it was appended. The letter in reply of Mr. Rush, how-

ever, on this particular point, is very short, and I will read it:

TREASURY DEPARTMENT, December 16, 1863.

Sir: I received, and have not failed to lay before the President, your communication of the 30th of last month, relative to the construction of the ninth article of the treaty between the United States and Spain, of the 22d of February, 1819.

I am directed to state to you, in reply, that the President's opinion is, that the article in question does not embrace claims for injuries suffered prior to the conclusion of the treaty; and that it was the opinion of the President, by the Government during the late Administration, at which time the question was fully considered.

I have the honor to remain, with great respect, your obedient servant,

RICHARD RUSH.

Hon. JOSEPH M. WHITE, Delegate from Florida.

How, then, did Mr. Rush apply the decision of Mr. Crawford to this matter? According to this letter of Mr. Rush, the whole matter was fully considered by both Administrations, and they came to the conclusion that these claims were not within the provisions of the ninth article of the treaty, and therefore disallowed them.

Mr. BENJAMIN. I will ask the Senator if the President then was not Mr. Adams, who negotiated the treaty?

Mr. BRAGG. Certainly; Mr. Adams, who negotiated the treaty, and who was Secretary of State under Mr. Monroe, was then President. I say this letter was sent to Mr. Adams, and that this matter was considered, and fully considered; and upon full argument, by the Delegate from Florida, who followed it up with great zeal and great ability, and who took all the grounds that are now presented here in relation to the Spanish version of this treaty, and its construction in the English version. He presented all the grounds that have been presented since; and, notwithstanding that, both these Administrations decided that these claims were not within the treaty. Perhaps it may be among other things very grave about the matter; it may be thought by some that we are wiser in this day and generation of ours than they were; but for one, I am unwilling, unless for very good reasons, better than I have heard here, to depart from the decisions which were then made, first by the Administration that negotiated the treaty, and immediately following it by the Administration of which the man who negotiated the treaty was the head, and who decided, upon solemn consideration of the whole question, that these claims were not within it.

Now, sir, we come to the other. It was said by both the Senators who addressed the Senate yesterday, that after these decisions on the part of Mr. Crawford and Mr. Rush, the parties went before Congress, and Congress passed an act in 1834, after full consideration, overruling the decision of the Secretaries, and its differing from the claims of 1812 were within the treaty, and should be paid. There is another great mistake. In my humble judgment, Congress intended to do such thing. We were told by the honorable Senator from Georgia, among other things, that a great number of reports had been made in favor of these claims, and of their being within the treaty, in the opinion of several committees. He named particularly Mr. Everett, who he said made a report of that kind as chairman of the Committee on Foreign Affairs of the other House. In making that statement, the honorable Senator was entirely mistaken. Mr. Everett made no such report.

Mr. TOOMBS. He reported in favor of the claims.

Mr. BRAGG. But not because they were within the treaty. Immediately after the decision of Mr. Rush, they went before the House of Representatives, and from year to year the matter was pending, and several reports were made. What were they? In the first place, I have a report made by Mr. Forsyth, which I have already read, because I have already taken up too much of the time of the body in this discussion; but the report of Mr. Forsyth, as chairman of the committee, enters into a discussion of the very question as to the construction of the treaty, both in the English and in the Spanish version, and he concludes that these claims are not within the provisions of the ninth article of the treaty of 1819. That report was made in 1826. In 1827 Mr. Wickliffe, the chairman of the same committee in the House, submitted another report, not so lengthy, but containing the report of Mr. Forsyth, which he submitted at the previous Congress. Then, in 1829, we have the report of Mr. Everett, from the same com-

mittee. What does Mr. Everett say? That these claims were within the treaty? That they were provided for by the ninth article? No, sir; nothing of the kind. He mentions what had been the dispute in relation to it, and he says it would be useless to enter into a criticism about the words contained in the English version of the treaty and not contained in the Spanish version. He expresses no opinion whatever, as to whether the claims were within the treaty or not, but what does he do? He records, and, inasmuch as the claims were not large, that the Government, in its liberality, should allow their payment, and should appropriate money for that purpose. Why? Because the acquisition of Florida was a matter of great importance to us, and the inhabitants there, who were formerly Spanish subjects, had now become a part of our own people; and hence he thought it was better for the Government to act liberally towards these claimants, and pay them; and one of the reasons stated was, because the amount was not large. They then amounted, I think, to only some forty-one thousand dollars. That is what Mr. Everett's report said. I have here the very language which he uses; and I will read it:

"The committee forbear to pursue a verbal discussion of this question, necessarily involving the merits of the claims."

That was in relation to the language used in the two versions of the treaty. Mr. Everett says further in his report:

"The committee are disposed strongly to recommend a liberal course, and this they do with more confidence, as the amount involved does not appear to involve individuals, in its importance to the United States bears no comparison with the beneficial consequences of the cession of Florida. The whole amount of claims awarded provisionally by the judge of the superior court of East Florida was \$41,864. Claims to a much larger amount were presented, but rejected for various causes set forth in the record."

Again, speaking of the importance of the acquisition of Florida and the troubles which had grown out of its possession by a foreign Government, he says:

"A final termination has been pursued to these embarrassments, the inhabitants of Florida have been declared citizens of the United States; and the committee think it just and expedient, by the adoption of a liberal policy, to remove from any remaining ground of complaint the people of Florida. To effect this object, they have reported a bill making provision for the payment of acts of the claims awarded by the judge of the East Florida court, and the committee think it just and expedient for the Secretary of the Treasury, and affording an opportunity to those who have claims to present their claims to the same judges for examination."

The bill then reported, in 1829, was the one that was passed in 1834, I believe. No further action, however, seems to have taken place at that session; but in 1830 Mr. Archer, from the same committee, made a report; he again made a report in 1832; and again in 1834. On examination, it will be found that these reports are all identical. And what was the report which was made by the committee at the head of which was Mr. Archer, in 1830, 1832, and 1834? Does that report say that these claims were within the treaty of 1819? It is very easy to see how it was that this legislation took place. He says this:

"An attempt has been made by the Delegate from Florida, before the committee all present, and in a former year, to show that the construction of the treaty was erroneous, and that the cases under review are comprehended in the provision for relief stipulated by the treaty. The committee, without going into a verbal discussion of this opinion, esteem it only necessary to express their dissent from it, concerning in that which has been adopted at the Treasury."

Mr. Archer's report then proceeds:

"In this view they would have to pronounce unfavorably on both clauses of the claims under examination."

For at that time the claims of 1814 were under examination as well as those of 1812.

"In relation to those deriving from the transactions of 1812 and 1813, however, a further view suggests itself. The United States, at that period, were at peace with Spain. Neither of the consequences mentioned in the treaty was warranting invasion into Florida, and in the contemplation of the act or the other of which the act of Congress authorizing the occupation has been passed, no injury occurred. The intrusion stands, therefore, on no ground to exempt the participants, either by action or inaction, from responsibility for injuries sustained. It is a plain case of invasion. It is true that the Government of the United States disavowed the proceeding of General Matthews, and disavowed him from command. It is also true that he was the commissioner of the Government, in command of its troops, acting in its name, and understood by the inhabitants of the province to be its agent. It is true that, although this officer was displaced, another was substituted to the command, the forces of the United States retained for a considerable time in the province, and only withdrawn eventually in virtue of terms of compact directed and

sanctioned by the Government, providing indemnities for the portion of the population which had been in association with the Government. The committee cannot be responsible for injuries sustained from the operations of this force, by the population which, taking no part in the public disturbances, preserved fidelity to the Spanish authorities."

They do so extend this opinion, however, to the cases growing out of the transactions in 1812 in West Florida, placed, as they conceive, in a very different predicament."

They go on then, and give their reasons for that opinion, the principal one being that the invasion proceeded from the United States, and they reported a bill in accordance with those views.

Thus it will be seen, Mr. President, that in all these reports, with the exception of that of Mr. Everett, in which he leaves it an open question, before the passage of the act of 1834, the ground was distinctly taken that these claims were not within the provisions of the treaty of 1819. As to the position taken by Mr. Archer and others, that the Government was responsible for the damages to which the inhabitants of Florida were subjected by the invasion of 1812, it seems to me that, although Congress appears to have acted on that suggestion, the parties had no claim to it whatever; because, by the express provision of the treaty, there was a renunciation on both sides of all claims whatever by any acts of the kind, and the law of nations, which is the foundation of all liability, must undertake to pay the claimants, they had no just claim against the Government, either under the treaty or outside of it. But, however that may be, these committees reported a bill. What was the bill? It is said here now that that bill was passed upon full consideration, and for the very purpose of overruling the decision which had been made by the Secretary of the Treasury. I think that is a total mistake. It will be remembered that the title of the act of 1823 was: "An act to settle the claims of the United States and Spain on the 23d day of February, 1819."

Pray, sir, what was the title of the act of 1834, reported by Mr. Archer, not to carry out the treaty, but to pay these parties, because the United States, under the law of nations, had no claim to it, and had done them this damage? The title of the act is, "An act for the relief of certain inhabitants of East Florida." I have had the curiosity to look up the original bill, as reported by the committee, and I say now that the act as reported, although the title was changed by the committee, saving and excepting, that there was another section in the bill reported by the committee, providing that five dollars a day should be paid to the judge for his services when acting upon these claims, and that the salary of the United States should receive a full amount, and should be required to appear before the judge, and defend the interests of the United States. Unfortunately, as it has turned out, that section seems to have been dropped, and what has occurred since, goes to show the impolicy of having such an ex parte examination of claims, which take into consideration the fact that what was thought then to be a small claim, and a very small matter, has swelled up to be an enormously great claim, and, in fact, and in truth, instead of \$41,000 being all that was then considered, it has swelled up to be the principal about one million one hundred thousand dollars of these claims, and the parties are now asking for interest. I say it was unfortunate that that provision was stricken out; but, with that exception, the bill as reported—reported not to carry out the treaty, but for the purpose of paying these claimants, on the ground I have stated—was identical with the act that was passed by the Congress of 1834.

I know it is said that this act was intended to carry out the treaty and overrule the decision of the Secretary of the Treasury. I have shown what the report was, and what was the purpose for which the bill was drawn. What is there in the act itself that goes to show that it was to carry out the provisions of the treaty? Nothing at all. The act then provided that the claims which had been passed upon—and which, I have already stated, amounted to about forty-one thousand dollars—should be paid; and the next section merely provided the means of ascertaining what these damages were. It did not undertake to declare that these claims were within the treaty; but it said that they should be ascertained as if they were in the treaty, for that is the effect of it. This judge in Florida were required to examine

into the matter, as they were required to do by the act of 1823. It was merely, therefore, to ascertain what persons were to receive, and what amount they ought to receive, on the basis reported for by the committee, and on the basis of the act, and the act was intended for no other purpose. It is said that this act was passed after full deliberation, and for the purpose of overruling Mr. Rush's decision. The same thing is stated in this report, and that is a good many things are assumed, and which are mistakes. It is declared in the present report:

"The claims for injuries in 1819 and 1812 therefore petitioned Congress for relief against this erroneous construction of the treaty, and Congress, by the act of March 2d, 1834, overruled the decision of Mr. Secretary Rush, that the injuries of 1812 and 1813 were not within the provisions of the treaty of 1819, by the passage of the act of June 26, 1834."

It is said that Congress by that act overruled the decision of the Secretary. I think I have shown that such was not the intention of the reporters of the act. The act is just as it came from the committee, with the exception I have already stated. When gentlemen say such was the intent, I ask for the evidence. I say the act itself does not furnish it—neither its provisions, nor its title, nor anything in connection with it. As to the matter having received free consideration, I think it is needless to say anything more. The facts, they will find that it received very little consideration. In this body, not a word was said on the subject, as far as I can find by examining the debates. In the other House, very little was said upon the subject. It seemed to have been passed as an act of courtesy to these parties, if I must say so, who had been very troublesome, as an act of liberality to get rid of them. And pray, sir, what were the inducements to the passage of the act? The honorable Senator from Georgia said yesterday, and it has been said by Colonel White declared that the amount involved was only some forty-one thousand dollars, but that Colonel White never said so. Now, sir, what did Colonel White say; for that is about all that can be found in the debates? Here is what he did say: "I do not doubt that the amount of claims in the other House in the passage of the bill. I read from the Congressional Globe of the Twenty-third Congress, volumes one and two, page 428:

"On motion of Mr. Warr, the bill for the relief of certain inhabitants of East Florida was read."

"Mr. Warr moved that the amount of the claims provided for by this bill."

"Mr. Warr said they would not exceed \$40,000. He then called for the read of the report of the committee, relative to these claims."

"Mr. Warr said he could explain these claims in less time than the reading of the report would require."

"Mr. W. went into a statement of the occupation of East Florida by the United States in 1811, and the nature of the claims arising out of this occupation."

"After a few remarks between Messrs. McKay and Warr, the bill was laid aside."

There are some of us here who knew Mr. McKay; and he was pretty sharp upon claimants, I admit. He was chairman at that time, I believe, of the Committee of Ways and Means of the other House—a just man, though a strict one."

Mr. TOMBS. It was afterwards that Mr. Warr was chairman."

Mr. BRAGG. But at all events, he was a member of the House. Perhaps it was subsequently that he was chairman of the Committee of Ways and Means. The question was put, what is the amount of claims provided for by the bill? How much money is to be appropriated now? But what is the amount of all the claims that are to be provided for by the bill, not only in the first section, which, as I have stated, provided for the payment of the actual amount which had been reported by the judge of East Florida? He also in the second section, such provided for the payment of such amounts as might be ascertained thereafter, subject to the approval of the Secretary of the Treasury? And to that question Mr. White said they would not exceed \$40,000.

There are some circumstances under which that bill passed the other House; yet it is said that we are concluded now by that act of 1834. Can it be said that Congress, after solemn consideration, overruled the decisions of the two administrations of Monroe and Adams? Why, sir, everything that was said in the other House, as I have stated, was passed; the act itself shows that such was not the intention of Congress; but it was merely in their liberality to pay a class of men whom it was

thought the United States had improperly injured, illegally injured—if the Senator will have it so—and not because they had any legal claim on the Government after the renunciation of all claims whatever in the treaty of 1819.

But, there is one fact connected with that view of the case which I wish to present, and which I think will have an important bearing on the intent of Congress in this legislation of 1834. If Congress intended by that act to declare solemnly, upon consideration, that the claims of 1812 were within the treaty, how does it happen that the Senator be so good enough to explain hereafter how it happens—that the claims of 1814 never have been paid by Congress, and no law has ever been passed for their payment? If the intention of the act was to hold that the claims of 1812 were within the treaty, why not the claims of 1814? They had been reported upon, had been urged at this very time, and the decision of Mr. Crawford was applied to them, that the invasion of 1814 was just, under the circumstances, and could be justified under the laws of nations, and therefore that was one reason why they were not within the treaty. How did it happen, if Congress intended to overturn all these decisions of the Secretaries and to overrule them, that the claims of 1814 have not been paid, as well as those of 1812?

Mr. TOOMBS. If the Senator will allow me, I will answer that. Congress did not overrule the decision as to the claims of 1814; but if you read the second section of the act of 1834, you will find that they did expressly do so as to the claims of 1812. The reason was, that one was within the law of nations, and the other against it. Congress provided for those damages suffered by an invasion that was against the law of nations, and not for those which were in accordance with the law of nations; and did right in both cases. That is my reply.

Mr. BRAGG. The honorable Senator does not seem to take my point. Here in a treaty which, it is insisted, bound the United States to pay damages for all these invasions. Do I understand that the Senator now says that the claims of 1814 have no claim on the Government under the treaty?

Mr. TOOMBS. I have not argued that. Mr. BRAGG. I know the Senator has not argued it; but I put that point. I understand him to insist that they are all entitled—the claimants of 1812, 1814, and 1815. I understand him to say that he decided, by the act of 1834, that the claims of 1812 were within the treaty; not that they were to be paid merely because the invasion was wrongful, or because they had just claim on the Government without regard to the treaty; but that they were paid, he says, under the act, because Congress chose to consider them as within the treaty. According to that view, how does it happen that Congress has never considered the claims of 1814 as within the treaty? How can it be consistent? Mr. TOOMBS. Congress considered the claims of 1812 within the treaty, and that the other was not.

Mr. BRAGG. You can only reconcile the two positions by saying that, in point of fact, Congress, in 1834, by its legislation did not intend to allow the claims under the treaty, but intended to allow them on the ground I have stated, as a piece of liberality on the part of the Government, as stated by Mr. Everett and by Mr. Archer, on the ground that the invasion of 1812 was a mere trespass on the part of the Government, and that they had nothing to do with it. You cannot reconcile the action of Congress in any other way. The legislation of 1834 was not passed because these claims were within the treaty, for if they were within the treaty, then all were under the treaty; and that is what the Government has done, against the claims of 1814, and from that day to this, although there have been attempts as late as 1852, by reports from Mr. Westcott and others, to get in the claims of 1814, Congress has applied to them the decision which Mr. Crawford first made the year 1824. I should not consider it a compliment that Congress has solemnly decided the matter, and that we are concluded by it, and that we cannot go behind the act of 1834. Congress decided nothing of the kind. Even if they had decided an act for that purpose appropriate to the part of the claim, it should not constitute a binding on me, for, if I thought the claim unjust, when the balance was sought to be paid.

Well, sir, if these claims are not within the treaty—and that I have endeavored to show—what pretense is there now that Congress, after having passed an act of that kind, in 1834, out of its liberality, should be called on to pay interest in the time these awards were made? None whatever. But, Mr. President, I will not labor that point any longer; I will hasten on with what I have to say.

The last point which I make is this: even supposing these claims to be within the treaty, or to have been provided for by the legislation of 1834, precisely in the same manner as if they were within the treaty, then, in my opinion, nothing ought to be appropriated for them now, for the reason that I believe, and hope to be able to show, that the claimants have already received more than they were entitled to receive for the damages which they sustained. I shall not go into a discussion of the question of interest, which was very much mooted before the Court of Claims and the Supreme Court, as a question under the laws of nations. I shall not discuss the question whether full satisfaction meant the value of the property destroyed with interest on it, or not. I am willing to concede that; to admit that where full satisfaction has not been obtained by allowing a sum in the aggregate which would compensate the party, then interest may be allowed. It may be allowed at common law, but it does not necessarily follow; the amount does not necessarily draw interest; and it may be allowed under the laws of nations. I am free to confess, too, that there are many instances in which our Government has claimed and received interest. But nevertheless, if these claimants have already received an amount which, at the time they received it was as large as they ought to have received, if it covered the amount of the damages which they actually sustained, without interest, then it cannot be very material to determine here whether, under the laws of nations, the parties are entitled to interest or not.

I have already referred to what Mr. White, the Delegate from Florida, said as to the amount of the damages. We were the persons who were to receive this compensation? They were Spanish officers and subjects. Who did receive it? The probability is, as I shall endeavor to show, from the number of claimants who presented claims, and the amount claimed, that everybody who was injured in that patriotic and loyal invasion, and all, have come to the Treasury and have received from it very liberal and very large amounts. The Senator from Georgia read the other day a highly-wrought picture drawn by one of the judges who sat upon these claims—Judge Bronson, the last who was there. It sounded to me more like the rhetorical flourish of an advocate than the opinion of a judge. There are three specimens of that kind here from three different judges; one which compared the destruction in the invasion of 1812 to the destruction of the city of Hyder Ali. I will read what the first one said—Judge Smith, who was the earliest judge that sat upon these claims that are now in controversy; the judge in East Florida, who was succeeded by Mr. Rice, who decided a great many of them. Judge Smith was a pretty statesman, a lover of the state of things there, but not quite equal to that which was read by the Senator. He says:

"It has been fully proved by the testimony which, in various cases, has been adduced before me, that in the year 1812, the United States, by the aid of the citizens of the United States, despoiled patriots."

I call the attention of the Senate to that. It was invaded from the United States by persons denominated patriots—

"principally from Georgia, and also by the regular troops which formed the army of the United States; that these troops, in the year 1812, invaded the State of Florida, north and west of Augustine, and on the banks of the St. Johns, and committed to take part therein, or to abandon their plantations."

"It has been further proved that the cattle, horses, swine, and other property of the plantations of the patriots, were, during this invasion, almost without exception, destroyed, dispersed, and lost to the owners; that the property of the patriots, consisting of many plantations, was wholly destroyed, sometimes having been previously abandoned by their owners, and at others the owners having retained their plantations, and then abandoned them."

One purpose I had in view in reading this, was to show that the judge who first sat upon these claims states that these patriots, who were spoken of here, were from across the line; they were per-

sons from the State of Georgia. I have before me a letter from John H. McIntosh, the patriot leader, bearing date July 30, 1812, addressed to Mr. Monroe, and protesting against the removal of the troops from Florida, pursuant to the instructions which had been given by Governor Mitchell, until some arrangement was made by which these same patriots could receive protection. I will read a portion of it:

"By being elected to the office of director by the freemen of East Florida who engaged in the revolution, it becomes my duty to address you, Sir, as the President of the United States, upon the subject of our situation. After suffering for some time the oppression of a government, corrupt in itself, and free from the control of its parent country, we saw the correspondence between yourself and Mr. Under Secretary of the Treasury. Your letter refrained from noticing that part of Mr. Foster's communication relating to General Matthews. When General Matthews came forward respecting instructions of a date prior to that of the correspondence, we immediately concluded that the United States would receive our country as a component part of their territory, as soon as we should desire our determination to shake off the shackles with which we were overladen."

I beg to direct the attention of the Senate to the next clause:

"Under this impression, the whole planting interest declared themselves free, took possession of all the country, and held it until they surrendered it by consent of their commissioners."

The whole planting interest of Florida engaged in this patriot war, declared themselves free, and joined the United States troops. The judge says that these patriots were citizens of Georgia who came across the line. The leader of the patriots says that the whole planting interest upon the State of John's, and between the St. Johns and the Augustine, had risen and joined the force of the United States; and he goes on and urges the Government not to withdraw these troops; that the Indians would be upon them; that a negro regiment was about to be raised, and that they were to go to Cuba; and that the dangers and hardships to which they would be subjected were imminent and great. It was in consideration of this that the Government did not finally withdraw the troops from Florida, though active military operations had been commenced by the patriots in the month of April, 1812. They did not eventually withdraw the troops until May, 1813, and until this amnesty had been made which Mr. McIntosh writes to the Government he desired to have made, and which the Government thought that in good faith they ought to have made, for they owed these people some protection.

I introduce that letter for another purpose. I notice it to show that the whole of the planting interest in that region were of this patriot force, and engaged in the revolution. I notice it for the purpose of showing that these persons afterwards came before the judge there, and by *ex parte* testimony made out cases for each other, and by that means the Government has already been subjected to the payment of \$1,100,000. Hence it is that we are now paying out money for the decimation. It is very natural that these judges should speak as they did. These persons were their neighbors and friends. What was the character of the proceedings before the judges? *Ex parte* entirely. How could a judge undertake to take testimony from the case of Mr. McIntosh's writing, taken at a distance from him. It is true, in some of the cases, *ex parte* interrogatories were put; but by whom? They were sent in writing, by the judge himself. How could the facts be made to appear? Every man within the hearing of my voice, especially every lawyer, knows that if left to a judge to have the testimony taken, and especially if the testimony was not taken before him, the Government would be imposed upon; testimony would be fabricated; large amounts would be paid to the supporters of the Government; claims allowed; and such, I think, has been the result in this whole matter, if we take into consideration the amount which was stated by Mr. Everett and by Mr. White to be due, and the amount to which these claims have subsequently been added, because they have already stated the Government has paid \$1,100,000, and some two million seven hundred thousand dollars of claims were presented, and those only of principal. Where did these claims come from? Who were the persons that could have suffered all these losses? We are told by Mr. McIntosh, that the Government, the whole planting interest belonged to this patriot force. We did not stipulate to pay

them either by the treaty or by the act of 1834, which was passed out of the great liberality of Congress towards these persons. All they asked of us, all they had a right to ask, was that the forces of the United States should not be withdrawn until some arrangement was made with the Government of Spain by which they should not be maltreated. That was all that was extended to them.

I say, sir, that such was likely the case. Why do I say so in addition to what I have already said? Let any one examine some of these cases, and see the nature of the claims. Something was said about the price of cotton. I never understood that Sea Island cotton was raised throughout the whole of that country.

Mr. YULEE. The Senator will allow me to say that that was the great staple of that whole region of country at that time.

Mr. BRAGG. Sea Island cotton?

Mr. YULEE. Nothing else.

Mr. BRAGG. Well, sir, that is information that I have not received before. I shall not dispute as to the value of the cotton. The Senator from Georgia may be right, but the matter or he may be wrong. I had my doubts about it exceedingly, from the amount charged; but in some cases there are as much as three or four dollars a bushel allowed for sweet potatoes. I hope they are the sweet potatoes of Florida.

Mr. YULEE. I am not interfering in these cases, for a reason which I stated last year, I will say that I happened to be counsel in 1835, when the court in Florida, in the record of which is printed before us, and I think it proper to mention to the Senate that no such allowance was ever made, or dreamed of, or heard of, as the Senator now states.

Mr. BRAGG. Then I have not got my facts correctly, but I believe I have. There is another fact, sir, about which I think there can be no dispute. If we may dispute about the price charged for cotton and potatoes, there can be no dispute that many of these claimants, after having been allowed the full value of the property which was claimed had been destroyed, and not only allowed for the crop of 1812, in which year it appeared this damage was done, but they were also allowed the full estimated amount of the crops which they might have made in the year 1813, though the army was withdrawn by the middle of May, 1813. I want to know upon what rule of damages that estimated amount for the crop of 1813 would have been brought by the judge or anybody else within the provisions of the act of 1834. Here, for instance, is a man's crop, his house, his plantation, and everything destroyed in 1812—burnt, ruined, all gone, stock and everything—desolation, like that of the Carnatic, as my friend says, when it was passed over by Hyder Ali.

Mr. TOOMBS. The judge said so.

Mr. BRAGG. Well, the Senator quotes it, and denys it, and sends it to the authority. That was done in 1812. I think I have shown the Senate that the army was withdrawn from active operations as early as April or May, 1812. The judges allowed full payment for the crops of 1812; and then, immediately after the army was withdrawn from Florida until about the middle of May, 1813, they allowed the same persons the full value of the crops which they said they could have made in 1813 but for the previous destruction of their property in 1812. If such a case as that was presented by my friend in a court, what would the answer be to him? If you can go for the year 1813, after you have received pay for the damages done to you in 1812, you can go for the year 1814, for 1815, for 1816; yea, sir, by continuing to claim, they could go forever up to the present time.

But again, as to the number of these claimants, how many were there? I have before me the report made by Mr. Guthrie, Secretary of the Treasury in 1854. It says that the Secretaries and all the Attorneys General have been of opinion that the claimants ought to be paid. I think the Secretary from Georgia was very much wiser of the mark. I have before me the report of Mr. Guthrie, made to this body in 1854. What does he say in relation to the matter? He was governed by the opinion of Mr. Attorney General Cass, who was the latest opinion, I believe, that has been had in relation

to the subject. Mr. Cushing did not recommend the Secretary to pay them; Mr. Cushing did not think they ought to be paid; but what says Mr. Guthrie? He had the whole of these cases before him; he had all the evidence before him, which we have not; he examined into the whole matter; he saw the reports of the Attorney General, and no man, it must be conceded, was more capable of making a report upon the subject than he was. What does he estimate the population of Florida? In 1820, at the time it was ceded to the United States—mind you, these injuries had occurred in an earlier period, when the population could not have been greater—but in 1820, when Florida was ceded, he says, exclusive of Indians, the population, white and black, in the whole of Florida—East and West Florida—did not exceed ten thousand people. He estimates one half of that population to have been blacks—slaves; the other half whites. He gives the number of claims that had been presented—those under the invasion of 1818 and those of 1812. How many were they? Three hundred and seventy claimants in all previous claims, which were made before 1812, and there had been paid \$224,992 68. That embraced all the claims which were made before the Treasury and which had been paid.

Mr. Guthrie makes another estimate as to the number of families. Allowing eight to a family, he says that there were about three hundred and thirty there could not have exceeded six hundred and twenty-five families. It will be remembered that there were only forty or fifty belonging to West Florida, out of the whole three hundred and seventy claimants. Nearly all of them, therefore, belonged to East Florida, and there could be only a thousand white population in the whole of the two Territories in 1820, and, allowing eight to a family, only six hundred and twenty-five families in both the Territories; and in East Florida alone there were claims presented and allowed to about three hundred and forty heads of families—fifty more, of course, than half of all the families that could have resided in that part of East Florida, a narrow strip of country, from St. John's to St. Augustine, hardly one hundred miles in extent. Yet it is said that about thirty or thirty-five hundred claimants residing in that country who had received this amount of damage—received \$1,100,000; and McIntosh tells you that the whole of the planters in that region were patriots who had joined the American forces. Where did the money come from, if the country was so small?

In fact and in truth, notwithstanding what the honorable Senator said here, that all the Secretaries thought this money ought to have been paid, Mr. Guthrie says they have already been paid more than double what they were entitled to, and that, for one, he was opposed to paying another cent. Such was his language, and you cannot get on with all the facts in this case on any supposition. These very men who had risen before the United States Treasury and the militia from Georgia to the Territory, the same men of whom Mr. McIntosh was the leader, composing, as he says, all or nearly all the planters of that section of the province, were engaged in this revolution; and if they suffered in the *melée*, if their property was destroyed by the Indians or by Spanish troops, or the same men who claim have they now to come back on the Government of the United States, and not only ask them to pay the value twice over, as Mr. Guthrie said, of the property which they lost, but to pay interest upon the amount which was proposed to be allowed by the judges of Florida from the time they made their award up to the present date!

For one, Mr. President, if I believed this claim to be a just and fair one, I would vote for it; I would pay no regard to the amount involved; but believing, as I said before, that this claim was not supported by the evidence, by the testimony furnished by Congress, in the legislation of 1834, to admit that it was within the treaty; believing that we are not concluded at all by this legislation, or by the action of Congress, or of any Department of Government, believing further that these claimants, all of us are justly entitled to claim under the act of 1834, have been paid, and more than paid, and that thousands and hundreds of thousands of dollars have been paid to others, who had no claim upon the Government, either under the treaty or the act of 1834, I, for one, cannot vote for the bill.

Mr. FOOT. Mr. President, having myself reported this bill from the Committee on Claims, it was—

Mr. MASON. I take it for granted that at this late hour, and considering the importance of the question, the Senator from Vermont does not desire to go on now. If we make any disposition of the question before the Senate, I want an executive session.

Mr. FOOT. I was about to remark, Mr. President, that having myself reported this bill from the Committee on Claims, it was my purpose, as it would be, to be present, and assume the responsibilities which attach to the position I occupy in relation to the bill, to have expressed my views upon it and, upon some of the important material questions it involves, some what in detail and in some considerable length, and upon the opening of the debate upon the bill, I was prevented from doing so by unavoidable detention from the Senate Chamber when yesterday this bill was taken up for consideration. I desire still that opportunity to express the views I entertain upon some of the material questions; and, what I shall do later in the afternoon, I understand from the honorable Senator from Virginia that he desires an executive session on important business, I will move that the further consideration of this bill be postponed until to-morrow at one o'clock, it would be better, I think, to have the special order of the day that time.

Mr. JOHNSON, of Tennessee. I would suggest to the Senator that there is one special order for to-morrow at one o'clock. I wish he would name some other day.

Mr. FOOT. I will say further, Mr. President, that it will suit my personal convenience entirely to have this bill fixed for some early day, either to-morrow or any other day during the present week.

Mr. TOOMBS. To-morrow.

Mr. FOOT. But I shall desire the opportunity at an early day to speak at length on this question.

Mr. IVESON. I will say to the Senator from Vermont that if he will not move to postpone it and make it the special order, we may go into executive session to-morrow, or it will come to-morrow as the unfinished business.

Mr. FOOT. I understand that is so.

Mr. MASON. I move that the Senate proceed to the consideration of executive business.

EXECUTIVE SESSION.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 20, 1860.

The House met at twelve o'clock, n. Prayer by the Chaplain, Rev. Thomas H. Swagwell. The Journal of yesterday was read and approved.

MORITZ SCHUEFFLER.

Mr. POTTER, by unanimous consent, submitted the following resolution, which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and hereby is, respectfully requested to communicate to this House copies of all papers and letters, so far as the Department pertaining to the removal of Moritz Schueffler, late collector at Milwaukee, Wisconsin, and copies of all papers showing his name in relation to the consideration of himself in said office, together with copies of such evidence as may be on file in the Treasury Department showing for or against his removal, and if such a public document at the time of his removal as said collector; and also, the date and amount of said debt.

TERRITORIAL GOVERNMENT OF ILLAH.

Mr. NOELL, by unanimous consent, introduced a bill to amend an act entitled "An act to establish a Territorial Government in Utah," approved September 9, 1850, and for other purposes, which was read a first and second time, and referred to the Committee on Territories.

Mr. NOELL moved to reconsider the vote by which the bill was so referred.

The motion was entered, and passed over for the present.

LOUISVILLE AND PORTLAND CANAL.

Mr. MALLORY. I ask leave to have the joint resolution from the Senate in relation to the Louisville and Portland canal, taken from the

way, or conduct their investigation in a particular manner. They believed—and such was the debate on the bill—that in order to judge they must have the full and free scope of investigation; that to determine implied the authority to inquire and investigate as they saw fit, else they were not left free to judge of the election and qualification of their own members. But still they thought that a law might be made which would prescribe a wholesome rule—a rule that would and should be adopted, so far as it was practicable, and which would enable parties contesting a seat here to be prepared before the meeting of Congress to lay before Congress at the beginning of the session the proofs—as that would be required—before the commencement of the session but for the House; to decide upon those proofs. They passed the act of 1851, the main feature of which, or all of which that has any bearing upon this case, I will read to the House. It provides:

"Sec. 1. Whenever any person shall pretend to contest an election of any member of the House of Representatives of the United States, he shall, within thirty days after the result of such election shall have been determined by the inspectors or board of canvassers authorized by law to determine the same, give notice, in writing, to the member whose seat he designs to contest, of his intention to contest the same, and, in such notice, shall state particularly the grounds upon which he relies to the contest."

"Sec. 2. Any member upon whom the notice mentioned in the first section of this act is served, shall, within thirty days after the service thereof, answer such notice, admitting or denying the facts alleged therein, and stating specifically any other grounds upon which he relies to the validity of his election, and shall serve a copy of his answer upon the contestant."

"Sec. 3. The testimony taken by the parties to the contest, or either of them, shall be confined to the proof or disproof of the facts alleged or denied in the notice and answer mentioned in the first and second sections of this act; and no testimony shall be taken after the expiration of sixty days from the day when the notice mentioned in the first section shall be served upon the contestant; and a copy of the notice of contest, and of the answer of the returned member, shall be *prima facie* the declaration of the facts stated therein to the Clerk of the House of Representatives: *Provided*, That the House may, at their discretion, allow supplementary evidence to be taken after the expiration of said sixty days."

The statute, you perceive, prescribes that, within thirty days after the result of any election shall be determined by the canvassers authorized by law to determine the same, the contestant shall give notice of his contest to the member returned, and that the member returned shall, within thirty days, make his answer, and then that both parties should take their proofs in support of their allegations and denials within sixty days thereafter, with the provision that the House may, at their discretion, allow supplementary evidence to be taken after the expiration of the said sixty days.

It was the design, Mr. Speaker, I have said, of the Congress that passed that law, to prescribe a wholesome rule. A recurrence to the debates will show that it was the opinion of the Congress who passed it that this was only to be a matter voluntary upon the part of every contestant, that he might avail himself of the provisions of this act or not, as he pleased; but that, if he did avail himself of it, he was bound by the provisions of the act, and must conform himself to it; that he must serve his notice, and close his case, within the time prescribed in that act. Such, in a lengthy argument in favor of the bill, was the view taken by a experienced member of this House—Mr. George W. Jones, of Tennessee. He said substantially that no other construction of the law could, for a moment, be allowed, in consistency with the provision of the Constitution which left each House perfectly free to judge of the election and qualification of its own members. This construction, whether correct or not, is not necessary for a just decision of this question; but the much may be considered as true: that he who avails himself, whether necessarily or voluntarily, of the provisions of this act, must bring himself within it, or he cannot have its benefits; for the first and by far the more important of these benefits is that it elects a magistrate with the right to take the testimony of such witnesses as he shall send forth his subpoena and to bring before him; and it provides that a witness thus brought before the court shall be compelled to testify, under the pains and penalty of perjury. To lack, therefore, a case is made which comes within the provisions of the act, no man can avail himself of its benefits.

The first section, upon which is based the jurisdiction of the case, provides that it shall only apply to cases where there has been a determina-

tion by the canvassers or persons authorized by law to determine the result. Unless there has been a determination of the result by the authorities of the State, whose duty, by the law, is to determine, this law cannot apply to the case. The law—I see intimated in the papers in this case—was one which was well considered in its passage. I have to say, that I think the experience of all the States, and of the elections held under the law has shown that it is extremely defective; and from this very case, it can be seen that there may arise very many cases that cannot be brought within the provisions of this statute. There may be cases where the canvassers are divided in opinion, and they are unable to determine the result. There may be cases where the canvassers are corrupt, and refuse to determine the result. There may be cases where the result may depend altogether upon nice and delicate questions, which they must determine beforehand, before they can come to a conclusion as to what the final result is, and what the canvass has determined. In all and any of these cases, when a man undertakes to contest a seat in this House, and goes before a magistrate for the process which the statute authorizes, he finds himself at once without a case, and without jurisdiction to contest, because the very ground of his presentation to the court—that there was a canvass, and that it has been determined by the proper authorities—is wanting.

Such, Mr. Speaker, is the case now before the House. The canvass of the election for the State of New York was so peculiar, and, I may be permitted to say, so strange, that it left the contestant and the contestant without the ability to avail themselves of the provisions of this statute. It is the duty of the inspectors of elections in the State of New York to certify to the board of State canvassers the result, as it is termed in the statute, of the election in their several precincts, and to attach to that return a specimen ballot of each ballot cast in their precincts. It is the duty of the county canvassers to certify, as to all elections for Congress, to the board of State canvassers, to the board of State canvassers the result, as certified to them by the inspectors of elections in the several districts. Then it is the duty of the State canvassers, a board provided for law in the State of New York, to perform two or three distinct functions, to each of which I will now direct your attention.

The board, when thus formed, shall, upon the certified copies of the statements made to the county canvassers, proceed to make a statement of the whole number of votes given at each election, to the committee in Congress, and to the board cast for each person or candidate. That is their first duty.

Then they shall certify said statement to be correct, and subscribe the same with their names. Then, upon such statement, they shall proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to such offices, or either of them. They shall then make and subscribe upon the proper statement a certificate of such determination, and shall deliver the same to the Secretary of State of the State of New York.

They are first to make a "statement" and certify it to be true, and subscribe it, and then upon that statement they are to act judicially. They are to "determine" upon that statement who are duly elected according to those votes, and they are to certify that judgment, and adjudication upon that statement, and send it to the Secretary of State. The Secretary of State is to enter that upon the records, and to send one certificate of such "determination" to each of the persons so elected, declaring them to be elected, another to the Governor of the State, and a third addressed to the House of Representatives, declaring such men to be elected.

Now, it came to pass, in the election of 1858, that in the city of New York the county canvassers, in order to come to a result, sent to the several precincts which had been certified to them, up to the State canvassers, certified the votes to have been cast for "members of Congress," instead of Representatives in Congress. And it came very strangely to pass, that the State canvassers, in order to come to a result, sent the votes to have been cast for members of Congress, rather than for Representatives in Congress, they could not be counted. There were two or three other counties in the State in which the votes had been returned

in the same way. They went on to canvass the State, and threw out all such votes. It so happened that the result was the same, and did not affect the result in any other district than those in the city of New York. When they came to make the canvass for that city, they found all the votes certified in the manner I have stated. They therefore adhered to the words of the statute, and made out their certificate of election for the members of New York county, in the mean time, sending them a new statement that the specimen ballots returned to them by the inspectors were for Representatives in Congress. The board made out a statement of these facts, and of those votes which were certified to the members of Congress, and concluded in these words:

"We further certify, that no votes are returned from the said county of New York for the office of Representative in Congress; and we further certify that a certificate of the county clerk has been presented to us, stating that all the ballots returned to and filed in his office as used as said election for the aforesaid precincts were for Representatives in Congress; and that no 'members of Congress' and we further certify that, inasmuch as said office was not legally designated in the returns of the county canvassers of the said county of New York made to this board, we cannot certify to the election of any persons to the office of Representative in Congress."

Having made the statement required by law, and having come in obedience to the statute to determine who was elected on that statement, they declined to do so, and said that for these reasons they could not determine and certify that anyone was elected to the office of Representative in Congress, sufficient to enable us to determine. They showed sufficient to make us conclude that they ought to have determined. At the same time, they show that although they could have determined, and although they ought to have determined, they nevertheless declined to determine. They sent to all the members elected from the other districts, except these six, certificates of election. A copy of that certificate will be found on the 22d page. They say:

"We, the Secretary of State, Comptroller, Attorney General, State and Board of State canvassers, and having canvassed and estimated the whole number of votes given for Representatives in Congress, and having determined that the said State on the 3d day of November, 1858, according to certified statements of the said votes, received by the Secretary of State, and the Board of State canvassers, and the State canvassers, and certify that the following persons, respectively, by the greatest number of votes given in the several congressional districts of the State, were elected to represent the State of New York in the Thirty-sixth Congress of the United States, to wit:

Then they give the names of the several persons elected, and stand in regard to this thing formed a board of State canvassers, and having canvassed and estimated the whole number of votes given for Representatives in Congress, and having determined that the said State on the 3d day of November, 1858, according to certified statements of the said votes, received by the Secretary of State, and the Board of State canvassers, and the State canvassers, and certify that the following persons, respectively, by the greatest number of votes given in the several congressional districts of the State, were elected to represent the State of New York in the Thirty-sixth Congress of the United States, to wit:

Then they give the names of the several persons elected, and stand in regard to this thing formed a board of State canvassers, and having canvassed and estimated the whole number of votes given for Representatives in Congress, and having determined that the said State on the 3d day of November, 1858, according to certified statements of the said votes, received by the Secretary of State, and the Board of State canvassers, and the State canvassers, and certify that the following persons, respectively, by the greatest number of votes given in the several congressional districts of the State, were elected to represent the State of New York in the Thirty-sixth Congress of the United States, to wit:

Now, sir, it is claimed by Mr. Sickles, and by the minority of the committee, that Mr. Williamson was called upon, by the statute of 1851, to take the oath, and to certify to the result of the test his right to the seat to which nobody had determined that he had any right. It was the opinion of the majority of the committee that, as the case thus stood, Mr. Williamson was no longer upon to serve notice of contest on Mr. Sickles, that Mr. Sickles was called upon to serve such notice on Mr. Williamson. True it is, that there existed a statement from which anybody could make up his mind how the proper authorities ought to have determined this question. But it is

also true that, notwithstanding that, these canvassers, for some strange reason, never made this determination.

When these votes were before the State canvassers, Mr. Williamson took preliminary measures to contest the seat, according to the law of 1851, and prepared his notice of contest; but when this action of the State canvassers came to be known, legal advice was taken on it, and Mr. Williamson was advised that he could not avail himself of the provisions of that law; could not serve notice on Mr. Sickles, and bring him before the authorities named in the statute, and obtain the testimony of persons who would not voluntarily give their testimony in the case. He therefore abandoned his effort to proceed according to the statute of 1851, and applied to Congress. He presented his memorial here on the seventh day after the House had organized; and at the first meeting of the Committee of Elections he presented his application for leave to take testimony according to the forms and usages prescribed by committees of Congress before the passage of the law of 1851.

It is true that I have stated the case of Mr. Williamson and of Mr. Sickles as it has been presented to the committee. The objections to giving the authority proposed in the resolution are manifold. Without desiring to prejudice at all the case of the sitting member, I must say that, if a man has a right to be heard at all in Congress before his allegations are considered in the memorial of the contestant, and in the affidavit of his attorney, I would not raise technical objections to the form and manner in which the allegations are made. If allegations of fraud were laid at my feet, if I were charged with corrupt voters, or stuffing ballot-boxes, I would not care in what form the charge were made, or on what day it was made, I would offer no objection to the fullest and amplest and largest investigation that the power of Congress could have made or could bring to bear on my right to be heard.

The minority of the committee, which was unable to agree with the majority in reporting the resolution, have various objections to it, to which, perhaps, it is proper to allude at this time. The first of them is, that the certificate from the county canvassers, in which they are cast for "member of Congress," is not for "Representative in Congress," is a mere quibble, not worthy of the attention of the House for a moment; and in that I agree with them. But they will permit me to say that, while I think they have argued as well as I do, I see how the State canvassers ought to have determined the case; they have not been successful in showing that the State canvassers have determined it, while they expressly say, in so many words, that they will not determine it. Such an argument is like that of those who, when judgment of court is rendered against them, sit down and recount all the facts and the law in the case, say that it is incomprehensible that a judge could have come to such a judgment, and then jump to the conclusion that the judge did not come to such a conclusion and that they are entitled to a new trial. I think they ought to have come to. Now, I agree with them. I should be—I do not know that it would be respectful to the authorities of New York to say it—but I should be almost ashamed to put my name to any such sort of argument, and when any I could not determine it. But it is just as true that they have not determined, because they say they have not. They refused to give a certificate or to determine it; and the first determination that Mr. Sickles had a *prima facie* right to the seat was the action of the House, when they permitted him to take the oath of office, and to be qualified as a member. The House is presumed to have looked at that paper and that statement, and to have come to the conclusion that it showed him to have a *prima facie* title to the seat; and that the first determination had been made when they had no more right to that seat than I had; and that was but seven days before this memorial was presented. That is the first objection raised by the minority of the committee.

The second objection is this: that suppose Mr. Williamson was correct in his belief, and that the advice of his counsel was correct, in the first place, that he could not bring himself within that law; yet he acquiesced for fifteen months—he has laid the matter sleep for fifteen months. Now, if there was any reason at all for

acquiescing at first, that reason continued up to the time that this House was organized. If there was no determination in the beginning, the determination did not grow like a crop of corn. The determination lacked existence just as much when Mr. Sickles and Mr. Williamson came here as it did when these State canvassers refused to make it; that the waiting for fifteen months was a necessity, and was compelled on them by the law of their own, but by the course which the State canvassers brought upon him, and the position in which they put him in relation to the law.

But the minority say further, that Mr. Williamson, by permitting Mr. Sickles to remain in the seat without objection, is estopped from raising the question now. Because Mr. Williamson did not happen to be here in time, did not happen to be inside these walls when we were visited with that sudden dispensation of Providence—the election of a Speaker—why, therefore, he is estopped? Why, sir, Lord Coke says an estoppel is the stopping a man from telling the truth; and he declares it to be very odious. But still, our friends here are disposed to avail themselves of the fact that Mr. Williamson did not object at that time, and to hold him estopped. I should like to know that no other member objected; as if the right of the people of the third congressional district of New York to be represented according to their own choice was to depend upon what other members believed or upon the chance of Mr. Williamson being able to get here and claim the seat as soon as Mr. Sickles did. They propose, if I understand this argument aright, to reduce the contesting of a seat here to a race between two men, to see which will get into it first; and the man who gets in first may say to the other, "You are estopped because you did not say as soon as I did that you are the true member; if I get here and take the seat and the oath of office without your being here to claim it, you are estopped."

The next point made by the minority of the committee is, that since Mr. Sickles has been here and taken the seat, Mr. Williamson has permitted him to rest in the seat so long a time as—I do not know that they any exactly to contend it; but that, by some process, or other like adverse possession, Mr. Sickles has the best right to the seat, and this is the only way to get out from the contest. I wish to say, that the man claiming to have been duly elected, and who may have been elected to the seat, if he permits another to occupy it thus long, loses it by adverse possession. Well, let us see how long Mr. Sickles has occupied the seat. He came here, this House was organized on the 24 day of February, and this memorial was presented on the 9th day of February. Seven days—six working days and a Sabbath—had been the whole adverse possession of this seat which Mr. Sickles enjoys, before this memorial was presented.

There is one other objection, and it is this: they say that this House has no power to travel out of the statute of 1851, and prescribe another rule. They have come to the conclusion that the Congress has no right and power to prescribe a rule just how far, just when, and before what tribunal, all evidence of the right to our seats should be taken, and then leave us perfectly free to pass upon what that Congress had prescribed as the mode of determining. Now, I have no objection to that, but I have no objection to the Congress of 1851, as I gather from the debates of that Congress, the law itself never would have passed. It cannot be true that a man has a right to judge, or can be called upon to judge, who has not also the means and the right to investigate, and to investigate when and how he pleases. How the gentlemen of the minority could have come to that conclusion, I do not know; for, during the last Congress, in a contested case from Nebraska, the committee came unanimously to a contrary conclusion. In that case the first determination of the contest was formed to the law of 1851; had served his notice upon the sitting member; and, after the notice had been served upon the sitting member, the sitting member took his family and left the Territory, and went off into the State of Pennsylvania, and stayed there until the session of Congress had commenced—abandoning the contest to the contestant from the beginning to the end. The Committee of Elections, in that case, were unanimously of the opinion that the contestant had conformed to the law. The sitting member had left the Terri-

tory, and kept out of it from the day the notice of contest was served upon him until Congress came into session; and yet he was before the committee and asked that they would report to the House a resolution to give him time after that to take testimony, and the committee unanimously determined to give him time to take testimony, and sent the matter over to the short session. They put it off, and they were not here, and there was no other ground, that the sitting member had made affidavit that he had acted in good faith, and had mistaken the law.

Now, sir, suppose this contestant had mistaken the law; suppose that the legal counsel whom he employed was mistaken in the law, yet, sir, the law of 1851 expressly provides that the House may, in its discretion, give time to obtain supplemental testimony. Under that provision of the law of 1851, the Committee of Elections came to the conclusion, under the circumstances of this case, believing as they did that this man was in good faith—resorted to all the methods which he believed were in his power—to report the resolution which we have done, that he should have time to support the serious allegations in his petition, supported by the affidavits of the witnesses, of any that he knew the men who used the money to obtain illegal votes; and that he believed he could prove the allegations made in the petition, if he could have an opportunity.

The committee took into consideration the fact that this House was not asked by the sitting member, who would thus, in asking time to take testimony and prepare his case, gain time, and thus, it may be, prolong his right to sit here; but the delay is asked for by the outside contestant, under circumstances which could have no possible burden upon the sitting member; because, if it imposed upon him now the necessity of leaving his duties here in Congress to go to New York to take testimony, it would have imposed upon him the same necessity to leave his seat in the House during a session of Congress, in like manner, had the testimony been taken within the ninety days prescribed in the law of 1851. It therefore imposes no additional burden upon him. And, sir, if there is more difficulty in sustaining allegations of the serious character presented in the memorial of the contestant, of time, the fading of memory in reference to the events in question, or the absence of the witnesses, the difficulty rests not upon the sitting member, but upon the contestant; because the sitting member has had the advantage of the law, while he is *prima facie* entitled to his seat, and until the contestant can make good his allegations, will continue to occupy it.

Then, sir, anxious as the Committee of Elections were to establish the rule that as many of these cases as possible should be prepared before the meeting of Congress, in order to hasten their adjudication and to determine whether the electors of the several congressional districts contested were rightly represented on this floor or not, they could not, under these circumstances, involving a difference of no less importance than the rights of a member, beyond what would have been if the seat had been contested within the ninety days specified in the law of 1851; they could not say they would close the doors against this contestant and refuse him the right to be heard, and the law, as he has in his memorial, supported by the affidavit of his attorney, he can make good his charges, provided he can have the process of law to bring unwilling witnesses into court and compel them to testify under the legal sanction of an oath.

Sir, I do not desire, without good reason, to depart from the rule laid down in the act of 1851. But I find, upon an examination of the cases, transpiring since the passage of that law, that all committees have been governed by the same rule; and that is, to recommend a departure from the requirements of that statute, when the taking of testimony within sixty days is concerned, whenever, in their judgment, the merits of the case cannot be fully presented without.

But, Mr. Speaker, it is said by the sitting member, in his brief, which is contained in his report, and is embodied in the statement presented by the minority of the committee, that, laying aside the requirements of the law of 1851, still it was his duty to have served the sitting member with notice of his intention to contest, within a reasonable time; so as to have given him an opportunity

usual proceedings taken by contestants under the act of 1851, or under rules established or practiced upon previous to the passage of that act. And however much our friends may be astonished at the action of this board of canvassers in New York refusing to give a certificate, because the clerk certified that the sitting member had a majority or plurality as member of Congress, yet it is shown that the election was held on the right day and at the right place, as required and established by law, for Representatives in Congress, and that board could not see that the contestant was entitled to a certificate of election. It is for us to determine whether the result of that election was declared by what was done. The board of canvassers declared the result of the voting. If it did, then the contestant ought to be allowed the rules prescribed by the act of 1851, unless he can show some very extraordinary reason why he should be permitted to depart from them, which he has not done.

But even suppose there is error in this. Before the act of 1851, Congress had established certain rules to be obligatory upon parties in contested-election cases; and the act of 1851 but substantially embodied the usages which had been practiced by Congress anterior to that time. It merely substituted a statutory form which had become settled by precedent by the Congress anterior to that. And what were they? Why, in substance, that the party who determined to contest the seat of the person receiving the majority or plurality of votes, should give him reasonable notice of his intention to contest the seat; and also to specify upon what ground he intends to contest it. Now, it only requires a little reflection to see the good sense of the rule. It would never do to allow one candidate to keep to himself for fifteen months the knowledge of the ground upon which he intends to contest the seat of another man.

The contest is entered in all fairness to reasonable notice of the contest, and of the ground upon which the contest is founded. He who has the certificate has the *prima facie* right to the seat, and it is afterwards ascertained within a reasonable time that such a fraud has been committed as to nullify the election, the party should have reasonable time to inquire into the facts, and defend himself by controverting the facts, or by showing that counter frauds were committed, and so forth. But this gives a party a right to sit upon his oars, without giving any notice formal or informal, from November, 1858 to February, 1860, and to say that the case falls within the usages of the Congress of the United States or of Parliament, or of any other legislative body, is preposterous, and I challenge any man to show that it does. There cannot be found such a precedent either in this country or England. Why, sir, the contestant knew that Mr. Sickles was going to claim his seat, and he admits it. It is so stated in the report of the majority. It is stated that he had as soon count thirty as he could count one, and, from November, 1858, up to 9th February, 1860, he makes no movement in the case, and gives no notice.

I repeat, he made no move whatever in the case up to February, 1860. In addition to this, he has given him, by the publication of this certificate in the papers of New York, as required by the law of that State, the very findings and declarations of the board, as already read, were spread on the records in Albany. Further, he waits till the meeting of Congress in July only so. He sees the sitting member coming here and voting on the question of Speaker from the first week in December till the first week in February; saw him recognized as the sitting member; and never notified him, during those sixty days, a letter or a notice of any kind, or of any intention to contest the right of Mr. Sickles to a seat in the House. He files or makes no objection to his being sworn in.

If the case did not fall within the act of 1851, it is idle to say full witness that he waited before the passage of that act, and that he intended that the contestant ever attempted to conform, in any degree, to the usages established anterior to the act of 1851? Was not the certificate, which was spread on the records in Albany, and which was published in the papers of New York, enough to put the contestant under notice? Was not the fact that the sitting member came here and voted

from December to February sufficient ground to put him under notice?

Now, Mr. Speaker, I promised to be brief. I do not pretend to say that there might not exist some circumstances under which this House might feel bound to disregard the provisions of the law of 1851, and the usages established anterior to that time. The House might be induced to move in behalf of an extraordinary commission in favor of disfranchised citizens. Every man in Congress would desire to have the United States has a right to come before Congress and show that his district had been unfairly dealt with, and that the person holding the certificate had, in truth and in fact, obtained it by fraud, corruption, force, or some malpractice. A citizen might make such a showing at any time as to induce the House to send a commission to inquire into the facts, in behalf of the country and for the purity of the elective franchise. But in this such a case as that? Does any citizen here complain? Do we hear anything from any person in the district, except from the man who was defeated in the election, and from his attorney? Do we hear a murmur from a solitary citizen of the city of New York? Not a voter in that third district has ever been heard to complain of the manner in which the election was conducted, except from the man who stands at least in the questionable position of having a self-interest in the matter, and from his attorney.

Now, Mr. Speaker, I desire simply to call the attention of the House to the affidavit of the contestant's attorney. I desire to have it read, and I ask the attention of the House to every word and line of it. I ask gentlemen on all sides of the House to tell me, when they hear it, what it *proves*? It *proves* nothing in the world, except hearsay—except what was heard from some parties in New York as to have been *particeps criminis* in the election.

The affidavit is as follows:

City and county of New York, ss:

Alfred McIntire, of said city, being duly sworn, says that he is employed by Amos J. Williamson, shortly after the congressional election held in the State of New York, in the month of November, 1858, as a canvasser said Williamson directed him to go to the third congressional district of the State of New York, and endeavor to procure signatures of persons, and obtain such proofs, as would enable said Williamson to establish his election as Representative in Congress.

That in consequence of the omission of the board of State canvassers to determine and declare who, if any one, was elected in the said district, at the said election, said Williamson was unable to give the notice and proceed to take the testimony in the manner prescribed by the act of 1851; and that he therefore had no way to compel the attendance of witnesses, or of securing their testimony, unless it could be obtained from him voluntarily.

That in pursuance of such employment, this deponent has seen and conversed with a great number of persons, residents of the said district, who look an honest part in the said election, and that he is informed by a number of persons who were active supporters of Daniel E. Sickles at the said election, and who participated in the fraudulent voting of said district, that there were illegal votes cast for said Sickles to their knowledge, and that the aggregate number of such illegal votes received by said Sickles, according to the statements of such persons, was this number, viz: more than three hundred; and deponent further says that from the statements of such persons, he ascertained that a number who participated in such illegal voting, and from other sources, the number of illegal votes received by said Sickles at the said election would exceed three hundred.

Deponent further says that he has been informed by several persons that said Sickles furnished them money to pay the expenses of the canvassers who were sent to the said district, and instructed them to procure such illegal votes, and that he also furnished large sums of money to other persons to procure such illegal votes.

That he knows the persons from whom he obtained such information to have been the active supporters and agents of said Sickles in the canvass, and that they very much stated so that the said Sickles was not legally elected, but they declined to make any further statement, or to furnish any other evidence to the deponent, and the deponent ground that it would implicate themselves or their friends, and involve them in difficulty.

Deponent further says that the said parties are all in the city of New York or vicinity, and that their attendance can be secured before a committee of the House of Representatives, and that their testimony would establish the fact that at least three hundred illegal votes were given for said Sickles at said election.

ALFRED MCINTIRE.

Sworn before me this 29th day of November, 1859.

MATHIAS BANTA, Commissioner of Deeds.

Mr. ELIOT. I desire, Mr. Speaker, to call the attention of the honorable gentleman from New York to the statement made in the affidavit of Mr. McIntire, for the purpose of bearing from him how the contestant could have

acted otherwise than as he did. Mr. McIntire says:

"That he, therefore, had no way to compel the attendance of witnesses, or of securing their testimony, unless it could be obtained from him voluntarily."

I understand, Mr. Speaker, that the provisions of the act of 1851 are based upon certain action on the part of the canvassers previously had. What I want to know is, how witnesses could be compelled to testify in the absence of that action? How could they be brought here by any judicial tribunal, and compelled, against their will, to testify? How, in case they had testified falsely, could they have been punished? I should like to know whether, in point of fact, that difficulty does not lie at the foundation of this case, and at the foundation of any action which could have been taken on the part of Mr. Williamson?

Mr. GILMER. My friend has gone off here without examining the force and effect of the very statement that he calls my attention to. Had I been the adviser of Mr. Williamson, at any day after the 21st day of December, 1858, I should have told him to issue his notice and get his subpenas from the officers pointed out in the act of Congress; and if the officers had hesitated about granting the process, I would have sent to Albany, and I would have got a writ of habeas corpus, and I would have made there, and before any sensible judge I would have got the process; and if any corrupt judge could not grant me the process, in a State where we have honest jurors and judges, I would have convicted him for corruption in his office.

Mr. ELIOT. The honorable gentleman does not yet meet the point. How could Mr. Williamson have gone before any magistrate and laid a foundation for a process? He must have said that certain action had been had; and the difficulty is, that that action had not been had. How, then, could he have proceeded? How could he have taken the first step?

Mr. GILMER. I have already shown how he could have proceeded. All he would have to do would be to show that declaration and that finding, as forth in the certificate, and the case would already be decided, and that certificate he could easily have got. It is begging this question. There is nothing in it. When the county canvassers declared, by their comparing or by their poll-books, that this man was elected Representative, and they issued his certificate, and that certificate, as that result, and he sent it up precisely in conformity to law in every particular, except the mere clerical error of "member of Congress" instead of "Representative in Congress," which made so sort of difference, when taken in connection with the other part of the certificate, showing the character of the tickets used; and the State canvassers declared, as their certificate shows, it was a legal declaration of the results of that election; and it is nothing but mere quibbling to undertake to insist upon any other conclusion. And if the result was declared, the act of Congress does not require you to wait until the certificate is furnished or refused. It is when the result is made known that the party who is going to contest is permitted, under the act of Congress, to move for his certificate. As to a case as was taken in Georgia, North Carolina, or any of our southern States. When the sheriffs of the several counties come together to make up their certificates, the party who is going to contest does not wait until the Governor issues the certificate. The officers who have the votes, in an election, ascertain the number given to each by the poll-books, and publish the result of the vote; and when that is done, the party wanting to contest is required, under the act of 1851, to move according to the provisions of that act.

Mr. CONKLING. With the permission of the gentleman from North Carolina, I desire to ask him one or two questions. I ask him first, which board of canvassers he says was bound to make the legal determination contemplated by that act? His answer to that question will enable me to put another.

Mr. GILMER. I should say that either might declare it, and that the first declaration would stand, unless reversed by any other.

Mr. CONKLING. Either of which? I desire to move for his certificate.

Mr. GILMER. I think if it is declared by the county canvassers, that is sufficient.

Mr. SICKLES. Being somewhat familiar with the election laws of New York, I should like to say a word to the gentleman from North Carolina who will allow me.

Mr. GILMER. The gentleman will have an opportunity of being heard hereafter.

Mr. CONKLING. If I am to understand that this case goes upon the theory that the inspectors of election, or some other body, are to determine the State canvassers, could make this determination, why, it is one thing; and that is a theory which has not been advanced yet, unless it is advanced now by the answer which the gentleman from North Carolina makes to me. If, on the contrary, I am to understand that the gentleman to this time, that the legal determination on which this act is predicated is the determination of the board of State canvassers, I ask the gentleman from North Carolina to put his finger on the page or part of a page in this document which shows any such "legal determination," to use the words embodied in this statute, has taken place; and I ask him whether it is not true that the only statement with regard to a determination embodied in this certificate is the statement that the yeas and nays, that they do, that they do not, do, not, decide, determine, or certify, that any matter whatever is entitled to a seat from this district? Now, I want to see where it is that the determination is made by the board of State canvassers.

Mr. GILMER. I have not examined and traced my attention particularly to the New York statutes in relation to the county canvassers; but if it be as I would suppose it to be, I would take it that their having counted up the votes and declared the result would enable the party wanting to contest to proceed under the act of Congress. But all this is no purpose. I look to the facts found and declared by the State canvassers. They made a declaration and a finding of facts. Their declaration and finding of facts is like the verdict of a jury; the judgment of the court is another thing. So the granting or refusal of a certificate of election—that is of any requiring the finding and declaring of the result of the voting. This act says nothing of a certificate of election. There may be a declaration—a finding of facts, and these facts recorded upon the records of the court; and yet there may be no judgment. So they may be finding as to the result of an election, and it may be of record; and it is upon that that the party has a right to move, under the act of 1851. Suppose the canvassers certify to you that this man has received a plurality of votes for member of Congress, and that he is entitled to be Representative in Congress, and then he asks you for a judgment or certificate: I should like to see the member of this House who would risk his reputation by saying: "Sir, upon that special finding I cannot give you a certificate."

I venture to say there is not a gentleman upon this floor who will risk his reputation by sustaining any such quibble. My friend says that if he and this imputation made against him for fraud and bribery, and made by the counsel upon the other side, he would not hesitate to demand an investigation. He would open the door wide; he would not shrink from any investigation. Well, Mr. Speaker, I rather think that if the tables were turned upon my friend from Massachusetts, and a contestant came here fifteen months after his election, having given him as previous notice, and presented an allegation sustained by an affidavit to no fact whatever, stating only what he had heard from parties who were *particeps criminis*, who named none specially that had been bribed, giving no names of persons implicated, or of respectable witnesses by whom he had intended to prove the allegation, I say I doubt whether my friend would, under such circumstances, voluntarily yield to go home, incur costs, and try the case. Yet that is no stronger a case than the one now before us, which is a case of a man who is a member from New York home in this district, leaving his duties here in this Congress, to try the contest in respect to the charges that are brought, or rather suggested, in this memorial.

Mr. CAMPBELL. I shall defend the House a few moments, and then shall endeavor to speak to the point in the contested matter before us. It is distinctly understood that we have a *preliminary* matter before the House. There is nothing in this controversy which can have any influence upon

the merits of the case. If the resolution reported by the majority of the committee shall be adopted by the House, the merits may be brought into the matter, and will come up for the action of this body in due time. The question now before us is, whether the contestant shall have an opportunity of inquiring into the fraud, bribery, and corruption alleged in his memorial and in the affidavits. Sir, I claim that this contestant could not have made the charge of illegal voting more distinctly than he has made it in his memorial; and that a more distinct affidavit of facts than that of Mr. McIntire was never made before a chancellor, or before a court of common law jurisdiction for their action; and further, that to make the charge more directly would be impossible, unless the parties to the fraud themselves voluntarily came forward and made affidavit to the facts within their knowledge.

Now, sir, before I dismiss the manner in which these charges of fraud, bribery, and corruption are set out in the petition and affidavit, I desire to call attention to the memorial of the contestant. My friend from North Carolina [Mr. GILMER] has not referred to that memorial at all. He has contented himself with a significant allusion. The contestant charges bribery and corruption upon the sitting member in his memorial as well as in the affidavit, and this is the charge which is submitted to the consideration of the House. Now, what is contained, first, in the memorial? I call the attention of the members to it. They read, it is in part before them. Mr. Williamson goes on to say:

"That he has been informed by various persons, and verily believes, that a large number of the votes which were cast in the district for the seat of Daniel S. Sickles, and which were officially returned and counted for him, and allotted to him by the said board of county canvassers, were in each case a purchase for a vote of 3,750 votes or ballots, were illegal votes introduced into the ballot boxes surreptitiously and fraudulently by the said House, and in each case with his knowledge and by the force of their own accord, and with the intent of, and for the purpose of, obtaining the true representation of the intention of the electors of the district, and of securing, or appearing to secure, the return of the said S. Sickles to his honorable body fraudulently and corruptly."

Now, here is a distinct charge that there was illegal voting procured and countenanced by the sitting member. Does he say he knows it himself? How could he know it of his own knowledge, unless he had participated in the fraudulent transactions? How could he bring the charge before the House unless upon information derived from parties who had participated in the illegal voting? Suppose a certain number of voters upon the poll-list came forward and stated before this House that they voted for the sitting member and voted illegally and fraudulently; the House would act upon that information. The contestant comes into the House and makes affidavit that these parties informed him of the fact, and that he verily believes he can prove it. Are you not compelled, or are you not authorized, to open up the matter?

Why, sir, when you go before a court of equity jurisdiction, and ask for a bill of discovery to inquire into certain alleged frauds, if you make affidavit that you have been informed and verily believe on the ground of your belief, that A, B, C, D, E, F, have done certain acts, it is necessary to bring the affidavits of the parties to the fraudulent transaction before the court will grant you the relief prayed for? No, sir; in ninety-nine cases out of one hundred you merely state, and rely upon the affidavits of the parties, and you have been informed by third persons, and verily believe that you will be able to prove the truth of the matters and things set out in your petition.

But this memorial goes on to set out, with great distinctness, what the contestant complains of. He says:

"That in the five election districts of the first ward of the city of New York, which is a portion of the said third congressional district, ballots or votes were surreptitiously and fraudulently introduced into the ballot boxes, and the said ballots had on them the name of the said S. Sickles as such Representative as aforesaid, such ballots being in the hands of the said S. Sickles in each district, and were not and officially allowed by the inspectors of election having

charge and issued count of said ballot-boxes, for and on behalf of said Sickles, and that such ballots were made to form a part of the whole number of votes returned, and purporting to have been cast for him."

There, sir, in a distinct allegation of fraud made by the memorialist, from his own knowledge. He further states that a large number of soldiers in the service of the United States, from various parts of the country, were collected in the district; that they had no legal right to vote, but did vote for the sitting member. His further alleges:

"That a large number of persons, not residents of said congressional district, and who resided without the city, and persons who temporarily and otherwise lived on board vessels about at various docks, and who were not legal voters of said district, were collected and paid by the said Sickles or his agents to cast ballots or votes on one or more occasions for the said Sickles in said district, and that there were over one hundred illegal votes cast by such persons for the said Sickles."

It is true that the memorialist derives his information in some instances from other persons, but he makes his allegations so distinctly and alleges that he is able to prove them. He says further:

"That large sums of money were expended by the said Sickles and his agents for the purpose of bribery and corruption, and that the said money was used to induce the said voters to vote for him; and that he furnished large sums of money to other persons to be used and paid on by them for the purpose of bribery and corruption, and to vote for said ballots for the said Sickles."

And there are other charges of the same nefarious purport, yet we are told by gentlemen on the other side that the memorialist is basing his case upon the names of the persons who polled these illegal votes, nor has the memorialist named the parties who made use of this moneyed influence referred to in the petition of the contestant. I answer, it is not necessary to set out the names of the illegal voters in the memorial. It is not necessary in a bill of information or indictment to set out the evidence necessary to support it; nor is it necessary to give the items of evidence by which the general charges of bribery and corruption contained in the petition are supported. The charge is perfect, when the offense is sufficiently and legally described, without the evidence which supports it. The evidence is for the jury, the sufficiency of the charge for the court. To bring the case within the statute, it is only necessary to give the essential facts of the character and extent of the charge with reasonable certainty, and that is done in this memorial. Then take into consideration that the memorial is supported by the affidavit of a respectable witness, so far as we know, stating that he has conversed with a great number of persons of the name of Daniel S. Sickles, who took an active part in the election, and that he has been informed by those persons, who were the active supporters of Daniel E. Sickles in said election, that they participated in the fraudulent voting, and that there were a large number of illegal votes cast for said Sickles to their knowledge, they being *particeps criminis* in the transaction. How could it be more direct than the witness makes it? I contend that these charges of fraudulent voting, proved by the statements of the respectable witness, and sustained by the sitting member by competent proof, would be evidence against him. It is the only preliminary information you can have to ground action upon. You cannot compel them to testify until process has been issued by competent authority for that purpose.

Mr. Speaker, how could this contestant proceed further, or bring stronger ground for the proceeding asked for, or more explicitly than he has done?

Mr. SMITH, of Virginia. Will the gentleman please to support his case for more than a moment.

Mr. CAMPBELL. I must decline. The gentleman will have an opportunity to be heard after I conclude. I wish to be brief, and to the point.

Mr. SMITH, of Virginia. I only wished to put the case of the illegal voting before you.

Mr. CAMPBELL. Here, Mr. Speaker, is a charge of fraud, of illegal voting, extending to more votes than the sitting member had majority in that election. Here are charges of ballot-box stuffing, and we are asked to suffer investigation and countenance upon the same. We are asked that we have no power to inquire into these transactions. With this charge, broad and plainly stated, staring us in the face, we are asked to hide it away, and to crush it out. We are asked to deny

person was returned duly elected for the six districts in the city of New York. That matter was dismissed under the jurisdiction of the board of State canvassers; and so far this question is concerned, they have determined it.

I will not consume the time of the House by an inquiry into what they ought to have done, or what you or I would have done. They had jurisdiction, and they refused to grant such a certificate. Then, I say, they have determined it. I have no determination, that the hands of Mr. Williamson were tied, and he could not give the notice required in the act of Congress of 1851. It would have been an idle ceremony, there having been no determination as to the sitting member. No judge in the State of New York or any other officers under a fair construction of that act of Congress, could have issued a process to compel the attendance of witnesses. It would have been a perfect farce for the defendant to have given notice, or for a judge to have issued process for the attendance of witnesses. Had witnesses been compelled to attend under such a process, they would have had a remedy against the party who compelled their attendance by attachment. The act of Congress of 1851 is based upon the fact that there must first be a determination of the election. That is the ground work of the subsequent proceedings—the basis and superstructure of the whole thing. There can be no proceedings without that legal determination; in the first instance, had by the proper authority—the board of State canvassers; and that determination is called upon to give notice within a certain time, is based upon that legal determination. The right of a judge to issue process for the attendance of witnesses is a power conferred upon the judge only of cases enumerated in the statute—that is, where there is a legal determination and result. And I ask gentlemen who are lawyers to meet this issue fairly upon the act of Congress. It is a question of power under that act. There is no use of avoiding it in any other way. And I say that the gentleman, the member of New York, who advised Mr. Williamson that he could not legally proceed under the circumstances, gave the opinion of a lawyer; that he was right, and ought to be sustained by every one who has given this case any proper attention. It would be an odd case, indeed, if the gentleman, the contestant that the right was in Mr. Sickles prime facie.

But we have been told that Mr. Williamson is guilty of *lack* in not proceeding to bring this case to the attention of the House; that he ought to have objected before the board of State canvassers. I have shown that he had no power to contest the election, and that he was not within the purview of the statute of 1851. Where could he object? How could he object? Until the election of Speaker of this House we had no power to transact business of any character. The House could not have received his memorial. After the lapse of but a few days, when the organization of the House took place—either five or six days, if my recollection serves me right—you find the contestant at the bar of this tribunal, presenting his memorial, and calling on you for an investigation of the facts of the case. Until that moment his hands were tied. And now we are to be told that he has forfeited his right, and that this House has forfeited its right, because he, the contestant, did not do that which he had no power to do. I say that it is simply an absurdity. The contestant has done all that could be done under the facts and circumstances of the case.

But, says the gentleman from North Carolina, the contestant has not followed the legal mode and practice that existed prior to the passage of the act of 1851. I meet the gentleman from North Carolina fairly on that issue; and I say that the cases referred to in the printed report show that the practice has been variable and is not of binding force. In some instances, both in this country and in England, notice was given prior to the presentation of the memorial at the bar of the House; in other cases, notice was not given prior to that time. The practice was conflicting. I refer to the authorities collated on page 19 of the report.

In the contrary, numerous cases appear in which no notice was given, and in which the testimony was taken under the direction of the Committee of Elections, to which petition was referred. (See *the cases of* C. and H., 69; *Rutherford vs. Morgan*, C. and H., 118; *Kelly vs. Har-*

ris, C. and H., 269; *case of John Bailey*, C. and H., 411; *case of John Ferguson*, C. and H., 419.)

By the practice of England, no notice is required to be given until after the petition is presented and referred.

If gentlemen will take the trouble to examine the case referred to they will find that the practice was not uniform, but that both this House and the British House of Commons have frequently, without preliminary notice, and on the mere presentation of the petition at the bar of the House, inquired into the merits of the case. I say, Mr. Speaker, that there is nothing in the case which should prevent us from inquiring into the alleged fraud, corruption, and bribery. It is due to the contestant, who has not forfeited his right by any want of duty on his part. It is due to the House, and to the third party, the State of New York, who should be fairly, if they are not now fairly, represented on this floor. It is emphatically due the sitting member, that the truthfulness of these charges should be shown. It is due to the dignity of this House and to the people of the country that we should make this charge of corruption and fraud as becomes men who have regard for the dignity of the House and the rights of all parties.

Mr. Speaker, I pronounce no judgment on the facts of the case. I could not do so. The facts are not before us in any shape or form. But I never will, while I have a seat on this floor, or remain a member of the Committee of Elections, refuse, in a fair and proper case, to give all parties a right to inquire into a charge so distinctly made as this.

Mr. GARTRELL. Mr. Speaker, I desire, as a member of the Committee of Elections, to present very briefly a few considerations to the House on the point (for there is really but one point and one question) involved in this controversy. I do not follow in the very wide range that has been given to this debate, nor consume the time of the House in discussing, on this question of a preliminary investigation, general principles of fraud and of election. I may suggest, however, that the report of the majority of the Committee of Elections adopted by the House and established as a precedent, you will thereby completely destroy and nullify the act of 1851, providing for the course of procedure in all cases of contested elections. The gentleman who opened this discussion reported to the majority of the committee referred to that clause of the Constitution which declares that each House shall judge of the election, qualification, and return of its members. I hold that the act of 1851 cannot be construed as violating that clause of the Constitution, because, under that act, each House has reserved to itself the right to determine the legal question of the qualification of its members.

Mr. DAWES. I perceive that I did not make myself understood by the gentleman. I did not question the constitutionality of the law of 1851. My only question of the construction put upon that law by the minority of the committee, namely, that no House of Representatives can depart from the provisions of that law, in itself investigating and judging of the election of its own members.

Mr. GARTRELL. I do not think, Mr. Dawes, I will permit that portion of the gentleman's remarks farther. But, as I stated before, there is only one question before the House, and that is, whether this case comes within the provisions of the act of 1851? If it does, then the contestant here is without remedy by his own delay and neglect, and by the mistake of low mode, if you please, by him and his counsel, he has no remedy; and this House cannot be expected virtually to repeal the act of 1851, in order to open up the merits of this case.

Now, I maintain that the contestant is within the provisions of the act of 1851; and that the board of State canvassers at Albany, when they made out and signed the certificate that has been twice read from the Clerk's desk, determined this case under the law, they had the power to do; and that their certificate, and the determination—not a legal determination—of this controversy. It was not a determination as to whether Mr. Sickles was entitled to the seat or whether Mr. Williamson was entitled to the seat, and that is determined. With a mere majority, it is the fact that a plurality of the voters of the third congressional district of the State of New York had cast their votes for Daniel E. Sickles, and that he is legally elected by a plurality of one

hundred and sixty-one votes. That was the only fact required or authorized to be settled by the board of State canvassers, either under the statute of New York or under the act of Congress of 1851.

Mr. ELIOT. By the laws of New York, I understand that it is necessary that the State canvassers should make a statement of the whole number of votes given in the election for Representatives in Congress; and that that statement be a statement contained upon page 24. I understand, further, that the laws of New York require that upon such statement they shall then proceed to determine and declare what person has been, by the greatest number of votes, duly elected to Congress.

I would ask the honorable gentleman from Georgia whether he considers that when they say they "cannot certify to the election of any persons to the office of Representative in Congress in the said and respective districts," he considers that to be a determination and declaration what persons have been duly elected?

Mr. GARTRELL. I will answer the honorable gentleman, and remark that he has fallen into the same error into which other gentlemen have fallen, and that is, that he has taken the wrong side of this question confound the statute of New York with the act of Congress of 1851. The latter act should be conclusive upon this point, and it provides, not that the canvassers must declare who has been legally elected—that is not the question; the question is to be decided by the House of Representatives. The act of 1851 simply provides that they shall declare the result; not the person legally entitled to the seat; but the result ascertained from counting up the ballots; and that result is to be declared by the House of Representatives, definitely, and unmistakably determined by the board of State canvassers of New York. Why do I say so? What did they determine in other cases? Here is the general certificate by which all the other members from the large State of New York have taken their seats upon this floor, in which it is stated:

"According to certified statements of the said voters, received by the Secretary of State, in the manner directed by law, the following persons have been determined, elected, and certified—"

Determine what? —"that the following persons respectively, by the greatest number of votes given in the several congressional districts of the State, were elected Representatives of the United States in the Twenty-third Congress of the United States."

Do they there declare who was legally elected? The word "legal" is not to be found in the general certificate filed by every member from the State of New York upon this floor, except by the six members from the city; but they declare, simply, the result; and what is that result? Why, they say that these gentlemen have a majority of votes in the respective districts, and that they maintain that from the returns made to them by the county canvassers of the several congressional districts.

Now, let us come back to this case—the elections in the six districts in the city of New York. I shall not respect the error, the mere clerical omission, confounding "member of Congress" with the proper term, "Representative in Congress." That is a mere quibble. Gentlemen talk about fraud, and the equity of this case. They ask, why not open this case, and let us have it settled? They say, let us get all the votes. Why, sir, there is no evidence of fraud in this case—not a particle in these several allegations made by the petitioner. He charges no specific acts, either of fraud or illegal voting.

But we must come to their certificate. They certify that Daniel E. Sickles had a plurality of the votes in the third congressional district; and that of itself determines the result. Under the laws of New York, the person having a plurality of all the votes cast is duly elected. These State canvassers—who are the officers of the State, possessing under the statutes and laws of New York nothing but the powers of ministerial officers, simply to declare what others have done; to register the vote of the people—declare further,

in addition to the fact that Mr. Sickles had a plurality of the votes, as follows:

"We further certify that no votes are returned from the said county of New York for the office of Representative in Congress, and the further certify that a certificate of the county clerk has been presented to us, stating that all the ballots returned to and filed in his office as used at said election of the fifteen persons, were in fact returned in Congress, and not for 'number of Congressmen.'"

You talk about quibbles. Why, these men were truly and legally elected. Every single ballot cast for them was as 'Representative in Congress' and the further certified by the board of State canvassers. They do not certify that they will not and do not declare Mr. Sickles legally elected, as the gentleman from New York [Mr. CONKLING] seemed to imagine. There is no such word as "legal." This certificate made by the board of State canvassers. You cannot find it there. What is the language?

"And we further certify that, inasmuch as said office was not legally designated in the returns of the county canvassers, said county of New York under the laws, we cannot certify to the election of any persons to the office of Representative in Congress in the said respective districts."

They do not pretend to say that the sitting members were not legally elected, because they have no such power; and it is for this House to determine whether such election was legal or not.

But, sir, I desire to cite one or two authorities in support of the position I have taken, and which I believe to be the controlling one in this case—that this was a determination within the meaning and spirit and letter and intent of the act of Congress. In Cushing's Law and Practice of Parliamentary Assemblies, section 174, the following language is employed:

"As it is the duty of returning officers, in the first instance, to decide upon the result of an election, and, in their judgment, an election has taken place, to make a return of the person who is elected, they are under the obligation to do so, whether or not they are satisfied with the result of the election—that is, by stating certain facts, and referring the question of their legal position to the judgment of the House to which the return is made. The return will be received as an unconditional one."

I hold, sir, that authority—and no authority has been produced in conflict with it—is conclusive upon this question. Notwithstanding the facts to the facts in the case. What are they? The board of State canvassers refused to give a general certificate declaring that the six members from the city of New York were elected Representatives in Congress. They gave a special certificate, in which facts are stated, showing that the canvassers had not only received the largest number of votes, but was legally elected. They give a certain state of facts. This authority says, that if persons authorized to declare the result in unconditional terms make their declaration in conditional, it shall be received as unconditional. And hence the special certificate of election in this case, and in the other congressional districts in the city of New York, must be received, considered, and acted on by the House, in the same manner as if it had been an unconditional declaration of the result of that election. If that position be conceded, then I respectfully submit that this controversy is at an end. But if, as argued by the gentleman from Massachusetts, [Mr. DAWES], it is not the case within the purview of the law of 1851, then I want, and might even wish, to see my hour in reading authorities to show, that, with the statute of 1851 out of the way, and conceding for the sake of the argument that this is not a case within the meaning of that statute, then it becomes a novelty in our legislative history, without a parallel, for which no precedent can be found.

What is the allegation of the petitioner? What is his request? It is that the contestant may be allowed to take testimony—original testimony, where no evidence has been taken, no notice been given to witnesses, and no deposition taken. No case has been applied for, but this party comes here, with the law staring him in the face, having remained silent for fifteen long months, and asks this House to grant him an extraordinary concession to take original testimony, upon general, loose, and indefinite statements of facts. Now mark the distinction. The act of Congress applies to taking "supplemental testimony." There is not a word, line, or letter in the act, that authorizes the House of Representatives, in any case whatever, to allow the party making the application; nor any case is found in which any such authority has been given. I call upon gentlemen, and I will give them until the vote is taken upon

this resolution to-morrow, to produce one single instance where any such indulgence has been granted by the House of Representatives. And if no case can be found, I ask how we can with any consistency adopt the resolution reported by the majority of the Committee of Elections.

There is no authority, even by analogy, in the act of 1851. That act provides that the House, exercising a wide discretion—even then it is a matter purely discretionary, not obligatory—may grant time to take supplemental testimony. The special certificate of the board of State canvassers being, in my judgment, in accordance with the authority which I have read, a final and unconditional certificate, settling a result, brings this contestant strictly within the provisions of the act of 1851, and must be admitted, or else you will nullify and repeal, by mere resolution, a law of Congress; for within the provisions of that act you cannot give time to take original testimony, to serve notice, and to open the merits of the case, without a violation of the spirit, intent, and letter of the statute. Sir, I hold that law as binding upon the Committee of Elections in their action, and especially binding upon this House. While it is upon the statute-book it must be observed. If it is a bad law, repeal it, but while suffered to remain upon the statute-book, having been already argued by the House of Congress and acquiesced in by the country, it should now, as heretofore, be held binding and obligatory upon the parties in this case.

For these reasons, Mr. Speaker, thus hastily presented, not intending to regard the casual remarks of the gentleman already argued by the chairman of the Committee of Elections, and fully reviewed in the reports of the majority and minority, which, I presume, every gentleman has read or will read before giving his vote—I am constrained to give my opinion that this House ought not to give the time asked for by the petitioner in his motion, and that such a precedent would be contrary to law and contrary to fair dealing, after this party has allowed himself to sleep upon his rights for fifteen months.

Gentlemen talk about fraud. Sir, I think you would open wide the door for the perpetration of fraud and perjury by allowing this testimony to be taken after the lapse of so much time, from which the sitting member may find difficulty in refuting charges which would have been easy of refutation if the witnesses were fresh from the mouths of witnesses. I repeat that, if this dangerous precedent is adopted, it will throw wide open the doors for fraud; and I submit to the House: that it is better to adhere to a law that is certain, even if it is difficult to many of its provisions, than to nullify it thus summarily and by indirection. I think, therefore, this application ought to be rejected.

Mr. CONKLING. Upon looking at this report just now, for the first time, I supposed the question presented was a narrow one. It was not so narrow to call upon me to go into any vindication of the Democratic board of State canvassers of the State of New York. And yet, as an act of justice to the gentlemen composing it, I feel inclined to say a word in reply to what has been said by the distinguished gentleman from North Carolina, [Mr. GILMER], and repeated in various forms by other gentlemen during the progress of this debate.

The allegation is, that this board of canvassers was "corrupt and dishonest." It is charged by one gentleman as disgraced themselves, "as is said by another," because, when certificate or an affidavit of the county clerk of New York had been transmitted to them along with the returns of the board of county canvassers, they did not predicate their belief in the extra-judicial manner of doing what the law required them to do.

Mr. GILMER. I ask my friend where he gets his authority for their action?

Mr. CONKLING. I will tell the gentleman where I get it. We have heard read here an act of Congress passed in 1851, and we have heard read—or we might have heard—a statute of the State of New York, and there being no conflict between these statutes, but one being in assistance of the other, I believe we want no doubtful instruction to read them in *pari materia*. Under the last-mentioned statute it was the duty of these canvassers to act simply upon the returns sent to them by the board of county canvassers.

I mean it was their duty to act in making their "statement," and also in "determining" and "declaring" the election.

Mr. GILMER stated that the gentleman from New York misunderstood him, and made an additional remark, which the reporter was unable to hear.

Mr. CONKLING. If my distinguished friend will bear with me a moment, I design to show to him, as I think I can, that the argument he makes here, as to the disregarded duty of this board of State canvassers, given to them by an mistaken apprehension that they refused to act upon legitimate data; whereas the evidence they rejected was a signed certificate or affidavit of the county clerk of New York, who had no more right to make it than my distinguished colleague sitting upon my right; and I will be able to glean to much from the papers and citations submitted with these reports.

But, first, I desire to say that the duty of these State canvassers was purely a ministerial one, which Mr. Lyman Trumbull, for one, although a Democrat, understood quite as well, I may say without disrespect, as any gentleman upon this floor. Had as his politics are, sir, he is an accomplished lawyer, as those here who have met him at the bar must have had occasion to know. His duty and that of his associates, who he understood it and as I understand it, was ministerial, and gave no discretion as to the evidence by which results should be arrived at; a law of the State directing that the basis of their determinations should be the returns made by legal boards of canvassers. And to perform that ministerial duty they had two acts to do. The argument of the learned gentleman from Georgia [Mr. GATRELL] is based upon the idea that when they had performed the first of these acts, that covered the whole ground, and as to fill up the contemplation of this statute of 1851, and to render it necessary for this contestant to serve his notice. Now, sir, they were obliged, in performing their duty under the laws of the State of New York, in the first place, to make a "statement,"—a determination, or determination, and a statement of the whole number of votes cast for the office named in the return of the county canvassers, and in the ballot attached; and this, though that office was unknown to the law, as was the case in this instance; the office being for a member of Congress, and the office not existing, because it may mean a member of the other branch of Congress, and it may mean a member of this House.

This being the duty of the State canvassers in the State of New York in all cases, it was their duty in this instance, however definite the intention of the electors might have been made by accompanying documents. This duty they were supplied with the materials to perform; and we have their statement. This was their first duty. Their second duty was to determine the result of the election, and to state the result of the election, in the language of this act? No, sir; it was only one of the things, and the least important thing, this board of canvassers had to do. If gentlemen will look at the Revised Statutes of New York, they will find that after making a statement of the whole number of votes, it was the duty of the board of State canvassers to proceed to its second office, to wit—*and now I quote from the Statutes—"upon such statements."*—the statements that the gentleman from Georgia [Mr. GATRELL] seems to suppose are the determination of the election—"upon such statements they shall then proceed to determine and declare what person has been, by the greatest number of votes, duly elected to such office." This is the duty of this board of State canvassers. It is the duty to which this act of 1851, in its first section, makes reference in these words, "he," the contestant, "shall, within thirty days after the result of such election shall have been determined by the officers, or the petition of the electors authorized by law to determine the same, give notice in writing of the determination there spoken of, and the determination spoken of in the statutes of New York, are one and the same. My argument is, that that is the function which these State canvassers have omitted to perform. It is the duty of the House to state the result of the votes cast, not that they have failed to analyze those votes, and specify how many were received by each man, but that

they have been unable to perform that act which is the consummation referred to in this statute of the United States.

Mr. SPEAKER, this objection comes here in the nature of a demurrer. It is a technical objection, and, in order to consider it, we are to assume, of course, as a court of law would do in passing upon a demurrer, the truth of the facts presented by the petitioner. We are to assume them in general terms, without going into the question of whether the petitioner is not being definite in particularizing illegal incidents in the election; that wholesale fraud was committed; frauds and bribes which, beyond all question, would unseat a person who has assumed membership here, if he can get at them. The only question is, whether the case is so stated technically, because a justice was not given long ago, from investigating and adjudicating the merits of the case. I say, first, that this board of State canvassers, performing a ministerial duty, has done precisely what it should have done, and has neither stultified nor disgraced itself; and, secondly, that although the board of State canvassers has made a statement, which the gentleman from Georgia has read, of the whole number of votes cast, that board has made nothing like a determination of the election; that, on the contrary, has explained the reasons for not doing so, and concluded the explanation by this declaration:

"We cannot certify to the election of any person to the office of Representative in Congress in the said respective districts."

The gentleman from Georgia (Mr. GARTRELL) says the State canvassers have gone as far as they had the power to go. I admit it, and where does his argument lead him? If the fact of expending their power renders a notice necessary within twenty days of the election, what constant rights, how far would the argument and its consequences run? If in a particular case they should have no data from which to do anything at all; if all the returns should be lost, and they make no certificate, and some man stalks into this Hall, sits down, procures the Clerk to call him, and the Speaker to swear him in, does the gentleman from Georgia mean that, because no notice has been served, he cannot be unseated? Yet that is his argument. Because these canvassers have gone as far as they had the power to go—and that was to say that a certain number of men received an votes for Representative in Congress, but simply votes for that indefinite, floating, uncertain thing, member of Congress, and that, therefore, they were unable to declare any one elected Representative—the gentleman argues that the present contestant should have acted as if they had declared some person entitled to the seat. I assume that these canvassers have gone forward like honest men, had performed their duty as far as they were able. It suffices me to know that they came to the end of their power without making any determination, and that they refused to give any certificate provided for by law to the sitting member.

We are now asked to vote upon a technical suggestion—to wink as we said as not to see an enormous fraud—because the petitioner has committed an alleged formal mistake; because he had not the abundant caution, or the avidity, to go forward and inspect the records in Albany, and find out that these canvassers had counted the votes, and then assume that a refusal to certify was the same as a certificate of election, and serve his technical notice accordingly.

Mr. GARTRELL. Will the gentleman allow me to interrupt him a moment?

Mr. CONKLING. Certainly.

Mr. GARTRELL. I am glad the gentleman is mistaken in his facts. The gentleman argues that it was hard to require the contestant to go from New York to Albany to hunt up the record and see what it contained. I would inform the gentleman that it was a fact, disclosed before the Committee of Elections, that the contestant—and it was admitted by Williamson himself—saw the certificate published in the city of New York in December, 1858.

Mr. CONKLING. With all respect to the gentleman from Georgia, I must confess my surprise that he should act as right upon the proposition as I was stating, by mentioning to me a fact like that. I am discussing this as a legal proposition; and what legal difference would it have made if, in this

particular case, Mr. Williamson had been within ear-shot of the board of canvassers, so as to have said or had knowledge of their acts? I am stating this as a question of law, not applicable to this petitioner alone, but to all men, whether they have or have not in fact seen, what in law they are not bound to see, namely, publications, whether fugitive or otherwise, which appear in the public prints. I am considering the matter legally, as being a question of the rights of the citizen, and am saying, legally speaking, no certificate of election having been given to the sitting member, or—

Mr. GARTRELL. Do I understand the gentleman to maintain that it was the duty of the State canvassers to have notified the contestant? Mr. CONKLING. I was about stating what must have prevented the gentleman from Georgia supposing that I meant anything of that kind, namely, that when a statute, mandatory in character, makes it the bounden duty of canvassers, if they certify or determine anybody's election, to make triplicate certificates of that fact, and put one upon record in one place, another in another place, to send a third to a particular person, and to publish one, together with their preliminary statements; the proceedings, records, and publications, thus provided for, are the criteria, according to which the rights of knowledge of the election, on all parties have a right to go by, without resorting to other sources of intelligence, whether fugitive or official statements in newspapers, or anything else.

Therefore, I say, this contestant cannot win. Mr. GARTRELL. I ask the gentleman's indulgence. The gentleman speaks of fugitive articles published in the newspapers. Does not the gentleman from New York know that the statute of his own State, to which he is now alluding, requires the canvassers to send a copy of the board of State canvassers to publish the result of their determination? And does he not know further, that the certificate under which Mr. Sickles claims his seat was published according to the requirements of that act?

Mr. CONKLING. I rather think I do know that. That is my impression. The statute of the State of New York require the board of State canvassers to publish the official canvass; and I rather think the youngest voter, and the most illiterate in politics, to any nothing of law, in New York, would know that fact, for we are a reading people up there.

Mr. GARTRELL. Then I ask the gentleman not to ignore it in his argument.

Mr. CONKLING. Mr. Speaker, I have seen too many evidences of the sagacity of the gentleman who has no upon the stand at this moment to suppose at all that he suffers under the misapprehension of supposing that I ignore so palpable a thing as that in my argument, or that seriously he intends to intimate that anything I have said looks like ignoring so plain a fact. If I may repeat myself a moment, I will endeavor to make plain the argument. It was this: that the election laws give to every person interested in elections certain modes of ascertaining the results. Now, I need not enumerate these modes, for it is not necessary to my present purpose to do so, but to those accessible here—namely, the certificates of election, and the filing of them—this contestant has never, to this hour, been apprised of a state of facts but by the act of 1851; nor to this hour does such a state of facts in truth exist. In other words, though he may have read the official canvass; though that canvass may have contained the only statement made, that statement not amounting at all to a declaration or determination, but being an irregular, inconclusive statement—a statement of the results of the canvass in this particular case—even though, as I stated before, he may have been personally present and cognizant of the facts, all that does not at all break the force of the argument that he, as a candidate for office, as a citizen of the Commonwealth of New York, had the right to demand that he be furnished with legal certificates, and to refuse to go anywhere else, in order to ascertain his legal rights.

Now, I do not know that I make myself sufficiently explicit to convince the gentleman from Georgia that we have in New York an official canvass, and that the gentleman is not likely to be able to present to the House the view I am taking of the matter before us. The resistance made to the resolution allowing the contestant a

hearing in altogether technical, although very narrow, altogether overreaching. Because a construction has been put upon an act of Congress, and upon proceedings of canvassers, which, I will venture to say, all partisan feelings aside, ninety and nine out of every hundred lawyers would have given them, because a critical argument may be made to show that by great sharpness, by special effort, and by good guessing, the petitioner might have been able to find out the election proceedings against little evasions here, this grand inquest of the nation is asked to alight its eyes to a case reeking with fraud and calling for investigation.

I conclude the remarks I did not mean to extend so far by saying that the board of canvassers, having a ministerial duty to perform, and properly refusing to go outside of the returns for sources of information, have stated precisely the true result: that is to say, that no man from the district in question did receive votes which entitled him to the office of Representative in Congress, and that therefore they were unable to perform the functions mentioned in the act of 1851.

This refusal to determine the election being filed and published, the petitioner was not bound at all, either in his own estimation, as he says, or by a fair construction of the act of Congress, to make a construction which it can well be tortured to bear, to serve his notice at the end of twenty days from any time that can now be fixed; and he may come here, as he does, regularly, and ask this House to enable him to take his usual place in the next of these New York city elections, which the gentleman from Georgia says are the means by which others upon this floor hold their seats. That may be true; but fortunately for these others, no witnesses have offered to confront them with illegitimate and defective of their right to remain here for an hour.

One word about this affidavit, and I have done. The gentleman from North Carolina says it would not be sufficient to put a man under a rule nisi. Very likely not. But as an affidavit of merits, as an affidavit of good faith, as an affidavit of the trial of a cause, it would prevent judgment, it would protect any right which an affidavit of merits is adequate to protect. Whether, as the gentleman denies, it would cause a great prerogative to be known—an injunction, for example, which would go only upon allegations resting on personal knowledge, is wholly immaterial here. In order to have a case postponed to procure testimony from witnesses, it is enough for the affiant to state, as is stated in this affidavit, that he has been aided by the witness, and learned from them that they can testify to facts material to this issue.

So much, with sufficient particularity, appears in the affidavit before us. Of course I do not mean to say what the facts may, on proof, turn out to be. I only say that on this proceeding we are bound to assume that this contestant, if allowed the opportunity, will make good his charge; and I affirm that this affidavit of Mr. McIntire, as aimed at that purpose, is good within any of the requirements and tests to which gentlemen sitting under the rule of good faith, before a court, are drawing up papers of this sort, whether in election cases or to be used in courts of law.

I hope, sir, that we shall be able to steer clear of the technical impediments that have been thrust in our way, and to arrive at the truth touching the rights and qualifications of the person most concerned in these proceedings.

Mr. JOHN COCHRANE. I move that this House do now adjourn.

The motion was not agreed to.

Mr. WIRTH, of Virginia. There is no quorum voted. I move a call of the House.

THE SPEAKER *pro tempore*. (Mr. Grow in the chair.) There is no question pending before the House except the resolution reported by the Committee of Elections.

Mr. WIRTH. What is the condition of things? Does any member want to address the House? If not, what is the objection to adjourning?

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. CONKLING, their Chief Clerk, notifying the House that that body had passed an act (S. No. 142) to secure the right of preemption to certain settlers on land temporarily occupied as an Indian

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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reserve in Oregon, in which he was directed to ask the concurrence of the House; and also notifying the House that it had, on March 19, 1859, ordered the usual number of the following documents to be printed:

Resolutions of the Legislature of California, in favor of the establishment of a new land district in that State.

Resolutions of the Legislature of California, in favor of an extension of the period of the preemption privilege to actual settlers on the public lands in that State.

Resolutions of the Legislature of California, in favor of the establishment of a daily mail between Stockton and Mariposa, and all intermediate post offices.

Resolutions of the Legislature of California, requesting arms for the use of that State.

Mr. BURNETT. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock and ten minutes, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, March 21, 1859.

Prayer by the Chaplain, Rev. Dr. Geale.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented papers in relation to the claims of the administrators of James H. Matlock and Ann Matignon, for property destroyed by the Sioux Indians, at Spirit Lake, in Iowa; which were referred to the Committee on Indian Affairs.

Mr. TEN EYCK presented the petition of Caleb Swann and others, citizens of Hope, Warren county, New Jersey, praying the passage of a homestead bill similar to the one passed by the House of Representatives, securing to actual settlers on the public domain one hundred and sixty acres of land free of cost, which was referred to the Committee on Public Lands.

Mr. CAMERON presented two petitions of manufacturers and others, of Schuylkill county, Pennsylvania, praying a modification of the tariff, which were referred to the Committee on Finance.

Mr. LANE presented the petition of G. W. Torrence, praying remuneration for moneys expended and losses sustained while in the military service of the United States during the war with Mexico; which was referred to the Committee on Military Affairs.

He also presented the petition of Albert Atwell, in behalf of himself and others who had rendered military service since the passage of the bounty land law of 1855, praying bounty land; which was ordered to lie on the table.

Mr. TRUMBULL presented the proceedings of the Board of Trade of the city of Chicago, asking the establishment of an assay office and a mint at that place; which were referred to the Committee on Finance.

Mr. MASON presented resolutions of the Legislature of Virginia concerning revolutionary and other claims of that State on the Government of the United States; which were ordered to lie on the table, and be printed.

Mr. DAVIS presented a memorial of citizens of Washington, asking for authority to construct a railroad from Georgetown, through Pennsylvania avenue, to the Navy-Yard; which was ordered to lie on the table, and be printed.

Mr. KENNEDY presented the memorial of John Harwood, praying to be allowed compensation for extra services performed as purser during the expedition to Paraguay; which was referred to the Committee on Naval Affairs.

Mr. RICE presented the petition of Alexander Wood, administrator of William Wood, deceased, and of J. M. Stewart, deceased, J. B. Chaffin, A. P. Shingley, E. B. N. Streng, and John N. Dodson, praying indemnity for depredations committed by the Ink-pa-du-ah's band of Sioux Indians in Minnesota, in the spring of 1857; which was referred, with the papers in relation to the case, on the files of the Senate, to the Committee on Indian Affairs.

PAPERS WITHDRAWN.

On motion of Mr. CLAY, it was Ordered, That leave be granted in withdrawal from the files of the Senate the petition of Joseph Yevulski.

ORDER OF BUSINESS.

Mr. LATHAM. I ask the consent of the Senate to take up Senate bill No. 249, for the purpose of putting it on its passage. I do not think it will give rise to any discussion, and it is a bill of a great deal of importance to a constituent of mine.

Mr. BROWN. I hope the Senator will allow us to get through with the morning business, and then I shall make no objection.

Mr. LATHAM. I yield.

PRINTING OF A BILL.

Mr. BROWN. I reported back yesterday, from the Committee on the District of Columbia, a bill authorizing the corporation of Washington to borrow money for the erection of a market-house in this city, with amendments to the amendment of the House of Representatives. I ask that the bill and amendments be printed, so that when it comes up Senators may understand what it is.

The motion was agreed to.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 258) authorizing the corporation of Georgetown to lay a special tax for distributing Potomac islands, by the Potomac river, which was twice by its title, and referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the message of the President of the United States, communicating, in compliance with a resolution of the Senate, further correspondence in relation to the hostilities on the Rio Grande, reported in favor of printing the usual number; and the report was agreed to.

He also, from the same committee, to whom was referred the motion to print the message of the President of the United States, communicating, in compliance with a resolution of the Senate, information in relation to the marble columns for the Capitol extension, reported in favor of printing the same; and the report was agreed to.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a statement of the trade and commerce of the United States with the British North American Provinces, annually, since 1850, reported in favor of printing the usual number; and the report was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Aaron Van Camp and Virginius P. Chapin, praying indemnity for the illegal seizure and confiscation of their property at Apia, in the Navigators' Islands, by U. S. Junken, United States consul at those islands, submitted a report, accompanied by a bill (S. No. 297) for the relief of Aaron Van Camp and Virginius P. Chapin. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. MALLORY. The Committee on Naval Affairs, to whom was recommended the bill for increasing and regulating the pay of the Navy, have directed me to report a new bill on the subject; and I notify the Senate that I shall move on Friday morning, as it is a bill of great importance, and I am anxious to leave the city, and am only detained here for that reason, to take it up and consider it then.

The bill (S. No. 299) to increase and regulate

the pay of the Navy was read, and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the memorial of Isaac H. Randall, praying compensation for extra services performed by him while a master's mate attached to the Japan expedition, under Commodore Perry, submitted a report accompanied by a bill (S. No. 300) for the relief of Isaac H. Randall. The bill was read, and passed to a second reading; and the report was ordered to be printed.

AFFAIRS IN UTAH.

Mr. GREEN submitted the following resolution; which was considered, by unanimous consent, and agreed to.

Resolved, That the President be respectfully requested to communicate to the Senate the correspondence between the judges of Utah and the Attorney General or the President with reference to the legal proceedings and condition of affairs in the Territory of Utah.

BILLS BECOME LAWS.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the President of the United States had approved and signed, on the 24th of February, 1859, a joint resolution (H. R. No. 8) making an appropriation for inaugurating the equestrian statue of Washington; and, on the 22d instant, an act (H. R. No. 3) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th June, 1861.

PRINTING OF DOCUMENTS.

The message further announced that the House had ordered, this day, the printing of the following document:

Message of the President of the United States, transmitting a copy of the convention between the United States and the Republic of Paraguay—ordered at one o'clock, p. m.

Letter of the Secretary of the Interior, transmitting copies of correspondence relating to the charges made against A. D. Bonestell, United States agent for the Menominee Indians—ordered at one minute past one o'clock, p. m.

PROTECTION OF FEMALE IMMIGRANTS.

Mr. BAYARD. I am instructed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers and other purposes, to report the same back with a single amendment, and to ask for its consideration now. The Senate have passed a bill on this subject, and the House bill is in every respect substantially the same, indeed almost literally, with the exception of one provision, which we think ought to be incorporated in the bill. I ask for its consideration, as I do not suppose it will give rise to any debate. I move to dispense with the reading of the bill, because it is precisely the same as the Senate bill, with two alterations, which I can state, and one of these alterations we propose to insert; that is, in relation to the testimony. The other is simply an alteration of the time within which a prosecution shall be had; that is, it is limited in the House bill to one year after the arrival of the vessel, and in the Senate bill is desired; in our bill it is limited to one year after the commission of the offense. We think the House bill preferable in that particular, and therefore we have proposed no alteration in that respect.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers, and for other purposes.

The Committee on the Judiciary reported the bill back with an amendment in line two of section five, after the word "act," to insert the words "on the testimony of the female seduced, uncor-

roborted by other evidence, nor," so that the section will read:

Sec. 5. And be it further enacted, That no conviction shall be had, under the provisions of this act, on the testimony of the female seduced, uncorroborated by other evidence, nor unless a indictment shall be found within one year after the arrival of the ship or vessel at the port for which she was destined when the crime was committed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

UNITED STATES COURTS IN NEW YORK.

Mr. BAYARD. The same committee, to whom was referred the bill (H. R. No. 331) to repeal the third section of the act entitled "An act to increase and regulate the terms of the circuit and district courts for the northern district of the State of New York," approved July 7, 1838, have directed me to report it back without any amendment, and with a recommendation that it do pass; and also to ask for its present consideration. I will state the reasons why I think it ought to be considered. The bill simply repeals a section which ought never to have been in the law. In 1838 Congress divided the northern district of New York into what were called three divisions. In these three divisions they required the jury trials, in criminal cases, to be had in the particular districts where the offense was committed. The consequence is, that it has entailed great expense on the Government; it has delayed criminal trials to the injury of the party charged, as well as causing increased cost to the Government; and its repeal is recommended in a long communication from the Secretary of the Interior, and also from the district attorney, setting forth the absolute inutility of the law as it stands, and the reasons why it ought to be repealed. It certainly ought to be out of the statute-book; and I hope the Senate will consider the bill, and will repeal that section. That is all the bill does, and that is all for one. I consulted the Senators from New York about it, and neither of them interposed any objection whatever.

There being no objection, the Senate, as in Committee of the Whole, passed the bill. It was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE PUBLIC PRINTING.

Mr. FITCH. I now move to take from the table Senate bill No. 262, reported from the Committee on Printing of this body, providing for a reduction in the prices allowed for the public printing, and providing for the binding of the public documents, reports, and Journals. Every Senator is doubtless aware of the alleged abuses under our present printing system; abuses which, if they affect the printing in no other respect, affect the price, and yield a price altogether disproportionate to the value of the work. I do not see how the bill can lead to any protracted debate. It simply proposes a reduction in the present prices. The committee would be very glad indeed to reform, if it were possible so to do, the present system entirely, but have as yet been unable to agree upon a plan for accomplishing that object. They have agreed to a general reduction of prices under the present system. That reduction is contemplated in the bill. If there is any disagreement, it can only be as to the amount. I move to take the bill from the table.

The motion was agreed to; and the bill (S. No. 262) providing for a reduction in the prices allowed for the public printing, and providing for the binding of the public documents, reports, and Journals, was read a second time, and considered as in Committee of the Whole. It provides that the prices established and allowed for the public printing by the act approved August 26, 1852, and by the several acts amendatory thereof—that is to say, for composition, presswork, folding, stitching, and inserting maps and plates—shall be reduced twenty per cent. and that the purpose of giving full force and effect to this provision, the Superintendent of the Public Printing is directed to cause the accounts of the Public Printer or Printers to be made out and rendered to him, as before, under the provisions of the act of August 26, 1852, and, before certifying them to the Treasury for payment, to deduct from the agree-

gate amount of each account so rendered the sum of twenty per cent., or one fifth, and the residue is to be received by the Public Printer or Printers, as full compensation for the work stated in the account.

It further provides that all the documents, reports, and Journals, which may be directed to be bound, whether reserved or extra numbers, shall be bound by the binder or binders elected by the respective Committees on Printing of each House of Congress. The reserved numbers are to be arranged in the volume of suitable size by the Secretary of the Senate and the Clerk of the House of Representatives, for their respective Houses, and to be bound in calf or sheep as may be directed; if bound in calf, the cost is not to exceed the sum of — cents per volume for octavos, and one dollar and — cents per volume for quartos; and if bound in sheep, the cost shall not exceed the sum of — cents per volume for octavos, and — cents for quartos. The extra numbers of all documents ordered by either House of Congress, the size of which may not be less than two hundred and fifty pages, are to be plainly and substantially bound in such manner as may be directed, at a cost not exceeding twelve and a half cents per volume; if printed in octavo form, or fifty cents per volume if printed in quarto form. The binders are to give bonds, with approved security, to execute all binding which may be delivered to them with all proper dispatch, and in strict conformity with the samples or styles which may be adopted; and before the binders receive pay for the binding, they are to produce the certificate of the Superintendent of the Public Printing that it has been executed in conformity with the contract, and received by him.

Mr. HAMLIN. Mr. President—

Mr. FITCH. I desire to amend the last section. If the Senator has an amendment to a previous section, I will yield.

Mr. HAMLIN. I propose to amend the first section. I propose in the tenth line of the first section to insert "five" after "twenty," so that it will read: "and the same are hereby reduced twenty-five per cent."

Mr. FITCH. I shall make no opposition to the amendment proposed by the Senator from Maine, though I am not authorized by the committee to accept it; for my individual opinion is, that perhaps the present price will bear that much reduction. I have been in testimony that the price has gone from thirty-three to fifty per cent., and if so, of course a twenty-five per cent. reduction will be well borne. I do not think we can safely reduce the present price below that, unless we assume that the Printer is to obtain profits illegitimately, by what is ordinarily called scalping, and it is hardly fair to legislate upon that assumption. I think a reduction of twenty-five can be borne very well.

Mr. HAMLIN. I am very glad to hear the chairman of the committee make that remark. I can say that the present rates of the Government are twenty-five per cent. with propriety. We ought not to act hastily. Too large sums have evidently been paid; but in establishing the rates which we shall subsequently pay, we ought not to diminish them below that standard which will produce an interior kind of printing, and a deterioration of the system did, when it was put out to the lowest bidder.

I understand it to be true that the printing is now done at thirty-three per cent. reduction from the present rates; but whoever may be the Printer for Congress has to assume very large responsibilities, and that sum, which is the difference between twenty-five and thirty-three per cent., it strikes me is no more than a fair compensation for the responsibilities which must necessarily be assumed. I think that a deduction can safely be made, and ought to be made. I will not take up the time of the Senate.

Mr. CAMERON. Mr. President, I move a further amendment to the amendment of the Senator from Maine, to make the reduction forty instead of twenty-five per cent. I have no doubt that the printing can be done with a profit at forty per cent. below the prices now paid. We have a strong instance of that in what has occurred within the last day or two, in relation to printing the Post Office blanks. I have seen the contract for the printing of the Post Office blanks cost the Government from forty to forty-five thousand dollars

a year. I said, also, that one half that price was paid to some favorites of the Government, whereas the printer, who lived in New Jersey, somewhere in the neighborhood of New York city, received about one half the price actually paid for doing the work. Under the recent regulation of Congress, bids have been received within a day or two for performing this printing. The very man who has been doing the work, for which he got fifty per cent. of the price paid by the Government, has offered to do the same work now for seven per cent. the difference, or forty-three per cent. less than the Government has been paying. The work, at this price, will cost about three thousand one hundred and fifty dollars a year, and the saving in the four years for which that work is to be done at that price will be about one hundred and sixty thousand dollars, in round numbers.

Now to prove to my mind that his bid is pretty nearly fair, there are, I know, several other offers from responsible persons, proposing to do the work at a rate of eighty, eighty-five, eighty-seven, and ninety per cent. reduction. There have been the most stupendous frauds in proportion to the amount paid, in this business of printing, that have ever been perpetrated on the Government. I do not blame the printers—the workmen who got it. They had a right to get all the Government could give them; but I blame the Government for not only wanting, but understanding, the money of the people to give it to their favorites under cover of paying a price for printing.

My belief has always been, that the true way of having this work done was by contract to the lowest bidder, in 1845 and 1846 I saw the Government pass a bill making but one Printer for both Houses, and directing the printing to be allotted to the lowest bidder. We could have got along under that bill very well if there had been a slight alteration in it. The trouble was that the Committee on Printing did not see the necessity of making a provision for disperforming his contract properly. The consequence was, that the men who got the contract imposed on us, by giving us bad paper and bad materials; but if the Committee on Printing had had authority to discharge them and employ another, and if they had been bargaining the contractor with the cost of the work, we should have been able to get along. Why shall we not have our printing done by the lowest bidder, just as we do all our other work? The printing business is a perfect monopoly. The Government has done it the last few years, it is so simple that every man goes into the printing business now. Everybody, it seems to me, understands printing except members of Congress. Some gentlemen are put upon the Committee on Printing because they have happened to edit a country newspaper, and then they say they are printers; but these gentlemen know nothing of the business. The consequence is, that they are imposed on. The impression here, I know, is against the contract system, and therefore I do not propose it, but I propose to insist upon a reduction of forty per cent. on the present prices.

THE PRESIDING OFFICER. (Mr. FOSTER.) The Chair would state that the motion of the Senator from Pennsylvania is not now in order. The motion of the Senator from Maine is to amend the first section of the bill, by changing the word "twenty," in the tenth line. That is, of course, with a view of completing the section. The motion of the Senator from Pennsylvania would be to strike out. It is in order first to complete the section before striking any part of it. Mr. CAMERON. Would not my amendment be in order to add fifteen per cent. more, and make the reduction forty instead of twenty-five per cent.?

THE PRESIDING OFFICER. The amendment of the Senator from Maine proposes to change the word "five," if we leave that out and put in "forty," it would be inane, of course, because "twenty" would precede "forty" without striking out "twenty."

Mr. CAMERON. That is merely a technical objection.

Mr. HAMLIN. I want to say a word in reply to what has fallen from the Senator from Pennsylvania. I do not think the suggestion he has made at all applicable to this bill. I am myself aware fully of the injustice and the fraud, which have been rampant in the printing branch of the printing system; but this bill, if I understand it,

and I think I do—and if I do not I will thank the chairman to correct me—applies only to that printing which is done by the Public Printer. The contracts to which the Senator from Pennsylvania has alluded are other and distinct contracts, not coming within the provisions of this law; that work is done by printers other than the Public Printer. The law, in my judgment, ought to contain a provision to meet that case, but the law as it stands applies only to the public printing, not to the contracts that are made outside of the work which is done by the Public Printer; and this bill only proposes to amend the existing law by reducing the price which it allows to be paid.

Mr. FITCH. Perhaps the Senator from Maine may have forgotten that the printing of the Post Office blanks is now put out to contract, under a very recent special law. The old law of 1852 is no longer in existence as to them; but I desire to explain that presently, in response to the Senator from Pennsylvania. This bill has nothing to do with that matter. It relates to the printing of Congress and the Executive Departments.

Mr. HAMLIN. I concur with the Senator from Pennsylvania, that that class of contracts to which he has alluded forty per cent. would be no proper reduction; but on the aggregate amount of printing which is done by our Public Printer—and I have taken some pains to examine this matter, and I had long experience on the Committee on Printing—I undertake to say that that forty per cent. is a fair deduction. If you reduce the price to a rate below what is fair and just, you will produce more of evil than good. You will produce precisely that same evil which we all experienced here some years ago, growing out of the system of letting it to the private bidder at a low rate. I was in 1845, and what was the result of it? We abandoned it, because we could not possibly get along with it. Contracts were made to the lowest bidder, and, as the Senator says, they furnished bad paper, bad materials, and they cheated us in all we got; and then after the price was reduced they came in and showed us that they had been losers at their own game of cheating; and we voted large sums to make them whole, and you will do it again.

I take it there is no Senator here who is not willing to pay an honest and fair compensation for the work he has done. If you reduce the price to that sum, you produce that competition which will bring the men back here, and they will address themselves to your kind feelings and to your charities, to give them what shall be a fair compensation for the work they have done. If you do not, you attempt to make a contract below what are fair rates, and are considered so, will be equivalent in its results to the contract system of allowing any man to take it, without regard to his responsibility, or the manner in which he will do the work. The printing is well done now; it is faithfully done; and I think you may fairly estimate that it is done at as low rates as justice and equity require.

I repeat what I said before, whoever may be the responsible party for doing this work is entitled to a fair consideration for the work he does, and he must necessarily assume. The difference between twenty-five and thirty-three per cent., in my judgment, is no more than a fair compensation. I do hope and trust that, in remedying the existing evil, we shall not run into the error of extreme, and leave the matter worse than it now is.

Mr. CAMERON. I desire to say a word in response to the Senator from Maine. I agree with his principles in the abstract. I agree with him, that we ought to pay a fair price for doing the work; but I claim to know what a fair price is. The fact is, that this work is being done now for forty cents on the dollar, paid by the Government, as I understand, and I do not doubt it. If we leave twenty per cent. profit, I think that is enough on as large an amount of work as the printing will be doing this Congress.

The truth is, that there has been a constant attempt, and a successful one, too, to confuse the minds of members of Congress in regard to the public printing. All the bills since have been gotten up so that nobody could understand them. A very respectable gentleman, who is now a printer, (Mr. Rives,) I believe, swore before a committee here, a year or two ago, that the Post Office blanks could not be done for a less sum than fifty cents on the dollar; that they might be done for that, perhaps, but without any profit. As I

told you before, the very man who has been doing that work for years, now comes and offers to do it for seven cents on the dollar—ninety-three per cent. less than the Government has been paying; and so it is with this other printing. It is not the same class of printing, to be sure, but the same principle will apply to this as to the other.

I repeat, I would rather have the contract system. I know it can be carried out fairly, and it would have been carried out fairly before if Congress had not been deceived. A combination was got up here to impose on them, and it succeeded in doing so. A man in my State got \$30,000 for doing the contract; and he has been a rich man ever since. Put it down now to the price I propose—sixty cents on the dollar—and you will have your work done just as well as you have had it done before. If not, let us give it to the lowest bidder, and see how low it can be done.

Mr. FITCH. I shall respond but briefly to the proposition of the Senator from Pennsylvania, to make the reduction still greater. He proposes forty per cent. reduction. He will defeat the very object of the bill. The present price will not bear that reduction. Indeed, I am not quite sure that it breaks the contract; and he has been a rich man ever since. Put it down now to the price I propose—sixty cents on the dollar—and you will have your work done just as well as you have had it done before. If not, let us give it to the lowest bidder, and see how low it can be done.

The remarks of the Senator from Pennsylvania in relation to the contract system, can be answered perhaps more properly when it is proposed to rescind that system. It failed when it was in force. We did not do it, because it was the Senator says; it broke the contract. If it is resorted to again, the same combination will be made, the same sums will be renegeted, to the disgrace of Congress and all concerned.

The Post Office blanks are not included in this bill. They are ordered to be by the Senator from Pennsylvania; but this bill has nothing to do with them. We have provided by an amendment to a late law, introduced by the Senator from Mississippi, [Mr. BAWES], for the printing of the Post Office blanks by contract, by acceptance of the lowest bidder. I learn from the Senator from Pennsylvania, are extremely low; he says seven and a half cents on the dollar. Well, they may be, and money can be made even then, for in our hasty legislation we omitted to provide any safeguard. We simply repealed the law of 1852—in itself a very loose law, and permitting very great abuses under it—but we provided against no abuse under the law which now exists. By repealing the old law, we repealed the prohibition against competition, when the alteration in the post bills simply consists of a change of a postage matter, and now they can get the same position on every order from every postmaster in the United States; and hence, if they took it at two and a half cents on the dollar, they would make money on the operation. But this has been the case ever since we have had the law. The reduction proposed by the Senator from Maine is accepted by the Senate, I desire to fill the blanks in the second section, and to move an amendment to the third section to make the reduction retrospective; to make it operate on all printing from the commencement of this Congress, as was contemplated when we elected a Printer.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maine.

Mr. ANTHONY. I quite agree with the Senator from Maine, that twenty per cent. is a sufficient reduction. I understood the Senator from Pennsylvania to state that the printing was now done at forty per cent. I understand it is now done at sixty-seven per cent.

Mr. CAMERON. I am surprised that Mr. ANTHONY. I understand sixty-seven per cent. is the price at which the printing of the Senate is now done. There are descriptions of public printing that are liable to precisely the same abuse as the Post Office blanks; but I do not now know precisely what they are, nor how to get at

them; but they will be made known, I suppose, in the process of investigation now going on. It is in evidence that there are descriptions of executive printing on which the profit is even larger than on the Post Office blanks, which, as the Senator from Pennsylvania says, have been bid for at seven per cent. on the price heretofore allowed by law. I understand the Senator from Indiana intends to move an amendment to the third section, to save the Post Office blanks from coming under the provisions of this bill.

Mr. FITCH. I do not really deem it necessary; but perhaps, to prevent any doubtful construction of this bill, it would be better to add to the amendment which I propose moving to the third section a still further clause, which I can prepare in a moment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HAMLIN. Now, to make the bill harmonious, I move to add "five," in the nineteenth line of the first section, after the word "twenty."

Mr. FITCH. The Senator will be compelled to carry his amendment a little further.

Mr. HAMLIN. I see it; but that is a distinct question.

Mr. FITCH. It is simply to make that line correspond with the amendment we have already adopted.

The amendment was agreed to.

Mr. HAMLIN. In the same line, nineteen, I propose to strike out the word "fifth," and insert "fourth."

It now says there shall be a reduction of "one fifth," that is, twenty per cent.; we have made it twenty-five per cent., and therefore it should be "one fourth."

The amendment was agreed to.

Mr. FITCH. I move to fill the blanks in the second section, as so as to make it read:

If found in cash, the cost shall not exceed the sum of fifty cents for octavo, and \$1.25 per volume for quarto; and, if bound in sheep, the cost shall not exceed the sum of one dollar and a half cent per volume for octavo, and seventy-five cents for quartos.

Mr. CAMERON. What is the price now paid for that binding?

Mr. FITCH. This is less than has been heretofore paid. I understand the work can be executed at these prices, which are about two or three per cent. less than the present rate.

Mr. CAMERON. I should like to double the amount of reduction. I move to decrease the price where it is \$1.25, to one dollar, and so in proportion.

Mr. FITCH. The old price at which the work has been done heretofore for sheep octavo has been thirty-nine cents. We propose doing it at thirty-seven and a half, and I understand the work can be done for that. Quartos have cost seventy-eight cents for binding in sheep. Our proposition is seventy-five cents. The binding of calf octavo is now sixty cents; the blank is to be filled with fifty-nine, the lowest proposition which the committee has been able to obtain. Cottons have cost \$1.20 heretofore; here it is \$1.15.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana, to fill the blanks with the sums he has proposed.

The motion was agreed to.

Mr. FITCH. I desire to amend the third section by adding:

And the reduction of price provided for in the first section shall be operative upon all the public printing from the commencement of this Congress. Provided, That nothing in this bill shall be construed to apply to the printing of Post Office blanks.

The Post Office blanks are now printed under a special law.

Mr. CAMERON. I wish the Senator from Indiana would leave out the word "So," it may, perhaps, be construed to say that the old prices shall be charged for the Post Office blanks.

Mr. FITCH. I do not think that will be the effect of it. We leave a law in force which we have very lately adopted, and which is now about to go into operation; but I am willing that the Senator should change the phraseology so as to accomplish the purpose in any form he proposes.

Mr. CAMERON. I propose to strike it out.

The existing law has not gone into operation yet.

Mr. FITCH. The amendment was made at the suggestion of my colleague on the committee,

and the Secretary of the Treasury uniformly wrong," *Opinion in Rodin Blum's case*, p. 37.

Mr. Forward, who succeeded Mr. Erving, as Secretary of the Treasury, said:

"The treaty is to be expounded, not by the regulations of the Treasury Department, or the ministerial suggestions or laws of one of the parties to it. The reason is obvious. The parties to the treaty were upon equal terms."

"It results that the inquiry, whether the decision of the court allowing damages for the delay of compensation, was within the power of the Government, must be determined by the law of nations."

"The damages allowed in the Florida cases, in the shape of interest, were those which were the subject of the original wrong. They were an incident which intended and was inseparable from the principal, and the decision which suspended the interest was a denial of perfect justice, virtually and substantially, that the former must also be paid."

Opinion of April 26, 1848, no file with the papers.

Mr. J. C. Spencer, who succeeded Mr. Forward as Secretary of the Treasury, said:

"I am quite sure, that in considering the power of the Secretary to revise the decisions of the judges in Florida, upon claims under the above acts, I did not take into view the question whether the measure of compensation in those cases was to be fixed according to the rule prescribed by the law of nations, but rather regarded it as a question arising under our acts of Congress, and as a question of the power of the Government to make compensation in cases of claims by our own citizens upon our own Government."

"Whether the decision of the court in the Florida cases, in the shape of interest, was within the power of the Government, must be determined by the law of nations. The Florida claims, had reference to prospective interest accruing after the award was made, or to the allowance of interest, not named and not asked for, at the time of the award, for the loss of the property. And so far as my decisions may be quoted, they ought not to have any bearing on either of the questions before the court."

"I will never give an opinion, I should say, unhesitatingly, that the rule of compensation in the above cases should be obtained from the stipulations of the treaty with Spain exclusively, and that such rule should govern the Department as well as the courts." *Report of Court of Claims in Rodin Blum's case*, p. 112.

Judge Bibb, who succeeded Mr. Spencer, said:

"The question as to rule of damages under the law of nations, and the treaty of 1819 between the United States and Spain, was not presented to my mind, was not considered by me, was not introduced into the case by me, and I am making the orders for payments without interest. In so ordering, I signed an order drawn up by one of the clerks, according to form which had previously been observed in the cases."

"The question of interest upon the value of the property destroyed at the time of the destruction, and the question for the deprivation of the use of the property, was not presented or adjudicated by me in these cases, but passed and went on."

"If the question had been raised, I feel confident that I would not have committed so great a blunder as to have decided that, under the treaty, the acts of Congress were to carry into effect the treaty between the United States and Spain, an allowance of interest, at the legal rate of the country where the property was destroyed, and that the interest then had been committed, was not to be paid by the United States, as a just compensation for deprivation of the use of the property value at the time of the destruction." *Report of the Court of Claims in Harrison's case*, p. 114.

So after all, Mr. President, it seems that the interest portion of these judgments was rejected by the Secretaries of the Treasury, not because it was not right, not because it was not just, not because it was not justly due under the decisions of the courts of Florida and under the treaty, not because it was not a just portion of the damages according to the law of nations and the stipulations of the treaty, but merely because it was not in accordance with the usage and practice of the Department to pay interest, or because the attention of the Secretary was not called, at the time, to the peculiar nature of the case; and the claimants were remitted to Congress for redress; were permitted to Congress for a moment to be their due; for a relief which the Department was authorized and directed to grant by the payment of these judgments in full, interest as well as principal; for a relief which justice and equity, the laws of the land and the laws of nations, which the judgments of the courts, the obligations of the treaty, and the public faith, demand should be granted; for a relief which ought to have been accorded to them years ago by the Department, but which the usage of the Department forbade. I make no comment. The simple statement of the case carries with it its own appropriate commentary. But enough upon this point.

Now, as to the question of satisfaction. Admitting our obligation under the treaty to make reparation for the injuries caused by our troops in 1819-12, will it be contended for a moment that reparation, or, in the language of the treaty, "that satisfaction" is made to the suffering parties by merely paying them, forty years afterwards—forty years after the destruction of their property—the amount of value of the property at the time it

was destroyed? Most certainly not. Sir, this Government undertook and promised, in terms, and in the most solemn form, to cause satisfaction to be made for the injuries which, by process of law, should be established to have been suffered by Spanish citizens and Spanish officers, on account of the operations of the American troops in Florida. This is the obligation into which we have entered by the treaty with Spain. It is clear, sir, that by "satisfaction," both parties understood and meant indemnity—full reparation as far as practicable—legal satisfaction, or that complete remuneration which not only the common and the civil law, but more especially the public international law gives for injuries of this character. The rule of damages for property taken or destroyed is the pecuniary value of the property at the time of its conversion or destruction, together with interest from that time, as an equitable measure of indemnity for the purpose of the use and enjoyment of the property meanwhile. This was the rule adopted by the district judges in Florida in these cases. This principle is the rule alike of the common law and civil law, and of the public law of nations. It is a rule of general application, whether the injuries are committed, or as between Governments and individuals, and obtains everywhere, in all our States and in all our courts of justice, as between private parties. Our own Government exacts the application of this rule as against foreign Governments, and will we hesitate to recognize its application as against ourselves?

When this Government entered into this obligation with Spain, did either party understand or suppose that the measure of satisfaction was to be made, or governed, or controlled, or in any way affected by a private regulation or usage of the Executive Departments of this Government; by a private usage unknown to Spain, unknown to the public, and of which nobody can be presumed to have had notice? Or, the rather, was it not understood by both parties, that the satisfaction stipulated for, was to be measured according to the public law of nations—the law known and recognized by the civilized world? Was it not understood that satisfaction was to be made according to the established usage of nations, and according to the law of nations? *Report of the Treasury Department*? Sir, there is but one answer to be given to these questions. Private rights, public justice, and national faith have but one answer to give to these questions; and we can readily anticipate that answer.

But further, although we, however, as between Governments or individuals, a liability for the value of property has been fixed, interest follows as a necessary legal consequence; not merely as an incident to the debt, *ex nomine*, but as a just measure of indemnity for the loss of the use and fruits of the property. This Government, in providing a judicial tribunal to establish these claims, and by paying the original valuation of the property as adjudged by this tribunal, and as being within the purview of the treaty, virtually recognized and admitted its obligation to pay interest. And the question of interest, in fact and in law, is foreclosed by the judgment of a tribunal of our own appointment. In legal phraseology, we are estopped from denying our obligation to pay the interest. Interest is as much, and to all intents and purposes is as just a part of the legal demand to which the parties are entitled, and for which judgment has been rendered, as the original cash value of the property itself; and the payment of this interest, and nothing short of it, will discharge the obligations of our own treaty engagements.

But further, although I regard the question so clear as to be placed beyond successful contradiction, that the treaty requires that the injuries alleged to have been suffered shall be established by process of law—that is, that they shall be ascertained by a court of law, or judgment, and by him to be paid or to be rejected, or to be paid or in part, as he may think proper, and that his determination in rejecting the interest portion of these judgments is to be taken as final and conclusive, what then? Final and conclusive upon whom?

Final and conclusive to what extent, and in what respect? Final, it may be, on the party before a court of law; and if, and if you care, may here be pleaded in bar of judgment. So, it seems, thought a majority of the Court of Claims, and they remitted the party to Congress. So, it seems, thought the Supreme Court of the United States in *Ferreira's case*, and dismissed it, rightfully enough, for want of jurisdiction, as the Court of Claims gave no appeal from the decision of the Secretary of the Treasury, or from the courts in Florida, or from the Court of Claims to that tribunal.

But surely it will not be contended that the decisions of the Secretary of the Treasury are final and conclusive on the party when taken to Congress; especially when these decisions contravene the plain and admitted obligations of a treaty engagement. The decisions of the Secretary of the Treasury, however they may be regarded elsewhere, are no bar in this forum. They have not even the merit of argument or of reason when addressed to the judgment or to the discretion of the national Legislature. We can do right; we can do justice; we can decide upon principles of justice and equity; we can discharge our treaty obligations; we can do what is right and just, or the decisions of the Secretary of the Treasury to the contrary, nevertheless. The decisions of the Secretary are no bar to our doing all this. They are not final and conclusive upon the action of Congress. We are hampered by no departmental usage, by no local custom, by no private prejudice, against doing what we may deem to be right and proper in the premises; against directing, if we please, the interest portion of these judgments to be paid, and thus discharging a conceded national obligation. And, sir, no Secretary of the Treasury, let it be borne in mind, has ever assuming the exercise of a revisory power over the decisions of the judges, and rejecting the interest portion of these demands, has ever ventured to deny or to question the obligation of this Government to pay it; but the usage of the Department was in this respect, and it was, and it has left the parties to seek redress by an appeal to Congress; and here they are, and this is why they are here.

Let me say, further, that the Secretary of the Treasury, in his present position, in his present interest, judiciously or quasi-judiciously, though you assume to invest him with a supervision over the decisions of the courts in Florida. The Secretary of the Treasury has never decided that the interest was not just; that it was not due; that it was not justly due; that it was not due under the courts and under the treaty. He has expressed no judgment, as such, upon the merits of the question. He has merely set aside, suspended the interest—rejected it, if you please; not by judicial or even executive or ministerial judgment against it, but merely on account of the force, as he supposed, of a rule of practice in the Department. That is no judgment in rem; that is no decision, to decree upon the merits of the question, and therefore is not conclusive or final upon anybody, and no bar before any tribunal. You might as well say, in such case, that it is no sense and as much logic and as much law in it—that if I refused to pay the interest on my note, the decision was final and conclusive upon the creditor; and that, if he sued me for the debt, I could not plead that decision in bar of his recovery. No, sir, there is no instance in which the Secretary of the Treasury decided that the interest was not due under the decisions of the courts in Florida and under the treaty itself; but the usage of the Department was in the way of their paying it. They adhered to the usage of the Department and remitted the parties to Congress. That is the true statement of the case; and that is all that has been decided. Yet it is insisted that the decision of the Secretary of the Treasury on this question is final and decisive, and conclusive on everybody.

Let us take another view of this subject. Irrespective of the question whether the decision of the judges in Florida was judicial and final; irrespective of the question whether the Secretary of the Treasury was clothed with the right to prevent over these decisions, still I maintain that it was the duty of this Government to discharge the unpaid residue of these judgments. Sir, it is enough that the original value of the property destroyed or taken by our own troops, and for which the owners were

entitled to satisfaction, to full indemnity, has been determined by a tribunal of our own appointment, and to whom we assigned this specific duty. It is enough that the value of the property, at the time it was destroyed or took it, has been paid by the authorized officer of this Government, after exercising a supervision over the decisions of the courts in Florida, with all the evidence before him upon which these claims rested. In reality, sir, the only question remaining for us to decide is one of interest, as allowed by the judges, and disallowed or unpaid by the Secretary of the Treasury. In other words, the only question remaining for us to decide is, whether we will indemnify the parties, whose property we seized from them by wrong force, and whose property and persons we have enjoyed that property; whether, in short, we will make satisfaction to the injured party according to the recognized rules of municipal and of public law, and according to the terms of our own solemn promise made to them forty years ago. That, sir, is the only remaining question; and it is a question, allow me to say without offense, which not only addresses itself to our judgments as legislators, but which addresses itself to our sense of justice as honest men.

Let me take still another view of this subject. Irrespective of the treaty; irrespective of all the laws of Congress in reference to the treaty; and irrespective of all these questions of construction that have grown out of the treaty and these acts of Congress, were these claimants now before us for the first time by original petition asking redress for the wrongs and injuries committed on them by our troops in 1812 and 1813, what would be our duty towards them? The answer is a plain one, which every honest mind will suggest. By force and violence, in defiance of all law and of all right, we invaded their territory, drove them from their homes, burned down their dwellings, despoiled them of their goods, beggared their households, and desolated their country; and in saying thus much, I but speak the truth, and but repeat the words of authentic history. Here let me formulate a statement by some reliable authority—the testimony of the judges themselves; the testimony of Colonel Smith, one of the leaders of this invading force; and the testimony of President Monroe. Here it is:

"Judge Smith says: 'The evidence further proved that the cattle, horses, swine, and movables of the plantations of this portion of the province, were, during this invasion, almost without exception, destroyed, depredated, and lost to the owners. The buildings, fences, and crops of many plantations were wholly destroyed; sometimes having been previously abandoned by their owners, and at other times having remained till the destruction commenced.'"

Judge Reid, after describing the previous flourishing condition of the province, says:

"This invasion, which caused in 1813, left the country desolate. Plantations, farms, houses, stock, poultry, tools, and implements—everything in the shape of property—had been pillaged or destroyed. The country was a desert; it was useless in comfortable culture. From the beginning of 1813, we reduced to extreme poverty in the course of fourteen months; and East Florida has never recovered from the shock it then received."—*Solator's Report to the Secretary of the Treasury*, dated March 7, 1851. Appendix, pp. 14, 15.

Judge Brown, in his decision in the case of *Farrington*, administrator of *Paine*, says:

"The difficulty of obtaining supplies for such a force led them at once to look to the resources of the country; and large droves of cattle, with which the country then abounded, were immediately and indiscriminately seized upon to relieve their necessities; and flogging parties, consisting both of regular troops and privates, were sent out in all directions to collect cattle and other means of subsistence for the Army."

"A trial of some of the more revolting instances of robbery and plunder and wanton destruction on the one hand, that occurred during this period, or of individual cases of hostility, civil, and savage, which characterized the war, and perhaps not proper in this general statement, though they might tend to illustrate the general character of the invasion, will be sufficient to say, that before or when the whole Spanish troops finally evacuated the country, the whole inhabited part of the province was in a state of complete devastation and ruin."

Colonel Smith, of the United States Army, who commanded the invading force, wrote to his Government:

"The inhabitants have all abandoned their houses, and as much of their movable as they could not carry with them."

He adds:

"The province will soon become a desert."—*Solator's Clerk's Report*, above cited, App., p. 13.

President Monroe, then Secretary of State, in a letter to Governor Mitchell, of 10th April, 1812,

after alluding to the fact that the troops of the United States had been used to dispossess the Spanish authorities by force, says:

"I feel it as painful to recite them as it is to transcribe, because it is too painful to recite them."—*American State Papers, Foreign Affairs*, vol. 2, p. 571.

I do not think, Mr. President, I lay myself open to the charge of having overwrought this subject by the recital of the picture in our country's history. The original claimants were at that time loyal subjects of the Government of Spain. A few years afterwards, in 1819, by the treaty of cession they became loyal citizens of the United States. Some of them, still living, and many of their descendants and representatives are among the most respectable of our citizens in different States of the Union. Very few of them or their descendants remain in Florida, for very few of them ever returned to their desolated homes.

Were these claimants, I ask again, now before us for the first time by original petition, asking redress for these wrongs and injuries and outrages, what would be the clear and manifest duty of this Government towards them? Sir, the voice of reason, the dictates of humanity and of every honest mind, would respond to the question, that no man and no member indeed would be the measure of redress at that—we could do no less than to pay them the full value of their property so destroyed, together with the interest, from that time to the present. No man in the honest convictions of this Congress can say, we say, that we could do less, and that is all that the bill before you proposes.

But, it is said the claim is a large one; and so it is. It reaches nearly or quite two million dollars; but what of that, sir? I have only to answer, if the claim is just, if the claimants are just, if the law is, the greater is the wrong and the injustice in withholding it. If we are under the obligation of the pledged faith of this Government to pay it, the larger it is, the more important that obligation becomes.

But, it is said, sir—and I regretted to hear the old charge reiterated yesterday by the honorable Senator from North Carolina—that these claimants have already been fully paid, and overpaid, by an exorbitant valuation of the property alleged to have been destroyed, and for these judgments have been tendered, and which, to the extent of the original value of the property, as proved, have been, for the most part, paid to them. Sir, I will not answer by saying that we are foreclosed from going into this inquiry by the judgment and decision of a tribunal of our own creation; for my pettifogging or fraudulent claims have been allowed, let it be shown; let it be proved. It is incumbent upon him who makes the charge or the suggestion of fraud, to support it by proof, or withdraw the imputation, and henceforth to be silent.

But, sir, I will answer by saying that we have a threefold guarantee in these cases against fraudulent, fictitious, or even extravagant allowances for claims: first, in the well-known and acknowledged ability, fidelity, and high character, personally and officially, of the judges themselves; and secondly, in the guarantee in the fact that the Secretary of the Treasury, under the assumed character of a revision of these judgments, after reexamining them all, reduced but very few of them at all, and those very few so slightly as in no degree whatever to impair the correctness or impartiality of the decisions of the judges. Who are these judges? I hear the question asked by some one near me. Judge Smith, sir, was from your own State. Mr. Foster in the chair: Robert Raymond Reid was from the State of Georgia; Isaac H. Hall, from the State of New York.

The high personal character of these men, and their eminent judicial qualifications, commanded the confidence of the public, as well as the confidence of the President and Senate of the United States, at whose hands they received their appointment. We have a further guarantee in the character of the claimants themselves, who are understood to be among the most respectable citizens of our country. They are personally strangers to me, with one exception; and I shall leave it to those who do know them to speak for them, and to say whether they are persons who would be likely to prefer fraudulent claims against the Government. The exception to which I refer is the late General Clinch, of Georgia, whose fam-

ily, it is said, are among the claimants; a venerable gentleman, with whom it was my fortune to serve in the House of Representatives many years ago, whom I remember well, and with great respect, as a modest, industrious, honorable, and gallant servant and soldier of his country. In this connection, I will read a letter from Mr. Secretary Woodbury, showing his appreciation of the character, correctness, and impartiality of these judgments:

TREASURY DEPARTMENT, October 7, 1838.

Sir: I have received a letter from Colonel Downing, in which he expresses an apprehension that you might be misled by some mistake in the original statement of the 26th of July last.

It seems to me that an inference may be drawn from that communication unfavorable to the claimants in respect to the amounts allowed in cases, and for damages coming clearly within the principles already adopted. As no such design was entertained by the Department in writing that letter to you or any other, I perceived cheerfully to state the fact; nor do I believe to add, although in some cases the amount of the awards may have been reduced here on particular items in consequence of the parties' own fault, the claimants so much as you allowed, or for any other special reason, yet, in general, I do not apprehend that your awards have been higher as to the items approved here than the evidence warranted. On the contrary, several instances have come under my notice, where, unless your local knowledge of our laws and things not appearing on the records of this Department, and which I do not think I have been justified in granting a larger sum for particular injuries than was allowed in the award.

But you are not acquainted with the country where the claims originated, with the value of property there, and with the character of the respective witnesses; and my chief object in this communication is merely to prevent any conclusion which is so supposed may be liable to be drawn from my former letter; that an opinion is entertained by this Department, in relation to the great care and diligence exercised by you in protecting the Government from the payment of damages, larger than actually sustained by the claimants. When the awards have not been questioned, it is generally held for either exact or much less than they have been fully explained either in your or the parties, or their counsel, and which have not been inconsistent with an examination here of the evidence, and the facts from the acts of the American troops in 1812 and 1813 should receive all the indemnity which the existing acts of Congress, and the former, settled construction of them, appear to justify.

Respectfully yours, &c., LEVI WOODBURY, Secretary of the Treasury.

Hon. R. RAYMOND REID.

In further proof of the reasonableness and fairness of the allowances of these accounts, I will read a transcript of the accounts as allowed by the judges in two cases which have been very much questioned, and in two which have come under my observation:

Transcript of the account in Ferrer's case, as allowed by the judge.

For loss of crops of 1812.....	\$350 00
For loss of corn on land of the crop of 1811, say 100 bushels, at \$1.....	100 00
Two horses and one mare, at \$40 each.....	120 00
Hogs, say one hundred and fifty head, at \$2 50.....	375 00
Beef cattle, say four hundred head, at \$10.....	4,000 00
Stock cattle, say two hundred head, at \$5.....	1,000 00
Household furniture and plantation tools.....	110 00
Poultry.....	25 00
	\$6,080 00

Interest on this amount, at five per cent. per annum, from the 10th May, 1812, to the 30th June, 1853.....

Making all.....\$12,706 83

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Transcript of the account in Humphrey's case, as allowed by the judge.

Farming utensils.....	\$70
Three horses.....	150
Destruction of buildings at the ship yard.....	1,500
One cotton gin.....	100
Crops of 1813.....	1,500
Crops of 1814.....	1,000
Total.....	\$3,260

By reference to the several items of these accounts and the sums allowed to each, it would seem that they were but fair and just and reasonable, and within the ruling current market prices at the time. Judge Brown, in reporting his opinion in the *Ferrer's* case in 1851, in reference to this question, said:

"That on the invasion of the country by the patriots and American troops in March, 1812, and the time they laid siege to St. Augustine, he, like other inhabitants of the country, was abandoned by his plantation and his property there and in that vicinity, and took refuge in St. Augustine, and that during the time that the American troops and patriots were engaged in the war between the 17th March, 1812, and 10th May, 1813, (where the United States troops finally routed the patriots, and the patriots were frequently treated by parties of patriots and American troops; that his cattle and hogs were driven off and sold

by them; that his horses were also taken, his growing crops of corn and potatoes of that year destroyed, his house burned, and everything on his place plundered or destroyed.

"The fact that he suffered these losses and injuries by the operations of the American troops in East Florida, and that he was from being in good and comfortable circumstances, reduced to a state of ruin and beggary in consequence thereof, and the particular manner in which these losses, will more fully appear by the evidence in the case; and without detailing it more minutely, but referring to the depositions accompanying this case, I would state that the depositions sustained by the proofs in the case, promising, however, that in this case I have not been misled by the vast quantity of property at that period, I am governed not more by the proof in this particular case, but the general testimony of the intelligent witnesses in the case, and the fact, heretofore decided and reported to the Secretary of the Treasury, showing the general market value of corn, oil, sugar, horses, and other produce, at that period in the province of East Florida at this period."

Mr. President, without multiplying citations upon this point, I will only add that, from the most reliable sources of information, we are not only authorized in saying, but a sense of justice compels us to say, that these judges, in the discharge of their duties in the adjudication of these claims, appear to have been actuated by the strictest regard to the interests of the Government as well as to the rights of the claimants.

But it has been suggested further, if not directly asserted, that the aggregate amount of property alleged to have been destroyed, and as allowed by the judges, amounting to some eleven hundred thousand dollars, indicates a larger amount of wealth and population in that section of Florida than actually existed there at that time. Sir, it is a familiar historical fact that East Florida, at that time, contained more wealth, if not more population, and was generally in a more prosperous condition, than at any period before or since. A variety of causes, some of them special and temporary, contributed to this result. The destruction of affairs in all the European Governments—for this was at a time when Napoleon stood on the necks of half the potentates in Europe; our own hostile relations with Great Britain; our embargo and non-intercourse acts; the fire and health of the climate of Florida; the destruction of lands; the high price of her staple productions; and above all, her neutral position, at that time, affording uncommon facilities for an extensive and lucrative commerce, invited gentlemen of wealth and enterprise to that province; not only from the adjoining States, but from the most remote portions of Europe. All these causes contributed largely to the growth in wealth, population, and prosperity of Florida, at that period of time. For a more full and detailed account of the condition of East Florida at that period, I will only refer Senators to Forster's History of East Florida, published in 1821, where they will find a minute, accurate, reliable description of its commerce, its wealth, its population, its resources, its staple productions, &c. Sir, those who will inform themselves in reference to the condition of East Florida at that time, will require no further answer to the captious and unfounded suggestion that the aggregate property in East Florida at that period of time did not warrant the finding of the sum of \$1,100,000 as the total valuation of the property destroyed by our troops. I would say, Sir, I entertain no manner of doubt that this sum falls short, very far short, of the actual injuries sustained.

But, Mr. President, I will tell the Senate no longer in this direction. I have been induced to discharge a duty, an unwelcome duty, I am obliged to say, assigned me, in the investigation and discussion of this case. How imperfectly I have performed that duty I am but too well aware. I confess that I can do no more in the examination of this case with my propositions strongly adverse to it. I had never examined it; I did not understand it. By some sort of vague and indefinite impression, I had been accustomed to associate it with the old Florida war claims, which are regarded in the public mind with so much contempt. However, as a member of the committee to which it was referred, I was specially charged with its investigation, and after as careful and thorough an examination into the origin and nature and foundation of these claims, as my limited time would admit, I was irresistibly led to the conclusion, yes, sir, to the clear conviction—that they were not only just and equitable, but that this Gov-

ernment was bound, by every consideration of honor, of justice, and of national good faith to pay them.

Mr. BENJAMIN. I do not wish, Mr. President, to enter into any discussion as to the merits of the case, or to multiply citations in support of my relation to a citation that I made from the decision of the Supreme Court the other day, to which I referred from memory, and in which I find my memory was more accurate than that of the Senator from Georgia. This very question in relation to the decision as to the amount due to the claimants under the Florida treaty came before the Supreme Court of the United States in Ferreira's case; and, if I understand that decision, it covers several of the points which the Senator from Georgia still argues as open questions. The Supreme Court, after considering the act of Congress which imposed upon the judges of Florida the duty of examining into the amount of these claims, imposed that duty upon them not as courts, but upon the judges as commissioners, proceeds to state:

"It is too evident for argument on the subject, that such a tribunal is not a judicial one, and that the act of Congress did not intend to make it one. The authority conferred on the respective judges was nothing more than that of a commissioner to adjust certain claims against the United States; and the office of judges, and their respective duties, are entirely separated from the investigation of the persons to whom the authority is confided, and the territorial limits to which it extends. The decision of a court of law is a judicial act, and the act of a commissioner is not. The act of 1824 calls it an award. And an appeal to this court from such a decision, by such an authority, would be a question of law, and not of fact, as is usually the case in the history of jurisprudence. An appeal might as well have been taken from the awards of the commissioners under the Act of 1790, which were recently sitting in this city."

"Nor can we see any ground for objection to the power conferred on the respective judges to sit as commissioners. When the United States consent to submit the adjustment of claims against them to any tribunal, they have a right to stipulate the conditions upon which they will do so. And they had a right, therefore, to make the approval of the award by the Secretary of the Treasury a condition of the award. And the United States are bound to comply with it. No claim, therefore, is due from the United States until it is sanctioned by him. It is only the claim against the United States, and not the claim against the individual, which is the subject of the award, if a claim, as allowed by the judge, is final and conclusive. It cannot afterwards be disturbed by an appeal to this court, or to any other way, without the authority of an act of Congress."

The question of the right of these parties to due process of law, under the treaty, was raised in this case and determined:

"It is said, however, on the part of the claimant, that the treaty requires that the injured parties should have an opportunity of being heard, and that the claimant is entitled to process of law in a judicial proceeding in a court of justice; and that the right of supervision given to the Secretary, under the decision of the court, is therefore a violation of the treaty."

"The Court think differently; and that the Government of this country is not liable to the reproach of having granted its faith with Spain. The tribunals established are substantially the same with those usually created, where one nation agrees by treaty to pay debts or damages which may be found to be due to the citizens of another country. This is not a judicial proceeding, but a proceeding in the nature of a claim. The case of proceeding ordinarily established on such occasions, and well known and well understood when treaty stipulations are made, is not understood. But it is not intended to be otherwise. It is a question between Spain and that department of the Government which is charged with the payment of claims, and with which the judicial branch has no concern."

Again the court says, and it strikes me with very great force when I hear gentlemen argue in relation to the conclusiveness of these adjudications of the judges in Florida:

"If the judicial branch of the Government had no right to be consulted in the execution of the treaty in this respect, and was of opinion that it required a judicial proceeding, and that the power given to the Secretary was void as in violation of the treaty, I would hardly have decided in the case of the claimant on this appeal. For the proceedings before the judge are as little judicial in his character as this before the court. The decision of the judge is not a judicial decision, and the decisions of the judge are open to the same objections; and neither the principal nor interest, nor any part of this claim, is a judicial claim, and the judicial branch has no concern."

It strikes me, therefore, Mr. President, that in the question of the conclusiveness of these claims, we must take the whole body of judges or commissioners, as we may choose to call them, established by Congress either in one sense or in the other. We cannot speak of the commissioners below as judges, and then of the Secretary of the Treasury as a commissioner. If the Secretary of the Treasury was a commissioner, then the judges below were commissioners. If the action of the

judges below was the action of judicial officers, of a special tribunal created for the purpose of satisfying the Government in relation to the amount of claims actually due, then the Secretary of the Treasury was also a judicial officer for that purpose. The act of Congress, in other words, if I understand this judgment of the Supreme Court, is fairly thus interpreted: a tribunal was to be created under this treaty which was to adjudicate these questions. Congress created that tribunal; it created the law by which it was to be governed. It recognized principles of the law of nations, and in accordance with the well-established usage under treaties of this character; the tribunal established was, first a commissioner below to examine the matter, and secondly the Secretary of the Treasury as an appellate tribunal to revise his decision. This appellate tribunal was directed to make payments to carry into effect the judgments rendered by the inferior tribunal, if found to be just and equitable, and not otherwise. Upon the question whether this appellate tribunal was to be the Secretary of the Treasury—had any judicial power, any discretion, any right of investigating the judgments rendered below, the Secretaries had some doubt. They referred the question to the Attorneys General, and every Attorney General whose opinion I have seen, determined that it was the duty of the Secretary of the Treasury to examine the judgment of the commissioner below, and to pay it if just and equitable, and to reject it if unjust and inequitable; and if he thought it partly just and partly unjust, to pay the part that he deemed just, and to reject the part that he deemed unjust. All the Attorneys General so determined. They determined that that was the duty of the Secretary of the Treasury; and the Supreme Court of the United States, in the decision from which I have read, affirmed these opinions of the Attorneys General.

Now, what is the case as presented to us, at least as far as my mind is affected by these considerations? The case is this: these claimants had a tribunal appointed; they presented their claims before that tribunal; the tribunal, in some cases, allowed the claims, and in some cases refused them. The decisions below were without interest, as appears on the face of the report—in other cases, the judges or commissioners below allowed the claims with interest; in other cases, they allowed part of the capital and part of the interest. The Secretary of the Treasury, in his judgment, did what he deemed equitable to each claimant. That is the report of the judges. The Secretaries of the Treasury, in many instances, struck out part of the capital, and in every instance struck out the interest, on the ground that, in the judgment of those officers, the interest was not due. Now, the honorable gentleman from Vermont, who has just argued this case, says they gave bad reasons; that their judgments amount not, in point of fact, to any judgments at all; that they were the mere act of exercise of power, and that there was no reason for their judgments that it had not been the usage of the Department to pay interest on claims against the Government. Some of the Secretaries undoubtedly gave that as a reason—and, in my judgment, it was a very specious one. The Secretary of the Treasury admitted the case on their merits, and gave reported to us that, in their judgment, these claims are not due upon any grounds of equity or justice by the Government. Mr. Secretary Guthrie is emphatic on that subject. He says, that he has no objection to that matter, and he does not believe that there is any thing due, upon any ground of equity or justice, by the Government. These claimants have had the benefit of a tribunal created for the express purpose of examining and investigating their claims. The Secretary of the Treasury has given judgment of that tribunal from the relief allowed by the ninth article of the treaty, on the ground that their cases did not come within that article. I have not studied the subject sufficiently to form a decided opinion whether their cases did or did not come within that article. I have no doubt that they did not. I will not, however, argue that; I will not even state a decided opinion upon it.

Mr. TOOMBS. What did the Supreme Court say in that case from which you have read?

Mr. BENJAMIN. I do not think they say that at the present time. This case is now before the Supreme Court as the honorable Senator from Georgia does. The Supreme Court says that the act of Congress put

their cases under the treaty; but the Supreme Court does not say that, according to the proper construction of the treaty, their cases were under it. It says Congress has given them the act of 1834, which puts their cases under the treaty by the act of Congress; but the court does not say that, in its judgment, without the exercise of the power of Congress on the subject-matter, these cases were within the treaty; and I apprehend that any gentleman who will examine these cases independently of any weight of authority, who will then on his own self, will find it not only difficult to come to the conclusion that they are under the treaty.

But I may again have not examined that point with sufficient care to give a decided opinion on it. I have not formed a decided opinion on it, and will not express one. This, however, I do say: whether they come under the treaty or not properly, Congress, in 1834, directed them to be examined and decided as if they were under the treaty, just as the other cases had been examined and decided. They have been so examined and decided just as the other cases were. They have been partially rejected, partially allowed. The Secretaries of the Treasury, upon whose decision Congress finally rested the discretion, have determined unanimously, without a dissenting voice, that they would not allow this interest. The Attorney-General has given and again confirmed the decisions of the Secretaries of the Treasury. The honorable Senator from Kentucky, for whose opinion we have all so much respect, gave an elaborate opinion upon the subject. Mr. Cushing gave another. All the judges have determined that, in their judgment, the Secretaries ought not to pay interest. The Secretaries themselves say they ought not. Mr. Guthrie finally says that, as regards the justice of the case, in his judgment, it is no equitable principle upon which they should insist as against the United States can be based. He says:

"I am of opinion that these injuries, being in the nature of unrequited damages, would not bear interest according to the principles of the common law."

He may be mistaken in that; but he goes on to say further—I lay aside his opinion of law; I will not reach that opinion of the justice of the case, and on that rests my vote. What is his opinion of the justice of the case? He says further:

"And, as the claims have been presented so early, and have been under examination for so long a time, when the security of witnesses could deal only in estimates, without a particular recollection of facts and values, the claims have been treated, without doubt, greatly more than the amount of actual injury sustained, and that there is no equitable principle upon which the claim of interest against the United States can be based."

His opinion, then, is, that they have received greatly more than the amount of damage which they actually suffered. He says again:

"As a general rule, the United States pays no interest. Many debts of the revolutionary and subsequent wars, &c., have been paid without interest, and, in the opinion of the Government, of great merit that it should have been so. It would make more than sixty millions to pay the interest on such claims, when no doubt could arise as to the truth of the statements."

"The payment of interest on these claims may lead to an increase of a claimant's interest in the Government, and a combined action to procure its allowance."

He thinks it dangerous to enter into the question; thinks there is no equity in the demand; and that there is a calculation, that if the Government were to pay a million and a half of past interest already received in 1834; and now, by an amendment that has been added to this bill, and which certainly passed unperceived by me until a friend called my attention to it this morning, you have actually added a clause to this bill giving interest on the arrears of interest again. The amendment of the Senator from Florida has been agreed to, which, at the first blush, seemed to cover nothing but a mere arrangement for the payment of this claim in a series of bonds, instead of paying it in cash; actually covers interest on the arrears of interest again. I think that the claim for interest itself, and the claim for interest on the interest, are equally unfounded. No far as I have been able to judge of this case, from what I have heard of it, from the explanations to which I have been subjected by the Senators on both sides, my deliberate judgment is that this money is not due, and I cannot vote for paying it.

Mr. HALE: I do not propose to detain the Senate more than a few moments, but I want to explain the vote I shall give. I confess that I came to the examination of this question with a desire, if possible, to vote in favor of the bill; but as I cannot do so, I want to state very briefly the reasons.

In the first place, I notice that the honorable Senator from Georgia who spoke the other day, and the honorable Senator from Vermont who has spoken to-day on this subject, have spoken as if they were bound by the ninth article of the treaty to give the claim a judicial hearing; as if the amount of their claims must be ascertained by judicial process. I understood, from the manner in which that idea was submitted, that the gentleman spoke as if they were giving the terms of the treaty. Now, sir, there is no such term in the treaty: there is nothing about a judicial process there at all; but it is simply that these claims should be established by process of law; and the Supreme Court of the United States, upon a case made before them, have decided that the reference to the district judges of Florida, with an appeal to the Secretary of the Treasury, was a fair, bona fide, and honest compliance with the terms of the treaty, and that the "process of law" which they were entitled to have, they have had, and there is nothing about a judicial process here. I do not speak of it myself, but such is the judgment of the Supreme Court, that exactly what the treaty gave them they have had—the process that is provided by the treaty has been afforded them. Well, sir, by that process, to which they were entitled under the treaty, this dispute claim has been refused; the judgment that we provided for them, and which the Supreme Court say was a fair compliance with the terms of the treaty, has decided against the very claim that is now made before us. In brief, that is the statement of the case.

Now, sir, I do not say that I am not a man to whom I listened with a great deal of pleasure, will allow me, I will say that a very large part of his argument was entirely unnecessary, because, as the case stands, the question whether the spoliation of 1812 and 1813 were embraced within the treaty is not before the Senate. Congress, by the act of 1834, especially provided that they should be so considered, and they have been so considered; and therefore the question whether they were originally intended to be included in the treaty or not is a doubtful question. Congress has brought them in, and made them within it, and they have been so considered.

A great deal has been said about the very great regard that is due to the character of these judges, and the character of these claimants. I do not know anything about it, but I want to read from a speech made in the House of Representatives, upon this very question, by the Hon. Mr. Orr, of South Carolina, in 1855; and if the Senate will listen to what Mr. Orr said, I think they will come to the conclusion that winter may have been the cause of the error of these judges, and that they have been the character of these claimants, there was a sort of looseness in many of the judgments which ought not very highly to commend them to the Senate. Mr. Orr said:

"Now, sir, I think the absurdity to which I have alluded, of the error of these cases, when the greatest care or caution was taken in examining these claims, and how liberally these sufferers have already been paid. The principle I shall refer to is that of Zephaniah Kingley, &c., &c. &c."

"In the claim of Zephaniah Kingley, the principle is stated that, for the loss of crops, two thirds the estimated amount is allowed."

"This is said in the principle of previous decisions."

"In this case, seventeen thousand five hundred pounds of ground and packed cotton were allowed, at fifty cents per pound, for the loss of crops, for the year 1812. The twenty-five thousand pounds of cotton in the seed, at fifteen cents per pound,.....

\$12,500

"I ask the gentlemen to notice that the cotton for which these amounts were claimed and paid, was not for cotton that was destroyed, but for the cotton that was not destroyed, but was prevented from raising."

"What was the loss of this claim?"

"Mr. Orr: It was some time in the year 1812, I think. The precise date is not given. The act of 1834 shall ask the attention of the House of John Fryer, deceased, for losses sustained in 1812, and, by the way, that does not sound like a Spanish name. The treaty provided that the property, except Spanish subjects, should be entitled to the benefit of

the provisions, or of the stipulations, which I read to the House at the opening of my remarks. Here is the claim:

"Award in the matter of the claim of the executors of John Fryer, deceased, for losses in East Florida, in 1812 and 1813."

For the crops of the Greenfield plantation for 1812, \$80,867
For crops of the same plantation for 1813, or damages for being prevented from planting that year, say two thirds of the value of the crops of the same plantation for 1812,..... 54,725
Voted 1848, sir, there is another item even worse than this.....

Crops of the rice plantation on the St. Mary's, in 1812,..... 11,800

For crops of the same plantation for 1813, or damages for being prevented from making crops that year, say two thirds of the value of the crops of the same plantation for 1812,..... 7,734

For merchandise destroyed, (vide testimony), the testimony Richard's answer to forty-ninth interrogatory, which is included in the first position,..... 1,000

"Making \$157,146, which has already been paid to this claimant, and now this bill proposes to pay the same claimant something more than \$160,000 in addition. Two large items being left for crops that were never planted."

So that, if there were only \$1,100,000 agreed to be paid in the whole, here we add \$157,000 awarded to one man, the greater part of it for cotton that was never raised and never planted. Now, I mention that as not my own, but as the statement of Mr. Orr, of South Carolina, upon the character of these claims, and why they were not to be paid, no attorney of the United States being present, and they were such imaginary speculations as that as to the character of the crops that could have been raised, provided the man had planted. You might just as well pay any one of us damages for crops which we might if we had been here, have planted and raised. If you go into such wild speculation as that, there is no knowing where you will end.

But, sir, these gentlemen have had everything that they are entitled to. They went before an ex parte tribunal, one of our own neighbors, a judge sitting in their own neighborhood; took their own testimony, with nobody to contradict them—nobody to cross-examine them; filed their claims; the judges made their award, and it came up to the Secretary of the Treasury, being a part of the tribunal to judge, and the appellate part, and being a judge placed there within the meaning of the treaty, and within the provisions of the Constitution, as the Supreme Court say—and he disallowed the interest.

It was disallowed by the Secretary of the Treasury. It has been disallowed by the Supreme Court of the United States. It has been disallowed by the Court of Claims. Now, after forty years, having received these enormous damages for mere speculative losses, for crops which they might have made if they had had a chance to plant them; they come forward and ask us for interest. There is something very appropriate in the suggestion that was made in some report from which the Senator from Louisiana read, that if we are going to pay interest at all, we will have to take all the claims, claims about which there is no dispute, and pay interest on them; pay interest on our revolutionary debt; pay interest on claims on which there is no word of civil, and against which there can be no successful demand, before you go back to rip up the affairs forty years old, and pay interest to these men, who have received every dollar that was awarded to them at the time by the tribunal appointed by law, and at the very time they asked it.

It seems to me, sir, the claim is preposterous. I am sorry that my ardent friend from Vermont, in stating his case, went quite so far as I understood him to go, and said that no man of honest judgment could question the propriety of paying claims of this character. I would have been glad to pay to these old men, who were to be paid to them; and the inclination of my judgment was in favor of them, from the fact that they had received the sanction of my honorable colleague, who reported this bill last year, and of the honorable Senator from Vermont, who has reported it again this year, to two gentlemen whose judgment and integrity I have the highest confidence; but, sir, I cannot, consistently with my own convictions, consent to put my hand into the Treasury to pay anything on these claims.

The bill was then read and was amended.

Mr. HAMMOND. Is this bill about to be put on its passage?

The PRESIDING OFFICER, (Mr. BAKER in

the chair.) The question is on ordering the bill to be engrossed, and read a third time.

Mr. BENJAMIN. I understand there is an amendment, which was made in committee of the Whole, that has not been offered in the Senate?

The PRESIDING OFFICER. The Chair overlooked it. The question is on concurring in the amendment made as in Committee of the Whole, to add to the bill:

With interest from the date of the award: *Provided*, That the Secretary of the Treasury may, at his option, pay the amount of such claims in certificates of stock bearing an interest of five per cent. per annum, redeemable in five years, or at the pleasure of the President of the United States.

Mr. PUGH. I ask for the yeas and nays on the amendment. It compounds interest. This whole claim being a claim for interest, not for principal, the proposition now is to pay interest on interest. We have never compounded before.

Mr. IVERSON. Will the Senator allow me to interrupt him a moment?

Mr. PUGH. Certainly.

Mr. IVERSON. I think the Senator from Louisiana, as well as the Senator from Ohio, does not comprehend the amendment of the Senator from Florida. The amendment is not that; that the claims are allowed to be paid by paying the money out of the Treasury now for which the Secretary may issue the bonds of the Government, bearing interest.

Mr. BENJAMIN. That is a part of it; but that is not the whole of it.

Mr. IVERSON. I so understand it.

Mr. PUGH. If the Senator from Georgia will hear the first part of it, he will see that the Senator from Louisiana and myself are right, and he is evidently in error.

The Secretary read the amendment.

Mr. PUGH. I ask for the yeas and nays on that amendment.

Mr. BAYARD. I must ask the Senate, with great reluctance on my part, to postpone this case to a further day. I have listened to those gentlemen who are in the majority, and I have heard to be heard on it. A great portion of that which I should otherwise have stated was said so ably yesterday by the Senator from North Carolina, that I shall not repeat that; but there are some points in relation to the law, and some points in relation to this treaty, which I think have been omitted in the present discussion. A part of them I have endeavored to obtain from the proper Department of the Government. I have not yet succeeded in obtaining all the information I desired; but I have really been laboring so much, and under fever during the last week, that I could not devote to this matter—though I have devoted a great deal of time to it—enough time to recall my reading of the last session, in order to make the remarks that I contemplate making in reference to this claim. I do not desire anything but to have a decision of the Senate on it at this session on fair and full discussions. I think there are some matters that have not yet been touched in relation to the question of whether these claims are within the treaty. I do not think I can be more explicit than I shall be prepared on Monday, or any day the Senate chooses to fix afterwards, to go on with this discussion, as far as I am concerned. If no other Senator desires to speak now, I ask the Senate to postpone the case until Monday, and to let the speakers of the next day open the case. I do not desire to prevent the action of the Senate—nay, I consider it essential that it should take place in reference to this bill, so that we may have, if possible, a finality in reference to these claims. I do not care about the day or regarding myself. I only say that I cannot get ready, owing to the facts I have stated, until Monday.

Mr. TOOMBS. I dislike very much indeed to oppose the motion of the Senator from Delaware. Four years ago the Senator from Delaware and the gentleman from South Carolina, then at the head of the Judiciary Committee, (Mr. Butler,) were directed by the committee to bring in a majority report against these claims. Subsequently the subject was called up, and at the latter part of the session. They are large in amount, and they are entitled to full consideration. It was then objected, and very truthfully, that there was not time to investigate them. In order to give time, the question was referred at the beginning of this session to the Committee on Claims, and a bill was brought in, and three weeks' notice, at

least, was given of time for which it was made the special order. We have been debating it two or three days. The committee's attention has been turned to it officially for four years, to my knowledge. I do not think, at this stage of the proceedings—I have, it is true, some personal reasons—that it is fair in the Senator to ask the Senate to postpone the bill, and not let it now be determined whether the Government is to pay the claims, or whether it is to go on with his speech this evening or in the morning. I do not think it is a reasonable request to ask to postpone the bill until next week.

Mr. MALLORY. Mr. President, I do not like to seem ungracious to my friend from Delaware in arguing the matter. I, on the contrary, would very much like to hear him. I have known heretofore that he has attempted on several occasions to argue these claims, and he has never yet argued them. I should be unwilling to have a final decision before he argued them, if he really desires to argue them. But, in addition to what the Senator from Georgia has said, I would call the attention of the Senate to the fact that these claims were reported, I think unanimously, from the committee at the last Congress and on various occasions during the session before the Senate met, so that I have a decision on them; but the amendment of the claims sought, by every device known to us, to delay them, and they did delay them until near the close of the last session. Then, on one vote, they were referred to the Court of Claims, professionally for the purpose of postponing them, and the Senator from whom we could not be brought to a decision on them. I know that that is not the purpose of my friend from Delaware. I know he desires to discuss them, and have a decision on them at this session, and I presume some other gentleman desires to be heard against the claims this evening, and then we can postpone them until to-morrow.

Mr. SAULSBURY. I move that the further consideration of the bill be postponed until to-morrow, at one o'clock, when my colleague may have an opportunity to be heard.

Mr. TOOMBS. I am willing to agree to that.

Mr. BAYARD. I certainly do not desire, as I stated, to delay the consideration of these claims. I do not desire to prevent a decision, on a full hearing, during the present session of Congress. I should not like to see it shut out of the Senate, for the former decisions would have disposed of them; but it seems I was mistaken. I found at this session that, on the 28th of February, the Committee on Claims adopted the report made at the last session, after the honorable Senator from Vermont had been present, and I am sure I am sure how long; but that report was not printed until the 5th of March, if I recollect rightly; for I inquired for it, and could not get it. I did not know, until it was printed, whether it varied from the former report or not; and I was not aware, until the report was made, that it was the intention again to press these claims at this session. Immediately after the report was printed the motion was made, two weeks ago from last Monday, to make this bill the special order. It was made at the close of the day, and was not made until I desired and intended to speak on it whenever in the course of the debate, I could; but, unfortunately for me, during the last week there has not been, since Wednesday last, a single day on which I have not had more or less of fever, accompanied by constant delirium of the system, arising from its passing off and coming on again. Notwithstanding that, to the neglect of my other business, I have taken occasion to reread the history of these claims, because, in the discussion of a case like this, I adhere to the principle that *error latet in generalibus*. I want the modifications I have endeavored to seek them. I will endeavor to bring the facts specifically on some of these points before the Senate, which to me (for I have no interest in the claims) have removed all doubt from my mind. I am sure that these claims are within the treaty or not, and I am sure they are; and I am sure that the Senate may decide differently; but thinking, as I desire to present the views I entertain, some of which have not been presented hitherto, and many of which have been in the mind of the honorable Senator from North Carolina of yesterday, which I have read to-day.

I have found it necessary to resort to the Department for what I consider essential facts for the illustration of this question; and owing to the circumstance that, in the State Department, where

most of these papers ought to be, from its contracted accommodations, they have been thrust up into the garret, it is almost impossible to find any communication of the year 1812 or 1813, or even the year subsequent. There are some documents that I have longed to see. Extracts have been used from them for the purpose of giving an impression which I consider erroneous as to the state of the case. I certainly ought to have the means of getting them. I have taken great pains to do so. I have applied to the Executive and obtained his order to look for these papers. They have not yet been found; but there is some hope that they may be. I allude particularly to a document which I consider erroneous as to the state of the case. I am sure that the President supposes that he has seen in print. All I can say is, that if he has, I have in vain searched for it. I have found the instructions to General Matthews by the President of the United States, when he appointed him in 1811; but I have in vain searched for his answer, stating what he had done, and which the President removed him. I think it is but justice to the Government that the representation made by the officer appointed by them, and on which they acted, should be before the Senate. I have never seen it, in an extract from a report, and I have been assuming that fact in relation to the conduct of General Matthews which I have seen no evidence to warrant. Now, sir, I desire to obtain that. I hope I can do so. I certainly ought to be able to do so, for it was a communication to the President of the State, and should be in the State Department.

Again, there is another document which has been referred to—the letter of Colonel Smith, in command of the troops. A paragraph was used by Mr. White, as an extract from that letter, which on the part of the Secretary of the Treasury, was an unjustifiable purpose; and I am inclined to think that the context of the letter would show that there was no foundation for the purpose for which it is applied. I may be wrong; but I want to see that letter. It is said by Mr. White, in a communication to the Secretary of the Treasury, that he had been addressed to Governor Mitchell after he became commander, and that it was sent by him to the Secretary of State. I have asked that that letter might be obtained. I have not yet been able to obtain it. I desire to see it, and further search will be made. There are one or two other papers that I desire also to see, because, although I made up my mind previously against the allowance, I do not want to make it up now finally, if it is capable of change from the facts of the case. I desire to see them, and to have a certainty of facts—not assumptions.

I conceive that in the report of the committee I shall be able to point out what I consider errors—assumptions of fact, as well as assumptions of law. I may be mistaken in all this; but under these circumstances I do not think I ask too much indulgence of the Senate. I think I do not ask too much even from the friends of this bill. I will vote with them to make it a special order for any day next week that they please. I propose to discuss it, and I will not be able to do so, but I will do so all, I will take the hazard of it. If I do not well enough to do it, I will give up the discussion. Neither I nor any other man could control the accident of disease, that has disabled me from pursuing the investigation to the extent required, or to the neglect of other official business, that I have to attend to; and I think it would hardly be due to the position a Senator occupies in this body to compel me either to abandon the purpose of making any remarks on these claims, or to make them when I am unprepared to do so by the cause I have stated.

Mr. JOHNSON, of Tennessee. Mr. President, for two reasons, I rise to make a motion to postpone this bill. The first is, in order to give the Senator from Delaware a chance to discuss this question. He manifests great feeling and interest in it, and that is a reason why I should, especially, ought to understand it. I desire that he shall have a fair and full opportunity to discuss it. I move to postpone it to Tuesday next at one o'clock. My next reason is, that I wish to take the opportunity to allude to the case of the State of South Carolina, and I move, therefore, that this bill be made the special order for Tuesday next at one o'clock.

Mr. TOOMBS. I hope that will not be done. If the gentleman from Delaware wishes to be

heard, I do not object. I have been promised that speech a long time, and I wish to hear it, and I want to hear it. I propose to let him take an additional week, as I see it is to be postponed, and let us make it the special order, say for the 16th of April.

Mr. BAYARD. Well, take the 16th.

Mr. TOOMBS. It fits to be postponed, I will agree to that.

Mr. BAYARD. Whether it is next Tuesday or the 16th of April, I will consent to any time named by the Senate. Give me until Monday next, and I am willing to take any day afterwards. If it suits the Senator from Georgia afterwards to reply to me, though I am aware of his ability, I think he will find in this case, with all his power of reply, it will be difficult to overcome the facts which I shall present.

Mr. TOOMBS. Let us see about that when we get through.

Mr. SAULSBURY. I wish to remark, inasmuch as I made the motion to postpone until to-morrow, that I am perfectly satisfied with the arrangement indicated by the Senator from Georgia. I wish to hear my colleague and I understand he is not prepared to go on this afternoon, and that was the reason I made the motion to postpone until to-morrow. With the consent of my colleague and the Senator from Georgia, if it is agreed to postpone the bill to a future day, I am perfectly satisfied, and withdraw my motion.

The PRESIDING OFFICER. The question is on postponing the further consideration of this bill, and making it the special order for the 16th of April, at one o'clock.

Mr. MALLORY. I concur in the propriety of that order, and agree to it, although I shall not be here on the 16th of April, and the discussion must go on, so far as I am concerned, without my having any opportunity to reply. I shall be in Alabama. I trust not, however. But, sir, I admit that the bill ought not to pass without the fullest and fairest investigation; and I rely very much upon the Senator from Delaware for giving us that information which he says we have not before the Senate. I have been in the habit of arguing at these elections, for years, since I have been here, and I doubt very much whether the paper to which the honorable Senator alludes, the report of General Matthews, can be found. If it could, I think it would have been found before. Diligent search has been made for it. At all events, I trust Senators will by that time at least have familiarized themselves with the facts upon which the case depends and upon the principles which it involves, and that we shall have a decision upon it in April.

The motion to postpone was agreed to.

HOMESTEAD BILL.

Mr. JOHNSON, of Tennessee. I understand that the homestead bill is now before the Senate. If not, I move that it be taken up.

The PRESIDING OFFICER. The next special order on the Calendar is Senate bill No. 1, the homestead bill. The Senator from Tennessee moves to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1) to grant to every person who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period therein specified.

Mr. GWIN. Now, I hope the bill will be laid aside informally, to enable my colleague to have a private bill taken up.

SAMUEL J. HENSLEY.

Mr. LATHAM. I asked the Senate this morning to take up the bill (S. No. 249) for the relief of Samuel J. Hensley. I want to make an explanation, which will be very brief, in relation to it.

The Secretary read the bill, which directs the payment to Samuel J. Hensley of \$6,375, for twelve hundred and eighty-five head of cattle by him actually delivered in May, 1855, to the agents of the United States for the use of the Indians in California, as found by the Court of Claims.

Mr. LATHAM. The bill has been reported unanously.

The PRESIDING OFFICER. The Senator

will allow the Chair to state the question whether the Senate will take up the bill for consideration.

Mr. HAMLIN. I want to say a word on that question.

Mr. MASON. That bill involves too much money to take it up in this hurry, and decide on it.

Mr. HAMLIN. There is another objection. I dislike exceedingly to interpose an objection to any request of the Senator from California; but this bill is far down on the Calendar, and it is large in amount. Not because it is large in amount, however, will I object; but I want to know what more merit there is in this bill than in the hundred which stand before it on the Calendar? If we go on and take up a bill here and a bill there, those that may have peculiar friends to sustain them, we leave all the rest behind. If there is great merit in this, let it stand on the Calendar to stimulate that Senator and his colleague, and all who know it to be just, to dispose of the preceding bills so as to enable us to reach it in the order of business. It seems to me that there is no good reason why we should wrest this out of its place and do injustice to others. I hope it will not be taken up.

The PRESIDING OFFICER. The question is on the motion to take up the bill for consideration.

The motion was not agreed to; there being, on a division—yeas 18, nays 23.

FURNISHING NORTH WING OF CAPITOL.

Mr. JOHNSON, of Tennessee. I submit the following resolution:

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate be, and they are hereby, authorized to have the north wing of the Capitol stored up with the necessary fixtures for use in conformity with the general style of those in the south wing) in the passageway, corridors, committee, office and other rooms; and also in the committee rooms, and in the offices of the members of the Senate, in their judgment, is necessary; and that the cost thereof be paid out of the contingent fund of the Senate.

There can be no sort of objection to it, I think, and I trust that it will be passed at once.

Mr. CAMERON. I object to it.

The PRESIDING OFFICER. Objection being made, it will lie over.

Mr. JOHNSON, of Tennessee. I hope the Senator will withdraw the objection. It is simply leaving it to the discretion of the committee.

Mr. CAMERON. I want to think about it.

Mr. MASON. I shall renew the objection, if it be withdrawn.

Mr. CLINGMAN. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 21, 1860.

The House met at twelve o'clock, Mr. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON. The Journal of yesterday was read and approved.

EXECUTIVE INTERFERENCE.

The SPEAKER appointed Messrs. HOARD, CAGE, BONHAM, BURNHAM, and DIMMICK, a committee under the resolution adopted on the 6th instant, to inquire relative to the alleged interference of the Executive with the action of the House.

PUBLIC LANDS IN MISSISSIPPI.

Mr. SINGLETON, by unanimous consent, introduced a bill graduating the price of certain lands in the State of Mississippi; which was read a first and second time, and referred to the Committee on Public Lands.

ARTHUR EDWARDS AND OTHERS.

Mr. LEACH, of Michigan, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of the Whole House be discharged from the further consideration of report No. 163 from the Court of Claims, and that the papers in the case be referred to the Committee on the Post Office and Post Roads.

Mr. CLARK, of Missouri. What claim is that?

Mr. LEACH, of Michigan. It is an adverse claim, on the petition of Arthur Edwards and others.

RAILROAD AND TELEGRAPH TO THE PACIFIC.

Mr. BOTELER, by unanimous consent, introduced a bill to provide for the construction of a railroad and telegraph communication from a point on the Mississippi river, south of latitude 35° to the Pacific railroad; which was read a first and second time, and referred to the select committee on the Pacific railroad.

BRIDGE OVER THE POTOMAC.

Mr. BOTELER also, by unanimous consent, introduced a bill for the construction of a bridge over the Potomac river at Georgetown; which was read a first and second time, and referred to the Committee for the District of Columbia.

CLERK TO COMMITTEE.

Mr. CARTER. I ask the unanimous consent of the House to introduce a resolution for the appointment of a clerk to the Committee for the District of Columbia.

The Clerk read the resolution, as follows:

Resolved, That the Committee for the District of Columbia be authorized to employ a clerk, at the usual compensation of four dollars per day while in the actual employment of said committee.

Mr. BURNETT. I object to that.

STATISTICS OF MANUFACTURES.

Mr. KINGSIGHT asked unanimous consent to introduce the following resolution:

Resolved, That there be printed, under the supervision of the comptroller thereof, for the use of the House of Representatives, one copy of the statistics of manufactures communicated by the President of the United States to the two Houses of the Congress of 1859, 1860.

Messrs. COBB, CRAIG, of North Carolina, and others, objected.

NEW YORK CONTESTED ELECTION.

Mr. DAWES. I rise to a question of privilege. I call the attention of the House to the report by the Committee of Elections in the case of the New York contested election.

The SPEAKER. The business before the House is the consideration of the following resolution, reported by the Committee of Elections:

Resolved, That A. J. Williamson, contravening the right of H. D. R. Rice, to be elected to the House of Representatives from the third district of the State of New York, be, and he is hereby, required to serve upon the said Rickles, within ten days after the date of this resolution, a particular statement of the grounds of said cases; and that the said Rickles be, and he is hereby, required to serve upon the said Williamson, within ten days after the date of this resolution, a particular answer thereto; and that both parties be allowed sixty days after the date of the said answer to take testimony in support of their several allegations and denials; before some justice of the supreme court of the State of New York, residing in the city of New York, but in all other respects in the manner prescribed in the act of February 10, 1840;

on which the gentleman from New York [Mr. JOHN COCHRANE] is entitled to the floor.

SEIZURE OF MEXICAN VESSELS AT YERA CRUZ.

Mr. STANTON. I ask the unanimous consent of the House to offer the following resolution of inquiry:

Resolved, That the President of the United States be requested to inform the Committee of the House of the names of two Mexican vessels, in or near the harbor of Vera Cruz, by the United States ship Sturgeon, was in pursuance of orders from the President or Secretary of the Navy or of the acts of the officer in command or the Marquis has been, or will be, approved by the President. Also, that the President, if not incompatible with the public interest, communicate in the House copies of the orders and instructions under which our vessels in the Gulf of Mexico are now acting.

Mr. CRAWFORD. I object, and call for the regular order of business.

PUBLIC LANDS FOR RAILROAD PURPOSES.

Mr. LANDRUM. I ask the unanimous consent of the House to introduce a bill making a grant of lands to the State of Louisiana, to aid in the construction of a railroad in said State.

Mr. CRAWFORD. I object, and insist on the regular order of business.

IMPROVING THE NAVIGATION OF THE POTOMAC.

Mr. KILGORE. I ask the unanimous consent of the House to report back a resolution which was referred to the Committee for the District of Columbia, on the subject of improving the navigation of the Potomac; and to ask that that committee be discharged from its further consideration, and that the same be referred to the Committee on Commerce.

There being no objection, it was so ordered.

invoked in aid of the law by virtue of which we are acting.

In the first place, let me inquire very briefly into the force and true meaning of the terms "member of Congress" and "Representative in Congress," for evidently upon a supposed difference in meaning of these expressions has originated the uncertainty in this case, and upon which supposed difference has been constructed the argument which occasions our difficulty.

I understand that virtually there is a difference between them; that they are convertible terms, and of equal constitutional effect; terms employed in common parlance, recognized habitually by the body of the people, with but one meaning, and obligatory in their use upon every returning officer throughout the United States, wherever and whenever they may occur. What, sir, is the significance of the common parlance? Why, that the sitting member is a member of Congress. I grant you that in strict verbal criticism the expression "member of Congress" is obnoxious to the charge of uncertainty; but it has as accepted, common, intelligible, and certain meaning, intelligibly employed by all.

But, sir, I maintain that if my colleague [Mr. CONKLIN] was correct in the position which he has recently assumed, that it does not follow that because a person is a member of Congress he must therefore necessarily be a Representative in Congress; yet, if there are certain facts and circumstances, as in this instance, connected with that designation, I contend that it is equivalent to the term "Representative in Congress."

Now, sir, the Constitution, at article one, section one, refers to "members of the House of Representatives;" at section five of the same article, in respect to their qualifications, their punishment, and their expulsion, the Constitution again refers to "members of the House of Representatives." But, sir, let me invite another consideration. The Constitution also directs that "members of Congress" shall be elected by the people of the States; but it also directs that Senators shall be elected by the legislatures of the several States. That, sir, if we shall have presented by any official document, as we have here presented, the fact that a gentleman was elected in one of the congressional districts of any State a member of Congress, the term "member of Congress" for such case would be a judicial act, by the House. That, sir, that "Representative in Congress," for, sir, it would be impossible, under the circumstances, that the gentleman could have been elected a Senator, for he would have been elected by the people in his congressional district; and I elected a member of Congress, evidently he could have been elected to nothing but a seat upon the floor of the House of Representatives. This is no technical argument; it is based upon a common-sense view of the case; and if I am able at this time to show that a member of Congress, within the common-sense construction of the Constitution, a Representative in Congress, then is the whole argument disposed of.

Mr. Speaker, I now come to this branch of the question, namely: what was it that the board of State canvassers of the State of New York declared? As a preliminary to this consideration, I should refer to the action of the House upon the matter in hand. There were six members elected from the city and county of New York, and each one of those members held and holds his seat by the same title which appertains to the sitting member from the third congressional district. Upon the same title these members were admitted to their seats without protest and objection. The House is, by the Constitution, the judge of the qualification and title of its members to their seats. It follows, then, that the evidence which was presented here in the case of Daniel E. Sickles was sufficient, in the judgment of the House, to entitle these gentlemen to seats upon this floor. If that may be assumed, and I contend that it is inferable from the action of the House upon the occasion of its organization, then the contention is disposed of from setting up that there was not an election, or that there was no legal determination to that effect. I grant you that if a protest had been presented, the question might have been far otherwise; for the sitting member would then have been construed as occupying his seat under the conditional protest interposed by the contestant.

With this preliminary observation, I proceed

to argue, with great brevity, the character and nature of the paper or instrument which has been presented here, and upon which the sitting member claims title to his seat. It will be recollected by the House that the terms of the law of 1851 require that any person who intends to contest any election of a member to this House shall, within thirty days after the result of such election shall have been determined by the officer, or board of officers, authorized by law, give notice, day by day, and I think, then, in daily writing, a paper which was signed by the board of canvassers of the State of New York is a legal, full, and efficacious determination of the result of the election in the third congressional district of New York; and I think, sir, that it will require no great stretch of legal force or reasoning to arrive at a corresponding conclusion, and to fortify it.

It will be recollected that the statutes of the State of New York require that the board of canvassers shall make a statement of the votes cast at any election for various offices; and that upon that statement they shall determine and declare what persons have been, by the greatest number of votes, duly elected to such offices, or either of them. Here are three distinct acts which are made imperative upon the board of State canvassers: first, a statement of the votes cast; second, a determination of the result of the election; and third, a declaration of the names of those persons who have been elected. I call upon the House to observe this, that the language of the Federal law of 1851 has specific reference alone to the determination of the judicial action, of the board, as to either their ministerial or mechanical action.

Will any one here rise in his place and maintain or argue that the counting of a number of votes is a judicial act? Certainly not; and the summary of the votes constitutes the statement, which is ministerial. Will any one here rise and declare here that the declaration of the name of the person who is elected is a judicial act? Not one; the man who would do so might as well point to yonder clock and declare that the hands of the clock are the motors of the action without, as here, the determination of the result of the election, the judgment of results is the source whence comes the declaration, and is the alone judicial power vested in the hands of the board of State canvassers. This they performed. They determined what the law required. I challenge any gentleman upon the opposite benches to gainsay that this board of canvassers did not perform their judicial functions and did not determine the result of the election.

Let us, sir, see what it is to which they certify. They certify, from the returns made to them, which I saw many votes were cast in such district, so many in another, and so on, through the whole six districts of the city and county of New York; and then, having made this statement, they determine in these words, namely:

We further certify, that, in said third congressional district, Daniel E. Sickles received the greatest number of votes for the said designation of member of Congress."

What is that, if it be not a determination? They have already calculated, already presented, already certified, a statement of the whole named and how many each one received. Having done that, they then determine that Mr. Sickles received the greatest number of votes in his district. Let me alight, at this point, to an authority which I take to be conclusive upon this line of the argument. It is so perfectly and so much borne out by the fact, as I am assured I may be pardoned for reading it. It is as follows:

"As it is the duty of returning officers, in the first instance, to decide upon the result of an election, and, in their judgment, an election has taken place, to make a return of the person elected, where they undertake to return themselves from this position, they make a conditional return, not by stating certain facts, but by raising the question of their legal operation in the judgment of the body to which the return is made. If the return is received as an unconditional one,"—*Chauncy's Law and Practice of Parliamentary Disabilities*, s. 174, and cases and authorities cited.

Now let me suppose here, that having determined what were the facts within the purview and force of this authority, the canvassers determined to submit these facts to the judgment of the

House, and upon its strength it is clear that it is none the less a determination, and must be so considered in connection with the administration of all parliamentary law.

But I have done yet with this portion of the case. What might has the board of canvassers accomplished? Thus far, sir, we learn of their affirmative action. The statute of the State of New York requires that the board shall determine and declare. Does the statute then require that they shall do nothing but that which is to be declared; and yet that board proceeds to do something, in the negation of that other something which they undertake to prove not to exist, namely:

"That inasmuch as said officer was not legally designated in the returns of the county canvassers of the said county of New York to board, we cannot enter in Congress, in the said respective districts."

Where, sir, did they procure the power to certify that no one was elected? See in the statute the obligation imposed upon them to declare when a person is elected; but nowhere the power to certify that no one was elected. They having then, sir, performed their duty, and determined that somebody was elected, the man—if there was not one Solomon among them, these gentlemen disclose that there was at least one solemn goose—having determined in their official roles and performed the full functions of their office, proceed to declare—not it is presumed being thereunto controlled by either the people or the law, nor yet by a regard for the general good—which has not been done. Sir, that declaration is *coram non judice*, and is as worthless as so much blank paper. And I defy gentlemen from whatever part of the country they may proceed, with whatever official robes they may be invested, to maintain and prove that to be official which they are not authorized to declare by the law under which they act.

But, sir, let me come to another consideration regarding this statement of the board further:—We further certify that a certificate of the clerk has been presented to us, stating that all the returns returned to and filed in his office, as used at said election, for the aforementioned offices, were for persons in Congress, and not for members of Congress."

Sir, is the House not aware of the fact, that the returns, having been acted upon by the board of county canvassers, must necessarily be transmitted to the committee on the part of the House also aware, that that county clerk, with his archives before him, certified it to be correct in the board of county canvassers when they declared that the votes were cast for "members of Congress 1851." And of the board of State canvassers were thus officially enlightened, I will on this wise answer gentlemen upon the other side of the House, when unfavorably commenting upon this difference in the sources whence flowed information to the board of State canvassers, that the authority of the official record, filed in the county clerk's office in the county and city of New York, was equal authority with the returns of the supervisors of the city of New York, or of the board of county canvassers.

But I am not obliged, by stress of argument, to rely entirely upon either extrinsic aids. I recur to the position which I took in the first place in reference to the determination of the result of the election, namely: that the result of the election having been proclaimed by the proper authority when returning that so many votes, and of those that a majority had been cast for Daniel E. Sickles, the sitting member from the third congressional district of New York, was in legal effect a determination of the result of the election. What more? Was it necessary for them in addition to declare him elected? That would not have been a determination within the purview of the law of 1851. It would have been merely a sequence of the determination; and without that declaration the determination would have controlled the title to the seat. Then, sir, the conclusion is unavoidable, that this was a determination of the number of votes cast for member of Congress. And if it appears here upon the face of the determination that a majority of those votes were cast in this instance for the sitting member, it must follow, as well upon the statement of the returns, as upon a determination of the result of the determination referred to by the Federal law was made at the time this paper was signed—the 21st of December, 1858.

Then, sir, I think it may be safely concluded that this was a determination of the result of the election; that it has no been considered by the House; that upon that point both parties here are estopped by the decision of the House, and that the law under which we are acting is based upon such considerations, and was enacted for such reasons, as to preclude the propriety or the legislative possibility of opening a case which is broadly without any basis of law or equity.

But, sir, there is no other consideration which actuates me now, and which I will present before I resume my seat. It is this: I do not see how the contestant avoids the unpleasant dilemma to which these circumstances and facts reduce him. If there was no legal determination, then he has no title to his seat any more than the sitting member. But the sitting member enjoys the advantage that while neither, according to this supposition, is entitled to a seat, yet the House has determined under the circumstances, *ex gratia*, for many other reasons, to allow the sitting member to take and maintain a position here; so that if the contestant was thus hopelessly removed beyond the possibility of relief by the action of the House, and if it be conceded that he was not, by the determination of the board of State canvassers, entitled to a seat, I will ask you, in the name of heaven, to claim the relief which has been extended exclusively to the sitting member; or how, in the other, he can claim an advantage from an election which he himself is, from the necessities of his argument, the duty to concede to the sitting member. He has been culpably negligent, and is not entitled to the benefit of the Federal law. If he was not elected, the action of the House supersedes him, and my friend upon my right [Mr. Sickles] is entitled to his place.

Now I cannot see how the rights of this case can be tortured into any other channel than those legally applicable to the circumstances thereof; and I think I have conclusively shown—and I shall so continue to think, until the legal argument is overthrown—that here was the legal determination contemplated by the Federal law which has been cited, and which determination having been made in December, 1858, that the contestant now, at this late day, should take nothing by his effort to unseat the sitting member from the third district of New York.

Mr. HUMPHREY. I should not occupy the time of this House in reference to this question, did I not suppose it related to interests and involved consequences beyond the personal rights of the sitting member from the third district, or the contestant who is now at issue before us. However worthy they themselves may be of our careful consideration, it has appeared to me during the whole of this discussion that it does involve principles of the greatest importance, and that we are now, at this time, about to establish a precedent, and about to give, in reference to this point, construction to the act of Congress, which will be of the highest importance hereafter, and which, therefore, we should take the utmost care to have correctly settled.

Sir, this discussion has taken a somewhat wide range; and it may be useful to call the attention of the House back to the precise points that are here in controversy. The question here, Mr. Speaker, is not, in the first instance, as to the right of the member who claims his seat or the rights of the other members from the city of New York to their seats here. It is in no respect a question for us to decide now, whether, on these certificates that were here presented, there is sufficient to authorize the House to give the seats to the Representatives from the city of New York. All that may be with regard to this question, it would not touch the points of this discussion. Neither, sir, is it a question whether the act of the board of State canvassers of the State of New York was or was not a wise, discreet, and correct act in itself; and very much of the discussion that has taken place in this matter, and which have been, it seems to me, avoided if this distinction had been kept in mind.

The question is not what the State canvassers should have done; but it is what the State canvassers did, when they were asked to do so, and that they have declined and refused to do, and on this question it is that we are to decide in this case.

It is quite unnecessary, and it would be quite superfluous in me to undertake to defend the con-

duct of the State canvassers—all of whom, I believe, are of the true Democratic faith—none of whom, I suppose, can be charged with having been actuated by any prejudice in this case against the members from the city of New York—all of which members, with one exception, are of their own Democratic family. Each one of these State canvassers was born in the purple; for I believe that the Democracy claim to be sovereigns in this country, and that all other parties are subjects. Each one of these canvassers was a man of the true faith; and I do not feel called upon to defend their action in this case. But, Mr. Speaker, is it so clear that their action is correctly denigrated here by the minority of the committee, as a "paltry palinode"? Is it so clear that the State canvassers had the right to do, or could have done, more than they have done in this case? Why, it seems to me the mere reading of the Constitution goes very far to defend their action in this respect. The Constitution of the United States provides, in the first place, that Congress shall consist of Senators and Representatives—two distinct classes—both of which, I think it must be admitted, are members of Congress. After declaring that Congress shall consist of a Senate and House of Representatives, the Constitution then proceeds to the second section, and there, in the first paragraph of language which is peculiar to that instrument, that no person shall be a Representative—not a "member," but a Representative—who shall have attained a certain age; and again, that no person shall be a Senator who shall not have attained a certain other age. It then proceeds to declare, in the fourth section, that the time, place, and manner of holding elections for "Senators and Representatives"—both of which are members of Congress—shall be prescribed, in each State, by the Legislature thereof. Then, in the sixth section, it provides that "Senators and Representatives" shall receive a compensation for their services; and again, in the same section, it speaks of them as "Senators and Representatives"—never, in any case, using the loose and indefinite term of "members of Congress," which term applies as well to Senators as to Representatives in Congress.

Now, sir, let us look for an instant at the facts. What did the board of State canvassers undertake to do? What was it their duty to do? The Constitution determines that the duty of the State canvassers is to determine the result of the election, and the statute declares that the canvassers shall make an statement of votes given for Senator and other officers, and another statement of votes given for Representatives in Congress—using the specific language of the Constitution of "Representatives in Congress," and not, of course, the expression "member of Congress," which is a generic term. On such a statement they shall proceed to do what? To adjudge? To adjudicate, as my honorable colleague [Mr. JoHN COCHRANE] says? Not at all. They shall proceed to declare and declare. They shall count the votes; and, as the result of their counting, they shall declare what persons have been, by the great number of votes, duly elected to such office. To what office? To the office of "Representative in Congress," and not to the office of "member of Congress."

What further shall they do? They shall then make and subscribe, on a proper statement, a certificate of such determination, and shall deliver the same to the Secretary of State. Now was the certificate of such determination ever delivered by them to the Secretary of State? The certificate delivered by them to the Secretary of State (for I shall immediately refer to this other statement) was the certificate that all the others of the thirty-three Representatives from the State of New York were elected, and accepted by the members from the city of New York. Then the statute proceeds to direct that "the Secretary of State shall, without delay, transmit a copy, under seal of his office, of such certified determination to every person therein declared to be elected, and to the Governor." Is it so clear that the certified copy of determination ever been transmitted by the Secretary of State to the sitting member in this contest, or to any of the sitting members from the city of New York? Never! never! There is no proof of it. There is no pretense of it. It is as clear as the fact does not exist. What more?

He shall prepare a general certificate under the seal of this State, and attested by him as Secretary thereof,

addressed to the House of Representatives of the United States, in that Congress for which any persons shall have been elected, of the due election of the persons so chosen at each election as Representatives of this State in Congress; and shall transmit the same to the said House of Representatives at their first meeting."

Now, sir, in this "such certificate," as it is called in this statute, which was prepared by the Secretary of State, the name of the sitting member in this case was left out.

Now, what does the Federal law provide? It provides, with very singular coincidence of language—which was alluded to by my honorable colleague [Mr. CONKLIN] who spoke on the same side yesterday—that the party "shall, within thirty days after the result of such election shall have been determined by the officers or board of State canvassers authorized by any law to determine the same, give notice," and so forth.

Now, the honorable gentleman who has just taken his seat says that the decision of the county canvassers is sufficient; that that is a sufficient determination of the result of the election, even if the State canvassers should not act at all, if I understood his argument aright. Now, that determination was made by the county canvassers, I think my colleague says, on the 21st day of November, 1858. I would ask my colleague, then, if the thirty days began to run on that day—

Mr. JOHN COCHRANE. My friend and colleague evidently misunderstood my proposition. I intended to say that the determination by the county canvassers was sufficient to determine the sitting member, and received a majority of the votes for member of Congress from the third district, was a judicial and legal determination of the result of the election in that district.

Mr. HUMPHREY. Then I beg my colleague to have taken more pains to state the portion of his argument, he went even further than that, and, in order to make the case stronger, stated—I probably misapprehended him—that even the decision of the county canvassers was sufficient, and would have been even if the State canvassers had been given a declaration of duty.

Mr. JOHN COCHRANE. I did not intend to be so understood.

Mr. HUMPHREY. Then, of course, my remarks are not appropriate on that point.

Now, sir, let us look for an instant at the action of the State canvassers. The returns came before them. They were called upon to perform their duty, and determine who were elected, according to this statute, as "Representatives in Congress." They found a large proportion of the returns from the counties of the State of New York declare the number of votes given for "Representative in Congress;" but they found that the votes from certain counties in the country, Tioga, Herkimer, and Cortland, I believe, and from all of the districts in the city of New York, were returns as having been given for "member of Congress." What, then, should they do? Were they called upon to say, the words "member of Congress" mean the same as "Representative in Congress"? Suppose the votes had been returned for "deputy in Congress," or "delegate to Congress," would the State canvassers have then declared the State canvassers to have declared that that meant the same as "Representative in Congress," though it would certainly have been more proper than the use of the general, generic term of "member of Congress," as synonymous with "Representative in the lower House of Congress?"

When once these canvassers, these counters of the votes, began to wander from the words of the statute and the Federal Constitution into the wide field of construction, where should they stop? They should have stopped there. But they did not; we are to make a return of "Representatives in Congress;" we cannot make such a return; we find no such votes; why shall we do? We will return the facts; we will not make this determination, which we cannot make according to the statute. It is as clear as the fact does not exist, with minute particularity, to the House of Representatives, who have the right, who have the jurisdiction, who have the constitutional power, to determine the question, and who, doubtless, will exercise it. It is as clear as the fact does not exist, as thought, as we thought, that these votes could be a question as to the propriety of the House of Representatives admitting these gentlemen upon the floor.

THE CONGRESSIONAL GLOBE.

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There is no question that the State canvassers, all sensible men—one, the Attorney General, an eminent lawyer—must have taken that view of it; but they also took the view that they had no jurisdiction in the matter. Now, because the case was perfectly plain, had they a right, therefore, to assume jurisdiction, whereby the statute could give them; or because the case was so plain to this House that we decided upon it, even without a question, in favor to the members from the city of New York, are we thereby ousted of our jurisdiction by the very plainness of the case itself? Because a case goes by default, are we, therefore, deprived of the right to determine and adjudge the case in this House? I think not, according to any principle of law or parliamentary practice.

Now, the board of State canvassers not only do not determine, but they explicitly exclude the conclusion, from this statement which they send to this House, that they mean it to be a determination within the purview of the law. They are careful to use those words of exclusion, by saying that they do not undertake to determine, but place the facts before the House, in order that they may determine. Well, then, how do we stand? This House meets. That statement is sent to the Clerk. The Clerk undertakes—I will not say now whether with propriety or not—to enter the names of these members on the roll of the House, and to call their names upon the first call to order; and they are permitted, no one contradicting, to vote during the whole of the contest for the Speakership, and when that contest is at last happily closed, and the Speaker proceeds to administer the oath, no question is raised to this matter, and all the members from the city of New York appear at the desk and take the oath.

Sir, it has been attempted to be argued from this, that there was an acquiescence. How an acquiescence? By whom was this acquiescence? Certainly not by the members, inasmuch as they acquiesce, or express any want of acquiescence on that occasion? What right had the contestant to control the action of the Clerk? How could he have controlled it, if he had attempted to do so? Could he, the contestant, have approached the Speaker, and said to him, "Sir, I object to that gentleman taking the oath?" Suppose he had objected; to what end, to what effect would it have been? The question was not whether the sitting member had, upon the facts shown by this certificate, a right to take the oath and his seat. No one was intended to raise a question on that point. No one denied that there was sufficient in this certificate—I do not call it a "determination," but in this statement of facts—to authorize these persons to take their seats, if there was no objection to the validity of the election, arising from extraneous circumstances.

But what would have been the effect then produced? Why, sir, it would simply have been to have called the attention of the House to the statement, and if the House would then have entered into an argument in which my honored friend from North Carolina, [Mr. GILMER], who has signed the minority report in this case, would have presented precisely the very same eulent argument which he did yesterday, for the admission of the sitting member, and the fullness of the House, and there would have been cited, with very great propriety, this quotation which has been made from Cushing's Law and Practice of Parliamentary Assemblies, which has been so much relied upon in this discussion, and which would then have had a preponderance which I have not seen in this argument. Then, when the question arose—if it ever did arise—whether the sitting member in this case, as well as the other members from the city of New York, should have the right to seats in this House, and to participate in its proceedings, then, as a conclusion upon the subject, we are instructed from Cushing's Law and Practice of Parliamentary Assemblies would have been read, that—

"It is the settled law of all parliamentary bodies, (see Cushing's Law and Practice, §. 174,) that whenever returning officers undertake to relieve themselves of responsibility by making a conditional return—that is, by stating facts, and referring the question of their legal operations to

the judgment of the body—the return will be received, as an unconditional one."

This House would have received the return as an unconditional one; and upon this statement the member from the third district and his colleagues from the city of New York, there being no extraneous charges of fraud, would have been admitted to the floor of the House. And permit me to say that it seems to me it would have been a little more fair, if, when this authority was offered, it had been quoted, with the comma after the word "one," as it is found in the original, and giving the remainder of the sentence instead of inserting a period there. It would not then have had the same significance in its application to this case, which seems now to be claimed for it.

The entire sentence, as given by Cushing, is this:

"As it is the duty of returning officers, in the first instance, to decide upon the result of an election, and if, in their judgment, an election has taken place, to make a return of the result, they are authorized, where the result is not clear, to refer the question to the judgment of the body to which they are returning the result, by making a conditional return—that is, by stating certain facts, and referring the question of their legal operations to the judgment of the body to which the return is made—the return will be received, as an unconditional one; and the full effect, if any, of the special statement of facts, will be to give rise to an investigation of the merits of the election."

Now, sir, does it make any difference that no protest was made against the sitting member taking his oath, when every lawyer who has examined the question knows, when every parliamentarian knows, that the House, if the protest had been made, would unanimously have authorized him to take the oath? Take the strongest case possible, and suppose the case could be put in this constant had appeared at the bar of the House, and when the sitting member came forward to place his hand upon the holy Evangelist, had said: "Mr. Speaker, I protest;" and suppose that then the question had arisen, and the House, by a vote of a majority, had decided that the claimant had the right to take his oath; I say, suppose the House had so decided upon solemn argument—and that is the strongest manner in which the case can be presented to the House, and the sitting member to appear at the bar of the House, and say: "Now, for the first time, this member has been declared a Representative in Congress; now, for the first time, has this determination taken place; now, for the first time, am I in a position to ask for permission to take testimony?"

The question, Mr. Speaker, divides itself into two forms. First, under the circumstances of the case, could this contestant have given the notice required by the Federal statute of 1851, so as to have enabled him to take his testimony? Could he have appeared before a judge, and asked that judge have taken jurisdiction? Could witnesses have been subpoenaed and compelled to come? Could they have been visited with the pains and penalties of perjuries, if they had committed the crime of testifying falsely? I think not. And if the notice had been given, could the member claiming to be returned have been compelled to file his answer and proceed to proof? I think not, unless there had been some determination of the election as required by the statute. But it is not necessary to place this case on this extreme ground. It may be rested on other positions. I have not heard it declared, though I believe my colleague who has just taken his seat [Mr. JOHN COCHRANE] did seem to imply such a conclusion—I say I have not yet heard it declared by any lawyer in this body, since the passage of 1851, that the House, and lately, upon this House, that it abrogates the constitutional provision that every House of Representatives has the right to judge of the election, and to determine upon the returns and qualifications, of its own members. I believe that will not be done. My honorable colleague [Mr. COCHRANE] is far too good a lawyer to lay down that proposition. It is a statute, undoubtedly, of very great propriety; it is a statute to which the House will ordinarily adhere; but it is not absolutely binding upon this House as a rule of action. They can depart from it when-

ever and under what circumstances they please. If so, then if we cannot settle in our own minds positively the question, whether this contestant could properly have given his notice and taken his testimony, it is for us next to inquire whether there are such circumstances in this case as will properly excuse him in the omission, and whether we should permit him to take testimony under a proper commission. Are there circumstances enough here, even if he could have acted earlier, to authorize us to excuse him for not having done so, in no doubtful a case as this; or is he to be shut out from the opportunity of going into the contest?

But it has been said that there are laches upon the part of this party. Now, sir, one of the main reasons of my rising to address the House, was, that I might state to the House upon this subject that it is within my personal knowledge that this contesting member was here, I think, on the second day of the session—certainly within the first week of the session—under the expectation that a Speaker would be elected, and desiring to bring this matter to the attention of the House at the earliest practicable moment. And still further, I will state that he was desirous that a protest should be made at the bar of the House against the sitting member taking his oath. But he was dissuaded from that, and dissuaded, as I thought, wisely. I think now, upon the contest ground that such a protest was idle, inasmuch as it was a protest against an act which, upon inquiry, the House itself would have to decide unanimously in favor of the sitting member, and upon the face of this informal statement of facts, I did not deem it wise, then, and when, for this very reason, the whole case is uncontrolled and unaffected by the act of 1851.

Mr. Speaker, gentlemen upon this floor have argued the question as if the taking of a seat upon this floor was an admission of his right, when the whole question is outside of that; when, in fact, the question is whether the House will determine it, then, and when, for this very reason, the whole case is uncontrolled and unaffected by the act of 1851.

Mr. Speaker, something has been said of the injustice of this case. Let me say a word on that subject, and I will sit down. My honorable colleague and friend, who has just taken his seat, dwelt with his accustomed force and pathos upon the injustice and inconvenience of the case made by the contestant in its bearing upon the sitting member. Sir, as we are not all inclined to defend ourselves against charges which may have been made against us, and to be subjected to some inconvenience to vindicate our reputations and our character? What inconvenience is this sitting member now put to, upon the granting of this commission? Why, sir, the certificate was issued upon the 28th day of December, 1858. The gentleman now claiming his place here as a member was then a member of the last Congress. If the thirty days' notice had been given then, he would have been obliged to leave it, to contest this question among his constituents in the city of New York. Is it a greater hardship for him to have his seat now than it would have been then? Will the public business suffer more now than it would then for the want of the wisdom and talents of the sitting member? No, sir. If the question of injustice and inconvenience were a proper one to be mooted here, it cannot have the power and force which my honorable colleague has given it. The hardship, if anywhere, is upon the contestant.

Why? For want of a proper opportunity for these questions were fresh, when the evidence was easy of procurement, he is now obliged at this late day, taking the affirmative of the issue, having staked his reputation here upon sustaining charges which, if he fails, will recoil upon him with terrible force; he is now obliged at this late day, with this affirmative issue, with the burden of proof upon him, to take his testimony in the city of New York. Sir, the hardship, if any, and the inconvenience, if any, rest upon the gentleman who is contesting this seat, and not the sitting member.

default, and that he shall give a notice of ten days, and that in twenty days he shall reply to it; and that then both parties shall have sixty days to take testimony. How is he to take testimony? Under the act of 1851. What I desire some gentleman upon that committee to inform this House—this—and I hope I may have for a moment the attention of the committee, while I call their notice to this inquiry—that if the contestants within the act of 1851, so that he may now take testimony under it and according to its provisions, then is not hopelessly beyond the relief of this House by his omission to give the notice required by that law? Then, if you assume that the contestant is not within the operation of the act of 1851, and upon that assumption excuse him and say that he may now come in and contest, how do you benefit him by allowing him to take testimony under a law which you say does not apply to his case? I want some member of the committee to answer that question to the House. Either he is or is not within the act of 1851. The committee's own recommendation is vital to his case; because, if he is within the act of 1851, then everybody agrees that he is not entitled to be heard; for he took no steps to take testimony, or even to give notice. If he is not within the act of 1851, as you maintain in order to entitle him to the relief he now seeks, then how can you, by any resolution of the House, apply a law to his case, to which case that he is not entitled to be heard, is not applicable? Sir, I think the committee have, by their action, involved themselves in a dilemma from which there is no possible mode of extrication; at least, none occurs to my observation.

I wish to invite the attention of the House to another aspect of this case. It is claimed on the part of the contestant, it was argued very earnestly by the gentleman from Pennsylvania, [Mr. CAMPBELL,] and by my two colleagues from New York, [Messrs. MARSTON and COOPER,] and also by the gentleman from Massachusetts, [Mr. DAWES,] who made the report, that Mr. Williamson, the contestant, is entitled to the relief which he seeks. I hold in my hand, sir, an argument in reply to the position taken by those gentlemen in this debate, which I think you would well regard as satisfactory, and which I am sure these gentlemen will admit to be conclusive; at least I am sure they will agree with me, that I am now citing a most respectable authority. I answer to the argument of those gentlemen—that this application came more than six months before the election was held, more than eleven months after the time for taking testimony under the law had expired, and after one half of the time of the service of the Congress had elapsed, the party never having previously examined any witnesses or taken any testimony in his own behalf, or having given any notice of his intention, or wish to do so.

Those, I think, are very conclusive reasons why this application should not be granted.

Mr. JOHN COCHRAN, of Illinois, my colleagues permit me to ask from what document he is reading?

Mr. SICKLES. I am not surprised that my colleague wishes to know from what document I am reading. I will inform him that I am reading from a report of the Committee of Elections made up by Messrs. CAMPBELL, DAWES, MARSTON, STRATTON, and McKNIGHT, the same gentlemen who made the report in my case; and the only difference is that this is a report made upon an application by Mr. Cooper, of Michigan, whose case is contested by Mr. Howard, for inter, and not made by Mr. Williamson. That is the only difference between the two cases. This is a report made by those gentlemen three days after they make a report upon Mr. Williamson's application for leave to not attend everything, and to be let in to do anything; after racking their brains for reasons to let him in, this chance is commended to their own lips, for they are under the necessity of answering their own argument, in order to defeat the application of Mr. Williamson, a member from Michigan for leave to take further testimony.

What else do they say? Because I put it to the House with great candor, and with entire confidence, that I rely upon the argument presented by the majority of the Committee of Elections, in the case of Cooper and Howard, to meet, conclusively

and triumphantly, every reason they have given why my case should not be closed. I presume the committee will agree with me, that I am quoting the most respectable authority. What do they say? On page 2 they say:

"If either party in a case of contested election should neglect to give notice of his intention to be heard, he should give notice to the opposite party, and proceed in taking testimony, and preserve the same, and ask that it be received upon good reasons being shown, it doubtless would be allowed."

Now, sir, why did not Mr. Williamson proceed in the recess, and after the time expired, as the committee here say he might, to take his testimony, first giving me notice, and then coming here with his evidence and having shown due diligence, his application being to receive testimony properly taken, though not strictly according to the letter of the law, it would have been received? He does not say this; and therefore, adopting the language and the conclusions of the majority of the committee, he is hopelessly at fault.

Again, I allege that there has been laches in this case upon the part of the contestant; that he has postponed the time of taking testimony beyond a reasonable period, when the witnesses are not to be had. I maintain that here is such a flagrant default as should fairly exclude him from further hearing. What do the majority of the committee say upon that point? They say:

"To grant such postponement and protracted appointment would be to deprive the witnesses of the opportunity to have had equal and sufficient opportunity to present their full case, is practically to nullify the law."

And further:

"If such application rests upon no stronger reason than the laches of the party seeking the same, it should be promptly rejected."

Now if they had only applied that law, so well stated, to the case of Williamson, this House would not have been troubled with this discussion. They go on further and say:

"To do otherwise, is to disregard the rights of parties and constituents, to trifle with the privileges of the House, and to make the labors of your committee interminable and useless."

True, sir—and; only I ask leave of the committee to apply their good law to my case, and to give me the benefit of it.

Again, they speak:

"It is due to every interest concerned, that the rights in dispute should be settled, and parties held to a reasonable diligence."

A second Daniel come to judgment. Diligence! diligence! Why, sir, you would have supposed there was no such word in the vocabulary of those gentlemen when they were listening to the application of a man who had kept secret his purpose of contesting a seat for sixteen months, giving no notice, and taking no steps. Diligence, forthwith! Here then come more:

"It is due to every interest concerned, that the rights in dispute should be settled, and parties held to a reasonable diligence under the laws of the land, in the prosecution of their respective claims."

Mr. Williamson was diligent, I suppose, in coming here seven months after the election, though he had not previously taken a step towards contesting the seat.

I will refer to the facts in this Michigan case, simply for the purpose of showing the application of their laws to this controversy. It seems that that case all the witnesses were examined on the last six days of the sixty allowed by law—that is to say, the contestant, Mr. Howard, allowed fifty-four days of the time to elapse and never examined a witness. He reserved his batteries to the last six days, and then consumed the whole time in getting the witnesses examined. He reserved his best and strongest witnesses to the very last day; and Mr. Cooper's application was for leave to rebut the testimony of witnesses examined upon the last day of the sixty. And yet the committee may have regarded the committee accuse Mr. Cooper of want of diligence in not producing his witnesses for examination; and they commend the diligence of Williamson, who slept for sixteen months, and never summoned or named a witness. I hope that, however indifferent the committee may have regarded the multitude of precedents cited to them illustrating the views of former Houses of Representatives, they will not question the application of the law from their own lips. Why, sir, such inconsistency might, with propriety, excite surprise and amazement. True, sir, a committee always has, in the

examination of those cases, certain latitude and certain discretionation. But, sir, I must say that this discretion becomes expansive with the exigencies of Mr. Williamson, and contracts according to the convenience of Mr. Howard. It is like the famous test of Prince Archem, which could be spread out when necessary, so that the great majority could repose beneath its shade; but which could be folded up, when there was no longer a necessity for its use, and become a toy fit for the hand of the most delicate lady.

Lord Campbell, in his *Lives of the Chief Justices*, relates an incident in the career of Lord Mansfield, which is full of instruction to the majority of this committee. An English peer had been appointed a colonial Governor; at that period these Governors were chancellors and judges in the colonies; and the "bure" in question not having much experience of law, went to Mansfield and asked him to give him a few hints before he set out upon his mission, which would enable him to get along upon the bench. Mansfield very kindly complied, and among other advice, told him always to hear all that both sides had to say; to listen patiently, and to take time to deliberate, and then to decide in justice required; but never, never, by any chance, to write an opinion, or to give a reason for his decision.

I commend the advice of Mansfield to the majority of this Committee of Elections. Whatever hereafter you may have to decide, decide it; hear patiently whatever argument may be adduced before you; take time for deliberation, and render your decision; but after the two decisions which you have thus far communicated to the House—the only ones which I have seen—the advice of Lord Mansfield to the tyro, never write any more reasons for your judgment!

Here the hammer fell!

Mr. SMITH, of Virginia. I hope the gentleman from New York will be allowed to proceed with his remarks. I make that motion.

Mr. GROW. I must object to the violation of this hour rule.

Mr. DAWES. How long does the gentleman require to conclude?

Mr. SICKLES. I will take about twenty minutes.

Mr. SMITH, of Virginia. I should state that the other side, in concluding, can have more time than the hour, if they desire it. Certainly, in such a case as this, the gentleman ought not to be stunted in time.

Mr. SICKLES. I will not abuse the indulgence of the House. I am indebted very much to its courtesy.

Mr. DAWES. Do I understand the gentleman to be limited as to time?

Mr. SICKLES. I think I can conclude in fifteen or twenty minutes.

Mr. GROW. I shall object, unless the time be fixed.

Mr. SICKLES. Well, say twenty minutes.

Mr. GROW. This case has taken two days already, while it ought not to have taken as many hours.

The SPEAKER. Is there any objection to the gentleman being allowed twenty minutes longer?

Mr. SICKLES. I prefer thirty minutes.

Mr. GROW. I do not object to the gentleman having thirty minutes.

There being no objection, thirty minutes were allowed.

Mr. SICKLES. Now, sir, I invite the attention of the House to another feature in the resolution reported by a majority of the committee. They say, in the resolution, that the sitting member should be allowed twenty days to take issue upon the case as presented to him by the notice of the contestant. I invite the attention of the House to this feature of the resolution. The law of 1851, and all the precedents of the House, give thirty days to the sitting member to answer the case presented by the contestant. The papers show—the contestant shows—that he has been preparing his case for sixteen months. It appears he employed counsel immediately after the election. So the Committee of Elections say in its report on page 2. And, sir, the Committee of Elections came to this extraordinary conclusion, and embodied it in their resolution, to give to the contestant sixteen months to prepare his case, to make his allegations, and then they cut short the sitting member ten days of the time allowed by the law itself to

meet the case of the contestant. By law, the contestant is obliged to specify the grounds of contest within thirty days after the declaration of the result of the election; and thirty days then is sufficient time for the sitting member to respond.

But here is a case, *sui generis*, without a precedent. The contestant avers that he commenced to make preparations right after the election. The committee, in their report, say no one employed counsel, and he set to work to make inquiry. He collected his witnesses; and the committee indorse the proposition that he is entitled to all this time to make out his case, although he lulled me and all others into confidence and repose as to my conduct by allowing me to believe that no contest was to be made. And yet, having allowed him sixteen months extra time to prepare his case, they cut me short of ten days of the ordinary time allowed by law to every person to meet such a case. Is that justice? Why can you not mete out to me some share of that same liberality which induces you to give him sixteen months to get ready for the contest? What constrained the committee to diminish my time to meet the issues thus presented with an alacrity only equalled by their readiness to extend the time of the contest? Sir, I will be for the gentleman who is to follow, to explain these extraordinary inconsistencies. I will not allow myself even to suggest, by way of conjecture, a reason, lest I might do some injustice to some one or more members of the committee. But, sir, that explanation is needed; that the inconsistency is extraordinary and inexplicable on its face, I think is apparent.

Now, sir, as much of my argument I have addressed to the proposition that the contestant is not entitled to any relief at the hands of this House. I deny that there is any one here that he has proceeded in good faith, or that he has proceeded with due diligence, or that his case comes within the ordinary usage of the House.

I say further, that the resolution reported by the majority of the committee, upon their own authority, must be considered in several respects to be of the slightest value. According to the case cited on the other side, the contestant should be required to set forth the names of the voters whose votes he impeaches, and the resolution should be recommended to the Committee of Elections, with instructions to make the required inquiry. A case of probable cause can be presented for the consideration of this House; and this position, I repeat, is sustained by two authorities cited by the committee themselves—that is to say, in the brief of the contestant, which they append to their report.

Second, sir, the resolution does not require the contestant to give any notice of the taking of depositions. It is left to inference as to whether he is required to do that or not.

Third. It is indispensable in the taking of testimony in a case like this, to enlarge the class of judicial officers before whom depositions may be taken; for while the law of 1851 allows these depositions to be taken before quite a numerous class of judicial officers, the resolution before you concentrates power to take depositions in the hands of the least likely to have the leisure for extra-official duties, which is a novel and extraordinary proceeding.

Fourth. Under the circumstances of this case, the time—any days—allowed for taking testimony should be equally divided between the contestant and the sitting member; otherwise, looking to the long delay that has occurred and to the circumstances of the case already stated, there is no guarantee whatever that even at the expiration of the time now allowed the case could be in any better situation to be tried than it now is.

These four amendments I insist are indispensable; and further, unless the committee are prepared to show that this case does fall within the act of 1851, then I say the resolution must be rejected, leaving the proposition an impracticable thing. It proposes to allow a man to stand under a law to take testimony in his case, when you declare that that law could never be applied to his case. The committee ask the House, by their position, to apply a law of Congress to cases, *ex post facto*, which the law, they themselves argue, was never applicable.

Sir, let me ask gentlemen upon the opposite side, if it is possible now, after the passage of this resolution, for the contestant to proceed, under the act

of 1851, and take testimony, why could he not have proceeded under the act of 1851 and taken the same testimony before? Can the action of this House possibly make that law any more applicable now than it was originally? Not at all, sir. If the law of 1851 applies sufficiently to the case to enable the contestant to go on from this time forth and take testimony under it, then it applied equally as fully to the case before the sitting member a year ago, at the time when he should have done it, and take this testimony. It will be necessary for the committee to meet these dilemmas in which their own action has involved them, before it is possible for them, with any propriety, to give a vote of the House upon their own proposition.

In every view, therefore, I maintain that the contestant is beyond any hope of relief, any just or proper claim for relief, from this body. He could to deprive himself of the advantages of the act of 1851 by his own silence, because it was a matter of pure volition with him whether he would give notice of contest or not. There is a reason, I know, suggested why testimony was not taken; but none whatever which proves that the party could not, if he had seen fit to do so, have given the testimony. I do not rather to be told that, when he sought the advice of counsel upon this point, it was to ascertain if he could avoid giving the notice; not whether he could give it? Did he need a lawyer to tell him that he could address me as lawyer, friend, neighbor? Sir, I believe you are not fair elected; I believe that you are not disinterested voters; and I intend to contest your seat! Would any gentleman need a lawyer to tell him that he might do to an opponent between whom and himself the most kindly relations had always existed? Would he need a lawyer to advise him to do that? No, sir, his own manhood and sense of fair-play and candor would have told him at once that it was right and just.

What did he need a lawyer for? Was it not rather to advise him whether or not he could keep his case open to make his case, to stand up, at least ten months after the election, to give him time to perfect his case, and to allow his opponent to slumber upon his rights, which he supposed to be undisputed, until all recollection of the circumstances connected with the election had in a great measure been obliterated, and the chances of success may have gone away; and then, in an unguarded moment, to unmask his battery and pour out his deadly, destructive fire upon an unprepared opponent. I leave it to the good sense of the House to whether that was not the purpose for which he wanted the services of a contentious attorney. I maintain that there are very few lawyers in the city of New York—in my opinion there are none—who would give the advice alleged to have been given in this case. A prudent lawyer, a safe lawyer would have said, "Give your notice; it can do you no harm, and may protect you; it will make your application to take testimony, and take it if you can; no harm can result from it; if you will ever have a case you have got it now; if you find the courts unwilling to take testimony, the report of the committee in stating the law for specific provisions in your case; but be sure to bring yourself within the provisions of the law; be sure to give your notice." No lawyer, I venture to say, would have given any other advice than that. And I say more. I deny that any lawyer ever did advise the contestant that he ought not or could not proceed in the manner stated in the act of 1851.

I deny that any lawyer has said that he has given any such advice. Mr. Williamson himself has not alleged that he received any such advice; the committee in their statement of the case alleges no such thing, and the affidavit of the lawyer states no such thing. There has been an entire misapprehension upon that point by all who have supposed otherwise. I refer gentlemen to the memorial of Mr. Williamson, and I deny them that point. I say nothing that alleges that I was so advised. No such thing can you find; but mark what his cozened attorney does say, for he is the only witness produced by the contestant; and when a lawyer turns witness you are bound to suppose that he does so with full knowledge of the force of language and the meaning of terms. What does he say? I have no hesitation in criticizing with some degree of closeness the attorney in this case, for

whenever an attorney brings himself into court as the sole and only witness for his client's case, he places himself there as a target. What does he say?

"That in consequence of the omission of the board of State canvassers to determine and decide, if, any one, was elected to such office in the said district at the said election, the said board was required to give the said testimony and proceed to take the testimony in the manner prescribed by the act of 1851, and that he therefore had no way to compel the attendance of any witnesses, and that, consequently, unless it could be obtained from them voluntarily."

He swears simply to an allegation of fact, not that he advised Williamson that he ought not; but the attorney says that Williamson was unable to give notice, and that was the grounds of contest. Williamson does not allege that he ever received any such advice; the attorney does not allege that he ever gave any such advice; and yet the excuse is invented for him that he was so advised and so misled.

Mr. DAWES. I move the previous question, Mr. BRANCH. I will suggest to the gentleman that the House looks thin now; but if the previous question is seconded, it will not be in order to move that there be a call of the House. I prefer, therefore, that the gentleman should await himself until the House is called, and then call him under the rules of occupying an hour in closing the debate.

Mr. DAWES. I shall not occupy an hour. Mr. BRANCH. Then I will suggest that the previous question be now ordered; and that, by common consent, the gentleman should call him under the rules of occupying an hour in closing the debate.

Mr. DAWES. I have no objection to that. No objection being made.

The SPEAKER announced that he would consider that as the understanding upon the part of the House.

The previous question was then seconded, and the main question ordered to be put.

Mr. DAWES. I will not avail myself of the privilege granted me under the rules of occupying a question which all others are cut off from debating by the previous question, beyond what is absolutely necessary, and strictly in reply to that which has been offered, and to which there has been no opportunity for reply.

It will be remembered that in the main argument of the sitting member against the report of the majority of the committee, allude to his complaint as to the phraseology of the resolution which the committee have reported, and especially to the fact that he here complains that, while the law of 1851 gives to the contestant thirty days to file his notice of contest, and to the sitting member thirty days more to file his answer thereafter, we have deprived him in this respect of ten of the thirty days to which he would have been entitled under the law. I have only to say that, because the committee yielded thus far to his argument as to the length of time to which this resolution extended this case, yielded so far to his own argument as to cut down the contestant twenty days and himself ten days in merely filing the preliminary papers, and in making his answer, that I now expected to hear him then come into the House and make that yielding of ours to his argument a cause of complaint against the resolution.

One other objection to the resolution is raised by the sitting member, and that is this: while the committee have their report upon the fact, as they say, that this case is outside of the law of 1851, they yet require this testimony to be taken under, and by authority of, the law of 1851. I commend the sitting member to a more careful reading of the resolution itself, in which he will find no such reason. It is the law of 1851 that he complains of, which this testimony shall be taken, independent of the statute of 1851. It says that it shall be taken before a judge of the supreme court of the State of New York; but in all things else in the manner provided in the statute of 1851. I will not say that this is a quibble, because my friends of the other side have appropriated that word entirely to themselves. I only say, if the sitting member fails to understand, when it is proposed to take testimony in the manner written down in a particular place in a statute, that it does not mean to take testimony under, and by virtue of, the authority made in any such statute; if he fails to understand this of himself, I, of course, shall fail to make him understand it.

various districts did not cast ballots or votes illegally for him.

"That a large number of persons, not residents of said congressional district, but who resided within the same, and persons who temporarily resided in the same, and who were absent at various docks, and who were not legal voters in the said district, were employed and paid by the ticklers or his agents to cast ballots or votes on many occasions for the said Sickles in said district."

I call the attention of the House to these facts, which the contestant says he is prepared to prove. And further than that, the petitioner attaches to his petition an affidavit, marked "A," in which Mr. McIntire says that he has it from the lips of men who refuse to give affidavits voluntarily, that the sitting member paid them money to vote for him, and to procure others to vote for him, who were not entitled to vote. Mr. Sickles says there is no allegation of fraud. He is pleased to meet this affidavit in this wise:

"The affidavit of one McIntire, appended to the petition, ought to be disregarded."

"He says he was employed as attorney, but he does not describe himself as an attorney-at-law; nor does he state his residence or place of business."

"He does not state that, as counsel, he advised Williamson to any course of proceeding whatever."

This is the way that he meets the allegation of the petitioner, supported by the affidavit of a person who says that he has heard persons state that they were paid by the sitting member for voting illegally and obtaining illegal votes, and that he is ready to substantiate the statement with proof.

But the sitting member cites in his brief an authority which he deemed conclusive in this matter. He has set it out in full in his brief, and the majority of the committee have reiterated the same authority, cited in the same terms in the minority report, by taking the gentleman from New York [Mr. JOHN COCHRANE] referred, and read it as conclusive on us. Now, I ask the members of the House to turn to this authority as quoted in the brief of the sitting member, found on page 15 of the report, and which is copied verbatim into the minority report, and to look over it while I read the paragraph from the book from which it is taken. Mr. Cushing says:

"As it is the duty of returning officers, in the first instance, to decide upon the merits of the case, and in their judgment, an election has taken place, to make a return of the person elected, by whom they undertake to receive the votes from the electors, and to make a return of the return, that is, by stating certain facts, and relieving the question of their legal operation to the judgment of the body to which the returns are made, it will be necessary, as an unconditional one; and the only effect, if any, of the special statement of facts will be to give rise to an investigation of the merits of the election."

These last words were not included in the citation, as made by the sitting member in his brief; the majority of the committee fall into the same error in quoting the same citation, and so did the gentleman from New York this morning. Now, take this authority, and follow it. It provides that this special statement of facts shall have the effect of giving the House notice, and putting them upon their inquiry into the merits of the election. That, sir, is what the majority of the committee propose to do by this resolution—to inquire into the merits of an election. Now, sir, do not attempt to anybody any question of this question, I am exceedingly regret, however, that they stopped at the semicolon, and omitted to cite what followed the semicolon, and that the House might have the whole benefit of the citation, and of the authority of Mr. Cushing.

But, Mr. Speaker, I know the House is weary of this case. I simply want them to understand that the proposition of the majority of the committee is to provide, by the method prescribed in the resolution, for taking testimony before a judge of the supreme court of the State of New York, whether it be true, as this petitioner says, that the sitting member holds his seat by his own fraud. I want it to be understood that the sitting member himself is opposed to this proposition, because so long a time has elapsed. He says that, after such a lapse of time, it is impossible to do justice and equity to permit this inquiry to be made; that is to say, that the longer he can enjoy the fruits of his fraud, if fraud there be, the more unjust and inequitable it will be for us to disturb him by an investigation; the time can sanctify and sanction a fraudulent taking possession of a seat in this body, as a Representative of a constituency entitled to be represented here according to their own wish and voice. I say, Mr. Speaker, that the question is one of more than ordinary im-

portance. Has it come to this, that fraud, corruption, and bribery can be allowed to be charged against a member of this House as the means by which he obtained his seat as a member of the House, and yet it does not excite the indignation, nor even the concern of members, so that they do not even care to inquire into the truth of the allegation? And have we become so indifferent as to feel that it is the waste of time to go on and insist upon prompt and vigilant and all-searching investigation that shall ride over all form and all quibble and all pretense, that are not absolutely necessary for the protection of the rights of those who are thus accused, and reach the core of such a fraud?

It is the practice of the British Parliament, when such allegations are made in good faith against any member of Parliament, to suspend his functions as a member until they shall be investigated. Under the law of 1851 number of contest must be served within thirty days. Now, man who is enjoying the fruit of his own fraud may be able to conceal the evidence thereof until after the thirty days; and suppose after that time that evidence shall come to light: shall all parties be shut out from investigation of the question of the means by which the success of the man guilty of the fraud in keeping it from the knowledge of anybody for thirty days? According to the rule applied here by the sitting member, and according to the rule adopted in this case by the majority of the committee, you can cover up your fraud until the night of the frauds by which he holds his seat for only thirty days, he is forever afterwards safe in his seat. I do not believe that the House will apply any such rule upon any such charges.

"I have no feeling in this case myself; I desire that the report of the committee in this case should be adopted, unless the House believe that it is due to themselves and due to the country that it shall be known that they do care whether or not it is true that any member of this House holds his seat by vote of his own fraud. If the House do care to have the country understand that they regard the purity of the ballot-box enough to investigate the question whether it be tainted or not, then let the House, and not the committee, take care of its own reputation."

Mr. SPEAKER. I think I will meet with the concurrence of the House. The previous question has been sustained and the main question ordered, and I do not, of course, now propose to make any remarks. I move that the whole subject be laid upon the table, and now I would like to ask the gentleman from Massachusetts [Mr. DAWES] whether it is his desire to take a vote on this question this evening? It is now four o'clock.

Mr. DAWES. It has been my desire, for the last week, to have this case disposed of at the earliest possible moment.

Mr. BRANCH. The gentleman from Massachusetts will understand that we are obliged to have a call of the House before we can go to a vote. It is now four o'clock, and, as there will be a call of the House, I will be kept here for a very late hour of the evening. I would like to say that he allow the case to go over until to-morrow morning. The previous question has been sustained, and the main question ordered, and it will come up as the first business in order in the morning. If it meets with the concurrence of the gentlemen on the other side, I will move that the House do now adjourn.

Mr. DAWES. I hope that the motion to adjourn will be withdrawn. I gave notice yesterday, as I have given notice every day for the last week, that I would call this case on at a particular time. Yesterday I gave notice that I would call the previous question on it at two o'clock to-day. I have done so that everybody might be present if they saw fit. I trust that everybody is present, and prepared to vote. I do not know, however, whether I do not know whether or not they are on the one side or the other of this question is absent; but I do feel that it is the duty of every member of the House to attend upon its sessions, and to give his vote upon questions properly before it when they come up. I cannot consent to an adjournment.

Mr. BRANCH. The gentleman, then, objects to this matter going over till to-morrow?

Mr. DAWES. Yes, sir.

Mr. BRANCH. Then I withdraw my motion

that the House adjourn, and move that there be a call of the House.

Mr. BOCK. The motion to lay upon the table is a preliminary motion, and not a final one. Let us take the vote upon that, and if it is not carried, then some arrangement may be made.

Mr. BRANCH. My object is to adopt such a course as will meet with the concurrence of the House. If it is the wish of the House to go on and dispose of this question, then I am ready for it, and am willing to remain here. The question will come up regularly in order in the morning if we now adjourn, when the House is fresh, and all the members are in their places; and it does seem to me that we had better adjourn this evening, and postpone the whole subject until to-morrow.

Mr. CAMPBELL. This case was set down for yesterday; and it has run over into this day. The case of Cooper and Howard was fixed for to-day. If the House goes through with the pending case, it is in my intention to call up the case of Cooper and Howard. I trust that this pending case will be disposed of. Gentlemen are here on all sides, and ready to dispose of it.

Mr. BRANCH. It is true that this case was fixed for to-day. To-day, as that notice was given that the previous question would then be called; but the fact that the previous question was not called at two o'clock, at the time designated, may be the reason for the thinness of the House. I will not, however, consume the time of the House by calling up this case, and I will leave the House. I have already withdrawn the motion to adjourn.

Mr. STANTON. Will not the yeas and nays upon the motion to lay upon the table answer the purpose of a call of the House?

Mr. BRANCH. I make the motion that the whole subject be laid upon the table as a test question, and, of course, it will first be necessary to have a call of the House.

Mr. STANTON. If the motion to lay upon the table fails, that is not conclusive.

Mr. BRANCH. We do not wish it to fail; we mean to carry it and dispose of this matter, and make an end of this controversy, which, I believe, will meet with the sense of a majority of this House.

Mr. DAWES. I move that the House adjourn. The question was taken; and the motion was disagreed to.

The question then recurred on the motion that there be a call of the House; and it was agreed to. The Clerk proceeded to call the roll; and the following gentlemen were present: Mr. DAWES.

Members: Charles F. Adams, Adams, Aitken, Brown, Burlingame, Burrage, Case, House, Flint, Clarendon, Clark, C. Cochran, Corwin, Davidson, H. Winter Davis, John G. Davis, Dimmick, Jay, Hall, J. McIntire Davis, Holman, Howard, Irvine, Jackson, Keith, Knicker, Larnabee, Leske, Longacre, Gilbert B. Martin, McQueen, Latham, Morris, Morris, Pennington, Reynolds, Rogers, Russell, Spaulding, Stillworth, Stevens, Thacker, Thomas, Vance, Van Wyck, Wade, Webster, and Wilson.

Pending the above call,

Mr. BUFFINGTON stated that his colleague, Mr. ADAMS, was paired with Mr. McQUEEN; that his colleague, Mr. BURLINGAME, was paired with Mr. LARABEE; and that his colleague, Mr. AITKEN, was paired with Mr. VANCE for the day.

Mr. KEITT said: Mr. Speaker, I have paired off for to-day with Mr. WEBSTER. He is in favor of the extension of time, and I am against it. I suppose that the motion to lay upon the table involves the same issue, and I have therefore made this statement.

Mr. LANDRUM stated that he was paired for this week with Mr. LONGNECKER on all political questions.

Mr. HUTCHINS stated that his colleague, Mr. WADE, was paired with Mr. LEAKE for the day.

Mr. MOORHEAD stated that his colleague, Mr. STEVENS, was paired with Mr. CLEGG; that his colleague, Mr. DAVIS, was paired with Mr. WILSON; and that his colleague, Mr. HALL, was paired with Mr. MALLORY.

Mr. COOPER stated that he was paired with Mr. WOOD.

Mr. WINSLOW stated that Mr. DAVIDSON was paired with Mr. THAYER.

Mr. MONTGOMERY stated that Mr. RIGGS was paired off with Mr. BABBITT.

Mr. KILGORE stated that Mr. DAVIS, of Indiana, was paired with his colleague, Mr. CATE.

Mr. SPINNER stated that his colleague, Mr. ELY, was paired with Mr. KKKEL for the day. Mr. STANTON said: An hour or two ago, I paired with Mr. JACKSON. I am informed that Mr. HICKMAN has paired with Mr. McCLELLAND. Mr. McCLELLAND and myself are present, and desire to vote. By consent, therefore, we have paired Mr. JACKSON with Mr. HICKMAN.

Mr. HOWARD stated that he was paired with Mr. BERARDUCCI.

Mr. ASHMORE stated that Mr. STALLWORTH was paired with Mr. IRIKKE.

Mr. BRANCH. I ask the Clerk to read over the names of those who are absent and not paired.

The Clerk read as follows:
Messrs. ABRAM, BROWN, CLARK B. COCHRANE, CORWIN, H. WINTER DAVIS, ELLERY, S. MARTIN, PENDLETON, and J. MORRISON HARRIS.

Mr. BRANCH. I move now that all further proceedings under the call be dispensed with.

The question was taken; and the motion was agreed to.

The SPEAKER. The question recurs upon the motion that the whole subject be laid upon the table.

Mr. BRANCH. I call for the yeas and nays.

Mr. BONHAM. I move that the House do now adjourn.

The question was taken; and the motion was disagreed to.

The question recurred on the motion to lay the resolution on the table; and it was decided in the negative—yeas 60, nays 94; as follows:

YEAS—Messrs. Allen, Thomas L. Anderson, Ashmore, Ayres, Barkdale, Barr, Barnes, Beeson, Bingham, Boutwell, Boutwell, Braden, Branch, Brewster, Burch, Burnett, John B. Clark, Clifton, Cobb, John Cochran, Cox, James Corbin, Burton Craig, Crawford, Craig, Reuben Davis, De Barre, Doggett, Fawcett, Foster, Garret, Gilmer, Hamlin, Hamilton, Harnden, John T. Harris, Hawkins, Hindman, Holmes, Houston, Hughes, Jenkins, Jones, Louis, James M. Leach, Logan, Loring, Mackey, Charles D. Martin, Maynard, McClelland, McKim, Milton, Montgomery, Myrdum Moore, Nelson, Nickles, Noel, Peyton, Phelps, Pope, Quarles, Reagan, James A. Roberts, Russell, Schwartz, Scott, Simms, Singleton, William Smith, Stevenson, James A. Stewart, Wadsworth, Wadsworth, Vallandigham, Whiteley, and Wood—54.

NAYS—Messrs. Green Adams, Aldrich, William C. Anderson, Barry, Bingham, Blair, Bixby, Bryson, Buffum, Buchanan, Butterfield, Campbell, Carey, Charles Colfax, Conkling, Corvode, Dawes, Delano, Durin, Dunn, Edwards, Ellery, Etheridge, Fenton, Fern, Foster, French, Graham, Green, Gurley, Hale, Haskin, Hinton, Holmick, Howard, Humphrey, Hughes, Jenkins, Johnson, Keating, Keyser, Kilgore, Killebrew, DeWitt L. Leach, Lee, Louisa, Lovjoy, Marston, McKean, McKnight, McPherson, Millward, Moorhead, Morrill, Edward J. Morris, Morse, Watson, Thompson, Tilden, Potter, Potte, Rice, Christopher Robinson, Royce, Sherman, Sedgwick, Sherman, Sowers, Spenser, Stanton, Stokes, Stratton, Tappan, Thayer, Tompkins, Train, Trimble, Vandever, Verree, Walden, Caldwell, C. Washburn, Ellish B. Washburn, Israel Washburn, Wells, Windom, and Wood—94.

So the House refused to lay the resolution on the table.

During the call,

Mr. CURTIS stated that he had paired off for the remainder of the day with Mr. PAYNE.

Mr. HERDIE stated that on this vote he was paired off with Mr. CRAIG, of Missouri; otherwise he would have voted in the negative.

Mr. MORRILL stated that on this vote he was paired off with Mr. CRAWFORD.

Mr. QUARLES said: I have since learned that I have been paired off with Mr. PETTIT until today; otherwise, I should have voted against the homestead bill the other day. I vote in the affirmative upon this proposition.

Mr. LOOMIS stated that he was paired off with Mr. COCHRANE.

Mr. FARNSWORTH stated that he was paired off with Mr. MERIS, of Illinois.

Mr. CRAE stated that he was paired off, upon this vote, with Mr. HARKIN, who was called away upon business.

Mr. L.L. said: I was not within the bar when my name was called, for the reason that I was paired off with Mr. KELLOGG, of Illinois. I should, otherwise, have voted in the affirmative.

Mr. SMITH, of North Carolina. I ask leave to move that I was not in when my name was called, thinking I was out of order to adjourn.

Mr. TOMPKINS. I object.

Mr. SMITH, of North Carolina. I should have voted in the affirmative.

The result was then announced, as above recorded.

Mr. DAVIS, of Mississippi. I move that the House do now adjourn.

Mr. McCLELLAND. I demand the yeas and nays.

Mr. CRAIG, of North Carolina. I call for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. BEFFINGTON and BLANCH were appointed.

The House divided; and the tellers reported—aye thirty-nine; a sufficient number.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 60, nays 91; as follows:

YEAS—Messrs. Thomas L. Anderson, Ashmore, Ayres, Barkdale, Barr, Beeson, Bingham, Boutwell, Boutwell, Braden, Branch, Burnett, John B. Clark, Clifton, Cobb, John Cochran, Cox, Burton Craig, Craig, Reuben Davis, De Barre, Doggett, Fawcett, Foster, Garret, Gilmer, Hamlin, Hamilton, Harnden, John T. Harris, Jones, Louis, James M. Leach, Logan, Loring, Mackey, Charles D. Martin, Maynard, McClelland, McKim, Milton, Montgomery, Myrdum Moore, Nelson, Nickles, Noel, Peyton, Phelps, Pope, Quarles, Reagan, James A. Roberts, Russell, Schwartz, Scott, Simms, Singleton, William Smith, Stevenson, James A. Stewart, Wadsworth, Wadsworth, Vallandigham, Whiteley, and Wood—91.

NAYS—Messrs. Green Adams, Aldrich, Allen, William C. Anderson, Barry, Bingham, Blair, Bixby, Bryson, Buffum, Buchanan, Butterfield, Campbell, Carey, Charles Colfax, Conkling, Corvode, Dawes, Delano, Durin, Dunn, Edwards, Ellery, Etheridge, Fenton, Fern, Foster, French, Graham, Green, Gurley, Hale, Haskin, Hinton, Holmick, Howard, Humphrey, Hughes, Jenkins, Johnson, Keating, Keyser, Kilgore, Killebrew, DeWitt L. Leach, Lee, Louisa, Lovjoy, Marston, McKean, McKnight, McPherson, Millward, Moorhead, Edward J. Morris, Morse, Watson, Thompson, Tilden, Potter, Potte, Rice, Christopher Robinson, Royce, Sherman, Sedgwick, Sherman, Sowers, Spenser, Stanton, Stokes, Stratton, Tappan, Thayer, Tompkins, Train, Trimble, Vandever, Verree, Walden, Caldwell, C. Washburn, Ellish B. Washburn, Israel Washburn, Wells, Windom, and Wood—90.

So the House refused to adjourn.

During the call,

Mr. CARTER stated that Mr. BOUTWELL was paired off with Mr. FEAR.

Mr. EDWARDS stated that he was paired off with Mr. WADSWORTH for the remainder of the afternoon.

Mr. ENGLISH stated that he was paired off for the rest of the day with Mr. WALDRICK.

Mr. HAMILTON stated that, after the present vote, he was paired off with Mr. KELLOGG, of Michigan; that he voted in the affirmative on this vote.

Mr. VALLANDIGHAM stated that he was requested by Mr. LAWRENCE to announce that he was paired off with Mr. HOARD.

Mr. STANTON, of Pennsylvania, stated that he had paired off with Mr. PETTIT upon this vote.

Mr. BARR moved to dispense with the reading of the yeas and nays.

The motion was agreed to; and the result was announced, as above recorded.

The question recurred upon the adoption of the resolution reported by the majority of the Committee of Elections, as follows:

Resolved, That A. J. Williamson, contesting the right of Hon. D. E. Pickles to a seat in this House as a Representative from the State of Kentucky, be and he is hereby, required to serve upon the said Pickles, within ten days after the passage of this resolution, a particular statement of the grounds of said contest; and that the said Pickles be, and he is hereby, required to answer upon the said Williamson his answer thereto in ten days thereafter; and that the Committee be authorized to demand the service of said answer to take testimony in support of their several allegations and demands; and the justice of the superior court of the State of New York, residing in the city of New York, but in all other respects in the manner prescribed in an act of February 19, 1851.

Mr. BURNETT called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 64; as follows:

YEAS—Messrs. Green Adams, Aldrich, William C. Anderson, Barry, Bingham, Blair, Bixby, Bryson, Buffum, Buchanan, Butterfield, Campbell, Carey, Charles Colfax, Conkling, Corvode, Dawes, Delano, Durin, Dunn, Edwards, Ellery, Etheridge, Fenton, Fern, Foster, French, Graham, Green, Gurley, Haskin, Hinton, Holmick, Howard, Humphrey, Hughes, Jenkins, Johnson, Keating, Keyser, Kilgore, Killebrew, DeWitt L. Leach, Lee, Louisa, Lovjoy, Marston, McKean, McKnight, McPherson, Millward, Moorhead, Edward J. Morris, Morse, Nixon, Ohio, Palmer, Pettit, Potter, Potte, Rice, Christopher Robinson, Royce, Sherman, Sedgwick, Sherman, Sowers, Spenser, Stanton, Stokes, Stratton, Tappan, Tompkins, Train, Trimble, Vandever, Verree, Walden, Caldwell, C. Washburn, Ellish B. Washburn, Israel Washburn, Wells, Windom, and Wood—60.

NAYS—Messrs. Allen, Thomas L. Anderson, Ayres, Barkdale, Barr, Beeson, Bingham, Boutwell, Burnett, John B. Clark, Clifton, Cobb, John Cochran, Cox, Burton Craig, Reuben Davis, De Barre, De Barre, Doggett, Fawcett, Foster, Garret, Gilmer, Hamlin, Hamilton, Harnden, John T. Harris, Hawkins, Hindman, Holmes, Houston, Hughes, Jenkins, Jones, Louis, James M. Leach, Logan, Loring, Mackey, Charles D. Martin, Maynard, McClelland, McKim, Milton, Montgomery, Myrdum Moore, Nelson, Nickles, Noel, Peyton, Phelps, Pope, Quarles, Reagan, James A. Roberts, Russell, Schwartz, Scott, Simms, Singleton, William Smith, Stevenson, James A. Stewart, Wadsworth, Wadsworth, Vallandigham, Whiteley, and Wood—64.

Flower, Foush, Garrett, Gilmer, Harnden, John T. Harris, Hinton, Holmick, Houston, Hughes, Jenkins, Jones, Louis, James M. Leach, Logan, Mackey, Charles D. Martin, Maynard, McClelland, McKim, Milton, Montgomery, Myrdum Moore, Nelson, Nickles, Noel, Peyton, Phelps, Pope, Quarles, Reagan, James A. Roberts, Russell, Schwartz, Scott, Simms, Singleton, William Smith, William N. H. Smith, Stevenson, James A. Stewart, Wadsworth, Vallandigham, Whiteley, Woodson, and Wright—64.

So the resolution was agreed to.

During the call,

Mr. HALE stated that he had paired off with Mr. ROBERTS.

Mr. CLOPTON stated that Mr. BOWMAN was paired off with Mr. KILGORE, and that Mr. CRAW was paired off with Mr. STANTON.

Mr. JUNKIN stated that he was paired off with Mr. BOWMAN.

Mr. MOORE, of Alabama, stated that Mr. GARNETT was paired off with Mr. STANTON.

Mr. HUMPHREY stated that he was paired off with Mr. MILLS.

Mr. SPINNER stated that Mr. ASHMORE was paired off with Mr. LEONARD.

Mr. JOHN COCHRANE stated that Mr. SHERMAN was paired off with Mr. PHELPS.

Mr. CRAIG, of Missouri, stated that he was paired off with Mr. ETHERIDGE; that Mr. ETHERIDGE was in favor of the resolution, and that he was opposed.

The result was then announced, as above recorded.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. JOHN COCHRANE. I wish to notify the House that House bill No. 21, for the codification of the revenue laws, is printed; and I hope gentlemen will provide themselves with it.

And then, on motion of Mr. WHITELEY, (five o'clock and twenty minutes, p. m.), the House adjourned.

IN SENATE.

THURSDAY, March 22, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of State, communicating, in compliance with the resolution of the Senate of the 19th instant, copies of the correspondence between that Department and Townsend Harris, minister resident of the United States in Japan, concerning the proposed diplomatic mission from Japan to the United States; which was laid on the table; and a motion by Mr. DAVIS to print the report was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of Mr. Holliday and others, asking that he be admitted to the Senate, praying that their rights of entry thereon may be secured; which was ordered to lie on the table.

Mr. DOOLITTLE presented a petition of citizens of Jefferson county, Wisconsin, praying a breach of the natural route from Lake Michigan to the Pacific Ocean, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Brooklyn, New York, praying Congress to pass a law to prevent all further traffic in, and monopoly of, the public lands of the United States; and that they be laid out in farms and lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. SEWARD presented two petitions of citizens of New York, praying Congress to pass a law to prevent all further traffic in, and monopoly of, the public lands of the United States; and that they be laid out in farms and lots of suitable size, for the free and exclusive use of actual settlers; which were ordered to lie on the table.

He also presented the memorial of Mrs. Arabella Riley, widow of Major General Riley, praying for a pension; which was ordered to lie on the table, a bill for her relief having been already passed by the Senate.

He also presented the petition of Frances M. Webster, widow of Brevet Lieutenant Colonel

Lucien B. Webster, late of the Army, praying for a pension; which was referred to the Committee on Pensions.

Mr. HIGLER presented the petition of Richard B. Jones, late consul general of the United States at Alexandria, Egypt, praying compensation for judicial services rendered under the act of August 11, 1848; which was referred to the Committee on Foreign Relations.

Mr. DAVIS presented the petition of Alpheus T. Palmer, of Maine, a lieutenant in the war with Mexico, praying an increase of the pension heretofore allowed him; which was referred to the Committee on Pensions.

Mr. TOOMBS presented the petition of William J. Young, of New York, praying the enactment of a homestead law and a bankruptcy law; which was referred to the Committee on Public Lands.

Mr. SLIDELL presented a letter of J. W. Zealan in relation to the proposals of Spear & Co. to transport the United States mails monthly between New Orleans and Vera Cruz; which was referred to the Committee on the Post Office and Post Roads.

Mr. HEMPHILL presented a resolution of the Legislature of Texas, praying the incorporation of Captain John G. Tod, of the late navy of Texas, into the Navy of the United States; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also presented a resolution of the Legislature of Texas, praying the establishment of a mail stage route from Austin to some point on the overland mail stage route from St. Louis to El Paso; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented a resolution of the Legislature of Texas, requesting the Senators and Representatives of the State in Congress to procure the reimbursement of funds expended for the protection of the frontier, and making other requests, with reference to the frontier, which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITION RECOMMENDED.

On motion of Mr. FOOT, it was ordered, That the petition of Eliza E. Quesen, widow of the late Major Edmund A. Quesen, assistant quartermaster in the United States Army, praying the percentage may be allowed her upon money disbursed by her husband, with the adv. rev. report of the Committee on Claims thereon, be recommended to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 257) further to amend an act to ascertain and settle private land claims in California, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 190) in relation to mission claims at Sault Ste. Marie, Michigan, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 237) for the relief of Anthony Schlender, reported it without amendment.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred a communication from C. T. Sneed, in favor of increased mail facilities in the State of Iowa, asked to be discharged from its further consideration, as the matter is properly cognizable by the Executive Department; which was agreed to.

He also, from the same committee, to whom was referred the petition of Joseph R. Walker, praying to be indemnified for money lost in its transmission by mail, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial of the president and members of the Pacific railroad convention, held in San Francisco, California, in September, 1859, on the subject of a continental railroad from the Pacific ocean to the valley of the Mississippi, asked to be discharged from its consideration; which was agreed to.

He also, from the same committee, to whom was referred the presentment of the grand jury of the United States for the district of South Carolina, at Greenville, in relation to the desecrations

on the mail in that district, the unfitness of the post office building at Greenville for the purpose, and the necessity of providing a new building for a custom-house, asked to be discharged from its further consideration; which was agreed to.

Mr. YULEE. I am directed by the Committee on the Post Office and Post Roads to move that a communication from the Post Office Department to the committee, in reply to a letter from the committee, communicating information with respect to what is known as the Butterfield contract for overland mail service between the Atlantic and the Pacific, be printed; and the committee recommend that the contract to which the information refers be printed in connection with it.

Mr. HALE. And also the letter of the Postmaster General to the Attorney General.

Mr. YULEE. Yes. They are all together. The motion to print was agreed to.

Mr. HAMLIN, from the Committee on Commerce, to whom was referred the bill (S. No. 218) to authorize protection to be given to citizens of the United States who may discover deposits of guano, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 248) supplementary to the act entitled "An act to authorize protection to citizens of the United States who may discover deposits of guano," approved 18th August, 1856, asked to be discharged from its further consideration; which was agreed to.

From the same committee, reported a bill (S. No. 303) supplementary to the act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved 18th August, 1856; which was read, and passed to a second reading.

RIGHTS OF NATURALIZED CITIZENS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his opinion incompatible with the public interest, whatever information he may have concerning the report of August Edick, native of Prussia, and a naturalized citizen of the United States, from that country, in or about the year 1857.

REORGANIZATION OF THE MILITIA.

Mr. NICHOLSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish the Senate a copy of the memorial of Brevet Lieutenant Colonel B. B. Roberts, of the United States Army, relating to a reorganization of the militia of the United States, under a revision of the laws of Congress, in conformity with the Constitution.

BILLS INTRODUCED.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 301) for the relief of Alexander Cross; which was read twice by its title, and ordered to lie on the table.

Mr. BRIGHT, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 304) for the prosecution of the work upon the extension of the United States Capitol; which was read twice by its title, and ordered to be printed.

POST ROUTES IN KANSAS.

Mr. YULEE. The Committee on the Post Office and Post Roads, to whom was referred House bill No. 326, to establish mail routes in the Territory of Kansas, have directed me to report it back without amendment; and perhaps it would be as well, as it merely establishes post routes in the ordinary manner for a portion of the country which is only just now settling up, the Pike's Peak country, to pass the bill at once.

The bill was considered as a Committee of the Whole, reported to the Senate, ordered to the third reading, read the third time, and passed.

RETURN OF UNCALLED-FOR LETTERS.

Mr. YULEE. The same committee, to whom was referred a resolution which was adopted by the Senate at the instance of the Senator from Vermont, [Mr. COLLAMER,] in relation to the return of letters uncollected for, have directed me to report a bill on that subject.

The bill (S. No. 302) in relation to the return of undelivered letters in the post office was read the first time, and ordered to a second reading.

Mr. COLLAMER. I desire that that bill may be out on its passage now.

Mr. GWIN. I think there can be no objection to it.

Mr. YULEE. The bill simply provides that persons desiring the return of letters which they mail, may, by indorsing on them their name and address, be entitled to a return of them without additional charge, if they are not called for at the office to which they are directed within thirty days after their receipt.

The bill was read a second time, considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WASHINGTON MARKET-HOUSE.

Mr. BROWN. I appeal to the Senate to allow me to dispose of some amendments to a bill which has passed both Houses of Congress. All we want now is the concurrence of the Senate in the House amendment, with some amendments to it proposed by the Committee on the District of Columbia. I will state why I am urgent about it. The city authorities have advertised for contracts; the bids have all been made, and they are ready to enter into the contracts. The instant we pass this bill, the working season is coming on, and they are exceedingly anxious to close their contracts, so that the persons to do the work may go right on. Delay now is almost ruinous to it. The bill does not involve the Government in any sort of responsibility whatever, and I hope they will be allowed to get it through this morning. I move to take it up.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 192) authorizing the corporation of Washington city to make a loan and issue stock for \$200,000 for building a market-house. The House amendment was to strike out all the original bill after the enacting clause, and to insert:

That all the ground lying between Seventh and Ninth streets, containing the lots of the late John A. Smith, now and hitherto used and occupied for the Cattle market, and the same is hereby, ceded to the corporation of Washington, on condition that it shall be used within two years after this act takes effect, erect thereon a market-house, together with such other buildings as in the sound advice of the corporation may be deemed necessary. The said house to be so constructed as to admit foot passengers free of charge, and to contain a room to be used on the north side, market wagons and other vehicles on the south side only, with means of exit for the same on Seventh and Ninth streets, and on the north side of the lot, on Seventh and Ninth streets, and the sidewalks and pavements thereon. And for the purpose of erecting such market-house, the corporation of Washington may use the majority of the freeholders and householders, who are legal and competent voters within said corporation, shall vote as hereinafter provided in favor thereof; it shall be lawful for said corporation to create a debt in such form as may be found expedient, not exceeding the sum of \$200,000, at a rate of interest not exceeding six per centum per annum, any restriction in the charter of said city or existing laws to the contrary notwithstanding.

Sec. 2. And he it further enacted, That at the first annual election held in said city after the passage of this act, the person or persons receiving the vote of each voter in such election, who are freeholders or householders of said city, shall proceed to such voter the following question, to wit: "Are you in favor of creating a debt of \$200,000 for the building of a new market-house and other necessary structures, whether yes or no, shall be set down upon the poll-list opposite the name of such voter, and, in case a majority of the freeholders and householders of said city, question in the affirmative, then this act shall take effect, and continue in force, until repealed."

Sec. 3. And he it further enacted, That the Mayor of said city shall cause notice to be given of the taking of said vote, by public notice, at least ten days before the day on which said election shall be held, at least ten days prior to the day of holding said election; which notice shall distinctly state the question to be voted upon, and shall be given to the freeholders and householders of said city.

Sec. 4. And he it further enacted, That in case this act shall be repealed, the same shall be so construed as to void the title to said lots in said corporation so long as the market-house and apartments shall be consumed thereon and used for the purpose aforesaid, and no longer.

The Senate Committee on the District of Columbia had reported certain amendments, the first of which was, in the first section to strike out the words "to be used within two years after this act takes effect" in the second story thereof, as may be deemed necessary.

Mr. HALE. I wish the chairman of the Committee on the District of Columbia would explain why that amendment is proposed to be made. It seems to me to be an interference by the Executive Government with a little local matter—the construction of a building here—that might be better left to the city.

Mr. BROWN. The Senator has got it all

wrong this time. We propose to strike out these words for the very reason that we do not mean to interfere with it. The House bill requires them to construct certain apartments in this building. The determination of the Senate committee was that we had nothing to do with it. If they wanted the apartments, let them make them; if not, do not force them on them.

MR. HALE. There is in the construction, very well; but I do not see that it is so.

MR. BROWN. You have not read it right.

MR. HALE. Yes, I have.

The amendment was read.

The next amendment was, in the same section, to strike out the words:

And inspected therewith, in case a majority of the freeholders and householders, who are legal and competent voters within said corporation, shall vote as hereinafter provided, in favor thereof.

The amendment was agreed to.

MR. BROWN. The other amendments are to strike out certain sections, and are all dependent on the one just adopted.

MR. PUGH. I desire to make a suggestion to the chairman of the Committee on the District of Columbia. I understand that the second, third, and fourth sections of the House amendment make this act conditional, to take effect on the vote of the people of Washington city; and these sections it is proposed to strike out. Now, sir, the present City Council was not elected in view of the emergency; and although I am not in favor of shirking the responsibility of legislative bodies, yet it has always appeared to me that a proposition to create a public debt, especially to the extent of \$200,000, to be a charge on the property of the tax-payers—the principal and the interest to run through a series of years—is a question that ought in general to be submitted to a direct vote of the people interested. It seems to me a wise restriction on legislative bodies, and especially municipal corporations; and therefore, unless the Chairman can give some good reason to the contrary, I would like to retain these sections, which require the tax-payers of Washington city to act on the question whether this debt of \$200,000 shall or shall not be created.

MR. BROWN. I can state in a very few words the reasons which influence the committee in moving to strike out these sections. First, we did not regard this as a charge upon the city of Washington. It is true, the credit of the city is to be pledged for the redemption of these bonds; but it is equally true—and the committee were precisely and carefully informed of this fact—that the rents and profits of the present indifferent structure, called a market-house, would more than pay the interest on this debt, and create a sinking fund sufficient for its ultimate extinction. Of course, the rents and profit arising from the new structure will be very much more, so that it is utterly impossible that it can ever become a charge upon the people here. But very many of the people of Washington live remote from this market-house and do not do their marketing there, and therefore would be unable to pay here anything which might, in their judgment, or which they might be told, would result in any possible chance of their being called upon to pay the money or any part of it. Having no interest in the thing at all, they would in all probability vote against it, so that the whole project to put here a decent and proper market-house on the avenue, in the central part of the city, would be defeated by people who had no interest in it. If it were a proposition to tax them, I would say submit it to them to know whether they were going to be subjected to taxation. If you were to build it out of the funds of the city, out of appropriations from the city treasury to be raised by direct taxation on the people, then of course I should say, submit it to them; and let them decide for themselves whether they will do it; but that is not the proposition at all.

Then, sir, the main reason which the Senate committee had for moving to strike out these sections, was to secure and make certain the erection of this building. We believed the whole thing would be defeated if the sections were retained.

MR. PUGH. I should like to ask the Senator what is the present debt of the corporation of Washington?

MR. BROWN. I really do not know what it is, nor do I think for the purpose of this bill it is

at all important. This cannot by possibility, I tell the Senator again, fail to be a self-sustaining institution. The profits are pledged for the redemption of the debt, and I tell him again, that the present profits, as the committee was assured by those who know, are about thirty-two thousand dollars. It is supposed they will be \$50,000, greater than this new market-house.

MR. PUGH. I understand the present debt of the city is \$800,000. Now, I do not say but that the Senator may be right, that the rents from the proposed market-house may be sufficient to pay the interest, and perhaps create a sinking fund; but we know that no project was ever proposed of any such character to a legislative body, that did not have some argument in its favor. I believe the State of New York, and certainly the State of Ohio, has had a very bitter experience in heretofore improvements on such arguments, and their failure to realize those splendid profits. Undoubtedly this debt will be charged on the property of the citizens of Washington. They may never be called on to make it good; the income from the market-house may be sufficient; but nevertheless, to use the credit of the city is to impose a tax on the property. It is according to me that a body, elected for one year or two years, ought not to impose so large a liability on the people of Washington, without the tax-payers having an opportunity to speak upon it. The House has already adopted a question about the submission of them. If it can be shown to people in all parts of the city that it never will be a tax on them, they will not object to it. I am very much afraid that as this bill passes and the project should not realize as much as is expected, we shall be called upon to take some kind of the Treasury of the United States to relieve the city of Washington from its taxation. That is the next thing to be expected; and I think the better course is, before these gentlemen enter upon this expenditure of money, that the tax-payers should express their opinion on it. I also intend to offer my opposition to the bill further than expressing my opinion on it.

MR. BROWN. I do not want to prolong this question—

MR. PUGH. One word more, if the Senator please, relative thereto. It is scarcely a State that has been authorized to revise the constitution which in the last few years which has not provided that no debt shall be created beyond a given amount, without being submitted to the people. That is the provision of the constitution of Ohio, and of the constitution of New York, and perhaps many other States.

MR. BROWN. I have said about all I desire to say in reference to this matter. I believe that the introduction of these sections will defeat the whole scheme, and mainly through the instrumentality of people who have nothing to do with it, and have no concern in it. I state again what I stated before, because I want Senators to make note of it, that I cannot, for the life of me, see how it is possible ever to become a charge on the tax-payers of this city. I say again, that the present indifferent structure, unsuited as it is, would pay the interest on \$200,000 at six per cent. and make a sinking fund sufficient to take it up. Can the profit of a new building be less than that?

MR. HALE. I wish to ask a question. Is there any limit as to what they may go on and build a market-house at a cost of \$1,000,000?

MR. BROWN. No, sir; they are limited to \$200,000.

MR. HALE. They are limited to \$200,000 in issuing bonds.

MR. BROWN. There was in the original bill—and I should have no objection to it here—a limitation of \$220,000; that, under no circumstances should they contract for a building to cost more than that sum. I have no objection to that amendment; but I have had better decline of one question at a time. I am perfectly willing to have that limitation inserted. I think it right.

THE PRESIDING OFFICER. The question is on concurring in the amendment of the committee, to strike out sections two, three, and four of the House amendments.

The Secretary read the sections proposed to be stricken out, as follows:

Sec. 2. And be it further enacted, That at the first annual election held in said city after the passage of this act, the person or persons receiving the vote of a majority of such election, who is a freeholder or householder of said city, shall propose to such voter the following question, to wit:

"Are you in favor of creating a debt of \$200,000 for the building of a new market-house?" and the voter to vote question, whether yes or no, shall be set down upon the poll-list opposite the name of such voter; and in case a majority of such freeholders and householders answer said question in the affirmative, then this act shall take effect and continue in full force, but not otherwise.

Sec. 3. And be it further enacted, That the Mayor of said city shall cause notice to be given of the taking of said vote, by publication in three or more of the newspapers published in said city, at least ten days prior to the day of holding said election, which notice shall distinctly state the question to be propounded as aforesaid to the freehold and householders of said city.

Sec. 4. And be it further enacted, That in case this act shall take effect, as hereinbefore provided, it shall be so construed as to require the said Mayor of said city, as well as the market-house and apartments shall be constructed thereon, and used for the purpose aforesaid, and no longer.

MR. HALE. I ask for the yeas and nays upon the motion to strike out.

The yeas and nays were ordered.

MR. PUGH. I ask for a division. Let the question be taken first on striking out the second and third sections. The fourth section is on a different subject.

THE PRESIDING OFFICER. A division being called for, the question is on striking out the second and third sections, upon which the yeas and nays have been ordered.

MR. HAMLIN. I desire to say a single word on this subject. In the first place, the Senate have already adopted an amendment in the preceding section exactly like this; that is, they have stricken out of the first section of the bill that provision which requires a submission to the people for their approval or disapproval. The sections which it is now proposed to strike out relate only to the mode and manner in which the thing shall be carried out. I desire also to state to Senators that if they will look into this bill, they will see there is still another amendment reported by the committee to come in at the end of the first section of the bill, in these words:

Provided, however, That the Government of the United States shall, in no event whatever, be, either directly or indirectly, liable for the principal or interest on any loan which may be obtained under the provisions of this act.

And I shall offer an addition to that provision, in these words:

And that the entire revenue of said building shall, after providing for the interest on the same, be appropriated to the payment of the stock issued in accordance with the provisions of this act.

That will make this building, as the chairman of the committee has said, a self-sustaining institution. I have no doubt but what I create a sinking fund vastly more than enough to pay for the building within the twenty years prescribed for the debt. The committee gave it a very careful consideration, and were unanimously of opinion that this was the better mode.

MR. HALE. I know how well these calculations sound on paper; and if I had not lately read a report from a select committee of the Legislature of the State of Maine, showing how such calculations utterly fail, I might be induced to agree to this; but I recollect that one of the most notorious failures of the last session was the Canada speculation, which was going to be a self-paying concern. The treasurer of the State went into it and invested \$100,000 of the money of the people of Maine, and never got a dollar of it in return, and the concern has failed to pay a paying concern. Such calculations often fail, and best not to be made. So, I think we had better keep these sections in the bill.

MR. BROWN. I say again to the Senator this is not the result of calculation of what may be done, but the fact has been demonstrated. I tell the Senator again, that the rents and profits of the present house would more than take up this debt, to say nothing of an improved house.

MR. CLARK. Who is to pay this debt in the event of its ultimate failure of the corporation? Then why should not the corporation say whether they will create it or not? The Government is not to be liable for it, if the amendment be adopted that the Government of the United States shall, in no event, be either directly or indirectly liable.

MR. BROWN. If the Senator will let me, I will answer that question in a word. There is, in the present charter of the city of Washington, a clause denying to the corporation the right to borrow money upon the faith of the Government, and issue bonds. This is only making an excep-

maintain, through any of the Territories of the United States, a branch line, or so to connect their said line or lines with Oregon; and that they shall have the permanent right of way, said line or lines, under, and over, and along, and alongside public lands and waters in said Territories, with the free use during the said term of such lands as may be necessary for the purpose of establishing said line or lines, and along said line or lines, not exceeding, at any station, one quarter section of land, such stations not to exceed one in four miles on an average of the whole distance; said contractors, or their assigns, to have the right to purchase such lands as may be selected by them at stations during the term aforesaid, at the rate of \$1 25 per acre.

Sec. 3. And be it further enacted, That if, in any year during the continuance of the said contract, the business done for the Government as heretofore mentioned by such contractor, or their assigns, shall, at the ordinary rate of charges for private management, exceed the price contracted to be paid as aforesaid, the excess shall be paid by the Postmaster General.

Mr. GWIN. I ask the Secretary to read the amendments which the committee propose to the substitute reported by them.

The Secretary read the amendments: in line five of the substitute to strike out the word "N. man," and insert "Norvin;" after the word "Stebbins," in the seventh line to insert "James S. Graham;" in line twelve, after the word "river," insert "by any route or routes which the said contractor may select;" in line seven of section two, after the word "Territories," to insert the words "by any route or routes which the said contractor may select;" and to insert at the end of the bill the following:

Provided, That the use of the line be given at any time, free of cost, to the Coast Survey, the Smithsonian Institution, and the National Observatory, for scientific purposes.

Mr. GWIN. I move these amendments which have been read to the bill. I hope the amendments will be acted upon all together.

The PRESIDING OFFICER. If there be no objection the Chair will put the question on the amendments together. The question is on agreeing to the amendments which have just been read.

Mr. CLINGMAN. Is not the motion to print those amendments?

Mr. WADE. I understand it was merely proposed to print the amendments.

Mr. GWIN. I want them acted on and printed, and then we shall be done with it.

The PRESIDING OFFICER. The first question is on agreeing to the amendments which have been read.

Mr. WADE. I thought the intention was only to print the amendments.

Mr. GWIN. They are mere verbal amendments.

Mr. KING. I hope that the amendments will be printed, and the subject then passed over, in order that we may have an opportunity to see precisely what they are.

Mr. GWIN. The bill itself is not in consideration at all. We are just maturing the substitute reported by the Committee on the Post Office and Post Roads.

Mr. KING. There is no objection to printing the amendments; but I thought the Chair was putting the question on agreeing to the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments which have been read by the Secretary.

Mr. GWIN. The bill is not in consideration at all. I want to see what it is reported by the committee, printed, with these amendments inserted in it. I merely propose that those amendments be inserted in the proposition of the committee.

The PRESIDING OFFICER. The Chair understands the Senator from California to propose certain amendments to the bill.

Mr. GWIN. Yes, sir.

The PRESIDING OFFICER. The Chair then puts the question upon agreeing to those amendments before putting the question to print.

Mr. WADE. I do not understand this at all.

The PRESIDING OFFICER. The Chair will again state that the question is on the motion of the Senator from California.

Mr. WADE. I understood his motion was to print the amendments, and not introduce anything that might give rise to debate.

Mr. GWIN. The Committee on the Post Office and Post Roads wished these additional amendments to be inserted in the substitute reported by them, and they are all verbal in their character, for the purpose of having it printed as amended,

to come up for consideration as the action of the committee. It is not intended to come up to-day at all. We want the bill to stand as if these amendments were reported originally from the committee, and then that it be printed. There is nothing in it at all.

Mr. WADE. When we adopt the amendments, we do not see why we want them printed. Here it is proposed to adopt them first and print them afterwards.

Mr. GWIN. If we adopt these amendments now, they will come up for consideration hereafter. The bill has been reported from the committee with a substitute, and the committee subsequently report these amendments to their substitute, that is all. The proposition is not to consider the bill to-day.

Mr. KING. The better way would be to have the amendments printed without acting on them.

Mr. GWIN. I am perfectly willing that the bill should be printed with the amendments reported by the committee. I do not want final action on them at all.

Mr. WADE. Then that is disposed of. The PRESIDING OFFICER. In the present form of the motion of the Senator from California, the question is to print the bill with the amendments proposed, without voting on the amendments.

The motion was agreed to.

HOMESTEAD BILL.

Mr. WADE. I now move to take up the homestead bill.

The PRESIDING OFFICER. That bill is now before the Senate as in Committee of the Whole—the bill (S. No. 1) to grant to any person who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period hereinafter specified—the said condition being on the amendment of the Senator from North Carolina.

Mr. WADE. That is the Senate bill, as I understand. I want to know now if it is in order to move to strike out all after the enacting words of the Senate bill under consideration, and to insert the House bill as a substitute for it. If it is in order to amend it in that way, I make that motion.

Mr. CLINGMAN. What effect will that motion have upon any amendment?

The PRESIDING OFFICER. The first motion in order is the amendment proposed by the Senator from North Carolina.

Mr. CLINGMAN. I desire to offer a little explanation of that amendment. I do not wish to take up much time. I do not desire to have it lost sight of. If the Senator from Ohio desires to speak at length on the bill, I, of course, will give way.

Mr. WADE. No, sir, I do not expect to speak at length upon it.

Mr. COLLAMER. I have not yet succeeded in obtaining the position which I desire in the matter stands. I understand that there was referred to our committee a House bill on this subject. I understand there was also a Senate bill on the same subject. I understand it is stated now that the committee propose to amend the House bill by inserting in it the Senate bill. Am I right?

Mr. JOHNSON, of Tennessee. Yes, sir; substantially so.

Mr. COLLAMER. Then the House bill is before us.

Mr. CLINGMAN. No! I must correct the Senator. We ordered the amendment to it to be printed, and it is not before us. It was by common consent that the Senator from Tennessee was allowed to report it. It is no more before us than any other bill that has been reported. The only bill, I take it, which is now under consideration, is the Senate bill, and to that my amendment is pending.

Mr. COLLAMER. We shall understand each other before we get through. I do not know how there can be an amendment reported by a committee and still the position which I desire in the matter stands.

Mr. JOHNSON, of Tennessee. If the Senator from Vermont will permit me a single moment, I think I can set this whole thing right. When we adjourned yesterday, the Senate bill to grant homesteads to actual settlers was the unfinished business before the Senate. This morning, at

one o'clock, the President announced that the unfinished business was before the Senate.

Mr. COLLAMER. That was the Senate bill. Mr. JOHNSON, of Tennessee. Yes, the Senate bill. By courtesy, not pushing that measure out of its place, I reported back the bill that had been referred to the Committee on Public Lands, with an amendment striking out all after the enacting clause.

Mr. COLLAMER. What was that?

Mr. JOHNSON, of Tennessee. The House bill.

Mr. COLLAMER. Then the House bill is here?

Mr. JOHNSON, of Tennessee. The House bill is here, an order having been made to print the amendment; which leaves the unfinished business before us, being the Senate bill.

Mr. COLLAMER. Then we stand now upon the Senate bill; and that alone, at present, is before us.

Mr. JOHNSON, of Tennessee. Yes, sir.

Mr. CLINGMAN. I ask the permission of the Senate for a few moments, to explain the amendment of the bill.

Mr. COLLAMER. Let it be read.

The Secretary then read it, as follows:

Strike out, in the first section, the words "to enter one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the land subdivisions of the public lands, and after the same shall have been surveyed," and insert, in lieu thereof, "in any Territory, or in any State, by the Commissioner of Public Lands, a warrant for one hundred and sixty acres of land, to be located in the same manner as that under which the homestead laws heretofore issued have been located, on any of the public lands of the United States subject to entry, the applicant being required to file a map of the land to be located in the same manner, and under such regulations as may be prescribed by the Secretary of the Interior;" so as to make the section read:

That any person who is the head of a family, and a citizen of the United States, shall, from and after the passage of this act, be entitled to a homestead of one hundred and sixty acres of land, to be located in any Territory, or in any State, by the Commissioner of Public Lands, a warrant, &c.

Mr. CLINGMAN. Mr. President, I think that, on this amendment being understood by the Senate, every Senator who is in favor of the principle of the bill will adopt it; at any rate, I am confident that every Senator who favors such a proposition ought to support it. I am frank, though, to admit, in the outset, that I have been opposed to this policy of giving away the public lands. In my judgment, the public lands stand on the same footing as the other public property of the Government, and ought to be used for the benefit of the Government. I can make no distinction between donations of land and donations in money; I take this to be a naked donation. While, therefore, if you leave it to me, I would retain all the lands for the use of the Government so as to keep down the public taxes, nevertheless, there seems to be a disposition on the part of many Senators here, and there clearly is manifested in the other wing of the Capitol a disposition to give away a large portion of the public property. If that policy is to be carried out, it will result in all that is now, and see if my amendment does not, fortunately, free the subject from all the difficulties that are in the way of it.

Senators will see that the present homestead bill is liable to two or three objections. One objection is, that it is open to all, and that a few months under its provisions a man is obliged to go on public land and work upon it for five years. He must go into the woods, make some outlay of capital, labor there continuously for five years before he gets any title. I believe if he happens to rent his farm for only six months, for any unforeseen cause, he loses the benefit of all that he has already done. It is hardly necessary for me to say to gentlemen that our Americans who are of changeable minds and run up and down the country, do not like to tie down to any place for a long time; and it may be happy that a man may settle in a location which he finds to be unhealthy, and, after two or three or four years, it may be necessary for him to emigrate to some other. Under the existing bill, as I understand it, he loses his title if he does not sell it within a few months; he is not allowed to sell it; he must go off, and somewhere else comes in. The Senator from Ohio [Mr. Pugh] said, in the last Congress, that those men who went into the new Territories and labored there for five years, really put more work on the land than it was worth. Under his view, there-

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Under his view, there-

Under his view, there-

Under his view, there-

Under his view, there-

Under his view, there-

fore, I take it he will see that my amendment is what they ought to have. If my amendment be adopted, as soon as the settler goes and takes his position on the public domain, he is "monarch of all he surveys;" he has a title at once; he may improve it, he may live on it forever, or he may sell it. My proposition, therefore, is clearly better for the settler than the original bill.

Well, what is the second objection to the bill, which strikes every mind with great force? Here is land belonging to all the people of the United States. You say that those who are settled on it shall have only a hundred and sixty acres each; but nineteen twentieths of the American people never expect to go there. I do not suppose that out of every fifty men whom I represent, more than one, if one, expects to go and take the benefit. Why should the other four-nine tenths lose their share of the public property? What justice is there in it? I will appeal to the Senators on the other side of this Chamber; take, for example, the twelve New England Senators: there is no public land in New England; and the only way any New England man can get a foot of it is to expropriate himself and go to the West. Now, is it right to drive our people from New England, or North Carolina, or anywhere else, to enable them to get their share of the public property? I put it to every gentleman on principle of justice. You may say that all have an equal advantage in this; that any man has the right to go; but remember what it costs a man to move his property and pull up stakes. Suppose I should advocate a proposition that the Secretary of the Treasury should give ten dollars to every citizen who would apply at the Treasury to-morrow, or next week. It might be said every citizen of the United States may go in and get his share; but we know that men living at a distance could not go without a loss, and the effect would be to give the money to men living in the States, and to exclude the others. So, if you pass the provision contained in this original bill, you give the lands to those who happen to live in the new States, and you exclude everybody in the old States. I should like to see any man go before my constituents and address an assembly of men, and say, "I have been given away a part of your property to the men in the new States, and refused to give you any portion of it unless you emigrate." Everybody sees that it is grossly unjust. It is not only unjust to the individuals but unjust to the States. What right have you to discriminate between the States, and to try to drive off their people? What right have you to impose a burden on my constituents, and say that they shall submit to these things or emigrate to a distant country? The force of this is so obvious that it seems to me that it ought to strike the mind of every Senator.

Again, sir, there are classes of men who cannot avail themselves of it. The mechanics do not want to abandon their business and turn land owners. Go up to Massachusetts, where hundreds and thousands of men live on the soil, for higher wages. I should like to see how the Senators from that State, or any other State in that region, would go before their constituents and say to them: "You complain that you have difficulty in making a living; well, we have taken a portion of your property and given it to men in the West, and if you choose to leave your own country and emigrate out there, you can have a share of it." The great body of those men would say at once: "It does not suit us to leave our country; it does not suit us to engage in farming."

My proposition, then, Mr. President, fortunately gets us out of all these difficulties. Pass it, and the Secretary issues his warrant to every man in the United States who falls within the provisions of the bill. It is to every man who is the head of a family and who is a citizen. That will include the shoemaker in Massachusetts and New Hampshire—for I see the strike has gotten up there; and as I catch the eye of the Senator from New Hampshire, [Mr. HALL, I will say that I should like to see him go to the States and explain these two systems. I do not think I misunderstand his position. I take it for granted he will adopt my proposition in preference to that contained in the bill; but suppose he was to take a different course, how could he defend himself there? He would go before his constituents, and his people and say: "I have given away a great

deal of the public property to men in the West. There was a proposition pending by which each one of you could have had a warrant; you might have sold that warrant, if you did not think proper to emigrate, and bought a horse, or leather, if you are shoemakers; you might have used it to support your families; but I have decided that you shall not touch it; that all the benefit of this land shall go to those who happen to settle on the public lands!" I should like to know how that Senator would be able to satisfy such an assembly. I see the course of things in this State and Massachusetts, and elsewhere. No man could do it whatever. I take it for granted, that any man in the old States will be beaten who makes an issue between my proposition and the other. Why? Because this is naked, simple justice.

There are objections which are made to it. It is said that if this be done, it will take all the public lands, there will be none left; but that is not a valid objection. If your principle is right, carry it out. Suppose a gentleman should introduce a proposition to give \$1,000 to each soldier in a certain regiment that served in the American war. I may say, "I do not think this ought to be done; but if you intend to adopt such a system, let us give each regiment the same advantage." The gentleman replies, "That will take all the money but the Treasury." There is no objection to my amendment. I may have a objection to the principle of the bill. It would be a ready means, perhaps, of showing that the bill was erroneous. If you go on the principle of giving land to the citizens, it will not do for you to stop and say, "We can give a few more not to the benefit of those who stand in that relation ought to have the benefit."

But again it is said—and I have been surprised at those who have made the argument—that if you adopt this system, you will fail in the object you have in view, to exclude the old States, and to get people to go into the new Territories, and become cultivators of the land. Let us look at that for a moment. There are countries in the world, Mr. President, where the Governments undertake to regulate labor. They say to one man, "You shall not go to India." They say to another, "You shall follow that." Go into India and there are castes; some men are allowed to do certain things and others not. Even in monarchies people are driven by particular circumstances into some line of employment; but it is supposed that in the United States we have the privilege of exercising the right of his own occupation. It seems we are in error in that respect, and in this late day, after seventy or eighty years of liberty, the Government is to come in and to say, "We think you were wrong in following the bent of your inclinations; you should not be mechanics, you should not cultivate your lands as you choose in the old States; we think you ought to go into the new States and labor there to suit our purposes;" and some Senators have said that here, about the cities, are great numbers of men who are willing to go. These men have a right to be leaders if they choose, and to stay in the cities. How is it that any Senator has become so great a man that he has a right to go down here on Pennsylvania avenue and say to some man he meets, "You are leading about the streets, where you are not wanted, to the new Territories; I want to get you away." That is the substance of the argument. You do not compel them directly, but you say to them, "You ought to go there." Would it be justice? Let us look at this question for a moment. Suppose I owe a man \$100: would I have a right to say to him, "I will not give you this money, that you are entitled to receive, here; I think you had better go to some other point of the country, and I will pay it to you there." There is not justice in that.

It strikes me, Mr. President, that this is a most extraordinary idea. I can understand that in a monarchy, where they claim to regulate the people; I can understand that perhaps some of the old Federalists in the old times, who thought we were settled in the old States, and who would adopt that line of argument; but I am utterly amazed at this day, when everybody professes to be a Republican or a Democrat in principle, and to allow equal privileges at any rate to all free white men—we may make the distinction as to color, but not as to race and communities—that this idea should be broached that this Congress is to

be called upon, by such a line of argument, to undertake to regulate the business of the community, and say to one set, "You are idle loafers about the cities and we want to get you off, and therefore we will not pay you what you are entitled to; we will make a division of the property; we will cut you out of it."

The argument cannot be maintained for a moment. It is just as bad as, in fact it is worse than, the system that I used to combat, and many men combat now, of compelling our people to manufacture. A school spring up in this country at one time that said the people were too generally farmers in the United States, and that we must have manufactures. I am in favor of manufactures and mechanic arts, but then I am in favor of them on sound principles; and if they will pay, if individuals can embark in them and make good pay, let them do it; it is a good thing. But there was a school which said: "We must compel men to manufacture; too much agriculture is going on; produce is too low." Now, that system is to be reversed, and we are to swing like a pendulum over to the other side. It is now said: "All this was a mistake; we have too many mechanics in the country; we have got the cities crowded with handicraft men manufacturing, and we must get them off to the frontiers and settle them there." The result is, however, that the people and the Treasury are to suffer under both systems. In God's name, let us abandon them both.

Under my proposition you leave these men free to do as they please; to stay in the cities if they want to do so, or to emigrate. Again, it is a most preposterous idea, anything that you will get rid of those who are idle loafers, hangers-on to society, by this bill. Take one of those men and put him into the forest, and give him an axe, and do you think he would stay there to cut timber? Not a bit of it. He would walk or ride until he could get to some place where he could make his own taste and follow his own occupation.

But there is another objection which was made to my amendment, in some little discussion we had about it in the Senate a year or two ago, when I brought up a similar proposition. It was said, "If you do this, you will reduce the price of the public land very much; it will be worth very little." I admit that for argument's sake; but it will reduce it no more than the other. The other proposition destroys its value for sale. If everybody goes out there, the price of the land, of course, will have no price and cannot have a price. Lands that lie in the far West may bear a certain price here in Washington. Why? Because a man can only get it by paying a certain sum, and he may pay for it here; but if everybody who goes into the western country can get it for nothing, he will not pay. Of course, the price will go down very much under this bill; and I think perhaps just as much as under my proposition. But suppose even it turns out that there is a very large reduction in the price, gentlemen, it is not the price of the land that is to be reduced; the actual settlers will get the lands very low. If nobody buys them, at least they will be settled up as they were in North Carolina; and I do not believe there is a very much in the notion that speculators will monopolize the lands. In the new States, and in the old States, if you give an acre as long as I can remember, and yet they were never bought up in large quantities. If there is very little land offered, or to be got at, speculators will buy it to hold it up; but when land is plenty, like water, when you fill the whole country with speculators, you put down the price, I admit, to a very low rate. But even suppose there should be an inconvenience to the new States; if it should happen, contrary to my expectations, that speculators get a great deal of this land, they must see that it is not the price of the land that is to be reduced, but their own conduct. We had a very good land system that kept it out of the hands of speculators, and if you choose to break that down, you cannot complain that we in the old States take our chance to get a share of the money.

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was very much in favor of this bill some two years ago, made use of an argument which was a very ingenious one, I admit, as all his arguments are ingenious and subtle; but I think there is a fallacy in it. He says there is no hardship in the way of its passing this bill, because we have got land enough in the United States to give every man one hundred and sixty acres, and we only provide that those who choose may own and take possession of their lands now. If that were all of it, the argument would be all right, and take exactly for justice and equality, the men who go and settle on the land will derive just as much benefit from the residue of the domain as we do, who do not get any of it. A man will go there and get his one hundred and sixty acres, and then the remainder of the land, if it is worth anything at all—and the Senator alleges it will be just as valuable as it is now—in sold, and goes to support the Government, thus relieving the individual of taxation, so that he gets a double portion. He is in the condition that Benjamin was in when he was twice as much as the other brothers. I might illustrate it in this way: Suppose a man has ten sons, and has a thousand acres. He can afford to give to each one of them a hundred. One of the sons says: "Give me my hundred acres now! I want to make something out of it. It is very easy for me to go off and stay there, and make no demands; but if he remains at the family table, boards and is clothed as a member of the family, then it is very unequal and very unjust. That is the very position we now stand in. The men who go and get their portion of the soil, and take possession of it, still come in, take their share, and draw with the rest of us for the residue.

My proposition, therefore, exactly meets the view of the Senator from Tennessee, I take it. By it, we make a fair division of all the land; the old man says to each of his sons, "I leave to each of you one hundred acres; you may take it and use it as you like; if you do not choose to cultivate it, sell it to some of your neighbors, and put the money in your pocket." That would be the effect of my proposition. Pass it, and a man who is first in North Carolina, and I am sure says: "I do not care to settle on this new land; I have paid for as much as I need or want; I will buy a plow horse." He may sell his warrant, and get a plow horse; and if a mechanic wants to add to his stock in trade, he may sell his warrant.

But really, Mr. President, I promise to make a short explanation. My proposition is so just, that the more Senators look at it the better they will like it. If so, and it passes, it relieves us of all the difficulties of this question. We divide the public property fairly among all persons.

Mr. PUGH. Will the Senator allow me to make a suggestion? He seems to suppose that the principle of this bill granting tracts of land to actual settlers is something new in the history of the Government, or in the management of the public lands. Is that so?

Mr. CLINGMAN. This is a new proposition. Mr. PUGH. I tell the Senator it has been the fixed policy of this Government, commencing with the acquisition of Louisiana; and therefore all the evils he anticipates either have occurred or will soon occur.

Mr. CLINGMAN. I think my friend will find, when he looks into those acts, that there is a difference. I admit that there were special grants made in Oregon.

Mr. PUGH. In New Mexico and Louisiana it has been the fixed territorial policy.

Mr. CLAY. It was never done in Alabama or Mississippi.

Mr. CLINGMAN. I know my friend, the Senator from Ohio, is very ingenious, and I shall not quarrel with him; but I want to give him an explanation of the principles of my amendment; and if, when I hear him, I do not agree with him entirely—and he did not convince me in the last Congress, and I am very much afraid he will not again—I may have something to say in answer. I wish to state, however, that the whole thing is the principle of my amendment. I think he will find that the measure now under consideration is in some respects different from any that has been adopted heretofore. I will not, however, weary the Senator with further discussion now. Mr. WADE. Mr. President, this whole thing has come up in a shape that I wish to rectify; and I think it ought to be set right before we begin

with it. The Senate bill was made a special order, I believe; and right on that, this morning, as it came up, the committee reported back the House bill; so that both those propositions are really before us. I think, out of respect to the other House, this considering this subject, we ought to consider their bill, and not the Senate bill. Of course, it can make no difference in the ultimate result, whether we take the one bill or the other; but, if we should pass the Senate bill, that will have to go to the House of Representatives to be acted on. If, however, we proceed to the consideration of the House bill, and agree with the House in it, then we pass the bill, and there is an end of it. By the course which I suggest, every man will understand what he is about, and we shall proceed in order, and I make the motion, for the purpose of putting matters right, that we postpone the present and all other orders, and proceed to the consideration of the homestead bill of the House of Representatives, as reported back by the committee this morning; and I hope all the friends of the bill, and I hope all Senators, will agree to that for the purpose of putting ourselves right.

Mr. HALE. Mr. President, I propose to say a few words in reply to the Senator from North Carolina, as he made an appeal to me; and I am glad to hear because I want to answer him. I wish that, when the Senator was explaining his amendment, he had gone on, and, with his accustomed frankness and candor, told us whether he was really in favor of his proposition as a substantially correct one, and would stand for it if it was adopted, or whether it was a mere piece of legislative tact to defeat the bill. That might possibly have explained some of his positions.

Mr. CLINGMAN rose.

Mr. HALE. The Senator need not answer my question.

Mr. CLINGMAN. I think the Senator did not hear the first part of my remarks. I stated that I was opposed to this system; but if we are to have it in any shape, I prefer an equal one.

Mr. HALE. So that, I suppose, if we should adopt his amendment, then he would vote against it after all; and therefore, the speech which he made, and to which I listened, may be considered rather as a philosophical dissertation than a legislative recommendation of the measure which he proposes. But, sir, there were one or two suggestions he threw out that I want to answer. He said: how can we—appealing particularly to New England and to those who have strikes in our vicinity—justify this measure to our people? Sir, I have never had the slightest difficulty in the world in justifying any vote I gave, since I have been a member of the Senate, to my people. I never was called in question for any vote; and when I attempt to justify my vote, I think I can do it. But, sir, if you should ever measure up with the House bill, I can justify my vote to my people, by the soundest principles of legislation and of philosophy, it is a vote in favor of this free homestead; and I will tell you why.

The experience of this Government, for a long time past, has witnessed—something for the Senator from North Carolina, I have no doubt, that not one of the old States can ever derive any direct benefit from the public lands. We have tried it in every possible way. We tried to get a grant of public land for the purpose of aiding the great colleges to be established in the different States, but we found a majority dead against us. An appeal was made to the heart of this nation by one of the greatest philanthropists that exists—I refer to Miss Dix, and had gone through every State of the Union, and had gone across the Atlantic on her mission of benevolence. She came here and appealed to the heart of the nation, represented in Congress, and asked you, out of the great abundance of your land, to give but a pittance to aid in the greatest philanthropic scheme of the age; and it has failed, and it has failed in the indigent States. That appeal was listened to by Congress, but it was met by an Executive veto. Every possible scheme that has been suggested by which the old States were to get any, even the most remote benefit from the public lands directly, has utterly failed; and it has failed, too, in a great measure, from the votes of the political party with which the Senator from North Carolina is asso-

ciated and acts. They have uniformly, in a body, voted against anything of that sort.

Now, sir, let me say one word in regard to that peculiar state of society which exists in our States, and to which the Senator alluded, and I am glad that he did allude to it—I refer to those conditions of mechanics, journeymen, laborers, which began with the shoemakers, by which they have struck for higher wages. They have struck, and it has become very general, and I hope it will continue to do so. My sympathies are with them. I hope they will combine any confederate unit the highest possible amount that is consistent with the prosperity of the whole community may be given to the hand that toils. I thank God that in his good providence he has given us a system of labor in our States by which, even the laborer feels that he is not simply compensated, he may "strike," without finding himself subject to the penalties that are imposed on insurrections. I am glad, sir, of these strikes. They are indications of the material of which our laboring classes are composed, and I glory in them. I hope they will continue; and I hope that the day will be far distant that any class of laborers in our States, when they feel themselves aggrieved for the want of sufficient compensation for their daily toil, will fall to organize, as they have organized, and demand what they are justly entitled to.

Let me tell Senators—and it may, perhaps, be some information to them—this thing is too intelligent, and it is too deeply seated, to be turned into the political or party channels of the day. The power of the country grows upon them, like the best protectors of their rights. I live in one of the largest manufacturing towns in the State of New Hampshire. I live in a town where one of those strikes has been organized to a very considerable extent. I live in a town where the shoemakers pay to their journeymen something like twenty thousand dollars a month in cash. They have organized a strike there, and it has been pretty universal; and some of the foul birds of the party who thought that this strike might be turned to political capital came down to my town last Saturday night before last, and some of them took place on Tuesday, and undertook to make the strikers all vote what they called the Democratic ticket. They called them together in the City Hall, and addressed them on the outrages and enormities of a strike which they were undertaking to make them turn their attention, their support, and their sympathy, to the Democratic party which was the great friend of the laborer; which was the protector of the oppressed, and which would see that they did not suffer any of the wrongs under which they were groaning. Well, sir, they were heard patiently; they lay the last word; they spoke on Saturday night late, ran into Sunday morning, and the election came off on Tuesday, and I will tell you the result. The Democratic party twelve months ago threw in that place for the Democratic ticket, and this year, this year, after this attempt to turn the action of the strikers to their account, the Democratic party threw six hundred and fifteen votes—just exactly a unit what they threw last year.

Well, sir, if it should be my fortune to meet them and to hear it will be for I usually have a talk with my neighbors when I get home—I would tell them that I had voted for this free homestead, this giving away of the lands to those who would go and take them, this giving a free home to every head of a family who would go; and I would justify it in this manner, if I was called upon, but they have too much sense to want a justification. In the first place, they would have confidence enough in me to know I would not give a wrong vote, [laughter], to begin with; and then their own good sense would tell them that I was right. I will reason, without any explanation of mine; but I would say to them: "We in New England are, and have been, the great bee-hive of this country; we have a small territory; we have a sterile soil; we have a severe climate; but against all these we have been able to stand, and we have put out a large line of our history our young men, and they have carried with them the principles of civilization, of liberty, of knowledge, and of science; and the return which they make to us is the planting of free institutions in their own land, making us the great and broad base of the great principles of liberty, of humanity, of righteousness, and of justice, upon which the permanent foundations of national pros-

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Mr. JOHNSON, of Arkansas. You do not mean so to imply?

Mr. WADE. Certainly not. I have not said any such thing.

Mr. JOHNSON, of Arkansas. I am glad the Senator disclaims it. Then the meaning of his remark is, that he does not share the policy, course of business, and take up the House bill in preference to the bill which the Senate committee had matured anterior to the House bill being received by this body; that we shall consider it, and suffer it to take the place of what has been the special order of the Senate—the Senate bill. It was made a special order long before the House bill came here. Or does the Senator mean—and I impute no such motive to him, or to those with whom he acts—that the Senate, when there is a serious existing opposition, upon principle as well as upon policy, to a bill, is to have it forced through by the power of numbers? for the question has become almost sectional in its character, almost positively and completely sectional. Does he mean that we must abandon, without debate and without consideration altogether, this subject so far as we have matured it here in the Senate, or as it has been matured by the Senate committee, and must take up the House bill, and pass upon it, as was done in the other House, without debate, and under some form that shall be applied to the whole body? It looks so, if it is not so. I cannot but believe that there could not be a thing more satisfactory to the Senator and those who act with him than that the Senate should be forced to take a vote at once on the whole subject, without debate, without reference to the results which reason and the light to be obtained from it might give to the whole subject.

Sir, the Senate bill was some time ago made a special order; it has continued a special order; it has been on as such in the Senate, and is now to be before us as a special order; and the Senator says the House bill must be taken up, or at least, he moves that it shall be done, when he knows that there is a Senator entitled to the floor on the subject at once, who wishes to be heard upon it, and who would have the right to do so. The policy he himself cannot question; and upon that motion the Senator from New Hampshire takes occasion to express thanks to God, and I hear thanks to God expressed nowhere else, and on no other subject except when slavery comes in. It is connected too, with the "strike" of New England on the subject of their pay. Sir, that was insincere as the motives which he attributed to the Senator from North Carolina, and had no place here, and had no connection with the subject. The Senator and every Senator here, to tell the truth, insincerely; that there was nothing true in it; that there was nothing honest in it; that there was at the bottom of it a miserable, demagoguing trick with regard to his constituents, his neighbors, that he presumes would ask him about it at home.

He addresses them from here, to tell the truth, he offered free homes to them and took their part against capital; but at the same time, he leaves a sufficient opening for himself to be able to go there afterwards and to say to the capitalists, "politics and considerations compelled us to do this, in order to keep the estate with us and induce them to go along with us, to make them repeat the approaches of Democracy; when the truth is, that we ourselves, who are the principal men of New England, have made war upon the South and driven every man from the wilderness who would string and broken connections, which are to be seized hold of in order to sustain a political ascendancy that is still to trample upon the laborers, and that under the guise and name of free homes without cost—homes that they cannot go to, and if they went to them they would starve, and if they would survive; homes that could furnish them no place to live in on earth, except with the results of suffering and starvation and beggary; homes that the Senator knew would be worthless when given to those who are suffering and crying out for the price of labor against capital; homes that the

Senator knew himself were sales to the lips, and were neither food nor clothing. Such is the case, and so the Senator from New Hampshire has addressed his own people; and this side of the Chamber looks at it with scorn and with contempt—feels it sincerely to be so, and will not consent to be deceived.

Now, the Senator from Ohio has moved to lay aside the bill. He himself earnestly desires that this matter shall be considered, and continuously considered, until it be disposed of. He knows that under the rules of the Senate discussion cannot cease until the bill is matured. He knows that it is a subject about which there has been contention for sixteen or eighteen years in both branches of Congress, and he cannot rest until a full consideration of it is in this body. He knows it well; and there is, I fear, some other object; I hope not, but I sincerely fear it. Sir, I am afraid it has connection with some expected triumph that the Black Republican party anticipate. It is thus that they press this measure. They press it against the opinion, from every evidence that we can give, of the administration committee, and press it against what have been the opinions of a majority of the Democratic party for many years, and indeed of the whole Democratic party, with few exceptions. They press it in the teeth of a member of that party who himself is one of the foremost friends of the measure. Why should it be done? You will find the bill which is furnished by the Senate, of which you yourselves are members, over the bar, and call on us to take up the bill of the House, though it materially differs on four distinct points. You rise from the floor, and without the consent of this body can feel as all that you are aware of all the points of difference that exist, say it is this, and it is that, and it is the other; you furnish your synopsis of the points of difference, and say that the House bill is better than the Senate bill, and that the Senator, the parent, the father of the movement, who has followed it steadily and in sincerity for many years—though I think in error—desires a different course to be taken. He asks that you permit the Senate bill to go on and take its natural course, and be full and free to properly discuss and present, being entitled to the floor upon it. Instead of pursuing that course, you ask that the House bill shall be brought forward at once—a bill that went through the other House under the gag and without discussion, and which differs materially from all that the authorized agents of the Senate have thus far done. You propose that all that the Senate committee has done shall be set aside, and the House bill taken up and acted upon at once; and then many extraneous things are brought in, and God is thanked; and I hear Him thanked for nothing short of that which is to produce distraction in this country, war between sections, and a total dissolution of the Government itself. Whilst you speak against those who mention disunion here, you thank God, with the devotion of your souls, and with the enthusiasm of a present mood, can tend to forward and promote that result.

I hope and trust that the Senate will adhere to its own orders, and permit no little motives and no small considerations to come between it and a full and free discharge of that duty which it juries owes to its own standing and position among the highest authorities of this Union. I hope we shall not permit ourselves to be driven from the regular course of business here, and from the full consideration of bills which have been matured by our committee, and when the committee of the Democratic party have been formed under the power of the Democratic party here, with a majority on the Committee on Public Lands who favor this policy—a concession which I have never thought wise; a concession which I have almost thought ought to have called upon the minority of the Democratic party to abandon the committee, and have nothing more to do with it. Those were the feelings with which I was affected; but in discharging my duty, my desire has been, if we did act on the subject, to act sincerely and fairly, and try to make the bill as good as we could, and then vote against it when

it came before this body, if we could not approve it. The motion is now, and it is urged imperiously, that we shall abandon and throw aside our work entirely, and take up the House bill; and that is to pass, I suppose, if the wills of gentlemen on the other side are suited, in the same style in which it was passed from the Senate, without a single word of discussion whatever.

THE PRESIDING OFFICER. The question is on the motion to postpone.

Mr. JOHNSON, of Tennessee. Mr. President, I do not rise for the purpose of making a speech, but simply to make two or three remarks on the present position of the question before the Senate. The first bill that was introduced into the Senate at the present session was the homestead bill, which was presented at a very early day. It is bill No. 1. That bill was referred to the Committee on Public Lands; and after mature consideration, they reported it back in its present shape, and it is now under consideration. The committee, I repeat, considered the bill maturely. Those members of the committee who voted in favor of it, at the present time, the members and friends of the homestead principle disconnected from party considerations, reported that bill back, because they thought it had been put in the most acceptable shape, and in that shape in which it was most likely to receive the sanction of the country at the present time. It was then made a special order. The time arrived for its discussion in the Senate. It was continued a special order, and has been so continued from time to time up to the present moment. In the mean time, the House passed a bill on the same subject, and it was transmitted to the Senate. That bill was referred, as was remarked by the gentleman who has just taken his seat—the Senator from Arkansas—to the Committee on Public Lands. That bill was promptly considered by the committee with a view to reporting it back to the Senate, and the majority of the measure, as has been very correctly remarked, was authorized to report it. That friend of the measure has exercised due diligence in reporting it. This morning, after the morning hour had expired—no other time being presented for reporting the bill—the majority of the Senate, and after the unfinished business had been taken up, it was reported back without displacing the regular order of business of the Senate.

The query now comes as to the propriety of postponing the Senate bill, which has been regularly introduced, regularly referred, maturely considered, and reported back in that shape believed to be most acceptable, and in that shape in which it was thought it would command the greatest strength, upon the reporting by the committee of the House bill, by substituting the House bill as an amendment in lieu of it. It is proposed that that bill should be taken up, the regular business of the Senate postponed, and the House bill considered. I can see no substantial or good reason for it. I do not understand it to be dissonant or unparliamentary to the Senate to proceed with our regular order of business, and especially when that order had been taken prior to the passage of the bill of the House. There are points of difference between the two bills, as was remarked by the gentleman from Ohio, and it is very easy to offer them as amendments, or offer the House bill as a substitute in lieu of the Senate bill; and then we can have a fair test when the action of the Senate shall be had. I think it neither unparliamentary nor unbecomingly to the House of Representatives for the Senate to proceed regularly with the consideration of a bill that it has matured and made a special order.

I regret, I will remark while I am up, to see this measure take a party direction. It may be the feeling and the desire of some to proceed for the express purpose of making political capital before the country. I hope, though, that it is not. I shall speak for myself, and I think I am authorized to speak for others, when I say that they are for this great measure, and should succeed not merely on account of what little capital

can be made out of it in one direction or another. I repeat, I have been pained to see an attempt to give this measure a party direction. I have been pained to see men in different portions of the country seizing this measure and trying to incorporate it as part of their creed, for the purpose of affecting the public mind. If there are friends of the people in the Senate and in the other branch of Congress, let them be friends, and friends upon correct principles. If there are Senators here who believe that this is a great measure, calculated to ameliorate and elevate the condition of the common men and advance the great cause of civilization, let them stand by the great measure upon principle; not upon party, or the feeling or direction that may be given to it. All these movements, though they may be made with good intentions, are calculated to mislead, to retard, and in the end to defeat, its final consummation.

I speak what I know, when I say that no bill can pass the Senate containing the provisions of the House bill. Then, he who is a friend of the honestest proposition, when he can get the substance of that great proposition, when he can get all the essentials, all that is material in the bill now under consideration, it does seem to me is not acting in good faith when he takes that course, and gives the measure that direction that is likely to defeat it. If we cannot get the measure as we desire, let us take what comes the nearest to it. If we cannot get some of the details of the measure that may be desired by some, let us come forward and take the substance. Let us take the great principle; let us incorporate and place upon our statute-book that honest principle, which will carry relief, which will ameliorate, as I remarked before, the condition of thousands, if not millions, of the people of the United States.

Why, then, should we not proceed regularly, and consider the proposition legitimately and regularly before the Senate? We may simply wish to test the strength of the two propositions; if he wishes to throw this side of the Chamber in opposition to some points that he conceives material in the House bill, for the purpose of effecting party objects, let him do so. But the Senate bill, if we cannot get that which we most desire, let us take that which comes the nearest to it; leaving those who are desirous to pass the measure to stand on practical grounds, and where they properly belong.

The time has been, Mr. President, when this was no party measure. In 1846, when it was introduced in the other wing of the Capitol, it was not looked upon as a party measure. Then Whigs and Democrats sustained it; and in 1852 it passed that body by a majority of two thirds. In 1854 it was considered, debated, and finally put upon its passage, and passed by a similar majority. But recently, it is true, some of the parties of the country have assumed to make it a tenet of their creed; but let me ask the Senator or member who started originally for this great measure upon principle, let me say to him who looked at the measure and its application to the toiling millions of the United States, and was for it upon great rational principles—let me ask him, either on this side of the Chamber or on the other side of the Chamber, is he now going to be driven from its support, because some to whom he stands opposed in politics favor the measure?

I say for myself that I care not who sustains it; but, on the contrary, I am anxious to obtain support for this measure, comes from what quarter it may. If it is right in itself, it embraces a great principle; and I intend to pursue this principle, carry me where it will. I have learned in early life that, in the pursuit of a great principle, you never can reach a wrong conclusion. If this great measure is right in itself, I say the politician and the statesman is not the man who has the moral courage which should accompany every man in high place, when he is driven from its support because some may assume to support it to whom he stands opposed in reference to their political creed. It is right in itself, it is a great measure, calculated to do great good. Why, then, should we abandon it? Why should we not act on it, without reference to its bearing on any particular action that may come off hereafter? I say, let the measure be passed now, or as soon as it can be considered; let it be placed on your statute-book as a law, and take it out of the hands of wrangling and contending and misrepresenting parties. It is above par-

ties. Parties have scarcely aspired to the elevation of the principle involved in this measure. Parties too frequently, on both sides, forget the people, the interests of the great masses of the toiling millions of the United States who bear all, who toil for all, who are to be benefited by all, and whose rights and their interests are overlooked and neglected in many contests and conflicts that transpire between the parties of this country.

It was not my purpose, sir, to make a speech on this occasion. It was not my purpose, when I entered the Senate, to obstruct any measure, unless where I believed the importance of the measure with which I was connected, or the interests of my people, required me to speak. I hope, then, that we shall consider our own bill. If the Senators wish to test the sense of the Senate upon the leading point, it can be done. If this bill is rejected, the other bill can come up as a matter of course, and we can have the sense of the Senate upon it in that shape.

But while I am up, Mr. President, I may allude to the amendment that has been proposed. Perhaps, however, I ought not to speak of that now. The question before us is simply a motion to postpone; but it seems to me that before the action of the Senate is had on the postponement, the suggestion made by the Senator from Alabama, Mr. WIGFALL, is most to be desired, so that the two bills be read, and the comparative difference between them understood, so that the Senate can act understandingly. In reference to the amendment offered by the Senator from North Carolina to the Senate bill now under consideration, I do not know whether it is legitimate or not to discuss it now. Probably it is not, until the Senate determines whether it will postpone the one measure and take up the other, and therefore I will not touch that point. All I desire, I will say to the friends of the honestest measure, is that they should oppose the sanction of the Senate and House of Representatives—feeling confident that, if we can pass the bill in such a shape as to indorse the policy, in a very short time Congress will cure all the defects that there may be in the bill. I hope, then, that the Senate will proceed to consider the bill that is now before it.

Mr. WIGFALL. Mr. President, I propose very briefly to give my views in reference to the question before the Senate—the comparative merits of the two bills—and if I can do so in some way, so that, as the Senator from Tennessee has done, from the immediate question—

Mr. WADE. If the gentleman will permit me, I will inquire if it would not be better to settle this preliminary question before we debate the bill? I do not know but that the Senator is in order; but it seems to me to be better to adopt the course I have suggested; and I will here state that it is no part of my purpose to check or to interrupt the debate, and I cannot see how my proposition could possibly do so. I have been anxious to my friend from Tennessee—my friend on this question, at all events—that I do not wish to put myself in antagonism to him or his way of proceeding upon this subject; but it seemed to me to be right that, both these bills coming together, I should say up the House bill, and I will undoubtedly, those who preferred the Senate bill would move that as a substitute for it.

Mr. BIGLER. If the Senator will allow me a moment, that will not be necessary; because the committee have reported back the House bill, as I understand it, with amendments to make it conform to the Senate bill. The fact is, there is no difference in the questions whatever. The bill which the Senator from Ohio moves to consider is precisely the bill which is under consideration. The first question that will come up, will be on the amendment to the House bill, and the second will be on the amendment to the Senate bill. That will be the first question; and on that the merits of the two bills will be tested.

The Senator from Ohio is obviously right, so far as relates to the order of business. The House first passed the bill, it is proper that the Senate should consider it first, and if not agreeable to the Senate, the bill ought to be amended. The committee have proposed to amend the bill; they have reported amendments; and the first question will be on agreeing to those amendments. Mr. WIGFALL. The first question which I will decide, will be precisely the question between the two bills, as the Senator from Ohio proposes; and

there is nothing at all in the whole question but the order of business. Now, I suggest to my friend from Texas, as he desires to go into the merits of the whole question, that he will be perfectly free to do so on the consideration of the House bill, as suggested by the Senator from Ohio; for the amendments of the committee bring up the merits of the Senate bill in antagonism with the merits of the House bill, just as distinctly as the motion of the Senator from Ohio.

Mr. WADE. I did not understand, as the Senator from Pennsylvania said, that the committee reported back the House bill with the Senate bill as an amendment to it.

Mr. BIGLER. Yes, they did.
Mr. WADE. I did not understand it so.
Mr. BIGLER. Certainly they did.
Mr. WADE. If that is so, then the question would be on agreeing to their amendment, and the friends of the House bill could vote against it; but I do not understand that to be so.

Mr. JOHNSON. Of Tennessee. If the Senator will allow me, I stand distinctly that I was instructed to report back the House bill with an amendment, in lieu of it, to strike out all after the enacting clause, and insert what was substantially the Senate bill now under consideration.

Mr. JOHNSON. Then the first question turns on the amendment.

Mr. JOHNSON. Of Tennessee. Exactly so; which is the Senate bill.

Mr. WADE. Then I withdraw the motion, and am willing to take the question on the amendment if that is the order.

Mr. TRUMBULL. The Senator from Ohio is under a misapprehension. There is no amendment now before the Senate; but there will be, if his motion prevails. This is the position of the case: now considering the Senate bill, not as an amendment; the Senator from Ohio has moved to postpone the Senate bill, and to take up the House bill. When you do postpone the Senate bill and take up the House bill, what have you got before you? You have got before you the House bill with the proposed amendment of the Committee on Public Lands, which is to strike out the House bill and insert the Senate bill which we are now considering. Then, if the motion of the Senator from Ohio prevails, we shall have the whole question before us in a regular shape; we can consider it, and it seems to me to be better, by common consent, postpone this bill and take up the House bill, which has with it the very Senate bill we are considering, and then we shall have the whole question before us. That is the natural course, and then we have the whole proposition before us. But now we only have the Senate bill before us. I hope the motion of the Senator from Ohio will prevail.

Mr. WIGFALL. Mr. President, the preliminary question of order being settled, I do not pretend to understand the question.

Mr. TRUMBULL. Let us have a vote on that, if the Senator from Texas pleases. Let us settle that question and know where we stand.

Mr. WIGFALL. ["Go on!"] I say I do not precisely understand how, but understanding the merits of the bill, I am going to propose as briefly as possible, give my views on the subject now before the Senate.

The PRESIDING OFFICER. The Chair will state the question before the Senate. The bill under consideration is a Senate bill, reported from the Committee on Public Lands, as the Senator from North Carolina has moved an amendment, and the question was upon the adoption of that amendment. In that condition of things, the Senator from Ohio moved to postpone the Senate bill and the amendment, and to take up for consideration the House bill, with the amendments, and that is the motion now before the Senate, unless he has withdrawn it.

Mr. WIGFALL. Precisely; and, Mr. President, I propose now to discuss that, and I trust that the friends of the House bill, for example, that has been so closely before us, will speak to that question as before us as they have already spoken.

Mr. TRUMBULL. I would like to ask a question of the Chair: whether it is in order to discuss the merits of the bill, or the question of amendment? I thought it had been decided that it was not.

The PRESIDING OFFICER. It has been the decision of the Chair, within a short time, that debate upon the merits of a measure was not in order, when a question merely as to the order of business was before the Senate; but debate has gone on without interruption, and the Chair will not feel like interrupting it now.

Mr. WIGFALL. I presume, if Senators will be patient, and not call me to order, the Chair will not interrupt me; and as other Senators have not interrupted me, I trust, I may continue. I am in the humor of speaking, to say a few words on this question. With that distinct understanding, I shall discuss the question before the Senate.

The Senator from Tennessee begs that this may not be considered a party question; I am at a loss to know how it can be anything but a party question; and there we differ. I suppose that every question that comes before either branch of Congress, or before the President, is *ipse facta* and, as our friend John Tyler would say, *per se* a party question; for what is the very foundation of any matter coming under consideration here? It is the power of the Government. I care not what the measure is; if it is a bill for establishing a post office or post road, or if it is a tax bill, or a bill disbursing money, or increasing the Army, or anything else, it is a party question, because the question that can come up involves, first, the power of the Government; and that again involves the ideas—and that must be settled—as to what is the form of Government under which we are living.

Here is a bill providing land for the landless, important for the African race, and touching the important matter, in my opinion, of negroes for the niggerless. [Laughter.] If this Government is an elemosinary establishment; if it was intended by the fathers to provide for the indigent, the halt, the blind, the deaf, and the dumb; if those who cannot support themselves are to be supported by the Government, then, when you give land to them, I think you ought at least to furnish those who are to work the land. That is but fair. I would regard it as a very great outrage to give a man one hundred and sixty acres of land, and then to let him go, without giving him anything. He has shown his indisposition to work at anything else. If we are to give men land, let us furnish those who will work it for them; and do the entire thing for them at once; and I was almost going to say, reopen the African slave trade, which would involve; for it would convert the Government not only into an elemosinary establishment, but a missionary concern also, that we should undertake, by reopening the African slave trade, to Christianize Africa by catching Africa and bringing Africa here where Africa can be preached to without endangering the cloth; for it is my deliberate opinion that about three preachers are eaten to every convert that is made by those who go to that country. [Laughter.]

But, the Senator from Tennessee says that this is not a party question, and that he is not a party man. I am a party man, and I cannot vote for anything except on party grounds. If it is not a party question, I cannot vote at all, [laughter;] and I expect to vote on it, and therefore I must consider it as a party question.

Mr. President, what is the proposition before the Senate? It is that we shall give homes to the homeless; that this Federal Government shall furnish for those who have no homes a place in which to live. I am in the habit of looking at things plainly and dealing with them practically; and if I know myself—and I am not in the habit of talking very often about myself—I think if there is anything for which I have an utter abhorrence, it is demagoguism, or sailing under false colors. I never run into a port and claim neutrality, but am always showing my flag. I never sail under the marine leaguers or out upon the high seas. If this Government is a consolidated, central Government; if sovereignty resides in the Federal Government; if the legal title rests in the Federal Government to all the property owned by the United States, and not only the legal title but the actual title; if this Government is not the trustee, but the *cestui que trust*, then I say we have a right to do what is proposed by this bill; not otherwise.

Then is this Government sovereign? How was it formed? Where does the power reside? Where is the legal title to the equities of the thing that is owned? For I shall, before we get through with this question, propose to give, not land, but

money. I shall improve some what, for I am rather progressive, upon my friend from North Carolina, by substituting, not one hundred and sixty acres of land for every man, woman, and child in the United States, but \$160 in money, to every one of them, and we will hold the land; for, being the friend of the people, I think the people ought to have something that would be of some use to them. Give them the money; they have as much right to the money as they have to the land. Give them the money, and then I think they ought to have their mileage, because it would be a crying evil, it would be a gross outrage, it would be a monstrous wrong upon the sovereign people of this country if they should be required to pay their own expenses here to the seat of Government to get only \$160! Sir, it would be aristocratic in every feature, [laughter;] it would be establishing a monopoly in favor of wealth; it would be enabling those who could travel upon steamboats and railroads to come here to Washington and get the \$160, and the poor, hard-working man who lives by the sweat of his face would be unable to get the bounty of this Government. Therefore, I shall not only propose to exchange land for money, but to add mileage also; and, if that shall be voted down, then I give fair notice that I intend to propose that, if we are to give land we shall furnish those who shall work it, and I think about three negroes would be enough—one woman, with a child, and her husband, with a prospect of a large increase. [Laughter.] Then we shall be doing the clean thing.

As before I begin exhibiting my affection for the people, and making these demonstrations, I propose to consider whether we have a right to do this, for all of us are here under oath; and I am not disposed to vote for any measure unless I believe I have clearly the constitutional right to do so. How stands this Federal Government? I cannot say that the question is sprung upon me, because I have known always, ever since I can recollect, that this question was before the country; I have at different times considered it, but I have not considered it with a view to debating it to-day. It has happened to me to feel in a humor, and therefore I speak upon the question.

Some years ago—it began a long time ago—first one of the kings of England, and then another one, then, established colonies on this continent by means and means; and after a while there were thirteen, or fourteen, or fifteen colonies established under different charters, all of them different each from the other, some of them colonial governments, some of them charter governments, and some of them proprietary governments; but such a separate, distinct political organization and community. Time rolled on; and in 1776, thirteen of these different political communities declared their independence. Canada did not; there were other British possessions and colonies that did not; but these thirteen political communities declared their independence, and thereby, by seven years' hard fighting, achieved that independence, they became sovereign, separate, and independent States.

As I have said, I can consider nothing, except as a party man, and I can vote only on party grounds, and I can vote only on party grounds. History has been ignored. Men who understood it, or ought to have understood it, have laid it aside. Theories have been substituted, and men have preached theories upon facts which never existed, except in their own imaginations; and among these, I would name that distinguished jurist, Mr. Justice Story, who wrote books; and, if he was remarkable for anything else, I happen never to have ascertained it.

When these colonies, all of them separate and distinct political communities, declared their independence under the Crown, declared their independence, what became of the colonial governments? When I speak of colonial governments, I mean those governments that were established by the Crown. Some of them were colonial; some were proprietary; some were charter governments; all of these governments were established and did exist, because of the authority which the Crown had given. When the authority of the Crown ceased, what became of the authorities of the governments? They ceased; of course they were no longer in existence, because the foundation having been removed, the superstructure toppled and fell. Then what became of them? Sovereignty rested

somewhere; the sovereignty that had been in the Crown devolved somewhere. Where did it devolve? In the governments? There was no governments on which it could devolve, for the governments were all destroyed by the act of the Declaration of Independence. Then, sovereignty devolved upon the people. Upon what people? Upon the people of the thirteen different colonies which had declared their independence. Upon any others? No. Canada did not declare her independence, and she retained her sovereignty; the Crown did not devolve upon the people of Canada; but upon the people of the thirteen independent, separate colonies this sovereignty devolved, and they became *in instanti* thirteen sovereign, separate, and independent States. This is history. There is a general sentiment prevailing in every country that our Union is of Divine origin, and it has had a most pernicious effect on the Union itself. I believe that this very sentiment has had more to do, or will have more to do, with its destruction, if destroyed unfortunately it ever shall be, than any other sentiment that ever has pervaded the country. It has had the same effect that the old idea of torism had in England. Had Sir Robert Filmer never written his book proving the Divine right of kings, probably the revolution in England would never have occurred; and had this idea of unionism never been established, and the United States, probably this Federal Government, under the direction of a dominant party in the country, would never have committed any act that would precipitate a dissolution of the Union. As well, therefore, to talk of the rights of men, names, and discuss matters as they present themselves to us. Unionism, as unionism merely, and torism, are synonymous terms. I call things by their right names, and I shall continue to do so.

If, in the course of human events, it had happened unfortunately that one single colony had been established, and that its metes and bounds had been described by the Canada line on the one side and the Florida line on the other, and the South sea on the west, and a Declaration of Independence had been declared and a Government established, and that one single colony, and that Government would not have lasted ten years. The wisdom of man could not have devised, for such a State, a republican or democratic Government that could have lasted ten years. The soundness of the theory of the political community is that such a government as they have in Rhode Island, such a government as they have in Texas, such a government as they have in Virginia, such a government as they have in Georgia, such a government as they have in any State in this Union could not possibly have existed ten years, had it been established. Such a Government must have been established, had the people of the United States been one people; had there, in other words, been but one colony; and, when the Declaration of Independence was made, had sovereignty devolved upon one political community. But, fortunately or accidentally, there were thirteen colonies, and the sovereignty devolved upon thirteen separate political communities. Having declared their independence, they fought through a war, and they were fighting it under a loose league. They knew that they had a common enemy, and they joined together to fight that enemy without any written stipulations. About the year 1781, Maryland, upon this very equator-sovereignty, homestead doctrine, claims the Union, and she said that they were fighting for these lands, and they ought to be owned by the States in common; and that though Virginia, and New York, and the other States, had the paper titles, Maryland was not going into this matter unless she could come in and have these lands set aside for Federal purposes. Maryland was man upon this point, or in this Union, who knows the character of Maryland, that would ever accuse them of standing upon anything except a question of principle—not the love of money.

In 1781 a constitutional convention was called by Mr. Justice Story says the people of the United States as one community. Amongst whom was it formed? Amongst the people of the thirteen different colonies, then States, and amongst those thirteen States that had declared their independence, and amongst those thirteen States, the Declaration declared that "each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this

Confederation expressly delegated to the United States in Congress assembled. How could each State retain its sovereignty, freedom, and independence, unless each State previously had those attributes? Then they retain what else? Every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled. That, it seems to me, ends the question, and they stand up to that time, in their opinion, and that they each to the other admitted the fact that they were sovereign, separate, and independent communities.

These Articles of Confederation were ratified by the States in 1781. They fought the war through, and after the war was over they lived under these Articles of Confederation for three years; and any one who will sit down and read the Articles of Confederation, and then read the Constitution of the United States, will come to the conclusion that there is but one great difference between the two. The Articles of Confederation required the States to ratify the acts after they were done, and the Constitution requires them to ratify them before they are done. One is a general power of attorney to do an act; the other requires a ratification of the act after it is executed.

There is one other matter of difference between the Articles of Confederation and the present Government, though they are Governments precisely of the same sort so far as the constituents are concerned. They differ in this, that the one was a naked confederation, and the other is a republic Government. Mr. Story says that this is a consolidated Government; that it was not ratified by the States, and that it does not derive its authority from the States, because the Federal Government is a Government proper. That is what he says, from my recollection of his comments. The distinction between a Government proper and a Government improper Mr. Justice Story has never enlightened us about. Admitting that this is a Government proper, the difference between the old Articles of Confederation and the present Government is, that the present Government is a republic Government; that it is a Government which operates directly on the people, in which the powers are divided between the executive, legislative, and judicial departments. The Articles of Confederation did not provide for that division. This does; and in that again consists a main difference between the two.

In General Washington's letter, as president of the convention, he says that the object of adopting the present Constitution was that they did it unsafe to intrust these powers to one legislative body. Hence it was a change in the organization of the Government only. That being the case, it speaks volumes. The convention that drafted the Constitution, the States that ratified it, the powers that ordained and established it, never intended to change the form of the Government, or the parties to the Government, or to sacrifice the rights of those who had ordained and established it. They intended simply to change the organization; and then the words of General Washington. I quote now from the letter:

"But the propriety of delegating such executive trust to one body of men is evident."

That was the old Constitutional Congress.

Hence results the necessity of a different organization.

That "different organization" was simply substituting the present Federal Government, in which the legislative, executive, and judicial powers were vested in different departments of the Government; and in that consists the whole change between the old Government and the new. Now, sir, if, after the Articles of Confederation of 1781 were adopted, in which each State retained to itself its sovereignty, independence, and freedom, those States ever abandoned their sovereignty, independence, and freedom, I ask where is the deed of abandonment? When did they claim title? You surely would not charge me with losing my title to land, unless you could show somebody in whom it vested? You would not charge upon me that I had lost my right to anything, unless you could show some better outstanding title?

I have shown already that these thirteen colonies were separate and independent communities, existing by the authority of the Crown. I have, then, shown that they threw off the authority of

the Crown, and in throwing that off, their governments fell, because the authority by which those governments had been established had ceased to exist. Then, I have shown that the sovereignty devolved not upon the governments, because there were no governments to receive it, but upon the people; and that sovereignty devolved upon the people of thirteen sovereign, separate, and independent nations.

Then I have come up to this point—we have got through the Articles of Confederation and the formation of the present Government—why was the present Government formed? In 1787, there were seven three and four million people in the United States. These United States were acting together under the Articles of Confederation. They found that it was a clumsy arrangement. No State was strong enough to stand by itself. Each one of them would have been in a most excellent condition had been secure from foreign aggression. Then, in order to secure liberty to themselves and to their posterity, to insure domestic tranquillity, to provide for the common defense, and promote the general welfare, and to form a more perfect union, they sent delegates to a convention, to which should be added the words of the Articles of Confederation, I have not the paper before me now, but if I shall deem it necessary, after this debate is over, I may furnish it to the reporters; it is a singular fact that every single State that appointed delegates to that convention, upon that convention, should have the right to propose any amendments which would deprive the States of their right to self-government. I do not pretend to quote literally, but that was the substance of every single one of them. Those delegates were appointed by the State governments; they met and drafted the present articles of union.

Now, sir, let us consider for a moment, in order to construe these articles, (for it is right, in construing a treaty, always to look to the protocols,) what was the object of the convention? The articles states the object. The preamble by a party that has existed in this country for a long time, has sometimes been considered as the Constitution—I mean the old Whig party—and the Constitution itself has been considered as a sort of contract. I do not think that is correct; but that anything which, in the opinion of the Federal Government, was for the common defense and general welfare, could be done without reference at all to the enumerated powers. Such was not the understanding of the fathers. This Constitution was drafted by men who were sovereign over the States. They ratified it. It became binding between each State that ratified it and the other States ratifying it. Between no other States did it become binding. When it was ratified by every State, it became binding only between the States; the individuals had nothing to do with it. I have no right to construe this Constitution; I cannot say what it means; I owe my allegiance to the State of Texas; the State of Texas has become a party to this compact; her understanding of the compact is binding upon her. When the Federal Government talks about a State committing treason, they talk sheer nonsense. A government cannot commit treason! Why, sir, a *de facto* government, one that has no existence except for a day, cannot commit treason. A government is a temporaryity; it is a matter of imagination; it is a thing that cannot exist; but if there is any single rule that is laid down by the writers on international law about which there is no exception in the world, it is the proposition that any individual acting under a government *de facto* can be guilty of treason only in the eyes of the world which he is acting. By a government *de facto*, I mean a government that has a legislative, executive, and judicial department, and an exchequer. Whenever you find a legislative, executive, and judicial department, and an exchequer, then you can be guilty of treason; and any one acting under such a government, and who cannot be guilty of treason to the government that has that legislative, executive, and judicial department, and that exchequer; and whenever that government declares its relations to any government, or set of governments, as an end, its decision is final, so far as those within its territory (that is) are concerned.

That is a rule of the law of nations; and those men who talk about dissolving the Union have a time or other by rebellion and treason, at every

fancy for being hung that I have not. They are perfectly willing, they say, whenever the emergency arises, to comply with rebellion and treason; they are willing to be hung; now I am not. I understand that I owe my allegiance to the State of Texas; I understand that that State is one of the parties to this compact. I understand that this Government is exercising—no, sir; I take that back. I understand that this Government assigns powers through this Government conjointly with the other thirty-two States with whom she is confederated; and whenever she declares that she ceases to exercise those sovereign powers conjointly through this agency, whenever she declares that this Federal Government is no longer her agent, I am bound by her behests; and if this Government or the other States shall declare war against her, I will elect either to fight under the standard of my own country, or to fight against it; and if I shall be found under her flag fighting for and upon the soil of Texas, then I shall be held to have transgressed upon the law of nations before you could treat me as a traitor. If I should be caught in the ranks of the enemy and he not hanged, I should not receive what I should in that event receive from the Government of Texas. Those men who talk about revolutionary rights are simply guilty of the ignorance of not knowing under what form of government we are living. They talk about States committing treason. How is it possible that a State can commit treason? A State is not a rebelion. Perhaps, as you say, the individuals who are acting under the authority of the State. You cannot pick up any book upon international law that does not lay it down as an axiom, that any one who is acting under a government, either *de jure* or *de facto*, cannot be guilty of treason or rebellion, because those things are not possible. They are, therefore, talking about what they do not know, and it is mere gabble; that is the truth of it. A great many people, who talk about defending sovereign rights and rebellion and treason, are not ready to resist their right; are simply indulging in common; they do not know anything about what they are talking of; and they do not intend to do anything when the emergency arises.

Well, Mr. President, I have wandered so far from my subject that I have not time to come back; but I was on the homestead bill, I know, [laughter], and I am coming back to that. This Government being established on these principles, and it being a Government of the kind I have described, the question results, has this Government a right to exercise its powers over the people of the homes? and after that is settled, as I said before, I will introduce the other proposition, whether we should not furnish rations to the negroes, in order to work the lands? You must understand why it is that I have gone into these preliminaries. It is to establish the fact that the lands do not belong to the individuals living in the United States; that they do not belong to the individuals as one political community; that there is no such political community; that the legal title to the lands is in the individuals living in the United States. The Federal Government is itself a trustee, and that the *cestui que trusts* are not the individuals living in the United States, but the States themselves, who are the parties to the contract. If it be conceded that the premises are correct, and that the legal title to the lands vests in the United States Government, and that the equitable title is in the States, that the States are the *cestui que trusts*; and if it be also conceded, (which I suppose will be doubted or denied,) that there is a tenth amendment to the Constitution, which declares that the powers not delegated to the Federal Government by the Constitution are reserved to the States, "and you can find no delegation of power to provide homes for the homeless, and land for the landless; and if you cannot find among the enumerated powers of this Government, among other purposes, after stating that the States are to have a voice in the union, and to secure liberty to ourselves and to our posterity, and insure domestic tranquillity, and provide for the common defense and general welfare, that this is also an elementary establishment to take care of the widowed and the orphan, and found there, then I think my premises will follow; and what are they? That the lands belong to the States; that they are a Federal fund; that the money in the Federal Treasury belongs to the States; that that is a Federal fund; that every

single article of property belongs to the States, the legal title vesting in the Federal Government; and that the lands and the money, and every other single article of property of value are held by the Federal Government as a trustee, the States being the creditors. That being the case, they must be administered for the common defense and general welfare, and cannot be distributed among the people as individuals.

I take it that I have established the proposition that there is no such political community as the people of the United States; that these States, having confederated together and agreed to exercise some of their sovereign powers conjointly, through the Federal Government, and the Federal Government having the right to hold the legal title to the lands and the money, the Federal Government can distribute the money as easily and as constitutionally as it can the lands. This being the case, I do not understand how it is that my friend from Tennessee can discuss this question except as a party question; because I understand that all Democrats believe what I believe. This is my understanding. I think I am one of the straightest of the sect.

Mr. JOHNSON, of Tennessee. By permission of the Senator from Texas, I wish to ask him a question.

Mr. WIGFALL. Certainly.

Mr. JOHNSON, of Tennessee. I desire to ask him whether there is any principle involved in the homestead measure that has not been recognized by laws passed in every Administration from the days of Washington down to the present time?

Mr. WIGFALL. I will answer as far as I know. This fact is, that I do not know, and it would not make a particle of difference to me if I did. There is nothing from the days of General Washington down to the present time that cannot be explained by precedent.

Mr. JOHNSON, of Tennessee. I was proceeding on the idea that the gentleman's proposition was a legal one, and that precedent would have its due influence with him; and I simply refer to the precedents of the Government from General Washington down to the present time; and I thought perhaps they would be entitled to some consideration from the gentleman.

Mr. WIGFALL. Whether I have a legal judgment, or not, is a question that my clients have decided upon. I decided upon it, and I think it would not be due to delicacy for me to say whether I knew much law or not; but I understand that political questions and legal questions are very different; that whilst you can quote upon courts their own decisions, and insist that they shall regard them, though courts very frequently do not; the powers of this Government depend upon the compact between the different States in the organization of the Government, and I have not yet seen anybody except an old and dyed-in-the-wool Whig, who ever talked much of those precedents. Did not General Washington recommend unanimity? Is there one of the fathers who did not recommend something that no Democrat would touch with a forty foot pole? I do not except Mr. Jefferson from himself. During his administration was not one of the great innovations of the Government for the public lands for internal improvements? Why, sir, we have reached a queer point of progress if this Democratic party is to be held down to precedents. I take it that we have reached a point in time, it is necessary to have a new understanding of the bargain.

Toryism has had its day. The humbuggery of the sacredness of the Union has had its day. I do not believe Sir Robert Filmer would ever have been an anti-Mason or a Free-soiler. He was a man of unimpaired mind, a man of high birth, and well bred. Sir Robert Filmer is dead, and his doctrine with him. The Declaration of Independence lives as far as it has a meaning; further than that, we need not own it. It says that every people have a right to establish their own governments; they have a right to live under such institutions precisely as suits them; and if the people of these different States desire to-morrow a monarchy, say they have a right to have it; but this Federal Government has no right to establish one over them; and if any one of the States were to demand the intervention of the other States through the Federal Government to secure to them a republican form of government,

these States are obliged to each other to do it. But the right of self-government is one that is inalienable, and the only one that is. Individuals have no inalienable rights. It is a fallacy that had its origin within the last century, when Montesquieu and Madison, and every other man, and disorganism of every kind had its origin. Every people have a right to live under such a form of government as they see fit, and when a people choose to change their institutions they have a right to do it.

As to the thing of precedents, I am surprised that any one who calls himself a Democrat should talk to me about precedents. If precedents are to govern, then a tariff for protection is constitutional; then a bank of the United States is constitutional; then internal improvements are constitutional; then any thing that has ever been done is constitutional; and if that is the doctrine, I shall introduce a resolution here proposing, by the authority of the Congress of the United States, to declare that the Commemoration of Joseph Story be, and is hereby, the laws of the United States until we have time to make better ones, as they said in Connecticut, I believe, when they adopted the laws of God. I am shocked that a man pretending to be a Democrat talks in that way. Democracy in this country means one thing, and in Europe means another, and quite a different thing. Democracy in this country does not mean wearing a dirty shirt; it does not mean being unwashed and uncombed. I never saw a Democrat in this country who denied that a man had a right to associate with anybody he pleased.

I never saw a Democrat here who denied that every man's house was his castle. I never saw a Whig who would have abolished the writ of *habeas corpus* or the right of trial by jury. We did not differ from the Whigs upon questions of social equality, but we differed upon two questions of the construction of the Federal Constitution. The Whigs adopted the doctrines of General Hamilton, Mr. Story, Mr. Clay, and Mr. Webster. The Democrats have adopted the doctrines of Mr. Jefferson and Mr. Calhoun, the great exponents of the South, and the great expounders—Calhoun the commentator, and the commentary better than the text. That is the difference between the parties. The Democrats have adopted the Kentucky and Virginia resolutions, and the resolutions by the Virginia report, that this is a Federal Government, and that no State has the right to judge for itself of the infraction of the compact and the mode and measure of redress. Beyond that, I do not understand Democracy to go.

This matter of constituting this Government a sort of hospital for the indigent, the lame, the blind, is a thing that never entered into the contemplation of its framers. The States that established this Government established what Mr. Jefferson gave it its proper nomenclature. He called them confederates. These States were confederated together, because neither one of the States was strong enough to defend itself against foreign aggression. They established this Government so that they might unite their forces to resist foreign aggression; and all domestic matters, they left each State to judge for itself. That is the history of the matter, and it is the philosophy of it; and if we had attempted anything else it would have been a failure; and it is because I believe that this Government is the best that has ever been devised by the human mind, that I am a Union man. But when I say that I am a Union man, I do not mean that I am a consolidationist; I do not mean that my happiness depends on our being united to New England. The fact is, that New England has been rather a nuisance.

Let our Army and our Navy be formed, and we have found a very uncomfortable partner. The snakes let a porcupine once into their place—not meaning to say that we are the snakes, or New England the porcupine—but when the porcupine got in he told the snakes to leave if they wanted to live. We have found a very comfortable partner. This Government, as far as New England has been concerned, has been a cow, as some one has said, in homely phrase, with its mouth to the South. We have been feeding the beast, and New England has been milking it; and it is our political history since the Union was formed. We would not have complained about that, because I am charitable, and I like to feed those who are

hungry. Providence did not provide well for these people; but they have waxed fat, and are kicking at their feeder; that is the difficulty. [Laughter.] Providence made man that country at first, putting the stone on top and the soil at the bottom. They found that the soil was not good, so they dug it up in order to plant it. Hence it was that by Federal legislation, calling it national, they have been able, without work, to get rich, whilst we have been getting poor.

It is all twaddle and nonsense to talk about fighting and the cost of the cost of the dissolution of the Union. What would be the effect of a dissolution of the Union? Their apoplexies would cease to turn; their looms would cease to move. Their ships would be laid up to rot in their wharves when the navigation laws were repealed. Their operatives and their sailors, turned out to starve, or to starve, or to burn, would turn upon them; and when they gathered together in the town of Boston, to say what should be done for their starving families, the Senator from New York who talks about the "irrepressible conflict," and the other Senator, who seems very happy and contented—the Senator from New Hampshire, who has done all this wrong, and who is passing round now to see what is going on—would have their heads taken off close to their shoulders; they would be snuck on poles, and their bones would be scattered about. I believe there is a God in Heaven. No, air, there is nothing for these men to understand, for they dare not; they are not going to coin their hearts, and drop their blood for drachmas; not they; there is nothing for them to understand but that the South is right, and that they are wrong. They have told the northern people that what the Democrats have told the northern people is true—that there is a possibility of a dissolution of the Union—to make them turn pale at the prospect.

Sir, that is the truth, and they know it. They do not dare say it, and they are not going to starve if they did. They know it. But they are going on blindly, supposing that, as one of the Senators from Massachusetts [Mr. WILCOX] said, this was a farce that they were playing. Farce! Tell you that they are past when farces are played. The players have passed and the farce is over; and now it is a tragedy. I rise here not to make any threats; and the clock indicates to me that I have spoken at least an hour and a half longer than I intended; but, as I am up, I believe I will continue; for I may just as well tell the whole story, and I am as much in the humor as I ever shall be again. ["Go on!"] These people of the North have been misled, and those who have misled them do not believe that we are in earnest. I should be recreant to my duty if I were not to stand up and say that I do not desire to acquire experience and upon my heart, that a Black Republican can never be inaugurated President of these United States. Now cut your leashes; turn loose your terriers, and take in your rat-killers; and if we do not go into Boston, into winter quarters, before you ever get into Texas, you may shoot me.

I should like to know how you are going to conquer the South. You conquer the South! Why, sir, I look around me and I see only one man on the other side of the Atlantic who has seen the Senator from Ohio [Mr. PRECH] who has ever seen the flashing of a gun. I do not like to speak of gentlemen in their presence, but there is a man, the Senator from Mississippi [Mr. DAVIS], who has given a name to one of the arms that is used in our Army, and I have seen him, and I have seen before me the man, [pointing to Mr. LANE]—he hangs his head, but not for shame. I think God, I see around me every where here, such men. There is the Senator from Texas [Mr. HEMPHILL] he and I ate hard bread and salt pork in Texas, and I would like to see him on the day the battle of independence was fought in Texas. I look on this side, and I see everywhere men who have seen service, and who understand it; on that side I see none.

You going to conquer us? Blood is a very common fluid, and it costs very little. A man is killed; it does not amount to much; it is really a matter of small consequence to him, to his family,

or to the country. Occasionally a man occupies a position, such as Louis Napoleon, that if he were to die at the wrong time it might create a convulsion; but so far as the masses are concerned, it is matter of very little consequence. If I were to die to-day, it is a mere question whether I cry for my wife or she cries for me. The country or the community are not involved in the question—really not; and I am speaking seriously. As to wars, the military chest is the question. You are going to conquer us. Well, if you are going to get the money? The Union being dissolved, and your ships knocked out of the carrying trade, we can then put our cotton, our rice, our tobacco, our sugar, and our molasses, upon any bottoms that will carry them cheapest. The Senator from Rhode Island over there, [Mr. Sissowas], I should like to know what he is going to do with his calico. Who is going to buy it? We would not. We could get it cheaper elsewhere. Your manufacturers would be broken up. If they were not, to whom would you sell? Your only market is in the South. Well, if you cannot sell to us—and surely you could not tell the Union was dissolved—how are you going to make money? How are you going to get any money under custom-house taxation? What are you going to ship abroad? Cotton, for instance. Well, if you are there is no trouble about it. But perhaps you will say that you will blockade us. In the first place, naval officers like to have a little pay now and then, if only to buy grog with. You cannot keep them in service unless you pay them. How are you going to pay them unless you have your people? Your operatives will have nothing to do; your capitalists will be broken; and whom are you going to tax?

How do you stand? We have our cotton, and Europe is obliged to buy it. You might cram the granaries of England to bursting with the supply of cotton for one week, and she would be starving. Queen Victoria's crown could not stand on her head a week after the supply of cotton was exhausted, nor her head upon her shoulders. You would not catch our cotton in England, would you? I expect it would travel under the Union-jack, and a tolerably safe flag it is. Then I am a traitor, because I suppose England would not be starved out: I am talking about a confederacy with England, am I? Well, before God, I would not as soon confederate with England as I would with you. They are our own blood. I am an Englishman. You are Englishmen. All of us are Anglo-Saxons. We happened to settle in different colonies. We happened simultaneously to throw off the dominion of the Crown of England. We have confederated for certain purposes, and you have broken your bargain; and then you come in here and impudently bring in the word of God and his authority to oppress us, and tell us that this Union is of Divine origin. You falsify history, and you pretend that this Union is cemented with the blood of your ancestors. What drop of blood was ever shed for the Union? No, sir; it was for liberty that our fathers fought. For seven long years did they fight for liberty, and three years after that liberty was achieved, and after George III. had been deposed, the independence of these thirteen different colonies; did they agree, for the common defense and general welfare, to subordinate the Government of the Union for the old Articles of Confederation; and yet you falsify history, and come here and say that our forefathers were fighting for the Union—that the Union was cemented with the blood of our ancestors.

This sort of twaddle did at another time. The people of England were kept quiet by the torism of Sir Robert Filmer for a time. The people of the South were kept quiet for a time by the supposition that General Washington, or General Jackson, or the Almighty, had some time or other formed this Union, and that King George had come over here with some Hessians and tried to break it up. [Laughter.] This was the general impression, and that for seven long years they shed an immense quantity of blood for this Union, and that they whipped old George out. But you have forced us to consider two questions: first, whether slavery is morally, socially, or politically evil; and in the next place, whether this Union was actually cemented with the blood of our ancestors, whether it is treason to consider whether the people live under a good form of government.

We have come to the conclusion at the South that we are living under the very best form of government that was ever instituted by man; but that it was only instituted by man. We have come to the conclusion that the States have the right to legislate on all subjects of domestic interest, the Federal Government being the organ through which the States arrange all their foreign relations. It is the best balanced Government that has ever existed. Extending through many degrees of longitude, it is the only Government in the world thirty-three different sorts of governments, they would each have been powerless to protect themselves against foreign aggression, and they might have got to fighting each other. Had States been obliterated, and the States governments abolished, and a central consolidated Government formed, that Government would have fallen into the hands of the majority interests and have been pressed on the minority interest; but as things are balanced, the rights of the States, their boundaries, their jurisdiction, being maintained, it is the best Government that has ever existed.

When, sir, I recently came to the seat of this Federal Government, having been absent for a long time, and living upon an extreme border; when I saw this Capitol with its decorations, and the various improvements in gunnery, and went to the different Departments and looked about there and saw the power and the wealth displayed, I reflected that Texas has a part in this—my own State; this is the agency through which she and the other States exercise their sovereign power. I see the power of these States; I see not the power of the Federal Government; and as I said to my friend from Mississippi, walking along the other day—the thing flashed on me in an instant—it reminds me of Rome, vulgar called the burning glass; it holds it before the sun and the sun concentrates its power, but I have no particular admiration for the glass; it merely concentrates the rays. It is the great luminary of heaven, the bright eye of the universe that you have your admiration for; you have your admiration for the sun, and thus when I see the powers of this Government here, in Washington, I have no jealousy of it, but am proud of it; I have no terror of it, for I feel that this Government is but the lens through which the powers of the different States are concentrated; and I would be brought to it.

I am no disunionist. I wish to God these thirty-three States might exist for all time; and if we could teach the Black Republicans a constitutional idea; if we could get them to read or understand or comprehend the history of the country; if we could make them understand anything, there would be no difficulty in administering the Government; it is as to make it a blessing to everybody; but the ox knows his owner, and the ass his master's crib; but that people do not understand, and New England will not consent. There is no great difficulty. They insist upon considering us one people, and this as one political community, and this Government as a consolidated democracy. In the first place, it is not a democracy; it is a republican form of government. In the next place, it is a consolidated democracy, and the people do not live together for a day. In New England, where they really are dependent upon some other people, and they live merely upon charity, and must always live so, mere pensioners, this Government has thwarted the will of Providence; and as long as the Government can be kept together, the will of Providence will be outraged; but cut you off, and you starve. A sea-gull cannot live in New England. It is utterly impossible. It is said they are everywhere; but it is a fact that can be demonstrated. If they cannot live in New England, if one could be found there, I have no doubt Barnum would have it in his museum, and he would have the skin stuffed. The New England men know as well as I do that they could not live out of this Union. They cannot live without our States, yet they cannot live with us, but they must be interfering impudently with everybody else's concerns. It is the character of the people. They left England in quest of liberty. They went over against the Dutch, and the Dutch let them alone; but the Dutch would not allow them to interfere with anybody else, and consequently they came over into New England.

Now, you dare not deny that your ancestors went among the Dutch, and the Dutch let them

alone; but the Dutch would not allow them to persecute anybody else, and to persecute was the only happiness they knew. They came to New England, and there they ran poor old Roger Williams and all the Baptists out into the Seekonk river, and he and somebody else baptized each other; and they persecuted the rest of the preachers, and from that time you have been propagandizing and persecuting. You think your form of government is the best; we think ours is. Do we publish pamphlets about you? Do we go into New England to make speeches to your strikers? Do we attempt to interfere with your institutions? Ours are infinitely better than yours, and can be so explained. You call us the slave States; you call yourselves the free States. We could with propriety call our States the free negro States, and ours the free white States. Where I live every white man is the peer of every other white man. I should like to see one of the gentlemen sitting over on that side try to get a white man in Texas to block his boots, or carry his horse. He might get carried himself. [Laughter.] But where you live I can hire a white man to do anything. He wears my livery. If I am entitled to a coat-of-arms, I have nothing to do except to put it on a button, and he wears it; and you are not free to do anything. You are free white States, where every white man, thank God! feels that he is the peer of any other white man. Where you live, every free negro feels that he is the equal of every white man; and the white man, who has not money, feels that he is the equal of the man who has money. There is no difference. It is so, and you dare not deny it; you cannot deny it.

But, "to return to our mutton." I started off on the homestead bill, and it has got to be four o'clock. My friend from Tennessee wants to give homestead to his slaves. I don't want to know, why we can do it and how—for what purpose? The Senator from New Hampshire entered into a defense of it. I saw sometime ago a review defending Nero, and attempting to prove that he was very good man. Finally I saw that I heard the Senator defend the agrarians of Rome for the first time—I will not say it was the first time; for sometime ago I took up Niebuhr's Rome, a book of high authority, and saw that he attempted to defend the agrarians, but it passed me by. I have a very good mind to do something about agrarianism; and I heard the Senator from New Hampshire to-day say the agrarians were the friends of the people. Well, I sent to the Library for an authority. I do not know that I have the strongest passage upon the subject, but I will have one from Cicero. I ask it that the fathers are good authority on certain subjects, though I am not over fond of the fathers. I have not very great respect for the fathers; but I like it, when a man has lived at the time when things were going on, and has an argument for or against that measure, his argument may be considered a pretty good evidence of what the measure was. Cicero, in his Offices, book two, chapter two, uses this language about the agrarians. He says:

Those men who wish to make themselves popular?"

Of course the Senator from New Hampshire is not one of those—oh! no; nor my friend from Tennessee either.

"Those men who wish to make themselves popular, and who, for this purpose, either attempt agrarian laws, in order to drive people from their possessions; or who maintain that creditors ought to forgive debtors what they owe, undisturb the foundations of the State; they destroy all credit, which cannot exist where money is taken from one man to be given to another; and they set aside justice, which is always violated when every man is not suffered to retain what he has."

Mr. HALE. Will the Senator let me answer him in a word right there?

THE PRESIDING OFFICER. Does the Senator give way to the Senator from New Hampshire?

Mr. WIGFALL. Certainly.

Mr. HALE. I simply want to say right here that I know that it is the libel that has been written upon that very class of men from the time of Cicero down; but that lately the investigation of modern history has shown that Cicero and that class were wrong, and that the money-lenders and patriots, and if the Senator will read Niebuhr and the modern writers on Roman history, he will so find it.

Mr. WIGFALL. That is a personal affair between Cicero and the Senator from New Hampshire. [Laughter.] I saw the other night some Roman citizens, one named Sannini and another Terminus, and looked at them and reflected, and asked myself whether they could possibly be the descendants of Scipio Africanus and Pompey the Great. I do not know; but they are Roman citizens; they are here, and if it will not put me to too much trouble, I shall probably inform them of the fact that the character of Cicero has been assumed here as a libeler; and if these Roman citizens have the pride which Romans once had in saying, "I am a Roman citizen," probably the Senator from New Hampshire will have to answer them. [Laughter.] But, sir, I shall leave it to the friends of the Senator. Cicero, I do not regard those agrarians as a set of people who were attempting really to distribute the property of the rich amongst those who had none, and it has been by common consent the accepted opinion and the admitted doctrine for two thousand years. Niebuhr, a few years ago, started a new theory, in which, I think, he is not sustained except by the Senator from New Hampshire.

But admit that it is all right: the question is, whether this Federal Government has a right to act on agrarians or not. What was the object of the Government? Why was it instituted? What powers has it? I say this—and I defy any Senator here to answer me—that if we have the right to distribute land, we have the right to distribute money. Land is property. The other Senator from Tennessee (Mr. CLEVELAND)—I did not hear his speech read the other day, because I do not like to hear speeches that are read; I intended to read it some time or other, but I have not had time; and I was betrayed to-day into this discussion through what the Senator from New Hampshire said, for as soon as he got into defending agrarianism I sat for the book, and I really got up to answer him, and have been led off into a speech on the question generally, which I am very sorry for, but, nevertheless, it is done—the Senator from Tennessee is not the other day read a speech here, in which it seemed to me he went into a constitutional argument to show that the object of the Federal Government was to acquire territory in order to establish new States, and those States to be admitted into the Union. He said that there was one Federal purpose, and that is, if there is a policy that has ever existed upon Tennessee, in which a Tennesseean has ever indulged—and it is saying a good deal for him, for they have been terribly loose in their construction of the Democracy of that State [laughter]—and as to the party, never splitting tickets, but generally terribly unsound in theory—

Mr. JOHNSON, of Tennessee. Will the Senator allow me to interrupt him?

Mr. WIGFALL. Truly.

Mr. JOHNSON, of Tennessee. Before he answers my colleague's speech, I think it would be best for him to read it; and in the next place, so far as Tennessee is concerned, in reference to her loose construction, she is prepared and willing to comply with Texas or any State in this Confederation.

As to the question of loose construction, I understand that the Senator concedes the power on the part of this Government to grant land for the construction of roads, and to appropriate money, which would involve the expenditure of the public money to which he has alluded. I think before the Senator makes such broad strikes and deals such indiscriminate blows, he had better define distinctly and definitely his own position.

In true, to-day he has made quite a miscellaneous collection. He discussed the subject of agrarianism, things that were in connection with the homestead, and many others that had no more connection with it than the moon. Many things he has said to-day have not had the slightest bearing on the homestead proposition; and I do not think it kind or exacting, legitimate, either, in a senatorial or other discussion, to arraign a State and its citizens, and that, too, upon a speech before it has been read, and when he who makes the attack has himself offered a proposition that cannot be defended on principle.

Mr. WIGFALL. Well, Mr. President, of the railroads, I have simply to say that the Senator has mistaken me. I deny in toto the right of this Federal Government to build a railroad, or char-

ter an incorporation to build one, or to aid a company in building one: enough for that. I believe the Federal Government has the right to contract for carrying the mails, munitions of war, naval and military stores; and if the bill that I have introduced does not come within that boundary, then I will vote against my own bill: enough of that.

Mr. JOHNSON, of Tennessee. With the leave of the honorable Senator, I ask him if he did not say to himself that provides for precisely that thing?

Mr. WIGFALL. I ask the Senator from Tennessee if I did not tell him that I would not vote for the bill I introduced, and that I had a substitute which embodied my views?

Mr. JOHNSON, of Tennessee. If the Senator told me he would not vote for it, very well.

Mr. WIGFALL. Exactly. That is the fact; but go on a little more.

Mr. JOHNSON, of Tennessee. I only wish to say that I would not introduce a bill that I would not vote for.

Mr. WIGFALL. The Senator from Georgia [Mr. IRELAND] the other day introduced a bill and voted against it himself. I have high authority. I introduced one here, and intend to amend it.

The Senator will be obliged to be careful to criticize a speech before I have read it. I think it is a most monstrous thing to read a speech here. If it had been delivered, I should have listened to it. I will read part of it. I was speaking merely to what I understood to be the purport of the speech. I made no imputation upon it. It is known to everybody that the Tennessee Democrats are rather loose in their actions. [Laughter.] They have not stood with Virginia; they have not stood with Alabama or Mississippi.

Mr. JOHNSON, of Tennessee. I do not wish to interfere with the Senator; but as he seems to be in a very happy humor, and very ready in repartee, I would like to know how long the Senator has been a Democrat?

Mr. WIGFALL. Me? Since 1849, I voted for Van Buren, and have supported the nominees of every Democratic convention from that time down this far President; and if I can get forgiveness for having done all of it, I shall be very lucky. [Laughter.] But, sir, I did that because I found that party always, objectionable as its certain number of members have been, and its action. They, at least, professed what I believed; the others had the honesty to come out and confess to the truth that they were for administering the Government as I believed they were not authorized to do under the Constitution. I never split tickets either; nor do I ever bolt a nomination; but I have supported the Democratic party on general principles that it was better to get half a loaf than none. I think it better to have a half Democrat than a whole Whig. I knew that there were a great many so-called Democrats in whom I could smell the wolf all the time; they were not Democrats; and I knew they did not believe a word I believed. I knew that they believed everything old Story had ever written; I knew that they dealt with bitterness; they denied as Peter did that he had any fault with the South, Kentucky and Virginia resolutions, as construed by the Virginia report; they had the hands of Esau, and it was the voice of Jacob. I knew that; but what was the use of voting against them for those who had the advantages of being honest, and saying what they would do? In addition to that, I always knew that if the Democratic party got into power, whilst the nominees might not be exactly up to my standard, the majority of the party was; and I hoped, by one influence or another, to get into the Government, and to stay there for the next four years. Besides, I have already stated to-day that I thought hunger would tame the wolf; and the Opposition would break up if they could not get power, and we would get back things right.

The Senator from Tennessee says I have been a little wandering in my speech to-day, and have talked about things generally. Well, sir, I would say this: so far as that old Whig party is concerned, I think it is not very much to blame. It began a theory that was very good, and it secured the opportunity of trying the theory. We kept them out of office all the time. If they could have been put in for about eight or twelve years, and worked the thing out, they would have found

the impossibility of working the machine with their notions; but they were just in the condition that old Samuel Pepps and the Royalists were during the time of the Stuarts, after the protectorate was over and Charles II. was inaugurated. His government was a failure, almost as great a one as that of 1842, when the omnibus turned over and split the entire Whig party. [Laughter.] Sir Samuel Pepps was writing his memoirs, and he said that Royalists had been driven by Cromwell and his people from England, not out of the continent, and they lived there for such a number of years that they knew nothing of English manners and customs and habits, or the English constitution; and when they came back, Charles II. was obliged either to take Cromwell's people into his Government, or to go back to England and take gentlemen who had been educated on the continent, which he was obliged to do; and it was not owing to any deficiency in their sense, but they did not understand the English constitution, and, therefore, the whole government of Charles II. was a failure. I have, in charity, always supposed that if the Whigs had a fair chance, and had ever held this Government more than four years at a time, they would have found out that their theory was wrong, and they would have altered and have rectified it; they never had the opportunity. We always put them in the awkward squad, where they could not keep step, or get the touch of the elbow. We never gave them a chance.

Now, the Senator from Tennessee has brought up this matter of Tennessee. I simply say that they are not and have not ever been considered among the straitest of the sect. I have not read that argument of his colleague; but I shall discuss it as I understood it; and it was that, this Government was constituted for the purpose of admitting new States into the Union; and that being the case, the public lands were to be used with a view to creating new States, and not as a fund. I deny that, *in toto*. I deny that you can extend the area of freedom, so far as these States are concerned. I deny that you can extend the area of freedom, and all that sort of thing, in the general acceptance of the term. I ask the Senator from Virginia, who sits before me, [Mr. MASON], how is it that he proposes to extend the area of Virginia? Virginia is a State; how meta and moranda; there is a term and there is a rectitude; living the old Virginia has a government; they have the writ of *habeas corpus*; they have the right of trial by jury; they desire to be allowed to till their own farms; they do not expect to live except by the sweat of their faces; but they do expect to be not meddling in their pockets that they get from the sweat of their faces, except what is necessary to defray the necessary expenses of the Government. That is what they expect. Now, sir, if you were to annex Prussia, Russia, England, and France, to this Government, would the people of Virginia have any more the right to the writ of *habeas corpus*, or the right of trial by jury, any more the right of the proceeds of their own industry, than they have now? Then, would they be benefited? If the people of Virginia would not be benefited, what would they be protected themselves against foreign aggression, then there would be reason why they should confederate with other people. It would simply be because they were not able to defend themselves against foreign aggression—that is the only motive. If they were able to defend themselves against foreign aggression, they never would confederate with anybody else, and never would have done it, and would not have done it now, and would break up the Confederation in a day. If, then, they felt that they were not strong enough to defend themselves against foreign aggression, they would confederate with other States, so that they and the other States together would be able to protect themselves; and, having accomplished that object, why do they want to extend the Confederation?

The Senator from Tennessee supposes that we have a sort of blithering Americanism that is going to spread over the whole continent, and cross the Pacific, and take in the Sandwich Islands; and that, in the area of freedom, were going to take in the whole world, and be a truly magnificent thing. The whole of that is a false doctrine. I think it is a doctrine that no Democrat should ever entertain. It is a doctrine that we ought to expose here on the floor of the Senate. We ought to begin to

teach, to preach, and practice pure Democracy; that is, the Virginia and Kentucky resolutions; as construed by the Virginia repealer. We ought to begin and repudiate and trample on this national idea. Nationalism was taken by the nose of the neck and kicked out of the convention that drafted the Constitution. Mr. Eliworth, from Connecticut, I believe, moved that we should not do this. He should be "expressed." That was the word—"expressed." They did not intend to adopt a national government. These States, confederated together for the purpose, I have said, are living together; we are representing them, and these States act through us. But feel as you feel, *per se*. The States are doing through us, and therefore are doing by themselves. There is no doubt about that. They are acting here together.

I want to know why we want any additional territory. What for? There is Rothchild. He has an immense capital that he is operating, and he has his brothers in partnership with him. Why would he admit new partners? If they could bring capital in, and he wanted more capital, doubtless he would take them in. But suppose he were to say to a person who has some land, "I need just a little more capital as I need now; I am now Jew to the kings, and have just as much money as I need for that; whenever I want to be King of the Jews I may want a little more; but I rather think I would prefer to be Jew to the kings than King to the Jews." I am now Jew to the kings, and have just as much money as I need for that; whenever I want to be King of the Jews I may want a little more; but I rather think I would prefer to be Jew to the kings than King to the Jews. If Rothchild were to admit any man into his firm who had as much money as he had, he would be doing an act of supererogation; there would be no necessity for it. If he let in anybody else who had lost his means by his own imprudence, he would be damaging the credit of his own firm, and ought not to do it as a prudent man.

I say that these States are the parties to the compact; that there is no such people as the people of the United States; that there is but one single idea; we can act upon, and that, is, there are thirty-three sovereign, equal, and independent political communities; that, having confederated for certain purposes, having an agency for certain purposes, and that agency having the entire power to protect them against foreign aggression, and each one of them having the right to acquire territory as it deems necessary and proper for the protection of its own citizens, the question arises: do we want other States annexed to us or admitted into the Union? If not, why should we acquire additional territory? There is the question that it seems to me the Democracy have done so seriously, or have forgotten. Why do we want additional territory, and what do we want it for?

The Senator from Tennessee says we want it because we are bound to make new States, and admit them in, or something of that sort, and that their public lands are owned by the Federal Government, not because of their value, but for the purpose of making new States of them. I deny it in *fact*. I doubt very much, as Mr. Jefferson said, whether this Federal Government ever had the right to acquire one foot of territory. If it had the right to acquire one foot of territory, it could acquire it only as property. If we went to war, we would take what we could find, if it was money, if it was territory, if it was any other sort of property, and hold it by the title of the sword, and after the war was over and we were free from any foreign Government the territory which it had held, we would distribute it and sell it out; but this Federal Government certainly never was formed with a view of colonizing other countries. This combination and compact between the States was certainly never formed with a view of colonizing and extending the area of freedom, and all that sort of thing. It is an after-thought; it is Red Republicanism; it is Federalism; it is nationism; it is an ignoring of history; it is pursuing such a course of argument as is going to lead to no good, but is going to produce a result that those who advocate it do not dream of.

Mr. GREEN. Will the Senator allow me to make a motion to adjourn? It is very late, and the Senator can finish to-morrow.

Mr. WIGFALL. I will come now, with the consent of the Senate, and that is merely for the purpose of winding up. I have stated, I believe, all that I have to say on the subject. I believe that from the form of Government we are living under, this Federal Government holds the territory as property; it has no power—

Mr. JOHNSON, of Tennessee. A single question to the Senator from Texas. If he desires to go on, I will not interrupt him. I simply want to ask him a question. I understand he assumes that this Government has no power to acquire additional territory outside of the territory settled in 1781, and says that that was Mr. Jefferson's opinion. He is going on to say that it is the Democratic doctrine, what is the Democratic idea upon that point. I merely wish to ask the question of the Senator, if it has not been the policy of the Federal party, from the origin of this Government to the present time, to oppose the acquisition of territory?

Mr. WIGFALL. Yes, sir. It has been a very sensible thing they did, and one of the few sensible things they ever did. Mr. Jefferson himself, the father of Republicanism or Democracy, from whose brain sprang construction of the Constitution sprang, like Minerva, armed and equipped to defend the Constitution of the country—Jefferson denied, or at least doubted, the power of the Federal Government to acquire territory; but if we had the right to acquire it under the war-making or treaty-making power, I say that when we acquired territory, we acquired it as property; and he had read the history of this country to very little purpose who supposes that the Federal Government was ever instituted for the purpose of establishing "God and liberty" all over the world. This Government was established for the purpose of securing liberty to ourselves, and to our posterity, and it was vested with certain powers which are to be exercised in the name and for the benefit and the use of the States; and if this Government has a right to acquire territory, as it beyond doubt has a right to acquire money by taxation, that money or that territory is property; the legal title vested in the Government, but the States being the *cestui que trust*, and they having the equitable title; and this Government cannot distribute or distribute either the money or the territory (that is the land) except for Federal purposes. I deny most emphatically that this Government is an eleemosynary establishment. I deny that it has a right to distribute land or money amongst the individuals of the United States. I deny that there is any such thing as the people of the United States. I believe that there are thirty-three different sovereign independent nations confederated together, who have established a Federal Government, of which we are a part.

I will now conclude, having spoken much longer than I intended to do, and without any preparation whatever.

Mr. GREEN. I move that the Senate do now adjourn. I intend to speak on this subject.

Mr. PUGH. Allow me to move the postponement of the subject. I was one of the committee that reported the bill, and I want to speak on it.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. GREEN. As I have the floor, I wish to say that I desire to speak, and I intend to keep the floor. I intend to oppose this proposition, and I desire to reply to the Senator from Tennessee.

Mr. JOHNSON, of Tennessee, rose.

Mr. GREEN. There is another Senator besides you. I hope you will not consider yourself the only Senator.

Mr. JOHNSON, of Tennessee. Not at all. I am the Senator who reported the proposition, and the only Senator from Tennessee present.

Mr. GREEN. I would like to postpone the subject to a future period. I have no particular desire as to the time. ["Monday."] I will say Monday.

Mr. JOHNSON, of Tennessee. At one o'clock. Mr. WADE. And make it the special order. Mr. DOOLITTLE. I presume there will be no objection to the Senate bill and House bill coming together as one order for Monday next. ["No objection."]

Mr. CLINGMAN. I think we had better take things in the order in which they stand. The House bill is not before us. It is on the Calendar or the Calendar. I think we had better go on with this bill and reject it.

The PRESIDING OFFICER. It is moved and seconded that the further consideration of this bill be postponed until Monday, at one o'clock, and made the special order for that time.

The motion was agreed to.

Mr. CHANDLER. I move that the Senate do now adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 22, 1860.

The House met at twelve o'clock, Mr. Fryer by the Chaplain, Rev. THOMAS H. STROCKEN. The Journal of yesterday was read and approved.

COURT OF CLAIMS BILLS.

Mr. WINSLOW obtained the floor.

Mr. NOELL. I do not wish to interpose any objection to the resolution which the gentleman from North Carolina desires to introduce, but I desire to give notice that I have a privileged motion which I desire to be heard upon when the gentleman from North Carolina yields the floor.

Mr. GROW. I call for the regular order of business.

Mr. WINSLOW. It will be recollected that, under the amendment of the rules adopted by the House a few days since, all bills reported from the Court of Claims are ordered to be placed upon the Private Calendar; but there are a number of bills heretofore referred to the Committee of Claims, for which the committee on rules made no provision, nor could they have made any. I ask leave to introduce a resolution to meet that case.

The Clerk read the resolution, as follows: Resolved, That the Committee of Claims be discharged from the further consideration of all bills reported from the Court of Claims, and the same be referred to a Committee of the Whole House on the Private Calendar, in accordance with the rule recently adopted by the House.

Mr. HOUSTON. I object to that resolution. Let the Committee of Claims act upon those bills, and bring them before the House.

Mr. WINSLOW. Pass the resolution, and they will be acted upon quicker. The resolution is only designed to carry out the intention of the House and of the special committee on the rules.

Mr. GROW. I call for the regular order of business.

LIGHT-HOUSE AT OSWEGO.

Mr. LEE, by unanimous consent, introduced a joint resolution providing for expending the balance of appropriation for repairing the light-house at Oswego and building connected therewith; which was read a first and second time, and referred to the Committee on Commerce.

NEW ORLEANS CUSTOM-HOUSE.

Mr. WASHBURN, of Illinois. I ask the unanimous consent of the House to have the Committee on Commerce discharged from the further consideration of the memorial of merchants and other citizens of New Orleans, relative to the new custom-house, and that the same be referred to the Committee of Ways and Means.

There being no objection, it was so ordered.

RESOLUTIONS OF CALIFORNIA LEGISLATURE.

Mr. BURCH. I ask leave to present to the House several resolutions passed by the Legislature of California—

Mr. GROW. I call for the regular order of business.

Mr. BURCH. I desire to present these resolutions simply for the purpose of reference.

Mr. GROW. I must insist on the regular order of business.

EXCUSED FROM SERVING ON A COMMITTEE.

Mr. BONHAM. I rise, Mr. Speaker, to what I conceive to be a privileged question. The committee referred to the gentleman from New York, [Mr. HOWARD] was appointed yesterday, as I learned last evening. It consists of Mr. HOWARD, Mr. CASE, Mr. BURNHAM, Mr. DIMMICK, and myself. I wish to ask the House to excuse me from serving on the committee.

The question was taken; and Mr. BONHAM was excused.

POLYGRAPH IN UTAH.

Mr. NOELL. I rise to a privileged question. I call up a motion made by myself the other day to reconsider the order of the House referring to the Committee on Territories a bill to amend an act establishing a territorial government for Utah. I presume that that is a question of privilege.

motion to reconsider. I want the vote reconsidered in order that I may offer the following amendment to the bill:

Strike out after the word "assembled," (in the second line, and insert the following:

"That the third and fourth sections of the act entitled "An act to establish a territorial government for Utah," approved 24 September, 1850, be, and the same are hereby, repealed."

I object to the withdrawal of the motion.

The SPEAKER. The gentleman from Missouri had a right to withdraw the motion to reconsider, and he has withdrawn it.

Mr. COBB. Then I renew it.

Mr. SHERMAN. I call for the regular order of business.

Mr. COBB. I rise to a question of order. I submit that the gentleman from Missouri had no right to withdraw the motion to reconsider, if I objected. If he had the right, I renew the motion.

Mr. McCLEARNED obtained the floor.

Mr. SHERMAN. I call for the regular order of business.

Mr. COBB. Do I understand that the gentleman from Missouri has a right to withdraw his motion to reconsider if objection be made?

The SPEAKER. The gentleman had the right to withdraw his motion to reconsider.

Mr. COBB. I then renew the motion to reconsider; and now I offer this amendment to the bill.

The SPEAKER. The amendment is not in order. The bill is not before the House.

Mr. COBB. Very well; I then give notice that if the motion to reconsider is carried, I will offer an amendment.

Mr. BRANCH. I rise to a question of order; I submit that this bill, having been presented on the day before yesterday by the gentleman from Missouri, by unanimous consent, with the express understanding that it was only for the purpose of reference, it is not in order to bring it back before the House by a motion to reconsider.

Mr. COBB. I suppose it is too late to make that question of order.

Mr. BRANCH. If the Speaker decides that my point of order is not well taken, I give notice that I shall object in future to the introduction of any bill by unanimous consent.

The SPEAKER. If that was the understanding when the bill was introduced, the Chair thinks the point raised by the gentleman from North Carolina is well taken.

Mr. GROW. That was the statement made when the bill was introduced, that it was for reference only.

The SPEAKER. Then the Chair will rule that the motion to reconsider cannot be received.

Mr. NOBLE. I will say that my only object in making the motion to reconsider was to secure the opportunity of making the remarks which I have submitted, and I have myself no desire to renew the motion.

Mr. SHERMAN. I call for the regular order of business.

Mr. McCLEARNED. I rise to a question of order. I ask if the Chair did not recognize me as entitled to the floor?

The SPEAKER. The Chair did not recognize the gentleman.

Mr. McCLEARNED. I desire, then, to address some remarks to the House upon the motion to reconsider, made by the gentleman from Missouri.

The SPEAKER. The Chair recognized the gentleman from Illinois; but there was nothing before the House upon which he could speak.

Mr. McCLEARNED. The gentleman from the whole point. The Chair says I am entitled to the floor; and I now renew the motion to reconsider.

The SPEAKER. The Chair has decided that motion to be out of order.

JOSHUA EDDY.

Mr. BUFFINTON, by unanimous consent, moved that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 246) for the relief of the heirs of Joshua Eddy; and that the same be referred to the Committee on Revolutionary Claims.

The motion was agreed to.

NEBRASKA RAILROAD BILL.

Mr. SHERMAN. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill of the House (No. 110) granting lands in the Territory of Nebraska to aid in the construction of certain railroads therein; the pending question being on the motion to recommit the bill to the Committee on Public Lands; upon which the gentleman from Indiana (Mr. DAVIS) is entitled to the floor.

Mr. DAVIS. I rise to a question of order. I submit that when the committees were last called for reports, a bill had been reported from the Committee on the Judiciary, upon which a motion to recommit is pending, and the previous question demanded. I think that the business first in order, and that the Nebraska railroad bill, which came up when that bill has been disposed of, it having been postponed to a day which has already passed.

The SPEAKER. The Chair will say that the Nebraska railroad bill was set down for a day which has passed.

Mr. GROW. And therefore loses its place.

The SPEAKER. The Chair thinks not. This bill having been first reported, the Chair thinks it is entitled to priority. The gentleman from Indiana (Mr. DAVIS) is entitled to the floor.

Mr. McCLEARNED. I supposed that the Chair conceded the motion to reconsider to be in order, from the fact that the gentleman from Missouri (Mr. NOBLE) addressed the House upon that motion.

The SPEAKER. The point was not made until the gentleman from Missouri had concluded his remarks.

Mr. DAVIS, of Indiana. I now ask for the consideration of the Nebraska bill.

Mr. CRAIG, of Missouri. I desire to ask the gentleman from Indiana if it is his intention to ask for a vote of the House upon this bill to-day?

Mr. DAVIS, of Indiana. That is my intention.

Mr. CRAIG, of Missouri. I wish to ask if it is the gentleman's intention to offer the Kansas bill as an amendment to it?

Mr. DAVIS, of Indiana. It is.

Mr. CRAIG, of Missouri. I wish to ask the gentleman further, if the modification yesterday made by the Committee on Public Lands is in the bill.

Mr. DAVIS, of Indiana. It is not.

Mr. CRAIG, of Missouri. Then I ask if it is the gentleman's intention to have the bill postponed for the further consideration of the Committee on Public Lands?

Mr. DAVIS, of Indiana. I have no objection to postponing the consideration of the bill until some future day, if such is the wish of the House.

Mr. CRAIG, of Missouri. If the gentleman from Indiana will permit me, I will offer an amendment to the bill; and I am willing that a vote shall be taken upon it without debate, and at once. If the gentleman will permit me, I will have it read for information.

Mr. DAVIS, of Indiana. I will hear it read.

The Clerk read, as follows:

Amend by adding the following as an additional section: "That if it further enacted, that the lands hereby, granted to the Territories of Nebraska and Kansas alternate sections of the public lands, to the same extent, and in the same manner, and upon the same conditions and restrictions in every respect, as are specified in the preceding sections of this act, in aid in constructing a railroad from Fort Kearney, in Nebraska Territory, via Marysville, to the town of Ellwood, in Kansas Territory."

Mr. CRAIG, of Missouri. Now, if the gentleman will permit me, I will ask for a vote of the House upon that amendment.

Mr. DAVIS, of Indiana. I have been instructed by the Committee on Public Lands to report an amendment to the amendment which is already pending to the bill. I presume that an amendment in the third degree will not be admitted, and without the consent of the committee, I cannot assume the responsibility of allowing the gentleman from Missouri to offer his amendment. Of course that amendment meets my approbation; but I am here, in reference to this bill, as the organ of the Committee on Public Lands.

Mr. CRAIG, of Missouri. I will say, if the gentleman will allow me, that the Committee on Public Lands did hold a meeting, at which the gentleman from Indiana was not present, being, as I understand, too unwell to attend, in which a modification of the amendment was made, and the amendment which the gentleman now holds

in his hand is not, therefore, the expression of a majority of the committee.

Mr. DAVIS, of Indiana. In order to settle this matter, if it meets the unanimous consent of the House I will make a proposition that this bill be further postponed, in order to give the Committee on Public Lands an opportunity to act definitely upon the matter; for there seems to be some misapprehension as to what has been done by the committee. This bill will take up some time; and not desiring to be in the way of other business before the House, if it is the unanimous wish of the House I will now move that the further consideration of the bill be postponed until Tuesday day next at two o'clock. If that postponement take place, other business can go on this morning.

Mr. HOUSTON. Mr. Speaker, I am willing that the further consideration of the bill should be postponed; but I put it to the gentleman whether we had not better put the bill in a position where it can be amended? I understand, from the colloquy which has just taken place between the gentleman from Missouri (Mr. CRAIG) and the gentleman from Indiana (Mr. DAVIS), that there is now an amendment pending to an amendment; and it is not clear to me how this can be done under the rules of the House; so that, if the previous question be moved, other amendments which gentlemen may desire to present and have the House act upon will be excluded. It may be possible that my friend from Georgia, who moved in a motion of this kind a few days since, may desire to get his amendment upon this bill. If the gentleman from Indiana will move that the bill be recommitted, it will answer the purpose I have in view. All I desire is that the sense of the House may be taken upon the various amendments that gentlemen may desire to present.

Mr. DAVIS, of Indiana. I can make no such bargain. I intend that this bill shall be put upon its passage. I wish to be very frank about it. I am perfectly willing that the further consideration of the bill be postponed until Tuesday day next, at two o'clock; that is, if the House is of the belief that it ought not, for this day, to be in the way of other business. If the House is ready to have the question at once disposed of, so am I.

Mr. HOUSTON. Mr. Speaker, it is in order, and I will move that the bill be recommitted, that this bill shall be referred to the Committee of the Whole on the state of the Union? Or, will the gentleman allow the motion to recommit to be entered?

Mr. DAVIS, of Indiana. I am not willing that the bill shall be referred to the Committee of the Whole on the state of the Union; for, as is known to every gentleman acquainted with the practice under the rules, that will be the end of it.

Mr. HOUSTON. I do not think so. If the friends of the bill are in a majority, they can reach in the Committee of the Whole on the state of the Union, as well as in the House. There are various amendments which gentlemen wish to offer to this bill; and if the gentleman from Indiana, and the friends of the bill, will not afford an opportunity for the expression of opinion, and if they will by reference to the Committee of the Whole on the state of the Union, or the entering of a motion to recommit to the Committee on Public Lands, I hope that the motion to postpone will be rejected, and that the bill will be put in a condition where it can be amended and perfected. Let the House take charge of the bill itself.

Mr. GROW. I will suggest to the gentleman from Indiana that, under the amendments to the rules lately adopted, he can call for the previous question on the motion to postpone, and the decision will not operate upon any question but the motion to postpone.

Mr. DAVIS, of Indiana. I wish to say a word further. I desire, Mr. Speaker, to be courteous to every gentleman upon this floor, and I believe that I have endeavored to be so; but I cannot allow the previous question to be called when I am upon the floor. Now, what will be the condition of this bill if the motion that its further consideration be postponed be voted down? Would it be entitled to the floor, in order to move that the bill be recommitted?

The SPEAKER. The gentleman would be entitled to the floor to make that motion.

Mr. DAVIS, of Indiana. Then I am willing that the question shall be taken at this time upon the motion that the further consideration of this

among facts were brought to the notice of the committee, the application of Mr. Campbell was refused, and the report of the majority was sustained.

In the case of Newland vs. Graham, referred to on page 7 of the report of the committee, Hon. Lynn Hoyd, of Kentucky, in making the report of the majority of the committee, said:

"The committee, after hearing the arguments of the sitting member and the petitioner, rejected this application. They could find no precedent in which an application of a similar kind, even if made at an earlier period, had been made; but several in which, under the influence of more favorable circumstances, such applications had been rejected both by Committees of Election and the House. Without very strong reasons, showing the necessity of further proof, (which the committee did not see in this case,) they considered that the right of contesting a seat in Congress could be asserted and supported by the petitioner and protracted appointments for taking additional evidence after the meeting of Congress should be allowed when the parties had already had the same time to take their positions, and, as appeared to the committee, a sufficient time."

I might adopt the language of Mr. Boyd, and incorporate it into this report, and say to the House that it would be useless and nugatory for the contestant to proceed in any case, if, after the lapse of more than a year, these frivolous applications for continuance could be entertained by the committee. I desire to avoid this, and to actually prevent our progress, and the term would expire before the rights of the constituencies and the rights of the respective parties could be determined. There must be a time when confusion and dilatory pleas shall terminate, and when certain and definite conclusions shall be reached.

I will refer to the action of this House yesterday to show why the present application should not be entertained. In the case of Williamson vs. Sickles, time was granted for a special reason. Why? Because the case was not within the provisions of the act of 1851. I wish to call the attention of honorable gentlemen to the fact, that the case of Williamson vs. Sickles presented a strong case, in which alleged extensive frauds, bribery, and corruption, were properly brought to the notice of the House. Whether they had any existence or not, in fact, it is for the future to determine. By all the members who argued the case, it was admitted that, if that case came within the provisions of the act of 1851, further time ought not to be allowed to the contestant, Mr. Williamson. The prayer for his continuance would be rejected by the House, because he did not come within the provisions of the act of 1851. There had been no legal determination of the result. He was clearly outside of the act; and the whole argument, on both sides, proceeded upon the admitted basis, that, if Mr. Williamson came within the provisions of the act, he was not entitled to further indulgence under the circumstances of the case. If he was without that act, this House felt it due to their dignity, as well as to the rights of the parties, to inquire into the allegations contained in the memorial and the affidavits presented. I say, Sir, that case sustains this, and strengthens the position which we take here. We claim—and it is admitted by all parties—that this case is within the act of 1851; and it has proceeded under the provisions of that act up to this time. On the other hand, the case of Williamson vs. Sickles was not within the provisions of the act of 1851; and so the House decided.

Mr. STEWART, of Maryland. Will the gentleman allow me to ask him a question?

Mr. CAMPBELL. With pleasure, Sir.

Mr. STEWART, of Maryland. I understand that the gentleman is discussing the question of the construction of the act of 1851. I have looked over the reports in this case and read the evidence, and I wish to submit a question to the gentleman from Pennsylvania. I understand that in the case of 1851, the party against whom it is proposed to take testimony, is entitled to at least ten days' notice. The notice given by Mr. Howard to Mr. Cooper, in relation to the testimony taken on the last day, was given on the 16th of March, and the testimony was taken on the 26th of March. I submit the question, whether, under a fair construction of the act of 1851, all that testimony would not be ruled out by a court having competent jurisdiction, because there were not ten days between the 16th and the 26th of March. Has the contestant then, complied with the act of 1851?

Mr. CAMPBELL. I will answer the gentleman with pleasure, for I think I can satisfy him

that the law has been strictly complied with, and that there is any hardship in the case, it is on the part of the contestant. The act of 1851 requires that the contestant shall give notice to the sitting member of the grounds on which he intends to contest his right to a seat. Mr. Howard, proceeding under the letter and spirit of the law, gave specific notice that he would attack the poll, for reasons set forth in the notice, of the second ward of the city of Detroit, at least sixty days before he proceeded to take any testimony whatever. I say, then, first, that Mr. Cooper had ample notice that his seat would be contested, for grounds and for reasons which were fully set out in the notice, and that it was his duty to fortify himself with proof to resist the attack and to sustain his own position.

The second branch of my answer is this: that on the 14th day of March, ten days before the expiration of this notice, Edgar's testimony was taken; and by all the rules of legal computation, from the 16th of March to 26th of March is ten days. The 26th being the last day on which Mr. Howard took testimony, Mr. Cooper had ample notice of all the testimony to be taken; and it was his duty to have procured testimony to rebut Edgar's statements, if such was his intention. He failed to do so, and he is the loser of this witness. It was the duty of Mr. Cooper to exercise due diligence. The laws are made for the diligent; they are not made for the negligent. It was his duty to have procured evidence to impeach the character of Edgar, or any other witness, if he believed it to be necessary. I say, Will any gentleman, as a lawyer, contend that, because a party ascertains that a witness has testified to facts against the interests of his client, he is, therefore, entitled to delay? that he has a right to have the cause postponed, because the other party has not testified to suit him? Yet, Sir, this case has not even that much merit in it, for Mr. Cooper had ample notice of the witnesses who were to be examined, and ample time to have ascertained the character of Edgar, or any other witness, and might have taken the necessary testimony. But did he make any attempt to do so? On the contrary, he expressed himself perfectly satisfied with all the evidence, and took no steps to impeach the character of Edgar, or any other witness. Mr. Cooper was present when the testimony of Edgar was taken; Mr. Howard's testimony was present by his counsel, a gentleman learned in the law, perfectly able to advocate and protect all his interests; and he cross-examined Edgar, and all the witnesses; but expressed no intention to impeach the character of any one of them. Then, Sir, I have pointed out the broad distinction there is between this case and the Williamson and Sickles case; that case being clearly outside of the law of 1851, and this being as clearly within it.

But, Sir, I hasten to the conclusion of my remarks. The second proposition contained in the report of the minority proceeds upon the ground that Mr. Cooper shows his ability by these affidavits (which set forth the reasons upon which his application is based) to impeach the testimony of Edgar, and to prove the truth of his own testimony.

Now, my proposition is that if you allow Mr. Cooper to take the testimony which he desires, it would not touch the merits of this case on any vital point. It would be totally immaterial if you gave him testimony the whole length and breadth of that which he claims for it. It is no witness touches the strength of the case which is presented for the consideration of the committee. It is conceded, upon both sides, that if these affidavits do not go to the merits of the case on one side or the other, so as to procure a different result, or so that the decision of the committee will be different, the merits upon one side or the other, then there is no ground for the application, and no use in consuming further time by going into a new investigation of facts.

Now, Sir, the testimony of Edgar goes to the merits of the case. If you believe the testimony of Edgar, it has that belief, and no more. It would affect the votes of nine persons given for the sitting member, and no more. Now, the majority of the sitting member, as returned, is 75; the contestant, by his testimony, attacks 539 votes given for the sitting member. He attacks votes given at the different points, as follows: Grose Point, 162 votes; fourth ward, Detroit, 362; sec-

ond ward, Detroit, 76; fifth ward, Detroit, 17; Van Buren district, 10; and from 25 to 40 Canadian votes—say 25, and they will make 592 votes. The evidence of Edgar, as I have already said, which is sought to impeach, refers to nine votes only.

Now, Sir, the affidavits in reference to the other branch or point made by the minority of the committee, are that of J. Logan Chipman, a candidate for the Senate, and the affidavit of the attorney of the sitting member, who was called upon for the purpose of rebutting the testimony of four witnesses, (not two, as is inaccurately stated in the report of the minority,) to wit: the testimony of Larned, Stebbins, Hornbeck, and Jackson, all relating to the conduct of parties at the second ward of the city of Detroit. But, if you will, I will call the testimony of these four witnesses, still the testimony of the contestant attacks, by other evidence than the four witnesses named, some sixty of the seventy-six majority given for Mr. Cooper at that ward, leaving but sixteen votes, and add to this nine votes, the nine votes testified to by Edgar, and you come to the result, to wit: that the whole testimony sought to be taken by Mr. Cooper, and for which purpose delay is asked for, extends to twenty-five votes out of some five hundred and fifty-two votes. It has to further extend, as I have already admitted all the sitting member proposes to prove, it would not relieve the sitting member in the slightest degree. His application is to take evidence that is wholly immaterial in the case; and the committee, bearing in mind that fact, and in view of the lapse of time which must be taken, if they granted the motion, did not think the application should be granted.

I have now brought to the notice of the House the facts of this case. The object of the Committee of Election was to proceed fairly and intelligently in determining this case, and to bring it before the House within a reasonable time, and they came to the conclusion that, inasmuch as this application of Mr. Cooper is based upon his own negligence, it was unfair and unreasonable, as well as the extension of time, which would be asked for, to reopen the case, and allow these parties further time to take testimony, which will throw the final adjudication of the case over to the short session. They believed that, under these circumstances, it would be against right and against justice to allow the motion, and they have therefore so reported the resolution which is now before the House.

Mr. MILLISON. I wish to ask the gentleman from Pennsylvania upon what points the contestant makes application to take further testimony?

Mr. CAMPBELL. It is all embraced in the two memorials of Mr. Cooper and the affidavits printed with the reports of the majority and minority. He asks for further time to take the evidence embraced in these affidavits. I submit the case for the present.

Mr. STEVENSON. Mr. Speaker, the contestant is the son of William A. Howard against Hon. George B. Cooper, now representing the first congressional district of the State of Michigan upon this floor, came before the Committee of Elections of this House, of which I am a member, and the contestant asked for a continuance of testimony, asked, as a preliminary motion, for further time to take proof for the purpose of rebutting certain depositions taken by the contestant in support of his claim. The majority of the committee report a resolution refusing that indulgence, and the minority a resolution that it be granted.

As one of the minority of the committee, I desire, Sir, to state briefly the ground upon which the minority thought the sitting member was entitled to a period of thirty days for the purpose of rebutting the testimony of the contestant. I have read the report of the majority, and listened attentively to the views presented this morning by the distinguished gentleman from Pennsylvania [Mr. CAMPBELL] in support of the views of the majority; and I have also listened to the views of that gentleman, I think I might safely appeal to every legal mind within the hearing of my voice, to say whether the arguments adduced in that report justify a refusal of the indulgence asked for, or if the arguments offered in its support will bear the strict test of truth and are sustained by the precedents in similar cases, which run through the official proceedings of this body?

What is the ground alleged in the majority re-

port for refusing this extension of time? Is it because justice and the substantial rights of the parties do not demand it? No sir! It is, as stated, because fourteen months have elapsed since the answer of the sitting member was filed, and he has taken no proof in support of his title to the seat he holds. In ordinary cases, this might be deemed lazier, but it does not necessarily follow. Indeed, I confidently submit to the impartial consideration of this House, sitting as a judicial tribunal upon the rights not only of the contestant and of the sitting member, but as impartial jurors upon the rights of the suffragans of the first congressional district of the State of Michigan, whether, when they shall have heard and understood the particular facts of this present application, the minority are not justified in alleging, as they have done in their report, that no authenticated case can be found where a similar privilege was, under like circumstances, ever denied.

The distinguished gentleman from Pennsylvania asserts that the refusal of the majority of the committee is based wholly upon their construction of the act of 1851; that the contestant and sitting member both constructed the act in the same manner, and that by its terms and provisions the case must be determined. I might safely agree to this assumption, and yet deny the justice of the resolution reported by the majority. Mr. Cooper took no proof under the act. The act of 1851 allows sixty days for the taking of testimony, and it provides that after those sixty days no proof can be taken upon either side, without the permission of this House. It is, however, admitted by all, and well settled by a series of precedents under it, that the statute is only directory. Its express provisions look to an extension of time for taking proof beyond the limitation prescribed by the letter of the act in every case where the protection and purity of the ballot-box require, or the substantial rights of the parties demand it. The sitting member imposed no such arbitrary and popular rights of those whose Representative he is, not less than his own, require that further time be allowed him to rebut certain testimony taken by contestant. Is he entitled to the indulgence asked? To solve this question, the particular facts and circumstances under which the testimony is made must be fully understood and carefully weighed. Let them be considered, free from party bias, as by a judicial tribunal.

The principles of law are simple, readily comprehended, and of easy acquisition by the most ordinary memory; the difficulties occur in their application. To apply these abstract principles safely, properly, and truthfully, in separate cases, and under a complicated state of facts, variant in each case, and yet upholding the principle itself, constitutes the highest merit of a legal mind.

Now, sir, what are the particular facts upon which this application is based? I agree with the distinguished gentleman from Pennsylvania that both parties had the right to go on and take proof the same time, within the limits prescribed by the act, upon the merits of the case. The sitting member had the right to expect that the contestant would take his proof first. The sitting member had the certificate as member elect, and *prima facie* was entitled to hold a seat here until the contestant disproved his right by competent legal evidence. The onus was upon the contestant, and the sitting member would not, (although he was authorized under the act of 1851 to do so,) commence to take proof until some had been taken by contestant.

When did the contestant commence to prepare his case, and when did he give the first notice? The first notice of the contestant to take testimony in support of his claim, bears date February 21, 1859, and notices the sitting member of the proposed examination of four witnesses in Detroit, upon the 4th of March, 1859, which was just twenty-two days before the expiration of the sixty days authorized by the act of 1851. No proof was taken under this notice. It does not appear that the parties met, or that any subpoena was ever issued for the attendance of the witnesses. No reason appears, and the failure to examine the witnesses on the 4th of March is not accounted for in the record. A second notice is served on the 11th of March by the contestant, containing the names of certain witnesses proposed to be examined by him in Detroit on the 21st of March,

and also a notice for other witnesses served on the same day, on the 23d of March.

The first proof taken by the contestant, and the first testimony taken in this case, was upon the 21st of March. That was but five days before the expiration of the sixty days allowed either party to examine witnesses. On that day, but one witness was examined by contestant. On the 23d, 24th, 24th, and 25th, several other witnesses were examined. On the 16th day of March, the contestant served a fourth notice upon the sitting member, that he would, on the 26th of March, (the last day for taking proof,) take the evidence of certain parties named. It might be a pertinent question to inquire why the contestant did not include the names of all his witnesses in the notice of the 11th of March, for examination upon the 21st, 22d, 23d, and 24th of March, instead of serving a separate notice on the 16th of March for witnesses to be examined on the 26th? Why did contestant wait until the last day of the sixty for the taking of the most important testimony upon which he attempts to oust the sitting member, and to secure for himself a seat upon this seat?

It is worthy of remark, that in the two notices of the contestant, under date of March 11, the name of his important witness whose testimony was proposed to be taken upon the last day—the name of Edgar—whose testimony it is proposed to take, does not occur. Is such a course of procedure usual? Is it not somewhat remarkable that notice of the examination of that particular witness—Edgar—should not have been given until the 16th of March and the examination postponed until the last day authorized for the taking of proof, and when, in consequence of the letter of the statute, the sitting member was deprived of the opportunity of impeaching this witness and rebutting his testimony? The statute of 1851 requires a notice of ten days to be given to opposing party for taking testimony. It is manifest the time for service of notice of different rules probably exist in different States. The rule established by judicial precedent in my own State is always to include one and exclude the other. It is a safe exposition, and in Kentucky is applied, that it does not occur in such a course of all judicial process. If this rule of estimating the time be correct, the notice here would seem to have been defective, as suggested by my friend from Maryland, [Mr. STEWART] because not served within the ten days.

It is asserted by the gentleman from Pennsylvania [Mr. CAMPBELL] that the service of the notice by contestant the sitting member to take proof on the last day on which either party could take proof, affords no ground for the proposed indulgence. If, however, the point that the notice was not served in time be well taken by my friend from Maryland, the depositions taken under that notice are not legally taken, and should be excluded.

Mr. GOOCH. Will the gentleman allow me to ask a question?

Mr. STEVENSON. Certainly.

Mr. GOOCH. I merely wish to ask the gentleman whether he excludes both the day on which the notice was served, and the day on which the depositions were to be taken, or only one?

Mr. STEVENSON. Only one.

Mr. GOOCH. Then how many days does that leave?

Mr. STEVENSON. Nine.

Mr. GOOCH. I think the gentleman is mistaken. He will find it to be ten.

Mr. STEVENSON. Well, it may be so. I took it for granted that the gentleman from Maryland, who suggested the point, was correct in his estimate of the time which the application of the rule of excluding one day and including the other would require. This point is not relied on by the minority in their report.

I come to another point. The notice of the contestant to take the testimony proposed to be rebutted was served on the sitting member on the 16th March, and the witnesses were to be examined on the 26th.

Mr. STANTON. The gentleman says that in Kentucky one day is included and the other is excluded.

Mr. STEVENSON. Precisely.

Mr. STANTON. Then I would inquire, if the opposite party appears and cross-examines,

does it make any difference whether the time is, or is not, computed with exactness?

Mr. STEVENSON. No, sir.

Mr. STANTON. Did the opposite party cross-examine here?

Mr. STEVENSON. Probably there was a cross-examination. The gentleman, however, mistakes the facts. The gentleman from Pennsylvania [Mr. CAMPBELL] insists that the service of the notice on the sitting member by contestant, on the 16th March, for depositions to be taken on the 26th March, afforded the sitting member ample time to rebut his proof by counter testimony on the same day. The same gentleman argues that the moment the sitting member received such notice on the 16th for depositions on the 26th, he should have immediately served a notice on the contestant for his rebutting proof, to be taken on the same day, namely, the 26th March. Now I put it to the statute legal mind of the gentleman from Ohio [Mr. STANTON] himself, or to any other lawyer on either side of this Chamber, to say whether such diligence has ever been required, or whether a *deciem* can be found in any well-authenticated legal authority in support of such a rule? In cases of notice, *arbitri jura*—as, for instance, in notices of protest upon bills of exchange—that party has always until the succeeding day after receiving notice of protest to notify a prior indorser.

It is an extraordinary as novel, that the stringent rules of commercial law, as applicable to negotiable paper, shall be applied by the honorable gentleman [Mr. CAMPBELL] to the notices required by the statute of 1851 for taking proof, to be used in contested elections before the tribunal. Upon what authority does such a posture rest? If every indorser of a protested bill of exchange is allowed until the succeeding day for service of notice on a prior indorser, the sitting member, [Mr. Cooper], on receiving notice on the 16th, would have until the day following for giving notice to take counter and rebutting testimony. This would have put the proof thus taken beyond the sixty days allowed by law, and the testimony thus taken could not have been read.

Again, the law never divides a day; and there is no proof at what period of the day on the 16th March this notice was served by contestant on the sitting member. No presumption therefore arises, or can arise, as to the exact hour of the day that the service of the notice took place. It might have occurred at any hour of the day, or want of time, to deprive the sitting member, under the stringent rule attempted to be established, of giving a counter notice. Would the gentleman from Pennsylvania [Mr. CAMPBELL] deny to the sitting member any inquiry into the facts by which to rebut the testimony of contestant taken on the 26th? It must be remembered that the statute of 1851 requires that the notice for the taking of depositions shall specify the names of the witnesses. The contestant's notice was not served until the 16th of March, and it seemed to me a singular pretense. How could the sitting member, without inquiry, have ascertained the names of the witnesses by whom he could have discredited contestant's witnesses? And yet the names of these witnesses would have been required to be inserted in his notice. It seemed to me a singular proposition of the gentleman from Pennsylvania, as to the diligence required of the sitting member, carries its own refutation with it.

The gentleman from Pennsylvania [Mr. CAMPBELL] argues that, as the notice of the contestant for taking his proof contained the names of all the witnesses proposed to be examined, it was the duty of the sitting member, so soon as the contestant had served such notices, to have made diligent inquiry as to the character of all the persons whose names he had given, and to have given notice for the taking of such testimony. I have endeavored to show this was impossible as to the notice served on the 16th; and it was in this notice that Edgar's name was contained. It is his testimony particularly that the sitting member denies, and is now capable of successfully rebutting.

It is palpable that it was out of his power to do so, for reasons already stated. As to the other witnesses named in contestant's notice served on the 11th, I beg leave to say that these notices contained the names of some seventy-five witnesses, of whom but fifteen were to be examined.

Was Mr. Cooper to inquire into the credibility of all these witnesses? If so, then the time—from the 11th to the 16th, the only period in which he could have served a notice—was insufficient. If he was not to inquire into the character of them all, how many and which of them were to be omitted?

Mr. CAMPBELL. He might have looked over the list, and have selected his attack against every witness upon that list whom he believed unworthy of belief, just as in any other proceeding.

Mr. STEVENSON. He might have picked out sixty names in those notes of contestants; have made inquiry as to the proof by whom they could have been successfully impeached, and the contestant might not have examined one of them. It turns out that sixty were never examined whom he named in his notices.

I am amazed at the position assumed that it was the duty of the sitting member to presume that the contestant's witnesses would perjure themselves, and that it became essential as a rule of diligence on his part, to have taken testimony impeaching their statements before they were given. It is the first time, before any tribunal, that such a doctrine was seriously put forth. I had always supposed that no party was permitted to impeach a statement under oath, until such statement was sworn to; and that every party had a right to presume a witness would testify truly until the contrary appeared.

I maintain that no statement can be impeached until given; and had the time been allowed under the rules to discredit contestant's witnesses in advance, by proving bad character, it was easy for them to decline testifying, and the testimony would have been useless. I regret—deeply regret—that in a tribunal like this, such positions were put forth as precluding in any legal tribunal in Christendom. The sitting member chose to begin his testimony on the 21st of March, but four days before the day on which all testimony was to close. Upon that last day, testimony was given by witnesses on behalf of the contestants, and the sitting member proposed to impeach. I ask the gentleman from Pennsylvania to tell me before what tribunal, and by what law, the sitting member was required, even though he knew this witness Edgar was a man of bad character, to presume that Edgar would not be impeached, and be bound to such a presumption, and as the contestant placed it beyond his power within the sixty days to disprove such statements, and as he shows he can successfully impeach such statements, should he not be allowed to do so?

The gentleman from Pennsylvania [Mr. CAMPBELL] seems amazed at the position assumed by the minority in their report, that it is a novel and extraordinary legal proposition that a man must anticipate the perjury of an opposing witness, and be prepared to rebut it in advance; and the case of Mr. Campbell, Vallandigham is cited as analogous to this position.

I was a member of the committee who joined in the majority report in that case; and I am sure a careful examination of it will show me conclusively that the ground I occupied does not occupy them. I will read my own remarks in the discussion upon that report.

Mr. CAMPBELL. I hope the gentleman will not pass by the point I have made. I called his attention to the point, and I referred to the gentleman himself as authority to maintain that point.

Mr. STEVENSON. I hope the gentleman will allow me to go on. I understood the point the gentleman made; and I admitted, at the outset, that both parties had the right to take proof within the sixty days. That is the gentleman's point.

Mr. CAMPBELL. That is not the point I made.

Mr. STEVENSON. Let us hear what the point is. I am perfectly willing that the gentleman should state it.

Mr. CAMPBELL. The gentleman attacked the position taken by the majority of the committee in these words:

"It is claimed, however, on the other side, that Cooper should have served a notice on Howard, and gone on with the trial after the testimony of the witnesses. It is admitted that such testimony could not have been read without the contestant's consent. No substituted case is proposed in support of this position, and it is difficult to imagine the reasons on which such a rule could rest."

That was my point; and I referred to the report

signed by the gentleman in the case of Vallandigham against Campbell.

Mr. STEVENSON. I so understood it. The gentleman did not quote the report fully, or he did not understand it after he had read it. Now, I wish to say, Mr. Speaker, that the point, as presented by him, does not arise in that report. The Committee of Elections in the Thirty-Fifth Congress did refuse Mr. Campbell further time, it is true, but it was on the ground that he was not with this! The gentleman will not pretend to say so. The majority in that case said it was Campbell's duty to go on and take testimony upon the merits. I said that if Campbell had brought affidavits—yes, sir, even *ex parte* affidavits—successfully impeaching Mr. Campbell's testimony, which he did not have been impeached within the sixty days, I would have given him time. Here are my remarks, and I will read them to the House to show that I am disposed to do in this case what I was disposed to do in the case of Campbell and Vallandigham. Here what I said:

"Why did not the sitting member do what he proposed to do? Why did he not prevent to the committee this proof? Then he might have said, 'Here is the substance of what I intend to do, from which I can cut by my own impeachment of this act.' Although the sitting member said he intended to make that proof, he did not take it; he let it go, and he did not even make an effort to impeach the names of half a dozen witnesses by whose evidence he could change this result. Why should he not come up with the rules of diligence applicable to judicial proceedings? A court has always the right to postpone a case upon just and reasonable grounds shown, and where due diligence has been made to have it tried. Here this appears by the minority report above, even now, by the affidavits, half a dozen, or even five witnesses, by whom this result could be changed. No act, nothing of that sort. There is nothing specific, but he comes in and indulges in general statements of a belief that he could show that he was legally entitled to."

I desire to apply to this case the rule which was attempted to be laid down by a majority in the case of Vallandigham and Campbell. Now what did the gentlemen on the other side say in the case of Mr. Campbell? How did gentlemen then vote? Of course the gentleman from Massachusetts [Mr. Dawes] vote?

Mr. DAWES. Will the gentleman allow me to interrupt him?

Mr. STEVENSON. With great pleasure.

Mr. DAWES. I wish to call the attention of the gentleman to a part of the speech from which he has been reading, and to the fact that, in that speech, he took the position that it was the duty of Mr. Campbell to have given notice to Mr. Vallandigham, and then gone on and taken depositions of the witnesses on the part of Mr. Vallandigham to cross-examine his witnesses, and that if he had come in with these depositions, they ought to have been received. I will read from the gentleman's speech.

Mr. STEVENSON. I hope the gentleman will not take up my time to read my speech. He can do so when I have done. I cannot undertake to make a legal argument if I am to be interrupted every moment by questions. I said in the Vallandigham and Campbell case, and I say now, that Mr. Campbell ought to have taken proof because he had given Mr. Vallandigham notice that he intended to go on, disregarding the law. But he did not go on; and I said, in my argument of that case, that, as he did not take the depositions, he ought at least to have brought the affidavits of the witnesses themselves by whom he could have established his case. On either horn of this dilemma, I am consistent in the position which I occupy to-day. It is the same test of diligence which, as a lawyer, I desire to apply to Mr. Cooper in the present case, that I then desired to apply to Mr. Campbell. It is this: If a party is guilty of perjury, which he is not under oath, and is prevented by the limitation in the statute from doing so, in consequence of the late day at which the contestant takes his proof, he should do so. He should, after the sixty days has expired, notify the contestant, and go on with his testimony, or if he cannot, or if he is unable to, he should bring the affidavits of the witnesses, showing the testimony untrue, and that he has not been enabled earlier to take proof. He is not obliged to incur the expense of depositions, unless the contestant consents; affidavits are sufficient, if he so pleases, by this rule.

Mr. William A. Howard, the contestant, puts off to the last day the taking of important testimony, although he had an opportunity of taking it be-

fore. When he served his first notice, he had not included among his list of witnesses the name of this witness Edgar, but on the last day of the sixty days, when it was not in Mr. Cooper's power to disprove the statement of the witness, or to show his general bad character. It was out of his power to disprove this testimony on account of the late period at which it was taken. The question now is: Is he able to disprove that testimony, taken at the last moment, by which his seat is to be taken from him? What is the fact? He brings in here seven or eight affidavits of respectable men to show that the man Edgar, who was examined upon the last day, is unworthy of credit, and that he should not be believed. That witness, as I have here before me, is a convicted felon, the State penitentiary of the State of Michigan.

Mr. DAWES. The gentleman from Kentucky is laboring under a mistake. It is one of the witnesses by whom Edgar's character is sought to be impeached that is in the penitentiary.

Mr. STEVENSON. Well, I am not mistaken in the fact that an indictment is pending against Edgar, which may or may not be disposed of.

Mr. DAWES. The difference is, that the affidavit of the witness who is in the State prison is brought in to impeach the testimony of the man Edgar.

Mr. STEVENSON. Well, throw his affidavit out. [Laughter.] The gentleman will not deny that there are eleven or twelve affidavits of respectable men—some a sheriff, and another a justice of the peace—showing that Edgar is not worthy of belief, and ought not to be believed under oath.

Mr. DAWES. The gentleman will permit me a word here. He says there is an affidavit of the sheriff to this fact. Now, I will say that the man who signed the notice on the 16th, and who was present at the taking of Edgar's testimony on the 26th, with the attorney, is one of the men who now makes this affidavit. If he knows now that this man's character for truth and veracity is bad, of course he knew it at the time, and of course the attorney knew it, and all parties knew it.

Mr. STEVENSON. But there was no time to serve the notice, unless perjury was anticipated on Edgar's part. I have shown the law requires no such presumption. I repeat, then, there are seven or eight affidavits of respectable men to show that Edgar would not be believed on oath; and the gentleman admits this. They are bound to hold up their hands and say that the testimony of Edgar is proved to be unworthy of belief; and yet, without allowing Mr. Cooper to show that fact, they want to bring in Mr. Howard as a member of the Thirty-Sixth Congress upon the testimony of a felon who is unworthy of belief. If Edgar is not a convicted felon, he is at least a *quasi* felon. Any man incapable of telling the truth under oath is a moral felon.

Mr. DAWES. Certainly.

Mr. STEVENSON. The gentleman says certainly. The gentleman admits that Edgar is a moral felon; he assents to that. Now, I ask him, would he bring any member into the House on the testimony of a convicted felon, when the other party had not an opportunity of contradicting him? That is the point I make.

Mr. STANTON. Will the gentleman from Kentucky answer me one question right here?

Mr. STEVENSON. Not now—not at this point.

Mr. STANTON. It is at this point I want an answer.

Mr. STEVENSON. Not now; the gentleman will excuse me. Gentlemen seem disposed to interrupt me. I will not make any further argument, and they must pardon me. The gentleman from Massachusetts says I am mistaken about Edgar being a felon. I did not think that I was mistaken. I suppose the report of the majority of the committee will be conclusive upon that point. Now, I wish to ask the majority here to introduce here an affidavit to show that Edgar is under indictment for felony. I will read the affidavit:

State of Michigan, County of Wayne:
Julius B. Bloodgood, being duly sworn, says that he is twenty-four years of age and now residing in the city of Detroit, in said county, during the past four years, and during that time has been a deputy sheriff of said county; and that he has known Andrew K. Edgar, who has been known and Edgar for about three years; and that he knew said Edgar on the 26th day of March, A. D. 1858, and that he is well acquainted with said Andrew K. Edgar's character for truth and veracity in the neighborhood where he

resides; and that said Edgar's character for truth and veracity was, on each above mentioned date, bad, and from such general bad character for truth and veracity this deponent would not believe him under oath; and further, that soon after the above mentioned date said Edgar arrived on a charge of larceny, and that said charge is still pending against him. And this deponent further says that said A. H. K. Edgar has been a resident of this city and its vicinity during the past three years. And further deponent saith not.

JULIUS S. BLODGET.

Sworn and subscribed before me this 1st day of March, A. D. 1865.

W. CHAMP,

Notary Public, Wayne county, Michigan.

I said that he had been arrested, and that there was an indictment pending against him. But the gentleman said I was mistaken. Now, I say it is he himself who is mistaken; not I. The laugh is now upon the other side.

Mr. DAWES. Will the gentleman permit me to correct him?

Mr. STEVENSON. Not now; you can reply to me when I have done. Here is the report, showing that I was correct in my statement. Edgar, if not convicted, is indicted, and taken in proof of the testimony as to bad character, is corroborative of all I have said. But I say that the testimony on this unworthy witness dated Edgar arrived on a charge of larceny, and that said charge is still pending against him. Here we come to that point in the esteem of honorable and high-minded men on either side of this House, that party bias is to be allowed to blind our eyes, and that we are to refuse to be present at the privilege to permit the truth to be ascertained and perjury and fraud exposed?

Mr. STANTON. I would ask the gentleman from Kentucky whether there are any affidavits which disprove the facts to which Mr. Edgar testifies?

Mr. STEVENSON. There are; and I am coming to that point. I was first putting Edgar upon his general bad character. But, outside of this general bad character, there is a witness who disproves his statement, saying that there is not a word of truth in the statement which Edgar made that he brought thirty voters from Canada, who voted for Cooper. Here is the affidavit of Orris himself, who is charged by Edgar with bringing these thirty voters from Canada, denying the charge, and the sitting member asks time to consider if there is any truth in it. I ask you, Representatives, in the name of justice, are we sitting as a judicial tribunal to trample under foot all the well-regulated rules of judicial procedure, and refuse the sitting member an opportunity, which has never been refused him, of disproving the evidence of this man Edgar, by which it is attempted to deprive him of his seat? Will you exclude the popular voice of the first congressional district of Michigan from this Hall upon testimony of this character, and through party bias refuse to give the sitting member six days to prove its falsity? You had better give him ninety or one hundred days, than that any man should be admitted to a seat upon this floor who has not been fairly and legitimately elected.

Mr. Speaker, this case presents the point not presented in any of the cases which have hitherto occurred here and are referred to as authority. The application of the sitting member is not to take testimony on the merits of his case. That it was his duty to do within the sixty days. He is willing to surrender this testimony of the contestant if you will expurgate the false testimony, or allow time to rebut it. All he asks is an opportunity to show that Edgar and one other witness are unworthy of belief. If you will allow him this privilege he is willing to stand upon the testimony taken. Where is there a reason on record where such a privilege was refused? The gentleman from Pennsylvania cites me to the case of Newland vs. Graham, in which Hon. Lynn Boyd presented his report against a similar application. That case occurred before the act of 1851 was passed; yet the question was the same. The argument upon the fact that these parties had commenced proceedings under the act of 1851, and he is for holding them to it. The logical sequence of his argument is, that as the case cited occurred long before the passage of the act of 1851, I cannot assume authority in its construction. The basis of this indulgence asked for here are frequent. Against the precedent I might cite Vallandigham vs. Campbell, the Nebraska case of Chapman vs. Ferguson, during the same Congress, where time was given for the taking of further testimony upon

much slighter grounds than those presented in this application.

Mr. Speaker, there are but two simple questions in this case: First, has the sitting member been guilty of any larceny? I say that he has not. If any larceny has occurred, it is attributable to the contestant, who ought not to be permitted to avail himself of his own wrong. I will not impugn any improper motive to the contestant for the late day fixed for his testimony; but I will say, it should not hurt injustice against popular rights. Is it not a remarkable fact, that a seat should be desired on this floor upon the testimony of a witness who is proved so clearly by the affidavits in this record to be unworthy of belief, under indictment for felony, and his testimony taken at a period so late as not to be rebutted? Is it not still more remarkable that the sitting member, with this evidence of Edgar's character, should be denied the privilege of impeaching, by the popular branch of the American Congress?

On yesterday time was given Williamson in his contest with Sickles, although not a requisite had been complied with and to-day similar indulgence is to be refused because he had not taken testimony which would be of great aid to the case. A greater diligence than is required by the holder of protected commercial paper. The gentleman from Massachusetts [Mr. Dawes] said yesterday, in favor of giving time:

or he failed to understand that we put this case upon the fact that it was impossible for the contestant to obtain process of court? Does he not understand, at this late day, that we put this upon the ground that the respondent answered his complaint under oath and believed, and lawyers to this day believe, that they could not be brought into court to be impeached?

He could not get legal process? Neither could Mr. Cooper. If that position was true yesterday, it is equally so to-day. There is another point in this case which the majority of the committee seem to have overlooked. The statute of 1851 requires that subpoenas shall be issued five days before the day fixed for the taking of testimony, and shall be returned with the depositions. These notices of contestant were served on the 11th and 16th, for the 21st and 26th. If the sitting member had desired to impeach any of this testimony, he could not have done so until the 16th. If he had waited five days would not have elapsed after the taking of such testimony and the 26th March, when the time expired. Cooper could have gotten out no process to rebut testimony taken on the 23d, 24d, 34th, 25th, or 36th, even if Howard had waited five days.

Mr. DAWES. I understand the gentleman to say that there is a point which the majority of the committee seem to have overlooked. It is this: that inasmuch as the statute of 1851 requires that subpoenas shall be served five days before the time of taking testimony, and this notice of Mr. Howard to take testimony was given on the 16th, and five days from that would have been the 30th, there would not have been time for the sitting member to take rebutting testimony.

Now I wish the gentleman to answer me this question: The sitting member, who took the oath and made this affidavit, served the notice upon Mr. Cooper's attorney, that Mr. Howard was going to take, in eleven days from that time, the testimony of Edgar, what hindered these men from thereupon giving Mr. Howard's attorney notice that they would take the testimony of Julius S. Blodget, that Edgar was not a man of truth and veracity, upon the very same day, and for five days after that, serving a subpoena upon Blodget, who would then have had five days before he appeared?

Mr. STEVENSON. I answer the gentleman that I have already attempted to show that he could not anticipate that Edgar would be examined, much less that he would swear falsely. If the contestant declined to examine the six witnesses named, there was no reason why he should. What witnesses would be examined? How could he pick them out? I put the same question to the gentleman that I put in the minority report: under what rule of law can a party anticipate false testimony?

Mr. DAWES. There were four witnesses in this case. How could he anticipate that any of them would be examined? He must therefore wait to see who would swear; and if any swore falsely, to impeach them. This he could not do, because

there were not five days for the depositions; and what the gentleman said yesterday, as to Williamson having no legal process, applies more strongly to Cooper to-day.

If Cooper had discredited Edgar, some other witness might have been examined in his place.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. Hickey, their Chief Clerk, informing the House that the Senate had passed an act (No. 362) providing for a reduction in the prices allowed for the publication and printing, and providing for the binding of the public documents, reports and Journals; in which he was directed to ask the concurrence of the House.

Also, that the Senate have passed a bill of this House (No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers, and for other purposes, with amendments, in which he was directed to ask the concurrence of the House.

Also, that they had passed without amendment a bill of this House (No. 331) to repeal the third section of an act entitled "An act to increase and regulate the terms of the circuit and district courts for the northern district of the State of New York," approved July 1, 1854.

Also, that the President of the United States has informed the Senate that he did, on the 22d instant, approve an act (S. No. 239) for the relief of the legal representatives of Charles Pearson, deceased.

Also, that the Senate have ordered the following documents to be printed:

Resolutions of the Legislature of Virginia, concerning revolutionary and other claims against the United States.

Message of the President of the United States, communicating, in compliance with a resolution of the Senate, information in relation to the marble columns for the Capitol extension.

Report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a statement of the trade and commerce of the United States with the North American Provinces annually since 1850.

Message of the President of the United States, communicating, in compliance with a resolution of the Senate, further correspondence in relation to the hostilities in the Republics of Nicaragua and Guatemalan, and the citizens of Washington and Georgetown, praying for authority to construct a railroad from Georgetown along Pennsylvania avenue to the Navy-Yard, in Washington.

MICHIGAN CONTESTED ELECTION—AGAIN.

Mr. STEVENSON. Now, Mr. Speaker, one word more, and I have done. I have attempted to show that the sitting member has been guilty of no larceny. I have shown that he is able to rebut the testimony taken by contestant. It is clear that, in consequence of the late period fixed by contestant for taking testimony, the sitting member has not been able to rebut it; but can, if time be allowed, disprove it. It now remains to be shown that this testimony sought to be rebutted bears materially on the issue. I will just refer to the testimony of a distinguished professor in the State of Michigan, taken at the instance of the sitting member. This is the affidavit:

State of Michigan, County of Wayne:

I, Charles J. Walker, of Detroit, being duly sworn, depose and say that I am by profession an attorney and counselor at law, and am a law professor in the University of Michigan; I reside in the seventh ward of the city of Detroit, and have for many years; at the State election, November 4, 1856, I was constant in the polls, and took the entire day at the polls, and mostly at the seventh ward; I was for a short time at the polls, and was at the seventh ward precinct, which was for most of the day, it was an interested and careful observer of the manner in which the election was conducted; I especially noticed the conduct of Thomas Horrigan, who acted as a Democratic challenger; I can say with great confidence that I never saw a Democratic challenger in any case so conducted more civilly; there were no threats nor violence that could or did deter any voter from depositing his vote; the voters were all treated with civility and respect; the polls were so high to be reached from the ground, and a dry goods box was placed in front of the window upon which voters got when they voted.

At an early hour in the morning the Republican challenger, Sylvester Larned, Esq., took his position inside of the room where the polls were conducted, and so placed himself that no Democratic challenger could find or get a position there, and consequently they had to

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be outside; there was no other place they could occupy but the grandstands; here, for the most part, Mr. Howrigan was stationed; the box was quite too small for a convenient platform, and towards the close of the day there was some jostling upon it, and, naturally, inevitably some pushing; but there was much less than I have usually seen, and no violence and no difficulty in voting; I do not believe that any voter lost his vote, either from violence or fear of violence, or from any real difficulty in getting to the polls; there was, of course, some rudeness of speech, and some struggles to get uncertain voters to change their votes, but less than is usual in elections; several pains had been taken to impress upon Democratic challengers that quiet and order must be preserved, and it was done to a remarkable degree; Sylvester Larned, the Republican challenger, expressed himself very strongly at the close of the poll in relation to the peaceable character of the election, and especially as the peaceable manner in which Howrigan had conducted himself.

C. J. WALLER.
Henry R. Mizzner.
Henry Public, Wayne county, Michigan.

Yet this man, Larned, is a witness who has testified to improper conduct on the part of Howrigan, and is one of the witnesses relied upon to sustain this poll; though here is the unimpeachable testimony of a professor in the University of Michigan, directly in contravention of the testimony given by Larned in behalf of the contestant. Now, if it is true that this testimony is true, it could not have been contradicted at the time it was given; that Mr. Cooper, the sitting member, could not have anticipated that Larned would swear falsely. After Larned gave his testimony, there was not time for the notice of issuing subpoenas, which the act of 1851 required. If, therefore, he had had it in his power to disprove Larned's statement, and had called upon a justice of the peace to issue subpoenas, the justice would have refused, because there was not the time remaining which the law required.

Now, if the gentleman from Massachusetts (Mr. Dawes) was right yesterday in his position that Williamson had not in his power the right to have subpoenas issued for witnesses, he must certainly come upon the same ground to-day, or I must concede that he has adopted the rule of the Williamson case and another for the Cooper case.

But, Mr. Speaker, here is the testimony of the district attorney, a high officer in the State of Michigan. He states—

"That he was at the polls of the second ward in said city frequently during the election, and that he saw no violence or disorderly conduct at said polls; that he was at said polls during the last hour or two before they closed; and that, though there was a great deal of laughing and joking, he neither saw nor heard any violence, or attempt to prevail upon voters from voting."

Yet when these affidavits of witnesses going to disprove the credibility of the witnesses examined on the last day are presented, and when it was out of his power to have legally taken rebutting testimony from the majority of the Committee, and the gentleman alleges that Mr. Cooper ought to have gone on against law, and taken this testimony; that he ought to have incurred all the expense incident thereto, when the contestant had the right to exclude it by objection.

But gentlemen say that we have no right to suppose the contestant would object. Sir, I think we are very strongly fortified in the inference that he would have objected, because he refuses now to let these affidavits come in. And it seems to me that in every aspect in which this case can be presented, it is entirely fair to suppose that the rejection of an application to take rebutting testimony where one man has taken testimony within the last five days of the sixty days, and is met by the allegation and proof that the testimony thus taken is untrue. I know of no case similar to it. Therefore it becomes important to the contest to know whether a people entitled to be represented upon this floor are to be shut out from an equitable construction of law, and shut out in direct antagonism to every judicial decision hitherto made and known. The sitting member of the court takes his testimony at the time stated. He says that it is important to a proper decision of the merits of this case that the character of contestant's testimony should be exposed. Shall we give him fur-

ther time, in which, it is shown, it can be taken? I think, sir, that we should.

Mr. HOWARD, (contestant.) I am not against this application was that his affidavit in its support were taken out at a late day. Every affidavit was taken before the application was made. He is not responsible for the non-organization of this House during the first sixty days of the session. He was ready at the commencement of the session. I know of no rule of law that undertakes to refuse a continuance absolutely necessary to the substantial rights of a party when there has been no laches. Can any lawyer show me any precedent by which the merits of the application are to be refused because these affidavits were taken either the night before or upon the morning of the application? By all the precedents known to us, it seems to me a stronger case can never occur in this House than has been made out upon the present application.

Mr. HOWARD, the contestant, took the floor during the resolution of the House allowing him the privilege of speaking to the contested-election case of which he is a party.

Mr. CAMPBELL. With the permission of the committee, I will now give notice that I will call for a special session of the House for the Committee on Elections in this case, at four o'clock this afternoon; and that, if it is the wish of the House, I will ask that the question be terminated and disposed of.

Mr. HOWARD, (contestant.) Mr. Speaker, I do not have the least availed myself of the privilege extended to me by the House, had not some extraordinary features been developed in these reports and the argument of counsel. It appears to be charged that Edgar is a perjured man. Strictly speaking, we cannot go outside of the record; and yet, there are one or two facts known to me outside of the record, that I feel called upon to state, not with a view that they should have a bearing upon this case, for I care not what becomes of Edgar or his testimony, so far as that is concerned, but to set right gentlemen who have been misled.

It is assumed in the minority report that these impeaching affidavits are made by respectable men. With the permission of the House, I will state one fact, upon information which I believe to be true. The justice of the peace who makes one of these affidavits, in the month of December last, as I am informed and believe, entered upon his docket a false and fictitious case, with false and fictitious names, spread upon the record a great mass of story represented to have been sworn to by Edgar, and then called in sundry persons, and by their testimony contradicted what they supposed Edgar had sworn to. They did that for the express purpose of impeaching Edgar's testimony here; but the thing was found out, and it exploded itself as soon as it was exposed to the January, and heard of these facts. Every one of these impeaching affidavits is sworn to either by that justice of the peace or by one of his co-conspirators. I do not care whether the statement has any effect upon the case or not; I know that the record must determine the case; but, sir, when a man is impeached by such means, I will proclaim the infamy of the conspiracy by which it is done. Now, this seat is nothing to me or to the sitting member; but I will not allow such things without stating the facts. As late as the 1st of December these affidavits were taken, and the sitting member was a member were beleaguering Edgar to get him to make an affidavit softening down this very testimony, and when they could not get that done by terrifying him, or by any other means, they exploded it through this conspiracy; and when that failed, they turned round and charged his character for truth and veracity was laid.

I do not care whether Mr. Edgar's testimony is in or out.

Mr. BARKSDALE. I desire to suggest to the gentleman from Michigan that he ought to confine his remarks to the record, and not state facts outside of it.

Mr. COOPER. I never heard of this man Edgar's testimony until November, when I returned

to Detroit, and then I also learned that he was in jail. On inquiring of a detective policeman, in reference to the present matter, he told me that I could get Edgar to sign and swear to anything for five dollars. That shows his general reputation.

Mr. HOWARD, (contestant.) I admit the criticism of the gentleman from Mississippi. I believe it is entirely correct. I am aware that there are outside of the case, and which will have no bearing upon it. I think it is right I should say as much as I have, because much has been said outside of the record upon the other side. I know nothing about Edgar's testimony, or Edgar himself, further than that he is a resident of the fifth ward, Detroit, and that he is represented as being a Democrat. I do not know that I ever saw him until some time during the election. I have not seen much of him since. I do not care, I repeat, whether his testimony is in or out. It does not affect the merits of the case, as made out, one way or the other. But, sir, I will never consent to its being thrown out until that man is met face to face by his accuser. If he be impeached, after he has had a fair chance, I would myself be the first man here upon this floor to ask that it should be struck from the record. I do not want a seat upon the evidence of such a man, if his character could be impeached.

Much stress is put upon the fact that he could not be impeached at the time. Sir, he could have been impeached at the time, if at all, under the law of 1851. The time of taking testimony expired on the 27th of March. The 27th of March was Sunday, it is true. If a notice had been served on the 17th of March—the day after I gave the notice—for taking Edgar's testimony, I aver that, under the law of Michigan, or of any other State, that testimony could have been taken on Saturday or Monday. In our State, where notes fall due on Sunday, they are required by law or custom to be paid on Saturday. In other States, they are required to be paid on Monday. I do not believe that the law of Michigan would require that testimony could not be paid on Saturday or Monday. This notice was served on the 16th, and instead of containing the names of seventy-five witnesses, it contained the names of only four. There were but four witnesses noticed to be examined on the 26th.

Mr. STEVENSON. I did not see the notice of the 16th contained the names of the seventy-five witnesses; but that all the notices together contained that number of names, and that but fifteen were examined.

Mr. HOWARD, (contestant.) The statement I made is that the four witnesses noticed to be examined on the 26th, and there were less than that number examined, because some of them were absent; and I maintain that under every rule of law, notice should have been given for impeaching Edgar, and that they could have been examined on Saturday in our State.

But I aver further, that no man ever dreamed that Edgar's testimony was false. The very first thing which occurred after he left the stand, was for him to go with his brother Democrat, the attorney of the sitting member, to an oyster saloon to talk a dial of oysters, and I went with them. The attorney and I talked about the testimony, and this particular point was raised, that—

Mr. BARKSDALE. The gentleman is stating facts not contained in his record. Now, I must insist that he confine himself to the facts stated in the record.

The SPEAKER pro tempore. (Mr. COLFAX in the chair.) The Chair would remind the gentleman from Mississippi that the House authorized the gentleman to be heard.

Mr. HOWARD, (contestant.) I will confine myself to the record.

Mr. BARKSDALE. I am aware of what the Chair states; but the gentleman is stating facts not contained in the record, and which are calculated to prejudice the case; and I appeal to the courtesy of the House, and the gentleman has admitted the correctness of the point I made. He has a right to come in upon the facts in the record, but not upon facts not contained in it.

Mr. WASHBURN, of Maine. I desire to ask the gentleman from Mississippi a question for information. It is, whether he does not remember that, when the Nebraska contested-election case of Bennett and Chapman was before the House, the gentleman from Georgia, Mr. Stephens, read and commented upon *ex parte* affidavits before the committee, and the whole question was decided upon them? And I presume that the gentleman from Mississippi voted entirely on that question upon testimony not before the House.

Mr. BARKSDALE. I desire to say that I have no recollection of that case.

Mr. WASHBURN, of Maine. The gentleman will find that it is so.

Mr. BARKSDALE. My point is, that the gentleman from Michigan has no right to speak of facts in the case which are not contained in the record. While he is speaking under the permission of the House, he should confine his remarks to the matters I have indicated.

Mr. CAMPBELL. The House granted the privilege to the gentleman from Michigan of making any comments he pleased upon this case.

Mr. BARKSDALE. The gentleman has not the right to go outside of the record and state facts not in the case. That is the point I make.

Mr. CLARK, of Missouri. I raise this point: when the House, by its resolution, agreed to let the contestant speak in this case, as a matter of course it was the case reported by the committee; and that case is contained in the respective reports of the majority and minority of the committee. He has no leave, under that resolution of the House, to range outside, and speak of facts not contained in the case.

Mr. GOOCH. I wonder that this point did not occur to gentlemen yesterday when newspaper articles were read by the gentleman from New York, [Mr. SICKLES.]

THE SPEAKER *pro tempore*. The Chair decides, upon the point of order raised by the gentleman from Missouri, that the House having granted permission to the contestant to be heard, as long as his remarks are germane to the case under consideration, gentlemen cannot call him to order. The gentleman will proceed.

Mr. HOWARD, of Connecticut. The gentleman has been made to the case which was discussed and decided yesterday. That was an application for further time. So is this. In one respect they are alike.

Mr. BARKSDALE. I desire to make this remark to the gentleman from Michigan: that he has been allowed to address the House upon this case, and not to give testimony in the case.

Mr. HOWARD, (constant.) I am not giving testimony in the case.

Mr. BARKSDALE. I understand the gentleman to be stating facts and giving testimony in the case, for that is the effect of the gentleman's speech.

Mr. STANTON. I submit to the gentleman from Mississippi that the gentleman from Michigan is stating an argument in reply to what has been said.

Mr. BARKSDALE. But he is stating facts not contained in the record, and testifying in the case.

THE SPEAKER *pro tempore*. The Chair has made his decision in conformity to the action of the House.

Mr. SMITH, of Virginia. I rise to a point of order. I understand that the gentleman from Michigan is proceeding to make statements of facts which he says are within his own knowledge, but which he acknowledges are not within the record.

Mr. HOWARD, (constant.) I said no such thing; but I have long since passed that point.

Mr. SMITH, of Virginia. Very well, then, I have no objection to his proceeding.

Mr. HOWARD, (constant.) I was saying that the case decided yesterday, and the case now before the House, were alike in one respect, for both are applications for further time. In every other respect they are unlike. Nearly the whole of the debate yesterday was upon the point whether the action of the board of canvassers of the State of New York put that case under the law of 1851. It was conceded, on all hands, that, if it was put there by the action of that board, it remained there; and the limitation of that act applied to it, and there could be no remedy. My

learned friend from North Carolina, [Mr. GILMAN], the chairman of the Committee of Elections, took the view of it that the action of the board had put that case under the act of 1851; and he was indignant that a case should be brought here in which the law had been so great. Others took a different view, and thought it ought to be considered in the present case. In that case, the law was never under the law; and therefore the limitations of the law never applied to it. Now, sir, it is conceded, on all hands, by the sitting member and by myself, and by the majority and the minority of the committee, that this case was always under the law. The law commenced running, with its limitation; and it continued to run till the limitation expired. There is no dispute about that. Now, sir, I do not believe that there are twenty men in the House who would have voted to give Williamson the time asked, if they had believed that his case was fairly and squarely under the law. If the State canvassers had determined the election, and issued their certificate, then the law would have run against Williamson; and his application would have been refused on account of facts. It would have been monstrous to allow this case to the House to have done otherwise than refuse it.

Now, sir, the election in New York and the election in Michigan were held on the same day. I state a fact. Whether it is outside of the record or not, I suppose it must come before the committee. The elections were held on the same day, and yet this application of the sitting member was not made until weeks after Williamson made his. The law is greater in this case than it would have been in Williamson's, even if Williamson's law was applied to be under the law.

Mr. COOPER. I made the application the first time that the case was called on.

Mr. HOWARD, (constant.) The sitting member made his application on the 5th day of March, 1861. I do not know what day Williamson made his application. But I do know that the sitting member from New York [Mr. SICKLES] filed his answer on the 21st of February, two weeks before. There has been laches enough, since the Committee of Elections was appointed, to cut off the sitting member in this application. He has been sitting down in New York since that case occurred before the passage of the law of 1851, but that makes it all the stronger. If, when the law left the matter altogether uncertain, and at the discretion of the House, the House would not grant time, will it do so here, and override the law? All the authorities, in all the cases where applications were refused before the passage of the law, are stronger under the law than they were before.

Now, then, I have this point to make. I wish to put it to gentlemen, how can any one of the sixty-four men who voted yesterday against giving Williamson time, vote to-day to give Cooper time, while Cooper's application was made only at several weeks after Williamson's was, and while both elections took place on the same day? I beg me call the attention of the gentleman to the fact that the application which he refused to grant time to Williamson, under the belief that he was under the law, do otherwise than refuse to grant time to Cooper, when they admit to be under the law, and whose laches outruns Williamson's by several weeks?

I beg me call the attention of the gentleman from Kentucky to a single point in the minority report. It is the one alluded to by the gentleman from Pennsylvania, [Mr. CAMPBELL.]

It is claimed, however, on the other side, that Cooper should have served a notice on Howard, and given his proof after the expiration of the sixty days, although it is admitted that such testimony could not have been read without the committee's consent. No gentleman was found in support of such a position. The law never requires any intimation to take testimony which is incompetent without the consent of the committee. The authenticated case can be found in support of such a position.

What position? The position that he ought to have served notice after the expiration of sixty days, and gone on taking testimony, and come here and asked to have it received. They say no authentic case can be found for that; and yet in the Vallandigham case, the majority of the committee used the precise language; the committee were called upon the opinion that—

"If either party to a case of contested election should desire further time, and Congress should not be then in session, he should give notice to the opposite party, and

proceed in taking testimony, and preserve the same; and ask that it be received, and, upon good reasons being shown, it doubtless would be allowed; but it seems too much to grant in this case, for either of the reasons stated."

That is the exact point raised on the 35th page of the minority report. The fact is, that the gentleman who signed the minority report in this case, signed the majority report in the Vallandigham case, with this precise language in it; and I believe that three of the honorable gentlemen who signed the minority report here voted in the House to sustain the majority report in the Vallandigham case.

Mr. STEVENSON. I ask the gentleman whether Mr. Campbell did not inform Mr. Vallandigham by letter that he intended to take testimony beyond the sixty days.

Mr. HOWARD, (constant.) I think he did; but that has nothing to do with this point. Now, in the minority report in this case, the objection is stated in almost the same language as it was stated in the majority report in the Vallandigham case. I have every confidence, and I repeat, for, every one of these gentlemen, but I have not quite so much respect for their accuracy in this particular case as I should wish to have.

I do not say that their opinion or their action is at all influenced by the principle shadowed forth in the Vallandigham case. I do not say that they do not say that, by any possibility, it makes a difference with any one of these gentlemen as to whose bill it was, or whose ox it was; but I do say that no man can read those two passages, the one from the minority report in this case, and the other from the majority report in the Vallandigham case, without remembering that fable, if he ever read it. The fact is, that one of them is twelve-dice, and the other one is most essentially twelve-dice. I again appeal to gentlemen to compare these cases. They are alike in one respect, for they both ask for time. Williamson asked for time on the express ground that his case was not under the law. But in this case the laches would have been worse than that, even if both were under the law—worse, by several times.

Now, how can any one of the sixty-four vote to grant time in this case, where not an intimation was ever given by the sitting member that he wished the privilege of anything, except the cross-examination of my witnesses? I am informed that Mr. Cooper's application was filed on the 9th of February—the day the committee was appointed—while this application was not made till the 5th of March, nearly four weeks afterwards. If the sitting member had moved in this matter the day the committee was appointed, he could have had his thirty days, and we could be arguing this case now on its merits, to say nothing about the laches that had occurred before.

Mr. Speaker, I wish to call the attention of the House to the language of the report of the majority. They say:

"Mr. Cooper presented this application on the 5th of March, and he has not served a notice until the election was held, and more than fourteen months after notice of contest; more than thirteen months after his answer had been served upon the committee; more than five months after the time for taking testimony under the law had expired, and after one half of the time of the service of the Committee of Elections had expired. He has not intimated any witness or taken any testimony in his own behalf, or given any notice of his intention to do so. And yet it appears he has presented by counsel, more than three months before he made this application, at the taking of all the testimony, the evidence of every man of the committee's witnesses, and offered none of his own."

"If this does not present a clear case of laches on the part of the sitting member, he never had a right to ask for such a considerable state of facts would make one."

I wish now, sir, to pay my respects to a point which is pressed here with great earnestness, viz: the fact that Edgar's testimony was taken on the last day of the sixty, or the last day that testimony could be taken; and it is contended that an application should be made for a continuance. I wish to call the special attention of the minority of the committee to one point. In the case of Vallandigham v. Campbell, the allegation was, that Vallandigham had not only taken testimony, important testimony, on the last day; but he had taken testimony on every one of the days; or, at least, that his notices covered every one, and he had so laid them upon another that they actually covered sixty-six days instead of sixty, and yet the committee refused to extend the time.

Mr. VALLANDIGHAM. Mr. Speaker, I am

very sorry to be obliged to interrupt the gentleman, but I had intended, before the close of this case, to correct the gross misstatement made by the Committee of Elections, which he has just quoted—a misstatement, of course, unintentional, and from an imperfect examination of the case in which it is made. The charge, it is true, was set forth in argument two years ago, and was transferred from that argument to the views of the minority of the Committee of Elections; but it never had any foundation in fact, and I regretted very much to find it repeated in the report and again placed upon the record, in the case it relates to the contestant in that case the “trickery,” of which he could not be capable and never was guilty, of attempting to extend the time for taking testimony beyond the sixty days authorized by law. It all grew out of a mistake, which was corrected promptly at the time. A notice was given to take testimony, which was discovered, subsequently, to be irregular, and was abandoned, absolutely abandoned, in that case; and no testimony was taken, except within fifty-five days after the error, and so that it makes no argument two years ago. I took testimony upon the last day; and upon the day previous to the last, testimony was taken also by the sitting member.

Mr. HOWARD, (contentant.) I take my statement from the minority report in this case. I know nothing more of it. But the gentleman's own explanation, and it makes that case altogether stronger than this, because in that case he took testimony on the last day; and he not only took testimony on the last day, but, as the gentleman says, on fifty-eight days prior to the notices covered fifty-eight days; whereas in this case all the notices covered but twenty-two days.

Now, sir, the minority of the committee divide their case off into two parts: first, the impeaching affidavits as against Edgar, which they place under the head of impeaching affidavits; and second, six affidavits impeaching Edgar, and but six, although I think the gentleman from Kentucky [Mr. STEVENSON] stated that there were eleven. My impression at the time he spoke was, that there were but six, and I said only six here. That, however, is altogether immaterial.

Now, sir, as I have already said, the whole testimony of Edgar relates to the exclusion of nine votes returned for the sitting member. The testimony in the case directly attacks and bears upon the hundred and fifty-two votes returned for the sitting member. His majority in the district was seventy-five. If the case were made out, and these nine votes were left in, it would only make the difference in my majority that much. If five hundred and fifty-two bad votes for the sitting member are proved by the present testimony, then, of course, it would leave me a majority of four hundred and seventy-seven, or thereabouts. If these nine votes were still counted for the sitting member, my majority, instead of being four hundred and seventy-seven, would be four hundred and sixty-eight.

Mr. COOPER. Does the gentleman pretend to say that I received that number of illegal votes?

Mr. HOWARD, (contentant.) I pretend just what I say—no more and no less. That is the truth of the case, and the testimony does establish that. It is not for me to say whether it establishes it or not. But I say this: that by no possibility could the case turn upon those nine votes; and I would ask myself to have them excluded from my case, but for the reason of the unfair way in which the witness's case had been attacked. If he be impeached, then his testimony should be excluded. If he cannot be impeached, he ought not to be assailed in this way by *ex parte* affidavits taken nearly twelve months after the case was tried. And, by the way, these affidavits were taken three days after the case was postponed, as we supposed, for the purpose of a hearing. Now, it makes no sort of difference whether those nine votes are in or out.

Appendix No. 3 contains two affidavits that go to show the legal character of the proceedings in the case of Walker and Chipman. Chipman was the attorney for the sitting member when this testimony was taken. They both of them swear that they were at the polls in the second ward more or less on the day of the election, and that they saw the whole, that everything was pretty quiet. That is the drift and effect of their testimony. The minor-

ity of the committee state that two witnesses have testified that there was so much disturbance there that the voters could not vote. I wish, for the sake of accuracy, the number had been stated correctly, although I do not believe for a moment that any member of the committee would knowingly withhold an important circumstance, much less would misstate any matter having an important bearing upon the case of one or the other. But, sir, it would have been more accurate if they had said that the testimony of four witnesses bore testimony upon the fact which those affidavits intend to disprove—the testimony of Larned, Hornbeck, Stebbins, and Jackson. The testimony of all four of them bears directly upon that point. But, sir, it is immaterial to the issue that is to come before the House, whether this poll be sustained in gross or not. If it be retained, it gives the sitting member seventy-six votes, which was his majority in that ward; if that ward be thrown out, of course it takes these seventy-six votes from the number counted for the sitting member. But, sir, in that ward there are some sixty votes for the contestant, so that it makes only a difference of about fifteen or sixteen whether the poll be accepted or rejected. If it be thrown out, the difference in my favor is seventy-six; if it be retained, sixty votes are attacked in detail, leaving a difference of sixteen more in one case than in the other.

Now, Mr. Speaker, this is the whole case. The minority of the committee rest their case upon two propositions: first, upon the ability of the sitting member to impeach the character of Edgar, whose testimony relates to nine votes; and second, upon his ability to prove the regularity of the election in the second ward, which gave him seventy-six majority, which, if thrown out, would reduce his majority seventy-six; but, as I have said, if retained, sixty votes are reduced by the number attacked; and, if he have been sustained, the difference is illegal. The minority of the committee refer for their proof to appendices Nos. 1 and 2, the result of which I have given. Suppose, then, this application is granted, and the sitting member proves all that he alleges: what is the result? No, sir, the sitting member has twenty-two votes, giving a total of twenty-five votes out of the five hundred and fifty-two that are attacked. That is all the sitting member proposes to accomplish in the rebutting testimony that he has been able to do. The sitting member waited four months for the notice of contest, and three months after the meeting of Congress. I repeat it, sir, the proposition he makes is to sustain twenty-five votes out of the five hundred and fifty-two I have attacked.

Mr. Speaker, I submit that this case is without parallel in the history of a legislative body. Never before did a man wait for fourteen months, admitting himself that under the law he was required to act within sixty days, and then come to the House three months after Congress meets, and say that he has been sustained in his testimony taken in reference to twenty-five votes out of five hundred and fifty-two—or, in other words, of one out of twenty-two—asserting that he can disprove the testimony in reference to one, but asking the House to doubt the other twenty-one. There is never such a case of laches? Was there ever a case so utterly without excuse? Was there ever a case where the proposed showing was so utterly frivolous?

Now, then, as to the point on which the gentleman from Kentucky [Mr. STEVENSON] indulged in so pathetic an appeal. He says, and they say in the minority report, that this is a peculiar case, because it proposes to impeach witnesses that were sworn on the last day, and that Mr. Cooper could not impeach them because he could not give ten days' notice. If, now, sir, if you consider that every single case would have the same peculiarity, because all either party would have to do would be to get some *ex parte* affidavit going to impeach some one of the witnesses sworn sometime within the last day. He would then have the precise case that is presented here.

Mr. STEVENSON. I ask the gentleman if the sitting member could have legally examined witnesses to impeach the testimony given within the last two or three days of the time allowed for taking the case. If I ask him if a case ever occurred in which permission was asked to impeach the veracity of witnesses who were so examined?

Mr. HOWARD, (contentant.) Any witness examined the last nine days before the time of taking testimony expires might be attacked in the same way, and that made the excuse for further continuance. Now, then, suppose this case should be opened; suppose that after the thirty days which the sitting member asks for, we were called here and should think on the whole that the testimony was rather against me, and should say to the Committee of Elections, “one of the witnesses examined about five or six days before the thirty days is now shown to be a liar, and I can impeach him. I will not undertake to contradict him, but I say, but I will prove that he has character for veracity is bad,” and the House give me thirty days, and so on; do not gentlemen see that the controversy would never come to an end? There must be a last word somewhere, and sometimes I insist, that to open a case upon such a showing, where there is nothing but laches from beginning to end; where there is not one solitary excuse, where there is no sort of importance to what is proposed to be proved, where the allegations which are made are so utterly and utterly frivolous, only attaching to one out of twenty-two of the votes I have attacked, would be such a case as was never heard of. I submit that the peculiarities of this case are three: that there are grounds for laches that are attached to any case coming before this body; that it is a case entirely without excuse and without reason; and that the proposed showing is more utterly frivolous. And again, I submit to gentlemen that if this case is to be opened because the witnesses were examined on the last day, why should the witnesses be examined on the last day, why should the witnesses be examined on the last day, but on almost unanimous votes, would have rejected the application of Mr. Williamson, had they believed him to be under the law of 1851, how shall they open this when they admit that it comes legitimately under the law, and when the laches which gentlemen claimed in his case is not in this case? Is it not four or five years later? I ask if the sixty-four members who voted against his application yesterday will now vote for opening this case?

Mr. Speaker, I have already detailed the House have heard of this case, and will yield the floor.

Mr. CAMPBELL. I will yield to any gentleman on the other side who may wish to speak to the resolution.

Mr. MILLSON. Mr. Speaker, there are certain general principles applying to cases of contested elections that should always be observed by the House. In every case that has come before this body, my own course has invariably been controlled by them, whatever may have been the nature of contest, and whether they applied favorably or unfavorably to any political friend or political opponent. It was because of the application of these principles that I felt myself constrained to vote, at the last Congress, against the claim of my honorable friend from Ohio, [Mr. VALLANDIGHAM], and I shall apply those principles to the decision of the case now under consideration.

There are, I think, Mr. Speaker, only two modes of election in any of the States of this Union: first, where the votes are given *in secret*, and each voter discloses his choice; and next, where the election is made by ballot, and the elector's vote is not known. Let me say a word in reference to the rules which govern the decisions of cases where the election is *in secret*. A man who proposes to contest the seat of a member must give him notice of the ground of objection. If it be the fraud of the returning officer, he must give the fraud. If it be the violence and tumult prevailed at the election, the particulars of time, place, and circumstance, must be alleged. If illegal votes were received, then I hold it to be the duty of the contestant to give the names of the illegal voters. If it be the ground of complaint that illegal votes were received at the election, and he must then give in detail the name of each voter whose right to vote is denied. If a man knows that illegal votes were given, he knows, or ought to know, by whom they were given, and he has no right to say that they were given, he has no right to aver that they were given at all; for votes unchallenged on the poll

must be received and treated as legal votes. These illegal votes may be such, either by reason of some disqualification in the elector, or from the want of qualification. The one is affirmative; the other negative. If the elector be disqualified by reason of infancy, or want of citizenship, or the commission of some infamous crime, which deprives him of the right of suffrage, then the contestant must prove that John Johnson was not a citizen, or because he was not twenty-one years of age; or because an alien, and not a naturalized citizen; or because infamous and disqualified from voting; and these being affirmative averments, the contestant must prove them. But where he alleges that the defect is in the want of qualification, he simply says that John Thompson is not legally qualified to vote, according to the laws of Wisconsin or Michigan or Virginia; and then the party who claims his vote must show its validity. No man can prove a negative; and if you throw the burden upon the contestant to show that the party is not a legal voter, he may introduce every man in the world but one, and they may be all unable to state the qualification upon which the man voted; while the man himself may be enabled to prove affirmatively his right to vote. All the rest may say that they saw nothing of his right to vote, and he may be a legal voter nevertheless.

This, then, is the rule which should apply to all cases where the vote given by the elector is known and recorded. But it does not the less apply to those cases where the vote has been by ballot.

And now, sir, I come to the consideration of those contested-election cases occurring in States where, under their constitutions, the vote is a secret one. I do not know how far my argument upon this subject will be acceptable to the House. The principles I am about to announce have always controlled my own votes here, in every case of contested election. I think, with all deference to others, that they are sound and just. Judging, however, from the course of decisions here, I have no reason to believe that they are very generally entertained.

I will not allow any contest respecting the legality of any particular vote, once recorded on the poll, in a State which allows this secret ballot. Where a vote is given by ballot, it is given under a guarantee of the elector, that the State will guarantee that that vote shall be secret, and that it shall not be inquired of. It is not his right to break the seal of secrecy. It is not the personal privilege of the voter; it is an institution of the State. I think it a very bad thing, but nevertheless, where the State, in the exercise of its sovereignty, determines that a voter shall vote by secret ballot, there is no power upon earth that can inquire for whom the vote was given, except where provision is made by the law of the land, as has been done in some of the States of the Union, for the contingency of contested-election cases.

Are you to ascertain for whom any elector voted? Are you to receive the declarations of the voter, made at the time, or before the time, or after the time? What are these declarations? The object of the law is to secure independence in the elector. In other words, the object of the law is to induce a man to vote one way, and to say that he voted another. If that be not the object of the law, then tell me how in this boasted independence secured? If it is intended that the man should speak truly of his vote, or that others shall give testimony concerning his vote, how are you to secure this independence?

You then encourage in these men a deceitful, hypocritical, fraudulent, and unscrupulous vote to Brown, and to hold out to the world that they voted for Jones. This law intends this result. The law invites a man to utter a falsehood, and then, according to your practice, you make this falsehood the evidence of the truth, in the subsequent inquiry as to what the elector voted. Sir, I will allow no such thing. I will not allow evidence to be taken of the confessions of a man, which confessions are, by the law itself, intended to be deceptive and fraudulent. Sir, I will not allow such inquiries, under a law which, professedly designed to secure the independence of one employed under a master, encourages that man to avoid the consequences of a vote given in opposition to his employer's wishes, by saying that he had given it in conformity with his wishes.

But admit that the vote given by an elector involves only his own personal privilege, and that he may disclose his secret at pleasure; still, he cannot be drawn that it was the object of the law to secure him the privilege of secrecy; and though one man may waive it, a thousand may not. Tell me, then, what will you do with those persons who have never broken the seal of secrecy? If, among thousands of voters, a single elector has been bold enough, or honest enough, or fraudulent enough, to say that they voted for a particular candidate, what will you do with the eight thousand others who have not made any such confession? You do not know how they voted. Then there is that upon the commission of two thousand out of ten thousand, you will go into an inquiry; and if you find that a majority of the two thousand voted for the contestant, you will give him the seat, though you do not know, and never can know, how the eight thousand voted. I hold that no court, no legislature, no jury, no human tribunal, would ever consent to enter upon an inquiry for truth, when they knew, beforehand, they never could arrive at the truth. You cannot know, you are prevented by the law from knowing, how the eight thousand voted; and then there is that upon the commission of two thousand disclosed their votes for A or for B, you are to give the seat to that one of the two candidates who appeared to have a majority of the two thousand, without inquiring, without knowing, without the possibility of knowing, how the others gave their votes. It is just as absurd as if an accountant should undertake to strike a balance of numerous dealings of two merchants, upon the inspection of three pages out of twenty of the debtor and creditor account; and gravely report that A appeared to owe B, or that B appeared to owe A, any particular sum of money, because, upon three pages of the account, not connected with the rest, he found that the items preponderated in favor of one or the other.

Now, sir, I have said a great deal more upon this subject than I intended to say, and I am sorry to say, that I am not in a position to make any statement of my position upon this case. I would not grant any time for the taking of testimony to a party who stated his own case so vaguely as not to entitle him to an investigation. This, I think, is the case with the contestant, will give you the specification in his notice; and that at the election in November, sundry ballots were cast." Again: "Sundry ballots were counted by the judges." Again: "Sundry persons were permitted." Again: "Sundry persons were refused votes for homicide. Now, surely no legislative body should institute an inquiry upon such allegations as these. If the names of the voters had been given, it would have been incumbent upon the gentleman from Michigan, the sitting member, to take testimony to prove that they were legal voters.

If the application were now made by the contestant to take further evidence, I certainly would not feel disposed to grant it; because I should consider that his notice was so vague and indefinite that no evidence ought to be allowed to be taken upon it.

I do not mean to say that this objection applies to all the specifications in the notice, because four or five of them may have been reasonably certain; though even in the case where I think there is a reasonable minuteness of specification, the ground of objection to them is that they are insignificant in point of law; as where he alleges, for instance, that the inspectors of election in some cases were not sworn, which could hardly be a ground for throwing out the votes received by them.

I will not myself construe the notice yesterday against the application of the contestant for the city of New York; because, admitting the general correctness of everything stated in his notice of contest, I would not have gone into any inquiry at all, because the complaint was altogether too vague and indefinite. I would not have allowed the sitting member might properly have demurred. Now, while I would not and could not grant time to the gentleman from Michigan to take evidence to contest the seat of the sitting member, the House will readily see that, after the votes had been taken for the County of Erie, if the House had gone on to consider such evidence, and held it proper to be received under the notice of contest, it becomes a question whether the sitting member shall take further evidence, which,

if he were the contestant, I would refuse him, but which cannot be refused the sitting member unless the House is ready to say—not that I presume they are not ready to say so—but they would exclude all the evidence taken under this notice.

As he has not had an opportunity to furnish such evidence, I say I would vote to give him time; and that, too, without the slightest inconsistency with any rule of the House to-day. I refused to vote for time yesterday to one petitioner. I should refuse to-day to vote for time to the other petitioner. I would not allow a man to take advantage of his own wrong. I would not allow a petitioner to give a vague, indefinite notice of contest, and to make that an occasion for desiring further time to take evidence.

Mr. CAMPBELL. Will the gentleman from Virginia allow me a moment? He is laboring under a mistake. The committee has not decided on the testimony submitted by the parties. This is a mere preliminary motion. Whether the evidence will be received or rejected depends on future action. We have not yet decided whether there is any competent evidence; or whether it is all competent. We have had no action yet.

Mr. COCKER. Here is a remark which was inserted in the other side's report.

Mr. MILLSON. It may be true, Mr. Speaker, that the committee has not yet come to any conclusion as to the character of the evidence; but the very failure of the committee to report back the previous notice of contest, and to make that be discharged from the further consideration of the subject, shows that they are entertaining it. Why report this preliminary resolution against taking further evidence? If they regarded the evidence of the petitioner as insufficient to found a claim upon, or if they had not reported that fact to the House, and asked to be discharged from the further consideration of the subject? I infer, therefore, from the circumstance, that they have made no such report, and have not asked to be discharged; that they are proceeding to consider this question as they have reported that on that notice; and therefore I will not by my vote deprive the sitting member of the opportunity of collecting such testimony as he may be able to produce in answer to the complaint of the petitioner; because, although I might not deem it necessary that I should give such evidence any, yet I have no right to substitute my individual impression as to what should be done, for the deliberate judgment of this whole body.

Now, sir, I think that there is a very strong case made out for the sitting member. The sitting member states that he desires to confute and contradict certain statements made by one witness in particular, whose name has been referred to as Mr. Edgar; and it has been asked why he did not implicate that man on the reception of the notice that his evidence would be taken? That question was very fully and conclusively answered by the gentleman from Kentucky, [Mr. STEVENSON]; but I desire to make an additional answer. It is, that I never heard of any proceeding to impeach the veracity of a person on the receipt of a notice that his evidence would be taken; a controversy that that person would be examined as a witness. And I do not think I hazard much, as a lawyer, in saying that any man who should venture to take testimony impugning the character of a citizen as unworthy of credit, in a case in which he had never been sworn as a witness—in a case where, perhaps, the person himself might never choose to be sworn as a witness—would perhaps expose himself to an action for slander or libel, as the calumny may have been oral or written.

In this case, Edgar might never have chosen to go forward as a witness. What right had Cooper, the sitting member, to conclude that because the contestant, Mr. Howard, gave him notice that Edgar would be a witness, therefore Edgar would be a witness? I do not think so. I would not make a witness; and that, as such witnesses, he would commit perjury? It might have been that Edgar, from his own knowledge of his bad reputation, might have refused to subject himself to examination; and it would be altogether premature in the other side to say that he would be a witness, or anticipated statements, or to blacken the character of one who was a mere possible witness, and who never had been examined in the course of any judicial investigation. He must,

moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ANNULLMENT OF MORMON LAWS.

Mr. McCLERNAND. I ask the unanimous consent of the House for an order to print an amendment I propose to offer to the report of the Committee on the Judiciary, in reference to the suppression of polygamy.

Mr. BINGHAM. I object.

RESOLUTIONS OF CALIFORNIA LEGISLATURE.

Mr. BURCH. I ask the unanimous consent of the House to present certain joint resolutions of the Legislature of California, and to move that they be referred to appropriate committees, and ordered to be printed.

There was no objection; and the resolutions were received, ordered to be printed, and referred as indicated below:

Joint resolutions of the California Legislature, relative to mails between Orville and Quincy, in the State of California—to the Committee on the Post Office and Post Roads.

Joint resolutions of the California Legislature, asking a two-thirds vote of the Senate, and of four batteries of light and four of heavy artillery—to the Committee on Military Affairs.

Joint resolutions of the California Legislature, asking a further extension of the preemption laws to the State of California—to the Committee on Public Lands.

Joint resolutions of the California Legislature, asking the right of way and other aid in the construction of the Placerville, Humboldt, and Salt Lake line of telegraph—referred to the Committee on the Post Office and Post Roads.

PROTECTION OF FEMALE EMIGRANTS.

Mr. JOHN COCHRANE. A House bill is upon the Speaker's table, which was returned by the Senate, and from the importance of its provisions, it ought at once to be attended to. It will take but a moment. It is House bill No. 19, and is in reference to the protection of female emigrant passengers. There is but one amendment proposed to it by the Senate, and that is in regard to the corroboration of the evidence of the female. It is in fact nothing more than the reduction to language of a legal principle. If the amendment should be read from the desk, I am sure the House would pass it at once, and thus dispose of the bill.

No objection being made, the bill was taken from the Speaker's table, and read by its title, as follows:

An act (H. R. No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers, and for other purposes.

The amendment of the Senate was reported, as follows:

After the word "act," in the last section, insert the words "on the testimony of the female seduced, uncorroborated by other evidence, nor unless the same shall be found within one year after the arrival of the ship or vessel at the port for which she was destined when the offense was committed."

That no conviction shall be had under the provisions of this act on the testimony of the female seduced, uncorroborated by other evidence, nor unless the same shall be found within one year after the arrival of the ship or vessel at the port for which she was destined when the offense was committed.

The amendment was agreed to.

Mr. JOHN COCHRANE moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INDIAN SUPERINTENDENCY.

Mr. STOUT, by unanimous consent, introduced a bill to provide two additional superintendencies of Indian affairs for the State of Oregon and the Territory of Washington; which was read a first and second time, and referred to the Committee on Indian Affairs.

ROGUE RIVER INDIANS.

Mr. STOUT, by unanimous consent, also introduced a bill to provide for the payment of the award of commissioners appointed under the third article of the treaty of September 10, 1853, with the Rogue river Indians, in the Territory of Washington; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. LOGAN. I ask leave to introduce a bill, merely for reference.

Mr. PETTIT. I object.

Mr. LOGAN. I hope the gentleman will not object. It is a local bill.

Mr. McKNIGHT. We have made numerous efforts to introduce local bills, and gentlemen on the other side are objecting.

And then, on motion of Mr. ELY, (at five o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, March 23, 1860.

Prayer by the Chaplain, Rev. Dr. GRILEY.
The Journal of yesterday was read and approved.

CALIFORNIA OVERLAND MAILS.

Mr. GWIN. I ask leave to lay on the table, and have printed, an amendment that I propose, in the way of a substitute, to the bill reported by me under instructions of the Committee on the Post Office and Post Roads a few days ago, for the purpose of establishing overland mails to California. I move that it be printed, as I intend to call up the bill to-morrow morning.

The motion was agreed to.

PAY OF THE NAVY.

Mr. MALLORY. Mr. President, I move that the bill be referred to the Committee on the bill No. 259. I do this because I have sole charge of the bill, and I doubt very much whether any Senator of my committee has given this bill sufficient attention to be able to afford the Senate information enough about it that it may be passed here in time to pass the other House. I am very anxious to leave the city, and I am only detained here from my sense of duty in regard to this bill, which is of the very highest importance. It is a bill to increase and regulate the pay of the Navy. I am satisfied, if I introduce the bill, we can pass it this morning. All the amounts have been fixed in round sums, as required by the resolution of the Senate. It shows on the face of it what the pay of each grade is proposed to be; and I doubt very much whether the bill will meet with any opposition. I think the Senate may now take up the bill and consider it.

Mr. FESSENDEN. I hope the Senate will not take up that bill this morning. It has been reported but a very short time ago, a day or two since; and I never obtained possession of it, or knew its contents until reported, until yesterday. I obtained the bill yesterday, and have examined it in part. Instead of its being without objection, I may say to the honorable Senator from Florida that I think there are very serious objections to the bill. I shall take exception to it; and I think I shall draw up a substitute for it, which I shall move as an amendment. I have had no opportunity to do so yet; but I am at work on it, and shall do it as soon as I can; and I shall be prepared by the beginning of the next week. The bill is not satisfactory to me, in its present shape, it is anything but satisfactory to me.

Mr. MALLORY. Mr. President, I submit the motion to the Senate. I regret to hear the Senator say that the bill is unsatisfactory to him in its present shape. The bill is more satisfactory to me than any other bill I have given it any serious attention—than in any shape it has been in yet; and I think it will be so to the Senate. I deem it my duty to submit the motion. If, however, it shall be the general sense of the Senate that they have not had an opportunity of looking at the bill, they can vote down my motion. It puts in dollars and cents, with very slight variations, the pay proposed in the bill that was reported week before last.

Mr. CAMERON. I believe it is usual to allow the bill to rest a few days.

THE VICE PRESIDENT. The Chair must put the motion of the Senator from Florida.

Mr. MALLORY. I ask that the question be put.

Mr. BENJAMIN. I hope the Senator from Florida will not press his motion. I will go with him for his bill so far as I am at present advised; but we are notified on the other side that there will be amendments offered, and it will lead to debate. We have had several Fridays taken away from private business, and I think this day ought to be devoted to it. We may take up the bill on Mon-

day, thus giving the Senator from Maine time to examine the subject, and to prepare a substitute, if he means to offer one. I will aid the Senator from Florida, with pleasure, to pass the bill on a proper occasion, but I really think to-day ought not to be taken for it.

Mr. CAMERON. I am disposed to go with the Senator from Florida, but I think he will not benefit his bill by pressing it now, so as to exclude the morning business.

Mr. MALLORY. It was only from the urgency of the case that I made this proposition. If I can get the bill taken up in the fore part of next week, I will waive my motion now. It was in order that the bill should take precedence of vote bills that I made this motion. I think it far more important than any private bill on the Calendar; much more important to the country than any private bill; but if it can be understood that in the early part of the week—say Monday—I can get up this bill and have a vote on it, I shall waive the motion now, if the Senator from Maine will give any sort of assurance that he will take measures to have it taken up then.

Mr. FESSENDEN. Certainly I shall have all the work I propose to do done to-morrow morning, if necessary, however, to print the substitute.

Mr. MALLORY. With the earnest hope, then, that the bill may be taken up and considered on Monday—and I shall have very little hope of its passage this session unless it be taken in the early part of next week—I shall waive the motion for the present.

PETITIONS AND MEMORIALS.

Mr. CAMERON presented two petitions of citizens of Schuykill county, Pennsylvania, praying a modification of the tariff; which were referred to the Committee on Finance.

He also presented a memorial of citizens of Gallia county, Ohio, praying a modification of the tariff; which was referred to the Committee on Finance.

Mr. PUGH presented a petition of Thomas B. Davis and others, citizens of Vinton county, Ohio, praying the establishment of a post route from McArthur, in Vinton county, to Vinton Station, on the Marietta and Cincinnati railroad, which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of John Gander and others, citizens of Putnam county, Ohio, praying the establishment of a post route from Faughtonsville, in Putnam county, to Pleasanton, on the Dayton and Michigan railroad; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of William German and others, citizens of Ohio, praying that bounty lands may be granted to the heirs of militiamen and volunteers in the war of 1812 and in the Indian wars; which was ordered to lie on the table.

He also presented a petition of citizens of Ohio, praying the enactment of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

He also presented the petition of Sylvester Gray, a man of color, praying that a patent may be issued to him for land settled and improved by him under the provisions of an act which was referred to the Committee on Public Lands.

Mr. LATHAM presented a resolution of the Legislature of California in favor of the establishment of a daily mail from Orville to Quincy, from June to November, and semi-weekly for the remainder of the year; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. BROWN presented the petition of the president and directors of the Ship Island Railroad Company, praying a grant of aid to aid in the construction of that road; which was referred to the Committee on Public Lands.

Mr. KENNEDY presented a memorial of a committee appointed at a meeting of the Association of the Defenders of Baltimore in 1813, praying the enactment of a law granting pensions to the soldiers of the war of 1813, and to the widows of those deceased; which was referred to the Committee on Pensions.

Mr. DURKEE presented a petition of James Watson Webb and others, citizens of New York, praying Congress to pass a law to prevent all fur-

ther traffic in, and monopoly of, the public lands of the United States, and that they be laid out in farms or lots for the free and exclusive use of actual settlers; which was ordered to be laid on the table.

Mr. HARLAN presented the petition of J. W. Roan and Ann Mathieson, praying the right to purchase the lands settled by James H. Matlock and Robert Mathieson, who were murdered by the Indians at Spirit Lake, in Iowa; which was referred to the Committee on Public Lands.

Mr. HARLAN presented a petition of Martin Bumgardner and others, citizens of Iowa, praying the establishment of a post route from Forest City, via Bristol, to Russell, on the State line in Hartland, via Steven's Corners, to Ottumwa, in the State of Iowa; which was referred to the Committee on the Post Office and Post Roads.

Mr. LANE presented papers in relation to the claim of John Carter, who lost an arm by accident while in the military service of the United States, for a pension; which was referred to the Committee on Pensions.

Mr. WADE presented a petition of citizens of Lawrence county, Ohio, praying a modification of the tariff; which was referred to the Committee on Finance.

PAFERS WITHDRAWN AND REFERRED.

On motion of Mr. GWIN, it was Ordered, That the petition of John Gordon, a messenger in the Post Office Department, praying additional compensation for services performed on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

BILLS INTRODUCED.

Mr. PUGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 365) amendatory of the act entitled "An act to establish a territorial government for Utah," approved September 9, 1850; which was read twice by its title, and referred to the Committee on the Judiciary.

PATENT LAWS.

Mr. RIGLER. I have charge of a very important public bill—a bill amending the patent laws—which ought to be considered.

Mr. TOOMBS. I hope the Senator will wait until we get through with the reports.

Mr. RIGLER. I had expected to have this bill considered this morning; but I have discovered, on the motion of the Senator from Florida being made, an indisposition to take up any bill to interfere with the private bills to-day. I therefore content myself with asking the Senate to take up this bill, and make it the special order for one o'clock on Wednesday next. It is a very important measure which ought not to be neglected. I do not think it will take much time. I submit that motion.

The motion was not agreed to.

JAPANESE MISSION.

Mr. MASON. Yesterday, before I came into the Senate, a communication was presented from the President, sending certain documents in response to a resolution of the Senate, relating to a mission from Japan, and there was an order made that they should be printed and laid on the table. I have that they be taken up and referred to the Committee on Foreign Relations.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the memorial of George O. Foote, praying the right to locate certain land scrip, asked to be discharged from its further consideration; which was agreed to.

Mr. CLARK, from the Committee on Indian Affairs, to whom was referred the memorial of S. Eastman, of the United States Army, praying a restoration of the copyright of his pictures, used in illustrating the Government work on the history of the Indians, and signed by him, was accompanied by a bill (S. No. 308) for the relief of Seth Eastman. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the memorial of Charles J. Swett, praying compensation as purser, during the time he acted as such on board the San

Jacinto, submitted a report, accompanied by a bill (S. No. 309) for the relief of Charles J. Swett. The bill was read and passed to a second reading, and the report was ordered to be printed.

HOUHAS LAND GRANT.

Mr. TOOMBS, from the select committee to whom were referred a memorial of settlers on the Houmas lands in Louisiana, praying indemnity for losses sustained by them in consequence of the passage of the act of June 2, 1858, and for the investigation of certain abuses connected therewith; a memorial of residents and owners of lands in the parishes of Ascension and Iberville, in the State of Louisiana, praying the repeal of the "Act to provide for the location of certain confirmed private land claims in the State of Louisiana, and for other purposes," approved June 2, 1858; and a petition of owners of land under the "Houmas grant" protesting against the repeal of the second section of the act of June 2, 1858, and praying for the repeal of the joint resolution of March, 1859, submitted a report, accompanied by a bill (S. No. 307) to repeal the second section and other portions of an act passed the 2d day of June, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes," and also to provide for the final settlement of certain private land claims in the State of Louisiana. The bill was read, and passed to a second reading.

Mr. TOOMBS. I move that the report be printed.

Mr. PUGH. Before the motion to print is put, I wish to suggest to the Senator from Georgia that there was a report made by Mr. Clifford, while he was Attorney General, containing a number of original documents of which the committee had but a single copy. It is a long time since those documents were printed. I think those documents should be printed as an appendix to the report of the committee, and I move that the report of the Attorney General made in 1845, and the documents contained in it, and the decision of Judge Campbell be printed as an appendix to this report.

Mr. TOOMBS. I accept that motion.

The VICE PRESIDENT. It occurs to the Chair that that motion would have to go to the Committee on Printing.

Mr. PUGH. I have no objection to its going there.

The VICE PRESIDENT. Then the question is on the motion of the Senator from Georgia, to print the report.

The motion was agreed to.

GEORGIA AND FLORIDA BOUNDARY.

Mr. JOHNSON, of Arkansas, from the Committee on Public Lands, to whom were instructed by a resolution of the Senate to inquire into the expediency of quieting the titles of such purchasers of lands from the United States as may fall within the State of Georgia, under the adjustment of boundary between the two States, and also of grantees under the State of Georgia, where lands may fall in Florida, reported a bill (S. No. 306) to settle the titles to lands purchased by the United States in the State of Georgia and Florida; which was read a first time, and ordered to a second reading.

Mr. JOHNSON, of Arkansas. It is a matter about which there is no question whatever; and I ask, as it will cause no debate, that the bill be put on its passage. I ask that the letter of the Secretary of the Interior, which I send to the Chair, may be read.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole. The Secretary of the Interior, whenever the dividing line between the State of Georgia and Florida shall have been finally surveyed, approved, ratified, and confirmed as the boundary between those States, to adjudicate, upon principles of equity and justice, all claims, in Florida, which may fall within the limits of lands which may fall within the State of Florida; and all claims which may be approved by him are by this bill ratified and confirmed; but the State of Georgia is free to ratify and confirm all sales and grants made by the United States of lands in Florida, which may fall within the limits of the State of Georgia, under the final adjustment of the boundary line.

The Secretary read the following letter from the Secretary of the Interior:

DEPARTMENT OF THE INTERIOR.

WASHINGTON, February 28, 1860.
SIR: I have the honor to receive the resolution of the United States Senate of the 13th ultimo, directing the Committee on Public Lands to inquire into the expediency of quieting the titles of such purchasers of land which lie near the line of boundary between the States of Georgia and Florida, and to report by bill or otherwise.

The enclosed is a letter of this Department, addressed, under date of the 14th ultimo, to Hon. R. TOWNS, and of a report of the Commissioner of the General Land Office of the 17th ultimo, together with the documents it said report mentioned, will furnish to you all the information upon the subject that is deemed important.

I entertain the opinion that any legislation by Congress, to amend the order proposed, will be necessary and proper; and I therefore approve the draft of a bill which accompanies the report of the Commissioner of the General Land Office. Very respectfully, your obedient servant.

J. J. SPENCER, Secretary.

Hon. R. W. JOHNSON, Chairman Committee Public Lands, United States Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

INDIAN DEFECTIONS IN CALIFORNIA.

Mr. LATHAM. I offer the following resolution, which I think should be considered at once. It is a mere resolution of inquiry:

Resolved, That the Secretary of the Interior be requested to furnish the Senate with a report of the superintendent of Indian Affairs, or any other public officer, in California, as to depredations committed by Indians in Santa county in 1859.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MASON. I do not object to the resolution, provided the Senator will strike out the word "requested" and put in "directed." That is the usual phrase.

Mr. LATHAM. I am perfectly willing to agree to the resolution.

The VICE PRESIDENT. That change will be made by unanimous consent.

The resolution, as modified, was agreed to.

CESSION OF PUBLIC LANDS.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of reporting to the States, respectively, all the public lands within their limits which have remained, or shall hereafter remain, unsold for four years after the price has been graduated to the lowest standard.

LIGHTS AND BEACONS ON LAKE SUPERIOR.

Mr. BINGHAM submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of reporting a bill making appropriations for the survey of Sturgeon's Rock, Lake Superior, with a view to ascertaining whether a light or beacon is best adapted to guide vessels clear of the danger from that dangerous reef; also, into the expediency of establishing ranges of lights and beacons to mark the Copper harbor, Michigan; and that they have leave to report by bill or otherwise.

PEAY & AYLIFE.

Mr. SEBASTIAN. If there be no further petitions and reports, I ask the Senate to take up the bill reported by the Committee on the House of Representatives, and is now on the table of the Senate. It is a small private bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 328) for the relief of Peay & Aylife. It concerns the Eastern States, and to adjust the accounts of Peay & Aylife, late contractors on mail route 7503, in Arkansas; and if it appears from evidence produced by them, or on the files of the Department, that they, in consequence of the weight of the mails, were compelled, before the 1st of July, 1854, and the 15th of June, 1857, to perform extra services not contemplated in or covered by their contract, then to cause their accounts for such extra service to be audited and paid at a fair rate of compensation.

Mr. SEBASTIAN. Has this bill been reported by the Committee on the Senate?

The VICE PRESIDENT. The Chair is informed by the Secretary that the bill was read twice, and laid on the table.

Mr. HALE. I hope it will be committed. I move that it be committed to the Committee on the Post Office and Post Roads.

Mr. SEBASTIAN. I hope the Senator will

withdraw that motion. It was reported by a committee of the House of Representatives, and passed that body without debate, on the merits of the question; there being no difference of opinion, except as to the amendments which were adopted in the House, and which make the bill unexceptionable. It was reported by the Senator from Ohio, [Mr. PUGH], from the Committee on the Post Office and Post Roads of the Senate, on the 3d of March last, and has, since, received the assent of the committees of both Houses, and has now passed the other House without any question as to its merits. The whole discussion, which I have now before me in the Globe, arose upon amendments to the bill in the House of Representatives to place it in a perfect form. I hope, however, inasmuch as there is no objection in referring it back to the same committee that once reported it, it may be allowed to pass.

Mr. HALE. My reason for making the motion is this: there are a great number of claims of this character before the committee now, and there has been a communication addressed by the chairman of the committee to the Postmaster General on this class of claims, and an answer has been received from the Postmaster General. Besides, I notice a plurality of the bill similar to one that was in a bill passed a year ago, under which very large sums were taken out of the Treasury, limiting the discretion of the Postmaster General, because he is directed to settle according to certain evidence on file in the Department. I think it had better to refer it to the committee.

The motion to refer was agreed to.

PRIVATE CALENDAR.

Mr. BENJAMIN. I move that the Senate now proceed to the consideration of the Private Calendar in its regular order.

Mr. GREEN. I offered a resolution the other day which was objected to, and now lies on the table. I move to take it up. My object is to refer it to the committee.

THE VICE PRESIDENT. The Senator from Louisiana has moved to proceed to the consideration of the Private Calendar.

Mr. GREEN. The morning hour has not yet expired, and I think he will postpone that.

Mr. BENJAMIN. What does the Senator from Missouri desire? I did not hear him.

Mr. GREEN. To take up the resolution on the subject of adjournment.

Mr. BENJAMIN. I think that resolution will lead to debate. I prefer referring to my motion to take up the Private Calendar.

Mr. GREEN. The morning hour has not expired, and I think it rather unfair to consume the morning hour by the regular orders. I think we ought to have the morning hour for incidental questions. I move to take up that resolution.

THE VICE PRESIDENT. The other motion is before the Senate, unless the Senator from Louisiana withdraws it. It is moved that the Senate proceed to the consideration of the Private Calendar.

The motion was agreed to—yes twenty; noes not counted.

GEORGE FISHER.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 8) relating to the claim of George Fisher, late of Florida, deceased, the pending question being on the amendment offered by Mr. TAYLOR. Friday last, to add to the end of the resolution:

And that not exceeding the sum of \$5,000 shall be paid by the Secretary of the Treasury.

Mr. SIMMONS. The amendment would defeat the whole purpose of the joint resolution. The amount already allowed exceeds that sum, and it is to be credited to these parties. It has not been drawn. The object is simply to correct a misapprehension of the Secretary of War. It seems that a joint resolution passed Congress, directing the Secretary of War to investigate and receive testimony that was rejected for want of authentication. This resolution merely provides that that testimony shall be received, it having been since authenticated by the Governor of Alabama. In the account some portions originally allowed were struck out by this title to be held in Mississippi. I understood, from the tenor of the report, that this missionary society has fulfilled all the functions of its mission, as far as this site is concerned, the Indians having been sent away. I have ob-

jected to the land being sold for the benefit of the society; but I should be against giving them a title to hold it.

Mr. BENJAMIN. I will say to the Senator that I had not the report before me when I was up before; but the facts are now recalled entirely to my recollection. This missionary society, with the sanction of the Secretary of War, entered upon a small piece of ground of ninety-two acres, and established upon it a firm and a school, a church, and other buildings, for the teaching and education of the Indians. They continued in successful operation there, having expended \$9,000 in these buildings, until the Indians were removed. They now desire to follow the Indians into the Indian country, and continue their charitable mission. For that purpose, they desire to get back the value of the buildings they have put on the land; but they cannot sell the buildings separately. There are only ninety-two acres of the land. They want a title to it, in order that they shall sell the land and buildings together. There is no danger whatever that they will remain upon the land.

Mr. MASON. If the Senator will be security that they will not stay there, I shall cease any opposition.

Mr. BENJAMIN. I cannot be security for that. I cannot see any object they would have in remaining there. They have abandoned the mission; they have gone West with the Indians; and now want to sell the land and the buildings. The bill was reported to the Senate without amendment.

Mr. MASON. I think it would be safer to guard the bill so as to take care that the land shall be sold. I will not interpose any objection to the bill being passed; but I think that it be laid on the table until I can suggest the form of amendment that the title be given to them for the purpose of selling.

THE PRESIDING OFFICER. (Mr. CHENEY in the chair.) The Chair does not understand the motion of the Senator from Mississippi.

Mr. MASON. I move that a proviso be put into the bill, that they shall have authority to enter the land, provided their title shall cease unless they sell it within five years.

THE PRESIDING OFFICER. The amendment will be in order.

Mr. MASON. It is to add:

Provided, That the title to the land shall revert to the United States, unless the same shall be sold and conveyed by the said society within five years after the passage of this act.

The amendment was rejected.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

DE BONNE AND DE REPENTINY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 92) authorizing the courts to adjudicate the claim of the legal representatives of the Sieur de Bonne and of the Chevalier de Repentiny to certain land at the Sault Ste. Marie, in the State of Michigan. It proposes to give the said legal representatives of the Sieur de Bonne and of the Chevalier de Repentiny to present their petition to the United States district court for the district of Michigan, setting forth the nature of their claim to certain land at the Sault Ste. Marie, in Michigan, under an alleged grant, in 1750, from the Governor and Lieutenant General, and from the Intendant General of New France, now Canada, with evidence in support of their claim, stating the names, as near as may be, of all persons claiming adversely, and praying that the validity of the title may be inquired into and decided under the laws of nations, the laws, usages, and customs of the country from which the same was derived, and the treaties and laws of the United States; and the district court is to examine the same, and, in adjudicating the question of the validity of the title, to apply the laws of the United States, to be governed by the laws of nations and of the country from which the title was derived, and also by the principles, so far as they are applicable, which are recognized in the act of Congress approved May 26, 1824, "enabling the claimants to the validity of the title of against the Masonry and Territory of Arkansas to institute proceedings to try the validity of the same;" and the district attorney is to proceed, in defense of the interests of the United States, in all things as

The Secretary read the following report made by Mr. BENJAMIN on the 56th of January:

The Committee on Private Land Claims, in whom was referred the memorial of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States, and also petition of the said society, and twenty-four others, praying for the confirmation to the above-named society of its title to a certain tract of land in the State of Wisconsin, have had the same under consideration, and ask leave to make the following report:

That in the year 1826, as petitioners state, the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States, by permission of the Secretary of War, entered upon lot No. 18, situated on the Fox river, near Green Bay, in the State of Wisconsin, and established there a mission and school among the Menomonee and other Indians in that vicinity. The memorial of the society alleges that the mission continued in successful operation until the removal of the Indians to the west of the Mississippi, and that upwards of nine thousand dollars have been disbursed for improvements made by it on said land. The society, in order to indemnify itself as far as possible, as well as to carry on missions elsewhere, has petitioned Congress to pass an act which it is to enter said land on the payment of the usual price demanded of the Government.

Your committee can see no objections to the prayer of the petitioners being granted, and a bill is accordingly reported, which is recommended, authorizing said society to enter, at the rate of \$1.25 per acre, the tract certified by it, and known as the Mission Farm, and containing nine hundred and thirty acres of land.

Mr. MASON. Mr. President, I have always been opposed to granting land to religious institutions or corporations for the purpose of letting them hold it and retain it, unless it be actually necessary for their proper purposes, and I should not have been so ready to grant it, had I not, as I understood, from the tenor of the report, that this missionary society has fulfilled all the functions of its mission, as far as this site is concerned, the Indians having been sent away. I have ob-

required and directed by the act of May 26, 1824. Suit is, however, to be instituted by the claimants within two years from the passage of the act, and an appeal may be taken, either by the claimants or the United States, to the Supreme Court within one year from the date of the rendition of the decree of the district court.

In case of a final decision against the validity of the claim, or of the failure of claimants to prosecute it within the period specified, it is to be held forever barred, both in law and equity, but in case of a final decree in favor of the validity of the grant, it is not to be construed to affect, or in any way impair, any adverse sales, claims, or other rights which have been recognized by the United States within the limits of the claim, or which, under any law of the United States, may have heretofore been brought to the notice of the land commissioners or of the land officers in Michigan, or any of the land granted to the State of Michigan, or occupied by it, for the Sault Ste. Marie canal, its tow-path and appurtenances; but for the area of any such adverse claims the legal representatives of the United States are to receive from the Commissioner of the General Land Office warrants authorizing them or their assigns to enter any other lands belonging to the United States, and subject to entry at private sale at \$1.25 per acre.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

THESSA DARDENNE.

The Senate, as in Committee of the Whole, next proceeded to consider the bill (S. No. 31) for the relief of Theresa Dardenne, widow of Abraham Dardenne, deceased, and their children. It proposes to authorize Theresa, widow of Abraham Dardenne, to enter, in legal subdivisions, at any land office in Arkansas, free of cost, the quantity of sixty hundred and forty acres of any unappropriated land belonging to the United States subject to pre-emption, entry, for sale and benefit equally of herself and her children, by her husband Abraham, as an indemnification for losses sustained by them on account of an erroneous sale of land made to Dardenne by the land officers at Little Rock, on the 20th day of January, 1836, as per certificate of the land officers Nos. 1132 and 1133; and the acceptance of six hundred and forty acres of land, free of cost, by Theresa Dardenne, it to be deemed and held to be a full release to the United States of all claim on her part, and that of the other heirs of Abraham Dardenne, deceased, growing out of this erroneous entry of lands.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ROSS WILKINS AND OTHERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 66) to authorize and direct the Secretary of the Interior, Ross Wilkins, James Withersell, and Solomon Sibley. It is intended as a direction to the Secretary of the Treasury to pay to Ross Wilkins, judge of the district court for the State of Michigan, and to the legal representatives of James Withersell and Solomon Sibley, late judges of the same court, such amount as may be due them for services performed in the capacity of a land board, at the same rates as were allowed to William Woodbridge and their associates on the same land board.

BENJAMIN. There is an adverse report from the Judiciary Committee on that bill. I move that we concur in the adverse report.

MR. CHANDLER. I hope not. That is the precise bill we passed at the last Congress, and it has passed the Senate several times before. It is essentially a just bill, and I hope in my hand a report made by Mr. Williams, at the last session of the Thirty-Third Congress, showing that this precise compensation has been paid in every Territory that has been organized, where similar duties have been imposed. I do not wish to go into a discussion of the question, but I believe that this report shows some twenty or thirty cases where the same compensation has been paid, and this is the last of the class. The other judges who acted in the same capacity in the Territory of Michigan have received this compensation. The judges of the other Territories have received the same, and it is

but a simple act of justice that these, the last of the class, should receive the same compensation that all the other judges of all the other Territories have received heretofore. I hope the bill will be passed in opposition to the adverse report. It is the first time this claim has ever been reported in this manner, and I believe several reports in its favor. I hope the bill will pass.

MR. PUGH. This question has been before the Committee on the Judiciary at various times for the last four years. It was also very fully discussed in the Senate about four years ago, upon a proposition to make certain additional allowances to the judges of the district and circuit courts of the United States for the State of California, on account of alleged extraordinary services in the decision of land grants. The Senate, after that discussion, rejected the proposition upon the ground that it was a violation of the Constitution of the United States, because the salaries of the judges were required to be fixed by law, and it was not intended to be within the discretion of the legislative body to increase or to diminish their compensation. If we go on, for instance, and give to the judges of the district or of the circuit court of the United States, either in the States or in the Territories, an additional sum of money for a particular class of judicial services, and then refuse it to another judge, we really draw within ourselves the system of double salaries in the payment of judges; we destroy the independence of the judiciary. That, I say, was the opinion of the Senate in the case of the California judges, after a very elaborate debate four years ago; it was the opinion of the Committee on the Judiciary.

Now, when this particular case came up before the committee it was considered, and the committee were unanimously of opinion that the claim ought to be rejected; and they instructed the Senators from Kentucky [Mr. Powell] to make an adverse report, which, in my judgment, states the sound, safe principle derived from the Constitution; and I certainly shall oppose any attempt to pay any judge an additional compensation for judicial services. I am willing, if his salary is increased, to raise it, but I will not vote for these claims, and I think the question important enough for the Senate now to set upon this case as a precedent. It may be, that in former times, without proper consideration, Congress has granted to one or another judge a gratuity. On the other hand, Congress may raise it in its general course of action during the last three or four years. In my judgment, it ought never to have been granted in any case.

MR. CHANDLER. This is clearly outside of the Senator's support of the case. **MR. CRITTENDEN.** Will the Senator allow me for a single moment? I wish to know how the case of Mr. Daimes has been passed over. I have been watching for it all the morning.

MR. CLARK. That is the next case. We have not yet gotten to it.

MR. CRITTENDEN. According to my count, it is above half a dozen that have been passed.

THE PRESIDING OFFICER. (Mr. CHANDLER.) It is the next on the Calendar after this case; it has not yet been reached.

MR. CHANDLER. In this case, an extra allowance of labor was imposed on the judges. They were constituted a land board in addition to their judicial duties. Wherever and whenever these additional duties have been devolved on the judges of a territorial government, in every single instance the precise compensation which is here asked has been awarded to the judges for that duty.

MR. PUGH. In every case?

MR. CHANDLER. In every instance.

MR. PUGH. The Senator is mistaken.

MR. CHANDLER. Here is a report showing it in Louisiana Territory, Missouri Territory, and in Louisiana Territory.

BENJAMIN. Will the Senator allow me a word of explanation?

MR. CHANDLER. Certainly.

BENJAMIN. The Senator is totally mistaken in these cases, where the law which imposed the duties on the judge fixed an additional salary for those duties.

MR. CHANDLER. Precisely.

BENJAMIN. In this case the law imposed the duties and allowed no additional salary. **MR. CHANDLER.** Precisely; and now as a

simple act of justice, they come and ask the same compensation that you have paid to every other judge of your territorial courts for similar services.

MR. BENJAMIN. If the Senator cannot see the difference between passing a law requiring judges to do a particular duty, and providing payment for that duty, and a law requiring a judge to do duty without giving payment, I cannot make him understand it.

MR. CHANDLER. You have, in every other case where you have imposed these duties, allowed additional salary for their performance. In this case, you have paid three of the judges of the Territory of Michigan for these additional duties; and now, when these other three gentlemen come and ask simple justice—just what you have paid the judges of every territorial court, in Missouri, Louisiana, Indiana, and every other Territory—you object that it is conferring an additional salary on your judges. It is no such thing; it is paying for extra services. But I do not wish to enter into the discussion. I have here a report made, as I said before, by Mr. Williams, at the last session of the Thirty-Third Congress, going fully into the merits of the case, and citing twenty instances where this extra compensation has been allowed. I simply ask for a vote. I do not wish to occupy the time of the Senate.

MR. LANE. I ask that the report be read. **MR. CHANDLER.** I will be glad to read that other report be read at the same time.

MR. BENJAMIN. Let that report be read first; we had that before us when we made this.

MR. MALLORY and others. Read the adverse report first.

The Secretary read the following report made by Mr. POWELL on the 26th of January:

The Committee on the Judiciary, to whom was referred a bill to authorize and direct the settlement of the accounts of Ross Wilkins, James Withersell, and Solomon Sibley, report:

That by the act of Congress of the 21st April, 1826, "we provide that the judges of the district courts of the Territory of Michigan, and for other purposes," the duty and responsibility of its execution devolved on George Moore, then and now acting judge of Michigan, to whom a further specific duty was assigned by the act of the 26th May, 1830.

James Withersell, and Sibley were judges of the said Territory of Michigan, and the said Wilkins and the legal representatives of Withersell and Sibley, as judges of the said Territory, were appointed and confirmed in the capacity of a land board, in pursuance of the acts of Congress aforesaid.

That the judges are fixed by law. They accept their positions with a full knowledge of the compensation they are to receive. If additional duties are imposed upon them, no extra salary is allowed by law. They discharge the duties, knowing at the time the compensation they are to receive. In no event should a judge be allowed a greater compensation than that fixed by law. The assumption of a different policy would be contrary to the genius of the Constitution and destructive to the independence of the judiciary.

It would be a severe blow to the independence of the judges to make them dependent upon the coordinate departments of the Government for their pay for services rendered. Had it been the intention of Congress that the judges were to make such a demand, it would have been provided in their salaries for the services to be rendered as a land board, provision for the same would have been made by law in the act of Congress which authorized the services. As it is now stated, the committee are of the opinion that the bill should not pass.

MR. CHANDLER. I now ask that the former report be read.

The Secretary read the following report, made by Mr. Williams, of New Hampshire, at the first session of the Thirty-Third Congress:

The Committee on Claims, to whom was referred the memorial of James Withersell, late judge of the Territory of Michigan, praying compensation for the services of her legal representatives, James Withersell and Solomon Sibley, late judges of the said Territory, and of the said Withersell in Detroit, have had the same under consideration, and report:

That James Withersell and George Moore were appointed, in the year 1826, one of the judges of the supreme court of the Territory of Michigan, and continued to sit that office until the admission of Michigan into the Union, in 1836. During that period, up to September 24, 1836, as appears from the statement of A. S. Kellogg, the last secretary of the said Territory, "Judge Withersell, and his associates, in the duties of said 'board,' and was a very active and efficient member thereof. The statement of said Kellogg is hereto annexed."

At the last session of Congress the Senate passed a bill to compensate Judges Woodbridge and Chipman, who were members of the said board, at the rate of \$500 per annum. The committee are of opinion that this sum is not more than a just remuneration for the services rendered by them, and they therefore report a bill allowing Judge Moore the same rate of compensation, and recommending the passage of the bill.

The principles and reasons governing the case are fully stated in the report of the Committee on the Judiciary, made in the parallel case of Judges Woodbridge and Chip-

that duty, and they have performed the duty. It was a part of their judicial duty. It was clearly within the power of Congress to impose it upon them, just as much as it was within the power of Congress to abolish the court of concurrent jurisdiction and to throw the whole of the duty upon one judge, and to do so without augmenting his salary. If Congress thought proper to do so, and I cannot for myself see the propriety of insinuating any system by which judges, whenever they are ordered by Congress to exercise an additional jurisdiction to that which they have previously exercised, shall come here and ask for extra pay.

The danger of reducing the judiciary to a subservience on the coordinate departments of the Government is so obvious that I need not dwell upon that consideration at all. It suggests itself at once to the mind of every gentleman. Hereafter, if precedents of this kind are established, each judge will feel an interest in so deciding as to get the favor of the coordinate departments of the Government. If his decisions be against the Government, he will fear that his claim for extra services will not be allowed; and he will be in the favor of the Government, he indulges the hope that something extra will be allowed him in addition to the salary allowed by law. The system is a dangerous one; it is an improper one. I think it not altogether creditable to the judges themselves to appear before Congress and ask for extra services performed in the sphere of their judicial duties, to ask us for additional pay. A demand for an increase of salary at the time the additional duties were imposed would have been fair, would have been legitimate. I, for one, if present, would have been willing to vote for it; but they having failed to make any suggestion to Congress that their pay was insufficient, and having failed to ask an increase of salary on the ground that these additional duties were imposed, and having performed them for the purpose of the reward provided by law, I think it would be a dangerous precedent now to increase that salary for past services.

Mr. CHANDLER. I hold in my hand a letter from General Cass, who was at that time Governor of Michigan, and in which he reads, "I will show that these services were extra-judicial, and were so regarded at the time."

The Secretary read it, as follows:

WASHINGTON, February 3, 1859.
DEAR SIR: I have received your letter of the 21st inst. within which you desire an answer to me sufficient to enable me to give you a detailed statement of the circumstances connected with the claim for extra services for the services rendered by Solomon Riley, James Withersell, and Ross Wilkins, while judges of the Territory of Michigan, performing the duties of commissioners to adjust the titles to lots in the town of Detroit, under an act of Congress. Among the records of the Senate or of the House of Representatives will be found various certificates and statements explanatory of this matter, which were prepared some years ago, and submitted upon the presentation of the claims of Messrs. Woodbridge, Chipman, and Merrill for similar services. During most of the time when these services were performed I was Governor of the Territory of Michigan, and was associated with the judges in the execution of these duties, and among the papers referred to my statement must be filed. My case was different from that of the judges, being an executive, and judicial services, and I am entitled to no additional compensation. The foundation of these claims is hereby shewn. The town of Detroit was utterly destroyed by fire in the year 1805, and an act of Congress was passed, constituting the Governor and judges of the Territory a board of commissioners to lay out new towns, and to adjust the claims of the owners. This duty was performed, and it was a heavy one, and required some thirty years before it was completed. The judges contradicted that Congress had no right to impose any other than judicial duties upon them, and that the services they rendered were extra-judicial, and that they were not to be paid for. Upon the petition of Messrs. Woodbridge, Chipman, and Merrill, the whole subject was investigated, and an act was passed for their relief, thus recognizing the fact that the judges to extra compensation for these services. I consider the heirs of Messrs. Riley and Withersell, and Judge Wilkins, in this case right, entitled to reasonable compensation for these services.

I am, dear sir, respectfully yours,
W. A. RICE, *Secretary of the President*. LEWY: CASS.

Mr. MALLORY. I ask the friends of the bill if it be shown how many cases those judges decided, what was the amount of duty performed, and how long they were about it; and what is the increase of salary they received?

Mr. CHANDLER. General Cass says in that letter, they were thirty years performing it. They were required to plot out the city of Detroit, dispose of the land, examine titles, &c.—all extra-judicial—and it was a vast labor. They were made a land board, outside of their duties as judge

Mr. MALLORY. I should like to hear the bill for their relief read before I vote on it.

The Secretary read the bill.

Mr. MALLORY. I would prefer that the bill should be put in such a shape that we should know precisely what we pay. I have no information as to what was paid to the predecessors of those judges.

Mr. CHANDLER. Five hundred dollars a year to each judge during his service. I do not know how long they were judges.

Mr. MALLORY. I have listened to the explanation of the Senator from Louisiana, and I do not see that anything he has said would justify me in voting against the bill, though I listened to him with great attention. If I am right, these judges performed precisely the duties which were devolved upon almost any territorial judge as a commissioner in the adjudication of land cases. It was so in my own State while we were in a territorial condition. Our judges all received this extra salary; and, if I mistake not, they were also allowed clerk hire. As the Senator from Louisiana correctly says, the Government was bound to develop the land, and that right is exercised very frequently in the enlargement of their districts, and in the increase of their judicial powers; and their right of compensation is recognized in the frequent increase of their salaries, based entirely on their increased responsibility and increased extra-judicial services of living generally. I do not see with what propriety you can distinguish between these parties. If there is any right to do so, I should like to hear it. That the Government had a right, I will not question, to call on these parties to adjudicate land cases, either as commissioners or judges, and that they might have refused to do it as commissioners, unless payment accompanied the requisition of the duties, may be also admitted as a fact; but if it be so that they did perform duties, and that these are the only exceptions, unless I can see that they should be they should be treated from the ordinary legislation of the country, and why they should be made an exception to the judges in my own State, an exception also to the judges in the same State who performed the same duties, I really cannot say they should not be allowed this compensation.

The argument of the Senator from Louisiana, that this might operate with the judges to incline them in their adjudications toward the party from whom they receive their salary—toward the Government—cannot have any answer. No man who would be appointed by this Government to execute the duties of a judge would ever take that into consideration. Five hundred dollars a year to adjudicate on land claims as a bribe to his judgment? I could not let that idea influence me a moment. I look alone to the fact that these parties have performed the service; that it has been the uniform practice of the Government to pay for it; and we should not refuse payment at this day because it was omitted in the passage of the act developing the duties of the judges under the circumstances. I shall feel constrained to vote for the bill, unless some further reason shall be given against it than has already been given.

Mr. POWELL. The reasons for the adverse report in this case are very fully and yet briefly stated in the report itself, which has been read. Under the circumstances, I shall feel constrained to vote for the bill, unless some further reason shall be given against it than has already been given. Mr. POWELL. The reasons for the adverse report in this case are very fully and yet briefly stated in the report itself, which has been read. Under the circumstances, I shall feel constrained to vote for the bill, unless some further reason shall be given against it than has already been given. The Committee on the Judiciary had before them the reports heretofore made by the committee of the Senate, touching the claim of the judges of the Territory of Michigan to extra compensation for services in land cases. There is, as has been stated by the Senator from Michigan, appended to one of those reports a list of some twenty cases in which the judges had received extra salaries for judges and others for the performance of additional duties; but, as has been remarked by the Senator from Louisiana, upon reference to all those cases, I believe, without a single exception, it will be found that when the additional duty was imposed, the additional salary was not given at the same act, and I think there are no instances in which that was not the case other than perhaps the cases of three of the judges of this court of Michigan—Mr. Woodbridge, Mr. Chipman, and Mr. Merrill. The committee had the matter under

consideration; we looked into all these cases. We found that the cases from Michigan were an exception to the rule, and we were unanimously of the opinion that that exception was wrong, and that in no case should a judge be dependent on an increase of department of the Government for a coordinate of his pay for a particular service; and hence we unanimously reported to the Senate, as was stated in the opening of the debate by the Senator from Ohio.

If Senators will examine the list of cases appended to the report that was read at the suggestion of the Senator from Michigan, I think they will find that the increased salary was indicated in the act assigning additional duty. There is a very great difference between increasing the salary when an additional duty is imposed, and increasing a judge's salary for the performance of services that have already been rendered. If the policy proposed by this bill shall be inaugurated and become the fixed policy of this country, every judge who has additional duties imposed upon him by statute (and I suppose there is not a United States judge in any Territory or State of the Union that is not subject to such an increase in his additional duty) will be calling for the same thing. Frequently by statute, a judge's duties are lessened; generally they are enlarged. It certainly would be a very sad calamity and would strike at the independence of the judges, were they to come here and petition for an increase of salary for departmental services for services they have rendered. It was on that principle that the committee made this adverse report.

I would state, in addition, that there was no proof before the committee that these parties rendered services; but, however, we waited that and chose to rest it upon the principle. I suppose they did render the service. The Senator from Michigan informed me that they had done so. I told him that there was no proof of it; but the committee chose to rest it upon principle, and having been the organ of the committee in making the report, I think it proper to make this very brief statement.

Mr. CHANDLER. I do not propose to debate this question. I submit it to the justice of the Senate. I have no claim to make. It is admitted that the judges of the different territorial courts that have been organized, who have performed similar duties, have received this identical salary. Now, I submit to the justice of the Senate, whether these men who have honestly performed the duties which were assigned to them, shall not receive the same compensation that was paid to every other judge, and there I rest the case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. PUGH. I conceive that this is a question vital to the independence of the judiciary, and I ask for a recorded vote of the Senate upon it. I believe it has no precedent, except the case of the other judges of Michigan, and I desire to bring an act in precedence of a large number of claims. There is no district judge of the United States, or judge of any Territory, who cannot show that by some act you have increased the amount of his judicial duties. We passed an act but half an hour ago, to allow a salary to the district judge of the United States for the State of Michigan to settle the title to a large tract of land. Are you to have that judge here in the course of five or six years claiming that that was an extra-judicial duty? When Congress imposed a duty on the judges, it knows what their present duties are; it knows what their present compensation is; it knows what the duties to be performed are; and therefore it decides the question at that time.

If, as the Senator from Louisiana truly said, the judges do not choose to perform the duties, let him resign. In fact, Congress cannot compel any judge to discharge an extra-judicial duty. The question whether it is extra-judicial, is decided at the time, upon the circumstances. I do not know, in the case of these two other judges of Michigan, who applied long ago at some short period after the rendition of the service, what particular circumstance weighed upon the mind of Congress in making that allowance; but, as the Senator from Kentucky said, that is the exception. It is a mistake to say that that is the general rule.

he was in when found at the steps of his own door? The inference is irresistible that the two men whom Ralston saw going into the custom-house about half past eight o'clock at night, were the individuals who robbed the custom-house, and they were let in by this man McAllister, the watchman on the outside.

Mr. BENJAMIN. Will the Senator from Georgia permit me to make a suggestion? The Senate is hardly competent to sit on such questions of testimony. The Committee on Claims has reported this bill unanimously; and I suggest to him, and to the Senator from New Hampshire, who opposes the bill, as a compromise, to accept an amendment by which we shall authorize the Secretary of the Treasury to investigate the matter, and allow such a portion of the claim as he shall find, on examination, to be properly due. We cannot examine and determine such questions here.

Mr. IVERSON. I readily appreciate the difficulty, because the testimony is spread through a very large mass of papers, covering some fifteen or twenty affidavits, besides a very large correspondence. I will state this, however, to the Senator from Louisiana: that the Secretary of the Treasury is already engaged to do so. He has dispatched an agent to inquire into it. Mr. Guthrie, who was then Secretary of the Treasury, as soon as the circumstance occurred; sent an agent of the Department there to investigate all the facts.

Mr. BENJAMIN. That then will not injure the bill for the benefit of the country. But at the same time, if anything further occurs, which the Senator from New Hampshire, or his informant, can suggest to the Secretary of the Treasury, it gives him the opportunity to do so.

Mr. IVERSON. I have no objection to that. This bill does not propose to rest anything on Mr. Hastings. There is that much money charged to him as due to the Government, and the object is to relieve him from paying it. He has not been sued. The former Secretary and the present one are both of them so well satisfied that this is an honest transaction on the part of Mr. Hastings, and that he has been robbed of the money, that they have not sued him on his bond; they have let the case lie until Congress shall relieve him. I am perfectly willing, however, to suspend any further debate, and accept the suggestion of the honorable Senator from Louisiana.

Mr. HALE. The honorable Senator from Louisiana put me in a false position—but I suppose he did not mean to do it—in representing me as the prosecutor of this man. I did not mean to occupy any such position.

Mr. BENJAMIN. I did not mean to suggest that, but suggested that the Senator being opposed to the bill, if any further information came to him, he could send it to the Secretary of the Treasury.

Mr. HALE. I am perfectly willing to do that. I know nothing about this man; but let me, in justification of myself, say a single word to the Senator from Georgia, who I think has a great deal of zeal in this matter, as he has in everything he takes up, even when it appears to defend southern rights on a wrong basis. I saw this case as it was presented to the Senate; and as it was my duty to do, as a Senator, I looked at the report and was satisfied that Mr. Hastings had no case, and I so stated in my place, and it was published in the Globe. I did not know whether Hastings was a Democrat or what he was. That is an argument that the Senator from Georgia has adduced, which I shall neither attempt to controvert or deny. I never saw it breathed before in the Senate. I simply, in the discharge of my duty, as a Senator, uttered an expression of opinion that there was a fraud on the Treasury; and if Mr. Hastings has no worse enemy in the world than I am, I am certain he will go on with great peace and quiet. I have no feeling of hostility to him. All I desire is to do my duty here. I am perfectly willing that the amendment that the Senator from Louisiana suggests shall be adopted.

Mr. CAMERON. With an amendment of a word or two, I will vote for the amendment of the Senator from Louisiana. Let him put in the words, "the money of which he says he was robbed" I will vote for that.

Mr. BENJAMIN. Allow me to read the amendment. Mr. CAMERON. I have no objection.

Mr. BENJAMIN. My proposition is to amend the bill, so that it will read thus:

That the Secretary of the Treasury be, and he is hereby, authorized—

Not authorized and directed—

In adjusting the accounts of John Hastings, as collector of the customs at the port of Pittsburg, to give him credit for such sum as, exceeding \$5,000, the amount of public money which he alleges that he was robbed on the 10th of March, A. D. 1864, whilst acting in the aforesaid capacity, against the honesty of John Hastings, it may be shown to have been actually robbed from said Hastings.

That limits the amount, and leaves the further investigation of the case to the Department.

Mr. CAMERON. I am inclined to accede to that amendment. My own impression is singularly favorable to the honesty of John Hastings. I have known him a long while. He has been very unfortunate, for he has been robbed several times of money which did not belong to him. What his policies are now, I do not know. He used to be a Democrat when I belonged to that respected party; but I have very recently got a letter from a valued friend belonging to the Republican party saying that he thinks John Hastings is a wronged man—

Mr. IVERSON. The Senator will allow me to interpose a question. Does he state that Hastings has been previously robbed of money that did not belong to him? There is no evidence of that among the papers.

Mr. CAMERON. No matter. The evidence exists now. I was going on to say further, that for the purpose of benefiting myself fully on this subject, I have had more than one conversation with Mr. Guthrie, who was employed in Mr. Pierce's time as a confidential agent to the Treasury Department, and who is still acting in that capacity. That gentleman was for several years Mayor of the city of Pittsburg. He seemed to understand the subject perfectly, and from him I have had a perfect and circumstantial account of this matter. Among other things, he says that Mr. Hastings was urged to bring suit against the watchmen and great many men, so going to prove to the man Mr. Guthrie, and myself also, that he was afraid to make an investigation of that.

However, I am disposed to vote for the bill, if it be amended as proposed, on this principle. Mr. Hastings is really irresponsible; he has no property, and no money, and no friends to be made responsible for his actions. I am opposed to this whole system of receiving bail by the Government for the faithful performance of duty by its agents. I think that it ought all to be abolished. If I employ a man as my agent, or you, Mr. President, or anybody else, is responsible for his actions, and he should not this Government? I would not hold any man responsible as bail or security for any public agent. On that principle, I would vote for the bill, especially as it has been proposed to be amended by the Senator from Louisiana.

Mr. HIGLER. Mr. President, I shall oppose the Senate but a very few minutes. I have heard the imputations of the Senator from New Hampshire on an old and cherished friend. I can understand why his mind was prejudiced. I do not agree with him in his opinion of this man. His political biasing whatever, we can all see that communications such as that he received from Mr. Hague, were very well calculated to excite prejudices against the case of Mr. Hastings; but I suggest that Mr. Hague's character does not warrant the Senator from New Hampshire in taking any notice of him whatever. I am convinced that his testimony in that community would not weigh for a moment against those who state the facts.

As regards the merit of this case, I, in the main, do not know. I do not ask the opinion of this man or that man as to Mr. Hastings's condition. I happened to be returning from the difficulties at Erie two days after this occurrence; I think I arrived at Pittsburg two days after the robbery. I saw Mr. Hastings in his bed, and I saw the money which he had in a very bad condition. As for the marks of violence on his person, they were very obvious. He looked then like a man far straggled; and the place of the robbery is a very peculiar one. The custom-house is in the city of Pittsburg. Mr. Hastings lived in the city of Allegheny, more than a mile, I think, from the custom-house. His residence was on a prominence on the bank of the canal. That prominence was reached by a recess cut in the bank with steps,

and in front of this recess was a gate. It was inside of that gate, where Mr. Hastings could not be seen from any point, that he was knocked down, and so violently assaulted as almost to destroy his life. The testimony of Dr. McCook, who I know was no political or personal friend of Mr. Hastings, I think ought to be sufficient to settle that point; and I saw him in a condition in which I am satisfied no man of sense would ever agree to place himself placed for any pecuniary consideration.

Then, sir, further, I have known Mr. Hastings from childhood; I have known him intimately; I never knew a dishonest act of his in my life. This I will say, however, and this I think is the worst that can be said, that he was a careless man; he was a man who might be deceived; he was a man who might be misled, and as likely to be ruined as any man in the community, but the last man in the world who would enter into a conspiracy of the kind now suggested.

Then, sir, I know other facts of my own knowledge. Mr. Hastings, in his efforts to arrest these robbers, borrowed money, for which his little bit of property was afterwards sold. The Secretary of the Treasury who was in office at the time, made an investigation, and he found no evidence, and decided that there was nothing in the facts to throw the slightest imputation on Mr. Hastings's character, and he retained him as collector at Pittsburg; and Mr. Hastings was retained by the Secretary of the Treasury, after a full examination of the whole case, and he did not decide to believe that there can be justly the slightest imputation upon Mr. Hastings's character, unless it be that he was a careless kind of man, not very methodical in his business; but I believe him to be strictly honest.

Now, sir, time has run by; Mr. Hastings has retired from that office; his property has been sold by the sheriff; he is living in a small town, struggling for a living by a little effort by which he can make the means of subsistence; and where is the \$5,000? Mr. Hastings has no money, and no connection with this matter on the face of the earth. I have no hesitation in saying; and the honorable Senator from New Hampshire does me but justice when he says that I believe this to be a fair case; that I believe Mr. Hastings to have been robbed of money, and that I believe he has lost down his money taken from him, his watch carried off, the key of the custom-house vault taken, and the robbery committed that night, without any agency or knowledge or complicity on his part. That I believe; and because I believe that, I am perfectly willing to accede to this amendment of the Senator from Louisiana; for I would not have Mr. Hastings relieved of a farthing without a full examination of the facts. I would not release his security unless the facts warranted it. I am therefore perfectly willing to accept the amendment of the Senator from Louisiana, and to send this case with all the facts to the accounting department, where they can examine them closely, and decide on them as we cannot here. I hope that that amendment will be agreed to, and that that may settle the matter.

Mr. CAMERON. I cannot consent to let so high a eulogy pass on John Hastings without a word. I knew John Hastings very well. He is one of the last men in the world that I would ever have trusted with a large sum of money. He is a shrewd, watchful man in all his pecuniary and business transactions. He always provided himself unit for the charge of public or private money. I shall vote for this bill with the amendment for the reason, as I said before, that an honest and worthy man should not be held responsible for the actions of a man who is a thief, for whom he may be induced to become the surety. I think that whole system is wrong, and I hope some learned man in the Senate, on the Judiciary Committee, will, before a great while, bring in a bill annulling the whole system of taking security, and on that principle I shall vote, and I send this portion of this money can ever be got from Mr. Hastings. His sureties are men in very moderate circumstances, and if this money be taken from them, it will impoverish them entirely, and make them as destitute as I suppose Hastings is now.

In reply to what my colleague says about his not having the money, and his being poor now, I have only to say that he is the sort of man who

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always will be poor. He cannot keep money, where it is his own or anybody else's, unless he has changed very much since I saw him last. But I have no disposition to talk on this subject, for I have kind feeling to everybody about him. His father is a worthy and respectable old gentleman, and all his relations and associates are worthy people.

MR. CLINGMAN. I want to ask a question merely for my own information, as I should like to get at the truth, as I am voting on this case. I understood the Senator to say just now that there were other instances in which money that belonged to other people had been stolen from Mr. Hastings. He states that as a matter within his knowledge, and his colleague seems to controvert it. I should like him to specify, or refer to these cases, for I really want to do justice.

MR. CAMERON. It was, perhaps, hardly fair to bring that into this case; but as I am questioned, of course I shall reply. Mr. Hastings did borrow a sum of money for certain purposes from a bank in Lancaster. Unfortunately, that very night he was robbed, and lost his \$1,500. I have heard of other cases; but those I do not now recollect. This case, however, I remember perfectly.

MR. CLINGMAN. Were there any suspicious circumstances about it? Is the Senator satisfied that that was a bona fide robbery or not?

MR. CAMERON. About that I have nothing to say. I do not desire to talk about it, but he has been unfortunate; he is a man who cannot take care of money.

THE PRESIDING OFFICER. The question is on the amendment offered by the Senator from Louisiana, to make the bill read:

Be it enacted, &c., That the Secretary of the Treasury be and he is hereby authorized to receive the account of John Hastings, as collector of the customs at the port of Pittsburgh, to give him credit for such a sum, not exceeding \$2,500, as the amount of the public money which he alleges that he was robbed, on the 10th day of March, A. D. 1854, while acting in the aforesaid capacity, as the Secretary of the Treasury may see fit to allow, to be paid to him upon proper investigation, as provided in the bill actually reported to said Hastings.

MR. DOOLITTLE. I do not intend to discuss this bill at length, but simply to say that I shall vote against it, and it will make no difference with me whether he was robbed or was not robbed, whether the robbery was a sham robbery, or, to use the language of the gentleman from South Carolina, "a bona fide robbery." The amount involved is small; but it concerns the whole revenue of the Treasury and the keeping safety of the money of the Government in the hands of all the officers of the Government. If we admit that the robbery of the public Treasury from the possession of those who hold it is to excuse them from their responsibility and excuse their surceles, I do not know where this matter will end. I am opposed to the whole system of relieving those who keep the public money, on the pretense that they have been robbed, whether the pretense be true or false. I hold that they should be responsible as insurers to the Government; and that those who become their surceles do become insurers to the Government against robbery and against theft, and that they should not be excused, whether the allegation is a mere pretense or not. I shall, therefore, vote against all such bills.

MR. IVERSON. A single word in reply to the point the Senator from Wisconsin has suggested. As a general rule it is correct. The Government ought not to release any custodian of public money unless he makes out a clear case that there was no collusion by him in the transaction; but Congress has never adhered to the general principle, and in every case looked at the particular circumstances; and if the party has made a clear case, and shown that there was no collusion on his part, and shown that he has been, in the language of the Senator, "bona fide robbed," Congress has always relieved him. Since I have been in the Senate, half a dozen bills have passed of this character. One was passed for the relief of a custodian of public money in Louisiana, but

brought in by the Senator from Louisiana [Mr. SIMMONS] about two years ago. Another was passed under somewhat similar circumstances to this one, for the relief of a paymaster in Santa Fe, New Mexico, who was knocked down in the passage and severely beaten, and the key of his iron chest taken from him, and the iron chest opened, and money abstracted amounting to over twenty thousand dollars, if I remember rightly. Congress relieved him, and Congress always comes to the relief of a party whom it believes was robbed without any fault on his part. If he exercised ordinary diligence, and the money was taken from him without any fault of his, and the case shows the absence of all complicity on his part, Congress relieves him. Such cases are exceptions, I admit; but they have been passed on that ground.

MR. GREEN. I merely wish to make one remark, and that is: when a private claim or any other subject is before the Senate, I really must protest against individual Senators bringing their own personal character and influence to bear for or against it. If they wish to testify in the case, let them go before the committee and do so, but not get up in the Senate and bring their high character to bear for or against the case. I think it very unfair. I know nothing about this bill, but I really must protest against that conduct.

MR. HALE. I have not been obnoxious to that charge myself. I want to call the attention of the Senate, before they vote, to a single fact in the testimony that the honorable Senator from Georgia did not allude to, and then I shall leave the case—forever, I hope. By reference to the testimony of Mr. Taylor, deputy collector of this custom-house, you will find that Taylor left the building from half to three quarters of an hour after the robbery occurred, and he was not with him left Hastings and the watchman locked up in the custom-house—a pretty important fact, it strikes me.

The amendments were agreed to. The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be read a third time; and on the question, "Shall the bill pass?"

MR. HARLAN called for the yeas and nays; and they were ordered.

MR. SIMMONS. I attended to the investigation of this case before the committee; and I doubt if there is any member of the Senate who, if he read the testimony, unless he believed the witnesses perjured themselves, would doubt the propriety of releasing this man. I had some misgivings myself about the matter, but the testimony is full and complete, and no one who will take the pains to read it can doubt that this man was robbed. If you go to the extent suggested by the Senator from Wisconsin, and say that when a man is robbed of public money you must still hold him for it, that is an absurd matter; but that this man was robbed, I believe, I have no more doubt than I have that he lived, though I never saw him.

MR. CLARK. I was upon the Committee on Claims last year, when the case came before that committee. I engaged in the consideration of the case. I must confess, with some impressions against it, on account of the letter that had been received by my colleague. I examined that letter; I examined the case upon the evidence that was submitted to the committee, and I came to the conclusion—I think no man could come to any other conclusion fairly—that the evidence before the committee—that the testimony sustains the man's case and makes out the fact that he was robbed. Now, I do not know but that the evidence has been taken *ex parte*; I do not know that other evidence might be submitted to the committee, or submitted to the Senate by the Treasury, which would put a different phase upon the transaction; but as the evidence stood before the committee, it seems to me but fair that the whole matter should be again submitted to the Senate by the Treasury, and I am sure that under no other examination, if you choose, would the bill will pass in the shape in which it is

MR. HALE. I want to call the attention of the Senate, for one moment, to the testimony of John Taylor, the deputy collector:

"John Taylor, being duly sworn, deposed and said: As deputy surveyor, I left the office a few minutes before six o'clock on Friday evening, the 10th day of March, 1854, in company with Samuel Keller, the clerk employed in the office. I locked up the vault carefully before I left, and left behind me in the office Mr. Hastings, the surveyor, and Coppel, the watchman."

There is where Hastings was—left locked up in this custom-house three quarters of an hour after he swears he had gone home.

MR. BINGHAM. Will you read what Hastings says about that?

MR. HALE. Now, see what Hastings says. Remember, Taylor says he locked the vault and left him there at six o'clock:

"John Hastings, being duly sworn, deposed and said: As surveyor of the port and collector of the custom-house in Pittsburgh, I left the custom-house, on Friday evening, the 10th of March, 1854, about a quarter after five o'clock."

That is what he swears; and three quarters of an hour after he says he left there, Taylor says he went out of the custom-house, and left him there with the watchman. Do not talk to me about that being a robbery.

MR. ANTHONY. This report, I understand, is made unanimously.

MR. SIMMONS. Yes, sir.

MR. CLARK. Unanimously this year and last year.

The question being taken by yeas and nays, resulted—yeas 98, nays 14, as follows:
YEAS—Messrs. Anthony, Benjamin, Blyler, Briggs, Bright, Chace, Clark, Clingman, Davis, East, Fessenden, Fish, Ford, Green, Gwin, Hammon, Hendricks, Iversen, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Latham, Mallory, Mason, Nicholson, Polk, Powell, Simmons, and Tilden—98.

NAYS—Messrs. Bingham, Doollittle, Douglas, Fessenden, Foster, Fremont, Hale, Harts, Sumner, Ten Eyck, Trumbull, Wade, and Wilkinson—14.

So the bill was passed.

THE ADJOURNMENT TO MONDAY.

MR. HALE. I move that when the Senate adjourns to-day, it be to meet on Monday next.

The motion was agreed to.

MR. GWIN. What is the motion?

Several Senators. To adjourn to Monday.

MR. GWIN. I hope that will not be done.

Several Senators. It has been decided.

MR. GWIN. The question was not decided, was it?

THE PRESIDING OFFICER. The question was decided.

MR. IVERSON. I move to reconsider the question. ("Oh, no.")

MR. GWIN. I gave notice to the Senate three or four days ago—

MR. IVERSON. I believe I have the floor. I tried to get the floor, and addressed the Presiding Officer; but he would not recognize me. I intended to debate the question.

THE PRESIDING OFFICER. The Presiding Officer did not recognize the Senator from Georgia.

MR. IVERSON. I know he did not, and that is what I am complaining of. I came now to reconsider the motion by which the Senate agreed to adjourn over.

THE PRESIDING OFFICER. Did the Senator vote in the affirmative?

MR. IVERSON. I did not vote at all, and therefore must be considered as having voted in the affirmative. I believe that is the rule.

THE PRESIDING OFFICER. It is moved to reconsider the vote by which the Senate agreed to adjourn over.

MR. IVERSON. Now, I want to debate that question. I hope the Senate will not adjourn over until Monday. There is so much business before the Senate, that I think it necessary and proper that we should sit every day, and I trust we shall not adjourn over. I do not want to make an argument; I merely call for the yeas and nays.

MR. GWIN. I gave notice several days ago,

that there were two very important bills connected with the Pacific coast that I wanted to consider to-morrow. We have special order after special order, occupying the whole attention of the Senate on every other day, and I did not wish to intrude on those cases. One special order—the homestead bill—has gone over to next week; and I wish to repeat that I do not wish to look to-morrow for the consideration of the bills to which I allude. I hope the Senate will reconsider the motion to adjourn over until Monday, and give us to-morrow for that purpose. I believe, if we shall take up this question to-morrow, we can dispose of both the bills.

MR. DOOLITTLE. I desire to ask the Senator from California what bill he refers to—the telegraph bill?

MR. GWIN. The telegraph bill is one, and the overland-mail bill another.

MR. GREEN. I like to accommodate Senators against their own will. Now, I know it is desired by all that we should adjourn over; and this making a show of a desire to sit to-morrow does not amount to much to me. [Laughter.]

MR. GWIN. The Senator is mistaken, as far as I am concerned. I am in earnest, as much as I ever was in my life.

MR. IVERSON. The Senator must not include me in that category, for I am in earnest.

MR. GREEN. Well, I exclude two, and include the remainder. I desire to adjourn over, and when we adjourn over I have more work to do than I do when the Senate is in session, and I am compelled to do it, in the Departments. My constituents send it to me, and I must attend to it on some days; and when the Senate is in session I cannot. I do not both of them shirking from responsibility in doing this thing. We can keep up with the House by adjourning over every Saturday. My whole object is to do my duty, and I have a duty outside the Senate as well as in the Senate.

MR. GWIN. I have this to say to the Senator from Missouri: he is as much interested in the questions I wish to bring up to-morrow as I am. I wish to bring up the bill in regard to establishing a telegraph, that has been reported by the Committee on the Post Office and Telegraphs, and if it is not brought up now and acted on, and sent to the other House very soon, it will be too late to commence the work during the present year, even if the bill becomes a law.

I also wish to bring up the bill in regard to the overland mail, and find that the routes for which there is a great want of legislation, and immediate legislation. If we do not do it now, it will soon be too late to put the service into operation during the present year. On the 30th of June the contract for ocean service runs out; and if we do not intend to continue carrying the mails by the ocean line, we ought to make immediate arrangements to carry them by the overland routes. There are no two questions more pressing at the present time than these; and I think they should be acted on, and sent to the other House by Representatives at as early day. I hope the Senate will reconsider the vote adjourning over, and give us to-morrow for these questions.

MR. JOHNSON, of Arkansas. I am very sorry that the Senator from California has found that there have been combats, so that they all fall on the 23d of March, so many matters that require immediate action or the result is inevitably to be something that is very unfortunate. Now, I must say that whilst the Senator from Missouri is looking around for, and finding, I think, I fear that he understands those who are really with him in his position, apparently occupying another position, I find myself placed in this way: I desire sincerely to adjourn over, and I do it for many reasons. If I had no committee meeting to attend to to-morrow, still I should desire it. It is hardly necessary for us to devote more than five days a week in this body to the public business. We can certainly keep up with the business of the other House without any difficulty, in consequence of the disparity of numbers between the two bodies. Five days will do here, if the whole what it will take six days to do in the other House. It seems to me nothing can be plainer than that, and every one recognizes the fact. Every member of the Senate upon the committees knows that Saturday is one of the very best days to get rid

of complex, complicated, difficult, and higgous cases. My own committee is in precisely that condition, and have made an appointment to meet to-morrow to go on with business; and very much has fallen upon them within a few days past. I sincerely desire that we shall adjourn over until Monday, in order that we may have an opportunity to act on the cases that are now before there is any other thing that is pressing us to which the Senator from California asks us to sit to-morrow, other than his special anxiety, fearing that he might not get the Senate to consider his bills, which are of so much importance, on the subject of the Pacific coast. There is nothing to come up on Saturday that demands or can claim a prominence, he thinks he might get up that special thing, which he thinks of great importance, on Saturday, while he fears the Senate do Monday would not recognize it. It is not of more importance on Saturday than on Monday. I hope very much that we shall not consent to reconsider the vote adjourning until Monday.

MR. GWIN. The Senator knows that there is special order after special order on the Calendar.

MR. JOHNSON, of Arkansas. Repeat them. Take them off.

MR. GWIN. I have been raising the making of them from the beginning of the session.

MR. JOHNSON, of Arkansas. Let me ask the Senator if he was not one of the foremost men on all occasions to establish the precedent of special orders; and if it falls hardly on him now, ought we to suffer here on account of his own error?

MR. GWIN. The Senator knows, if he has paid any attention to our proceedings here, that I have steadily resisted it from the beginning of a session, and desired the Senate to go on with the Calendar.

MR. JOHNSON, of Arkansas. After establishing the other practice for eight years.

MR. GWIN. Well, sir, I have been attempting to move the Calendar called from the beginning of the session, and have resisted every special order. Now, sir, so far as committee business is concerned, I will say there is now more business on the Calendar than we shall ever consider.

MR. JOHNSON, of Arkansas. A great deal more.

MR. GWIN. There is undoubtedly a great deal more on the Calendar than will ever be reached; and the Calendar has not been called this session. I hope that this vote will be reconsidered, particularly as the President of the Senate is very quick in putting the motion. I have been watching all day for the purpose of resisting this motion, should it come up. I hope the Senate will at least give us a reconsideration, and see whether or not we shall sit to-morrow.

THE PRESIDING OFFICER. The question is, whether the vote by which the Senate agreed that when they adjourned to-day it would be until Monday next shall be reconsidered; and upon this question the yeas and nays are demanded.

MR. JOHN CLING, of California. The yeas are taken—yeas—yeas 18, nays 29, as follows:

YEAS—Messrs. Bligham, Brown, Cameron, Dixon, Doolittle, Drake, Finch, Fitzpatrick, Gwin, Hartin, Iverson, and Nichols, Malloy, Nicholson, Pugh, Rice, Simmons, and Wright.

NAYS—Messrs. Benjamin, Bragg, Bright, Chandler, Clark, Cling, Crampton, Douglas, Fox, Foster, Green, Gurnea, Hale, Hammond, Humphreys, Johnson of Arkansas, Johnson of Tennessee, Kearney, King, Mason, Polk, Powell, Sumner, Tom Eyck, Toulmin, Trumbull, and Wade—29.

So the motion to reconsider was not agreed to.

A. W. McPHERSON.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 110) for the relief of A. W. McPherson. It proposes to direct the Secretary of the Interior to audit and settle the accounts of A. W. McPherson for furnishing the district and circuit courts for the district of California the courts of the United States, in the city of San Francisco, allowing him such prices for the articles furnished and work done as, under all circumstances, shall appear reasonable and just.

MR. FOOT. If there were no objection, the yeas and nays among the friends I call for the reading of the account, so that the Senate may understand what they are called upon to vote. Let the report be read, in the first place.

The Secretary read the following report, made

at the first session of the Thirty-Fifth Congress, by Mr. A. W. McPherson, beg leave to report:

That on the 9th June, 1853, the Secretary of the Interior wrote to the United States Attorney of California, by which he was authorized "to procure such other accommodations (for the courts of the United States) upon the most favorable terms as the United States Attorney, and to transmit to the Department a copy of the agreement with the approval of the court of the district of California, &c."

Under these instructions, the marshal entered into a lease and agreement with prisoners for the rent of a building and for the use of the same in the city of San Francisco. The contract of lease was confirmed by the Secretary, but the account for the same was not paid until the 1st of January, 1854, by the judge of the circuit and district courts, and by the district attorney and marshal of the United States, was refused payment on that day, and the same was not paid until the 1st of February, 1854, under the act of February 12, 1853, which enacts that "a marshal shall not incur an expense of more than twenty dollars for any one year's furnishing," &c.

By the act of 30th of September, 1850, the laws of the United States were made of force in California, which was divided into two districts, and, by the act of the 24th of March, 1851, the judge of the northern district was directed to hold two regular sessions of his court in the city of San Francisco.

By the act of 3d of March, 1852, the judge of the circuit court was directed to hold a term of his court on the first Monday of July in each and every year, with power to hold special terms, and, at such place as he might deem proper, of the United States for the northern district of California, and to procure for the purpose, under the direction of said judge.

It appears that under the authority of these acts and the letter of instruction from the Secretary to the marshal, the marshal of the district of California, under the authority of his order, under an agreement to pay for the same, and the accounts for the price of the same are certified to, as above recited, by the proper officers.

These accounts are for the sums of \$5,085 95 and \$912 12, in the aggregate, \$5,998 07. The prices charged for the articles furnished for the use of the courts are very extravagant, and they are, therefore, unwilling to reimburse the payment of the accounts claimed by the United States. Having had the use of said furniture, and are still using the same, they think that the petitioner is entitled to compensation for the reasonable value of the same, and they therefore recommend the adoption of the accompanying bill.

MR. FOOT. Now I ask for the reading of the items of the accounts.

The Secretary read, as follows:

The United States of America, Dr.
In account with A. W. McPherson, for fitting up and furnishing the district and circuit courts of the United States, in the city of San Francisco, State of California, (said rooms being secured for said court by lease dated the 9th of June, 1853, and the same being approved by the Secretary of the Interior by letter dated the 12th of September 17, 1853,) as follows:

In the Court-Room.	
Making, putting up, and laying platform, rails, spectators' seats, and judge's, clerk's, and marshal's desks, with three circular tables for the use of counsel, the same being in conformity to the plan approved by the United States circuit judge, marshal, and district attorney; all of which are respectively designated on ground plan No. 1, and on drawings of elevations No. 2, by the letters A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, and numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 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Amount continued forward.....\$7,212 50

In the Grand Jury Room.

a 1 One large table.....	25 00
a 2 One large table.....	50 00
a 3 One writing desk.....	75 00
a 4 One writing desk.....	39 00
f 1 One wash-stand and sink.....	100 00
a 5 Eight ottomans.....	8 00
a 6 Four chests.....	8 00
a 7 Carpets, eighty-four yards, at \$2 yard, and laying the same, at thirty-seven and a half cents per yard.....	199 50
a 8 Curtains, drapes, and blinds.....	105 00
a 9 Four gas fixtures, at \$10 each.....	40 00

708 50

In the Petit Jury Room.

11 One large table.....	60 00
a 10 One writing desk.....	75 00
f 2 One wash-stand and sink.....	39 00
a 11 Three chairs.....	78 00
a 12 Two chairs.....	6 00
a 13 Seven ottomans.....	7 00
a 14 Three gas fixtures, at \$10 each.....	30 00
a 15 Curtains, drapes, and blinds for two windows, at \$20 each.....	70 00
a 16 Carpets, forty-six yards, at \$2 per yard, and laying the same, at thirty-seven and a half cents per yard.....	109 25

465 25

Total.....\$9,093 25

The small letters in the margin refer to ground plans and drawings of elevations No. 1, 2, 3, 4.

Examined and found correct, and allowed.
 W. HALL McALLISTER, Judge, &c.
 San Francisco, March 4, 1860.

UNITED STATES DISTRICT ATTORNEY'S OFFICE,
 San Francisco, March 12, 1860.
 I hereby certify that the above account, in my opinion, is correct, and should be allowed.
 R. W. INGLES.

The above account is, in my opinion, correct and just.
 W. R. RICHARDSON,
 United States Marshal,
 By W. W. WATSON, Deputy.

UNITED STATES MARSHAL'S OFFICE, San Francisco, 1860.

Mr. FOOT. My purpose, Mr. President, is fully answered in having called the attention of the Senate to this account. The reading of the account I regard as a more emphatic and a more eloquent speech against its allowance than I or any other member could make.

Mr. IVERSON. I admit, and so did the committee, and no stout every man that looks at this case, that the furniture with which the courts in San Francisco have been embellished, was of the most extravagant and princely character, such as would really have become more fitting for a prince or a king than a district court, grand jury, and petit jury, of the United States. The articles furnished were of the most extravagant character; the prices are doubtless very high; but the committee, on looking at the case, came to this conclusion, that although it was the most extravagant fitting up of any court-room in the United States, and far beyond what was necessary or proper, the person who furnished the articles was not to blame. What is to be done with him? This man, McPherson, made a contract with the marshal to furnish the room. The money designated what furniture should be put in them. It was no fault of the contractor. He has furnished the goods. Doubtless he had to pay for them himself, and at that time all these articles commanded a high price in San Francisco. Everything at the Senate will remain the same, and the high-pressure system on the Pacific coast at that time.

Mr. GRIMES. What time was it?

Mr. IVERSON. Several years ago. I do not remember the precise time, but when everything was very high in San Francisco, and even if that were not so, this man McPherson has furnished the articles under contract with the marshal, and the Government has had the use of the property; and what is to be done with him? He has no nothing. You reject the case, and say you will not pay this contractor a cent, because the judge and the marshal and the district attorney has bought extravagant furniture!

The committee thought that the best plan was to refer this question to the Secretary of the Interior, and let him examine the case, and allow such amounts for the furniture as, in his judgment, under the circumstances, were admissible and proper; and that is the only way, it seems to me, the case

can be managed. You cannot say that this party, who has sold his goods to the Government, and when the Government has used his goods, shall not have a dollar because, forthwith, the goods are of such a high character that the district attorney and this judge ought never to have purchased them. He ought to have something of course. You cannot treat him with the injustice of saying that he shall not have a dollar for his goods, because, forthwith, the parties who purchased them purchased them without authority.

Mr. HROWN. It seems to me that my friend from Georgia mistakes the case in this; he talks about the Government having purchased the goods. The Government did not such thing. The Government officers, without authority of law, have gone forward and contracted extravagant debts upon the credit of the Government, and then come and ask you to foot the bill. If the marshal and district attorney did this, I ask by what authority did these officers undertake to contract goods worth \$18,000, to furnish a court-room? If they can do it in San Francisco, why not in every court-room in the country? If they can do it in reference to court-rooms, why not in reference to post offices and everything else; and then shall a man come here and say, "because I furnished these goods to your officers, you are obliged to pay me!" If the officer commits an act outside of his official duty, it is without authority, and no more binding on the Government than the act of the Senator from Georgia, or myself. If these officers had the right to furnish the goods in this princely style, they could only have it from the Government. If the Government gave the authority, the Government is bound. If the Government did not give the authority, then the officers acted on their own responsibility; and the Government should not be bound to pay for the goods so sold the goods to the officers themselves, and to nobody else, for footing any such bill.

I had thought, and still think, we have a law which denies to Government officers the right to contract debts and then coerce the Government to pay the amount of them; and I will not let that rule in reference to officers anywhere, in California, or in Mississippi, or in any other State. These officers, so far as I am instructed by the report or by the speech of the Senator from Georgia, have acted entirely above and independent of the law. They have ordered clerks to be responsible for the footing of this bill. Why, Mr. President, how are these things done? The whole Federal court-house in the State from which I come scarcely cost so much money as the furnishing of this room, and in some of the other States I dare say they cost still less. But whatever the cost was in my State, or in other States, it was incurred by a direct act of Congress authorizing the appropriation to be made. In the act of Government of my own State, the post office, the most important in the State, kept in a wretched, miserable shanty, your Government refusing even to pay rent for a post office, much less to establish one by law. We have appealed, and appealed in vain, to this Government to give us a proper post office there. They refuse; and yet Georgia officials can go and make a contract for a room in debt \$18,000 for furnishing a room in San Francisco, and then, under the plea of my friend from Georgia, we are to foot the bill. So far as I am concerned, sir, I will do no such thing. If the marshal and district attorney thought proper to play the lord and to furnish a room in this elegant style, let them be responsible to the tradesman, and the next tradesman who sells his goods to such men will be very apt to look to their responsibility. Foot this bill, and how many more just such bills will you be to foot, Heaven only knows! I will stop the thing, so far as I am concerned, right here, by refusing to pay one dollar of the money.

Mr. LATIMAR. The Senator from Mississippi has fallen into one or two errors in reference to this bill. The bill merely authorizes the subject to the Secretary of the Interior, in order that he may pay what he deems to be just, after an investigation. There was evidence before the committee, so I am informed, that authority was given to the judge of the circuit court, in California, to make contracts for the rent of a room for a court-room; and with Mr. McPherson this contract was made. The Senator must know very well that after the contract was made, and the

house was rented, it had to be furnished. The fault was in the judge of the court or in the marshal, in ordering such sumptuous furniture, but this gentleman merely got the furniture that he was instructed to put there. He was not in look to see whether they exceeded their authority or not. If they wanted the court-room furnished, (and authority to them to have it furnished was certainly implied in the lease of the building,) it was not for him to make the judge of the court or the marshal. "You are putting too sumptuous furniture here; the Government will not stand this." The blame, no doubt, rests on them; but he was not the person, as a tradesman, to find fault with them for disobeying the orders which necessarily devolved on them from their position.

Now, Mr. President, we do not ask that this amount of \$18,000 shall be paid. If he has been foolish enough to make this contract, let him suffer; but we do ask that he shall have something, and that the Government shall not enjoy his property, shall not take it from him, and then throw him back on what would be necessarily an action that could not be maintained against the officers of the court.

Mr. CRITTENDEN. The \$9,000, the account of which has been read, is but for the furnishing of two rooms, and two other rooms, supposed to be equally necessary, have also been furnished for a like sum, making the aggregate \$18,000.

Mr. BRAGG. If the Senator will allow me to correct the bill, there is a mistake in this respect. Here is the report, which mentions \$9,000. One of the sums, \$9,000, was for the rent of the building. There is another sum of \$9,000, stating it in round numbers, for furnishing; and the present memorialist was the contractor in both instances. He owned the building, and furnished it.

Mr. CRITTENDEN. It was \$18,000 in all. Mr. BRAGG. Eighteen thousand dollars in all. But I apprehend the \$9,000 for the building have been paid, inasmuch as the Department approved the lease of the building.

Mr. CRITTENDEN. The question now is altogether independent of the rent of the house. That has been approved of by the Department, and is a complete transaction. I do not often intrude myself on the Senate on such questions; but this strike me as an example of the most palpable an instance of extravagance, that I cannot forbear to speak a word in condemnation of it, and of all the parties, high and low, who were involved in it, and I make no exception; I am no respecter of persons at all.

Mr. FOOT. Will the honorable Senator allow me to correct a misapprehension of the Senator from North Carolina? Only one of two accounts was read; that is the account for the furnishing of the circuit court-room of the United States, a rented room for the use of the circuit court, and the amount for the furnishing of that room, and the judge's room, and jury room, &c., was read, amounting to over nine thousand dollars. There is another like amount for furnishing the rooms for the district court of the United States, amounting to over nine thousand dollars. The furniture for the two rooms amounts to over eighteen thousand dollars, independent of the rent of the building.

Mr. CRITTENDEN. Now, Mr. President, unless we pay their price, will this property be lost? The property may be worth \$15,000, rather than it is not. We cannot make the property our own unless we pay the price that is demanded. Suppose we reduce this account to what would furnish plainly and suitably a court-room. We cannot make a bargain with the contractor, and say, "all this fine property is ours for this modest price." What is the consequence of our paying this bill, or authorizing anybody else to pay it? Suppose we reduce it; does it make the property ours? I say, let these people take their property, and let them pay for it, and let them suffer themselves. If the judge has approved of this, I say he is equally culpable. If the marshal has approved of it, he is culpable, and ought to be dismissed from office. I will not condemn the humble agents in this matter, and spare the principals. There is no department in this Government that has increased in extravagance and in expense more than the judiciary has within the last few years, and give us now the sources of it.

Here is an instance of culpable—I think I might in moderate terms call it criminal extravagance. I am for punishing it. I will not vote for a cent of the bill in any form it can be put. I will vote against the bill. It is a fraud upon this Government, a plain, palpable one upon the face of it; and, if we ever intend to grow a lesson, we have the power of doing it now, and I hope and trust in God the Senate will do it. Contrivers of this sort shall not always be able to console themselves. "Well, if our fraud and imposition do not succeed, we shall be paid anyhow." No, sir; they shall not be paid. Let them take their property. Let them hold one another responsible. Let these gentlemen settle one with another their responsibilities, and let our court-house be furnished in a plain, suitable manner. In the court-house in my State, an old one comparatively, the whole furniture of it did not cost \$500, I verily believe. The jurors sit on benches; the judges sit in respectable seats, and on respectable chairs, and they administer as sound and as good justice as in any where done. I will not give in to this idea of extravagance in transacting the public business at all. I mean to vote against the bill, and let these gentlemen take their fine chairs, and do what they can with them, and then we shall have our court-house furnished in a plain and suitable manner, consistent with the plain republicanism which we wish to ingraft, and wish to preserve in this Government in all its branches. I am against the bill, and mean to vote against it.

Mr. POSTER. I ask that the yeas and nays may be taken on the passage of this bill.

THE PRESIDING OFFICER. The bill was now before the Senate as in Committee of the Whole.

The bill was reported to the Senate, ordered to be engrossed for a third reading, was read the third time, and on the question, "Shall the bill pass?" Mr. FITZPATRICK called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 6, nays 36; as follows:

YEAS.—Messrs. Green, Gwin, Hemphill, Iverson, Latham, and Mallory—6.

NAYS.—Messrs. Benjamin, Bingham, Brazz, Brown, Chandler, Chenoit, Clark, Clingman, Collamer, Crittenden, Dixon, Doolittle, Douglas, Purke, Frazer, Fitch, Johnson, Ford, Foster, Grimes, Hale, Harlan, Hendricks, John, Johnston of Arkansas, Menzies, King, Mason, Peck, Powell, Fugate, Sumner, Ten Eyck, Toombs, Trumbull, Whelan, and Wilkinson—36.

So the bill was rejected.

Mr. GRIMES. I move that the Senate adjourn. The motion was agreed to; there being, on a division—yeas 21, nays 13; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, March 23, 1860.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STODOLN.

The Journal of yesterday was read and approved.

DISTRICT COURT OF NEW YORK.

Mr. DUELL, by unanimous consent, introduced a bill to provide for the holding of a term of the district court of the United States at Binghamton, in the State of New York.

The bill provides that one term of the district court of the United States for the northern district of New York, in addition to those already appointed, shall be held annually at Binghamton, in the county of Broome, at such time as the judge of said district shall appoint, upon a notice of at least forty days, to be published in the State paper of the State of New York; which district court and the judge thereof shall have like powers and exercise like jurisdiction as other district courts and judges thereof, as now provided by law.

The bill was read a first and second time, and referred to the Committee on the Judiciary.

EASTERN BOUNDARY OF CALIFORNIA.

Mr. SCOTT, by unanimous consent, introduced a bill to change the eastern boundary of the State of California; which was read a first and second time, and referred to the Committee on Territories.

SCHOOL FUND IN CALIFORNIA.

Mr. SCOTT, by unanimous consent, also introduced a bill making the same provision for the school fund of California heretofore made for

other States of the Union, out of the proceeds of the sale of the public lands; which was read a first and second time, and referred to the Committee on Public Lands.

REPORTS FROM COMMITTEES.

Mr. WALTON. I call for the regular order of business.

The SPEAKER. This being Friday, and the regular order of business being called for, reports from committees of private bills are in order, commencing where we last left off.

The committees were then called for reports on private business, commencing with the Committee of Accounts.

EDWARD W. KENT.

Mr. WASHBURN, of Maine, from the Committee of Ways and Means, reported, with a recommendation that it do pass, an act (S. No. 74) for the relief of Edward W. Kent; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. BARR. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. TAPPAN. I would suggest to the gentleman that he should receive reports from committees at half an hour or an hour, and then I propose to make the motion the gentleman has just made.

Mr. BARR. Very well. I withdraw the motion.

JOEL M. SMITH.

Mr. WALTON, from the Committee of Claims, reported a bill for the relief of Joel M. Smith; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM LYON.

Mr. WALTON, from the same committee, also reported back, with a recommendation that it do pass, a bill (H. R. No. 86) for the relief of William Lyon, late pension agent at Knoxville, Tennessee; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DIFFICULTIES ON THE RIO GRANDE.

Mr. STANTON. I ask the unanimous consent of the House to have printed a letter from the Secretary of War, containing dispatches of importance in reference to the difficulties upon the Rio Grande, and to have the same referred to the Committee on Military Affairs.

No objection being made, it was so ordered.

JAMES MECKER.

Mr. WALTON. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the bill for the relief of James Mecker, and that it be recommitted to the Committee of Claims.

There being no objection, it was so ordered.

PRINTING OF A PAPER.

Mr. MCCLERNAND. I ask the unanimous consent of the House to print a short bill of three sections, which I propose, at the proper time, to offer as an amendment to the bill reported from the Committee on the Judiciary in reference to Utah.

No objection being made, leave was granted.

THOMAS BROWN.

Mr. TAPPAN, from the Committee of Claims, reported back, with a recommendation that it do not pass, an act (S. No. 242) for the relief of Thomas Brown; which was laid on the table.

JOHN WIGHTMAN.

Mr. TAPPAN, from the same committee, asked that the committee be discharged from the further consideration of the petition of citizens of Erie, Crawford, Mercer, and Butler counties, in the State of Pennsylvania, praying for compensation to John Wightman, contractor for carrying the mail from Pittsburgh to Erie, and that the same be referred to the Committee on the Post Office and Post Roads.

It was so ordered.

JACOB REED.

Mr. TAPPAN, from the same committee, also made an adverse report upon the petition of Hil-

lam Horton and others, administrators of Jacob Reed, deceased; which was laid on the table.

JOHN WAGNER.

Mr. TAPPAN, from the same committee, asked that the committee be discharged from the further consideration of the petition of John Wagner, and that the same be referred to the Committee of Accounts.

It was so ordered.

HANNAH CUTTER AND OTHERS.

Mr. TAPPAN also, from the same committee, reported a bill for the relief of Hannah Cutter, James W. Emery, R. B. Cutter, and others, surties of Charles W. Cutter; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JETHRO BONNEY.

Mr. TAPPAN also, from the same committee, reported a bill for the relief of Jethro Bonney, of the State of New York; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

NATHANIEL STEELE.

Mr. TAPPAN also, from the same committee, asked that the committee be discharged from the further consideration of the petition of the heirs of Nathaniel Steele, and that the same be referred to the Committee on Indian Affairs.

It was so ordered.

LUKE HILTON AND OTHERS.

Mr. TAPPAN also, from the same committee, made an adverse report upon the petition of Luke Hilton and others; which was laid on the table, and ordered to be printed.

ELIZABETH B. M'CORMICK.

Mr. TAPPAN, from the same committee, also made an adverse report on the petition of Elizabeth B. M'Cormick; which was laid on the table, and ordered to be printed.

BENJAMIN S. POPE.

Mr. TAPPAN, from the same committee, also made an adverse report on the petition of Benjamin S. Pope, praying for indemnity for loss of a ship and cargo; which was laid on the table, and ordered to be printed.

LEONARD HALL.

Mr. TAPPAN, from the same committee, also made an adverse report on the petition of Leonard Hall; which was laid on the table, and ordered to be printed.

M. M. ROBERTS.

Mr. TAPPAN, from the same committee, also made an adverse report on the petition of M. M. Roberts; which was laid on the table, and ordered to be printed.

CATHERINE HANNA'S CHILDREN.

Mr. TAPPAN, from the same committee, also reported back the petition of the surviving children of Catherine Hanna, and asked that the Committee be discharged from its further consideration, and that the same be referred to the Committee on Revolutionary Pensions.

It was so ordered.

FERGUSON AND M'KIZER.

Mr. TAPPAN, from the same committee, also made adverse reports in the cases of John Ferguson and J. H. McKizer; which were severally laid on the table, and ordered to be printed.

NAIUM WARD.

Mr. HUTCHINS, from the same committee, reported back, with a recommendation that it do not pass, Court of Claims bill (No. 72) for the relief of Naum Ward; which was laid on the table, and, with the accompanying report, ordered to be printed.

JAMES B. WOOD.

Mr. HUTCHINS, from the same committee, also made an adverse report on the memorial of James B. Wood; which was laid on the table, and ordered to be printed.

CHARLES D. ARFVEDSEN.

Mr. HUTCHINS, from the same committee,

also made an adverse report on the memorial of Charles D. Arfwedson; which was laid on the table, and ordered to be printed.

GEORGE ASHLEY.

Mr. HUTCHINS, from the same committee, also reported back, with a recommendation that it do not pass, Court of Claims bill (No. 42), for the relief of George Ashley, administrator, & heirs of Samuel Holgate, deceased; which was laid on the table, and ordered to be printed.

ZENAS KING.

Mr. HUTCHINS, from the same committee, also made an adverse report on the memorial of Zenas King; which was laid on the table, and ordered to be printed.

WILLIAM F. BOWDEN.

Mr. HUTCHINS, from the same committee, also made an adverse report on the memorial of William F. Bowden; which was laid on the table, and ordered to be printed.

DANIEL D. JOHNSON.

Mr. HUTCHINS, from the same committee, also made an adverse report on the petition of Daniel D. Johnson; which was laid on the table, and ordered to be printed.

JAMES HENDERSON.

Mr. HALE, from the same committee, reported back, with a recommendation that it do pass, a bill (H. R. No. 79) for the relief of James Henderson; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LYDIA FLETCHER.

Mr. HALE, from the same committee, also reported back a bill (H. R. No. 80) for the relief of Lydia Fletcher, and asked that the Committee of Claims be discharged from its further consideration, and that the same be referred to the Committee on Military Affairs.

It was so ordered.

HOLMES AND PEDRICK.

Mr. MOORE, of Alabama, from the same committee, reported a bill for the relief of Philip B. Holmes and William Pedrick; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

ADVERSE REPORTS.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, made adverse reports in the following cases:

On the petition of De Witt C. Polson and Eben B. Gardner, owners of schooner Uranus, for fishing bounties;

On the petition of Charles Brewster, owner and agent of schooner Flora, for fishing bounties;

On the petition of the agents of schooner Coquette, for fishing bounties;

On the petition of the owners of schooner Smiley, for fishing bounties; and on the memorial of John Bingham, for a civil retired list; which were severally laid on the table, and ordered to be printed.

Mr. ELIOT, from the same committee, made an adverse report in the case of the schooner Metcalf, for fishing bounties; and on the memorial of John Bingham, for a civil retired list; which were severally laid on the table, and ordered to be printed.

CONGRESSIONAL TOWNSHIPS.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, made an adverse report on the petition of citizens of township two north, of range nine west, of the fourth principal meridian, in Adams county, Illinois; which was laid on the table.

Mr. DAVIS, of Indiana, from the same committee, reported a bill for the relief of congressional township six south, of range eight west, in Randolph county, State of Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. DAVIS, of Indiana, from the same committee, also reported a bill for the relief of congressional township two south, of range twelve west, of the second principal meridian, in Gibson county, Indiana; which was read a first and second time, referred to a Committee of the Whole

House, and, with the accompanying report, ordered to be printed.

ABOLITION OF LAND OFFICES.

Mr. DAVIS, of Indiana, from the same committee, reported back a resolution instructing the committee to inquire into the expediency of abolishing a portion of the land offices; and moved that the committee be discharged from the further consideration of the same, and that it be laid upon the table.

Mr. SMITH, of Virginia. What will be the effect of laying it upon the table? Can we call it up again? Because the House might disagree to the report of the committee. I move that it be referred to a Committee of the Whole House.

The SPEAKER. The motion to lay upon the table takes precedence.

Mr. SMITH, of Virginia. I presume the gentleman from Indiana has no objection to its reference to a Committee of the Whole House.

Mr. DAVIS, of Indiana. I withdraw the motion to lay upon the table. I am perfectly willing that the resolution shall be referred.

The resolution was referred to a Committee of the Whole House.

ISLAND OF GRAND CENIERE.

Mr. LANDRUM. The Committee on Public Lands are prepared to report favorably upon the approval of the survey of the Island of Grand Cénieré. The bill has once passed the House, but failed in the Senate. I ask the unanimous consent of the House that the committee be permitted to report the bill, and that it be put upon its passage. A member of the committee will explain to the satisfaction of the House in a moment that there can be no objection whatever to its passage.

Mr. CORB. I could not ask the House to do anything for me, but here is a matter in which the Government is directly interested. It is a small matter, and the committee have unanimously instructed me to report the bill. There is a little island in the State of Louisiana that could not be surveyed according to the legal manner of surveying lands, but had to be cut up into small fractions. The Department has recommended that the survey may be regarded as valid, in order that the Government may sell the lands. That is the whole matter. Every member of the committee who was present agreed that the bill should be reported. It was reported by me at the last session, and passed the House without a dissenting voice, and went to the Senate; but failed there for want of time. It is a matter in which the Government is interested. The island cannot be surveyed in any other way than the one in which it has been surveyed, and all the committee ask is that the survey shall be approved. Now, will the House allow the bill to pass?

Mr. HARRIS, of Maryland. I desire to ask the gentleman from Alabama where this land is?

Mr. CORB. It is down in Louisiana in a swamp, and it cannot be surveyed in any way but by cutting it up into fractions. We want to bring the land into market, so that the Government can get the money for it.

Mr. HARRIS, of Maryland. I desire to ask the gentleman further, if it has any connection with the McDonough estate?

Mr. CORB. None whatever. It is for the Government. I do not work for private individuals. Mr. MAYNARD. Perhaps the gentleman can state if anybody has any claim on these lands except the Government?

Mr. CORB. I suppose preceptors have.

Mr. WASHBURN, of Maine. Is that a private bill? If not, I shall object.

The SPEAKER. The Chair has not heard what the bill is.

Mr. CORB. If there is a single objection made to the bill, I will not offer it.

Mr. TAPPAN. Well, I object.

Mr. CORB. I will get it in at another time. Mr. TAYLOR. I wish the gentleman from New Hampshire would be good enough to withdraw the objection. It is a portion of country situated to the west of the Mississippi river.

Mr. TAPPAN. I would withdraw it, but if I do, there will be no end to this way of doing business.

Mr. CORB. The bill could be passed in the time it takes you to object.

Mr. TAPPAN. I must object

CLARK JOLLEY.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of Clark Jolley, for relief; which was laid upon the table, and ordered to be printed.

JOHN Y. SEWELL.

Mr. ALLEY, from the same committee, reported a bill for the relief of John Y. Sewell; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM MC CORMICK.

Mr. LEE, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 223) for the relief of William McCormick; which was laid upon the table, and ordered to be printed.

EQUALIZATION OF RATES OF POSTAGE.

Mr. LEE, from the same committee, also reported back, with a recommendation that it do not pass, a bill (H. R. No. 170) to equalize the rates of postage; which was laid upon the table, and ordered to be printed.

ABRAHAM ANDERSON.

Mr. LEE, from the same committee, also made an adverse report on the petition of Abraham Anderson, of Albany, New York; which was laid upon the table, and ordered to be printed.

JOHN D. COLMESELT.

Mr. ADAMS, of Kentucky, from the same committee, made an adverse report on the petition of John D. Colmeselt, president of the Ohio and Mississippi Mail Line Company; which was laid on the table, and ordered to be printed.

PACIFICUS ORD.

Mr. HICKMAN, from the Committee on the Judiciary, made an adverse report on the memorial of Pacificus Ord, asking compensation for services rendered the United States Government; which was laid upon the table, and ordered to be printed.

JOHN M. L. GARDINER.

Mr. BINGHAM, from the same committee, reported an adverse memorial of John M. L. Gardiner, with an adverse report thereon; which was laid on the table, and the report was ordered to be printed.

SWEENEY, RITTENHOUSE & CO.

Mr. TAYLOR, from the same committee, reported a bill for the relief of Sweeney, Rittenhouse, Fant & Co.; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MARY CUTTER AND OTHERS.

Mr. PORTER, from the same committee, made an adverse report on the memorial of Mary Cutter, Cornelius E. Cutter, and others; which was laid on the table, and ordered to be printed.

MITCHELL & RAMMELSBURG AND OTHERS.

Mr. NELSON, from the same committee, reported a bill directing the Secretary of the Interior to liquidate the accounts of Mitchell & Rammelsburg and Baker & Von Phul; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

KENTUCKY COURTS.

Mr. NELSON also, from the same committee, reported a bill providing for additional terms of the United States circuit and district courts in the State of Kentucky; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

POLYGAMY IN UTAH.

Mr. NELSON. I now desire to call up the bill which was reported from the Committee to the Judiciary the other day, to abolish polygamy in the Territory of Utah.

Several MEMBERS objected.

The SPEAKER. This being Friday, nothing but private business is in order.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on

Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the following titles:

"An act (H. R. No. 19) to amend an act entitled 'An act to regulate the carriage of passengers in steamships and other vessels,' approved March 3, 1855, for the better protection of female passengers, and other purposes; and

"An act (H. R. No. 331) to repeal the third section of an act entitled 'An act to increase and regulate the terms of the circuit and district courts for the northern district of the State of New York,' approved July 7, 1838; when the Speaker signed the same.

BART DE KLYN'S HEIRS.

Mr. DUELL, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Bart de Klyn, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN PALMER AND JOHN D. TREVILLE.

Mr. DUELL, from the same committee, made an adverse report in the cases of John D. Palmer and John D. Treville; which was laid on the table, and ordered to be printed.

ISAAC BOWMAN.

Mr. DUELL. The Committee on Revolutionary Claims have instructed me to report the following resolution, and to ask for its adoption by the House:

Resolved, That the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the claim of Isaac Bowman, deceased, a lieutenant and quartermaster in the Revolution, in the Virginia State line; that the same be referred to the Committee on Revolutionary Claims; and that the said committee report the facts to the House.

The resolution was considered and adopted.

JONATHAN SKINNER'S HEIRS.

Mr. BRIGGS, from the same committee, reported a bill for the relief of the heirs of Jonathan Skinner, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

H. BROCKHOLST LIVINGSTON'S CHILDREN.

Mr. BRIGGS also, from the same committee, reported a bill for the relief of the children of Henry Brockholst Livingston; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

TIMOTHY EMERSON.

Mr. HOLMAN, from the same committee, made an adverse report in the case of the heirs of Timothy Emerson; which was laid on the table, and ordered to be printed.

J. F. TRACY.

Mr. ETHERIDGE, from the Committee on Indian Affairs, made an adverse report in the case of J. F. Tracy; which was laid on the table, and ordered to be printed.

NANCY G. VAN RENSSLAER.

Mr. HOLMAN, from the Committee on Revolutionary Claims, reported back the petition in the case of Nancy G. Van Rensselaer, widow of Henry K. Van Rensselaer, and moved that it be referred to the Committee on Revolutionary Pensions.

The motion was agreed to.

CARR, BRIERLY & CO.

Mr. WOODSON, from the Committee on Indian Affairs, reported a bill for the relief of Carr, Briery & Co.; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MEMONONIE CLAIMS.

Mr. LEACH, of Michigan, from the same committee, reported a bill to authorize the Committee on Indian Affairs to adjust and settle certain claims against the Menomonee Indians; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHARLES J. J. LEOPOLD.

Mr. ALDRICH, from the same committee,

made an adverse report on the petition of Charles J. J. Leopold; which was laid upon the table, and ordered to be printed.

ERIBANO PEREZ.

Mr. STANTON, from the Committee on Military Affairs, made an adverse report in the case of Eribano Perez; which was laid upon the table, and ordered to be printed.

JOHN F. SANFORD.

Mr. STANTON, from the same committee, also reported a bill for the relief of John F. Sanford, administrator de bonis non of the estate of Robert Sanford, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

INDIAN HOSTILITIES IN UTAH.

Mr. STANTON, from the same committee, also reported a bill to refund to the Territory of Utah the expenses incurred in suppressing Indian hostilities in the year 1853.

Mr. THOMAS. I submit, Mr. Speaker, that that is not a private bill, and that, therefore, it is not in order to be reported upon an bill of the committee for reports of a private nature.

The SPEAKER. It is not a private bill, of course it cannot be received.

Mr. STANTON. The Committee on Military Affairs regarded it as strictly a private bill. It is a private claim for money paid out by the Territory of Utah for the suppression of Indian hostilities within the limits of that Territory. It is as much a private claim as any made here for money expended, and which it is the duty of this Government to refund.

The SPEAKER. In that aspect, it will be received.

The bill was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CLAIM OF CITIZENS OF MINNESOTA.

Mr. STANTON, from the Committee on Military Affairs, made an adverse report upon the petition of citizens of Minnesota, praying for an investigation into alleged outrages committed by the United States soldiers at Fort Kedgeley; which was laid upon the table, and ordered to be printed.

MRS. ELIZA A. MERCHANT.

Mr. BUFFINGTON, from the same committee, reported a bill for the relief of Mrs. Eliza A. Merchant, widow of the First Lieutenant and Brevet Captain Charles G. Merchant, of the United States Army; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FRANK MADISON.

Mr. BUFFINGTON, from the same committee, also made an adverse report upon the petition of Frank Madison; which was laid upon the table, and ordered to be printed.

THORNLEY S. EVERETT.

Mr. BUFFINGTON, from the same committee, also made an adverse report in the case of Thornley S. Everett; which was laid upon the table, and ordered to be printed.

R. W. DUNCAN.

Mr. BUFFINGTON, from the same committee, also made an adverse report in the case of R. W. Duncan; which was laid upon the table, and ordered to be printed.

HAYDEN & ATWELL.

Mr. OLIN, from the same committee, made an adverse report in the case of Hayden & Atwell; which was laid upon the table, and ordered to be printed.

HILL & MEGONEGAL.

Mr. OLIN, from the same committee, also made an adverse report in the case of Hill & Megonegal; which was laid upon the table, and ordered to be printed.

GEORGE B. DACOS.

Mr. MORSE, from the Committee on Naval Affairs, reported back Senate bill (No. 58) for the relief of George B. Bacon, late acting purser of sloop-

of-war Portsmouth, with the recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

EXCHANGE OF STEAMER DUTIES.

Mr. MORSE. I am directed by the Committee on Naval Affairs to report to the House the memorial of Mr. Martin, asking for an exchange of duties heretofore performed by the steamers Massachusetts and Shabuck, to move that it be returned to the Delegate from Washington Territory, for presentation to the Secretary of the Navy, which is its proper reference.

It was so ordered.

BENJAMIN TYSON.

Mr. SCHWARTZ, from the Committee on Naval Affairs, reported a bill for the relief of Benjamin Tyson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM B. DRAPER.

Mr. POTTLE, from the same committee, reported a bill for the relief of the legal representatives of William B. Draper; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ELPHALET BROWN, JR.

Mr. POTTLE, from the same committee, also reported a bill for the relief of Elphaleth Brown, Jr.; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

J. M. MILLER.

Mr. SEDGWICK, from the same committee, made an adverse report in the case of J. M. Miller, in relation to a surface condenser for steam engines; which was laid upon the table, and ordered to be printed.

MOSES J. HILL.

Mr. SEDGWICK, from the same committee, also made an adverse report upon the petition of Moses J. Hill for an appropriation to test his invention for percussion caps and shells; which was laid upon the table, and ordered to be printed.

ANN SCOTT.

Mr. CURRY, from the same committee, reported back Senate bill (No. 60) for the relief of Ann Scott; with the recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

EDWARD WILLARD AND OTHERS.

Mr. CURRY, from the same committee, also made an adverse report in the case of Edward Willard and others; which was laid upon the table, and ordered to be printed.

SAMUEL A. WEST AND OTHERS.

Mr. HARRIS, of Maryland. I am directed by the Committee on Naval Affairs to report back Senate bill (No. 59) for the relief of Samuel A. West, George McCulloch, Hiram McCulloch, and Charles Pudefgan; with the recommendation that it do pass. The Senate committee reported unanimously in favor of the bill, and the committee unanimously direct me to make this report. If there be no objection, I move that the bill be now put on its passage.

Mr. LANDRUM. I object.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM WYR'S HEIRS.

Mr. CRAIGE, of North Carolina, from the Committee on Revolutionary Pensions, reported a bill for the relief of the heirs of William Wyr, which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THOMAS BIRD'S HEIRS.

Mr. CRAIGE, of North Carolina, from the same committee, also made an adverse report upon the petition of the widow and heirs of Thomas Bird; which was laid upon the table, and ordered to be printed.

NANCY WEEKS.

Mr. THOMAS, from the same committee, reported a bill for the relief of Nancy Weeks, of Georgia; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

TEMPERANCE C. LYLE.

Mr. THOMAS, from the same committee, also made an adverse report upon the petition of Temperance C. Lyle, administratrix of Thomas Moody; which was laid on the table, and ordered to be printed.

ELNATHAN SEER'S CHILDREN.

Mr. POTTER, from the same committee, reported a bill for the relief of the children of Elnathan Seer, an officer of the Revolution; which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DANIEL COIT.

Mr. POTTER, from the same committee, also reported a bill for the relief of the children of Daniel Coit; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SALEM LARNED.

Mr. POTTER, from the same committee, also made an adverse report on the petition of Salem Larned; which was laid on the table, and ordered to be printed.

APOLEON CHENEY.

Mr. POTTER, from the same committee, also made an adverse report upon the petition of Apoleon Cheney; which was laid on the table, and ordered to be printed.

JUDITH NOTT.

Mr. POTTER, from the same committee, asked that the committee be discharged from the further consideration of the petition of Judith Nott, widow of John Nott, and that the same be referred to the Committee on Invalid Pensions. It was so ordered.

ELIZA Y. RODGERS.

Mr. POTTER, from the same committee, also reported back the petition of Eliza Y. Rodgers, and asked that the committee be discharged from its further consideration, and that the same be referred to the Committee on Invalid Pensions. It was so ordered.

WALLACE ESTELL.

Mr. POTTER, from the same committee, also reported back the petition of Wallace Estell, and asked that the committee be discharged from its further consideration, and that the same be referred to the Committee on Revolutionary Claims. It was so ordered.

THOMAS GILES.

Mr. POTTER, from the same committee, also reported back the petition of Thomas Giles, and asked that the committee be discharged from its further consideration, and that the same be referred to the Committee on Revolutionary Claims. It was so ordered.

JOSHUA DEWEY.

Mr. POTTER, from the same committee, also reported back the petition of Joshua Dewey, and asked that the committee be discharged from its further consideration, and that the same be referred to the Committee on Private Land Claims. It was so ordered.

JOHN MONTEY.

Mr. POTTER, from the same committee, also reported back the petition of John Montey, and asked that the committee be discharged from its further consideration, and that the same be referred to the Committee on Revolutionary Claims. It was so ordered.

HALF PAY TO CERTAIN WIDOWS, &c.

Mr. POTTER. I ask the unanimous consent of the House to report back a joint resolution (H. R. No. 14) explanatory of an act entitled

"An act to continue half pay to certain widows and orphans," passed February 3, 1853. I desire to have the report read; and then I shall move to suspend the rules, in order to put it upon its passage.

Mr. WINSLOW. I object.

The SPEAKER. Not being a private bill, the resolution cannot be introduced, except by unanimous consent.

DAVID R. RICHARDSON'S CHILDREN.

Mr. LEACHI, of North Carolina, from the Committee on Revolutionary Pensions, reported a bill for the relief of the children of David R. Richardson, and his widow, Sarah Richardson, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN MOORE.

Mr. LEACHI, of North Carolina, from the same committee, also reported a bill for the relief of the surviving children of the late John Moore, and his widow, Mary Moore; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ERASTUS HUTCHINS.

Mr. MARTIN, of Ohio, from the committee on Invalid Pensions, reported a bill for the relief of Erastus Hutchins; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HARRIET R. F. VINSON.

Mr. MARTIN, of Ohio, from the same committee, also reported a bill for the relief of Harriet R. F. Vinson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSEPH T. FRISBEE.

Mr. BRABSON, from the same committee, reported back the petition of Joseph T. Frisbee, and asked that the committee be discharged from its further consideration, and that it be laid on the table. It was so ordered.

ESTHER P. FOX.

Mr. BRABSON, from the same committee, also reported a bill granting an invalid pension to Esther P. Fox, widow of Augustus C. Fox; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

EUNICE COBB.

Mr. FENTON, from the same committee, reported a bill for the relief of Eunice Cobb; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THOMAS BERRY.

Mr. FENTON, from the same committee, also reported a bill for the relief of Thomas Berry; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM BURNS, OF OHIO.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to William Burns, of Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ASA WELLS.

Mr. FENTON, from the same committee, also reported a bill granting a pension to Asa Wells; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ANSELM CLARKSON, OF MISSOURI.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to Anselm Clarkson, of Missouri; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ANDREW TEMPLETON.

Mr. FENTON, from the same committee, also reported a bill granting a pension to Andrew Templeton; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHAUNCEY HOYT.

Mr. FENTON, from the same committee, also reported a bill granting an invalid pension to Chauncey Hoyt, of Chenango county, in the State of New York; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES ALEXANDER.

Mr. FENTON, from the same committee, also reported a bill granting a pension to James Alexander, an invalid soldier of the war of 1812; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM BULLOCK.

Mr. FENTON, from the same committee, also reported a bill for the relief of William Bullock; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

RACHEL McMILLAN.

Mr. FENTON, from the same committee, also reported a bill for the relief of Rachel McMillan; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ALEXANDER M. CUMMING.

Mr. FENTON, from the same committee, also reported back an adverse report from the Court of Claims, (No. 180,) in the case of Alexander M. Cumming, and asked that the Committee on Invalid Pensions be discharged from its further consideration, and that the same be referred to the Committee of Claims. It was so ordered.

JAMES DUNNING.

Mr. KELLOGG, of Michigan, from the same committee, reported a bill granting an increase of pension to James Dunning; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM EDDY.

Mr. KELLOGG, of Michigan, from the same committee, also reported a bill granting an invalid pension to William Eddy; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHARLES APPLETON.

Mr. KELLOGG, of Michigan, from the same committee, also reported a bill granting an invalid pension to Charles Appleton; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HUGH BAKER.

Mr. KELLOGG, of Michigan, from the same committee, also reported a bill granting an invalid pension to Hugh Baker; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MARY DOUGLAS.

Mr. KELLOGG, of Michigan, from the same committee, also reported back the memorial of Mary Douglas, and asked that the Committee on Invalid Pensions be discharged from its further consideration, and that the same be referred to the Committee on Revolutionary Pensions. It was so ordered.

SAMUEL HAMILTON.

Mr. POSTER, from the same committee, reported a bill granting an invalid pension to Samuel Hamilton; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LIEUTENANT ROBERT CUNNINGHAM.

Mr. FOSTER, from the same committee, also reported a bill for the relief of Lieutenant Robert Cunningham; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MARY SHERCLIFF.

Mr. FOSTER, from the same committee, also reported a bill granting a pension to Mary Shercliff, widow of John Shercliff; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THOMAS CRAWFORD.

Mr. FOSTER, from the same committee, also made an adverse report on the case of Thomas Crawford; which was laid on the table, and ordered to be printed.

THOMAS GLASGOW.

Mr. STOKES, from the same committee, reported a bill granting an invalid pension to Thomas Glasgow; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ELIZA REEVES.

Mr. STOKES, from the same committee, also reported a bill granting an invalid pension to Eliza Reeves; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM K. BLAIR.

Mr. STOKES, from the same committee, also reported back the petition of William K. Blair, and asked that the Committee on Invalid Pensions be discharged from its further consideration, and that the same be referred to the Committee on Revolutionary Pensions.

It was so ordered.

HENRY FEDLER.

Mr. HALL, from the same committee, reported a bill for the relief of Henry Fedler; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

A. W. FLEMING.

Mr. HALL, from the same committee, also reported a bill for the relief of A. W. Fleming; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM PIERCY.

Mr. HALL, from the same committee, also reported a bill for the relief of William Piercy; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JANE B. EVANS.

Mr. BURNHAM. I am instructed by the Committee on Patents to report a bill for the relief of Jane B. Evans, and to ask that it shall receive its several readings and be passed.

The bill was read a first and second time. It provides for the extension of the patent granted to Cadwalader Evans, for an improvement in steam boilers and apparatus to be used on board steamboats to prevent the explosion of boilers, for seven years from the 15th of April, 1860, for the benefit of Jane B. Evans, his widow, her heirs and assigns.

Mr. HOAK. I object to that bill being put upon its passage.

Mr. WINSLOW. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar. I believe the morning hour has expired.

The SPEAKER. The motion of the gentleman from North Carolina is in order.

Mr. WHITELEY. I would ask if a single objection prevents a bill from being put upon its passage when it contains no appropriation?

The SPEAKER. It does not.

Mr. WHITELEY. Then the motion of the gentleman from Connecticut, to put the bill upon its passage, is in order.

Mr. TAPPAN. There are a few more reports to be made. I hope we shall go on and receive them.

Mr. WINSLOW. They can be received tomorrow.

Mr. WHITELEY. How did the gentleman from North Carolina get the floor to make his motion?

The SPEAKER. The morning hour has expired, and the motion of the gentleman from North Carolina is in order.

THE PRIVATE CALENDAR.

The question was taken on Mr. Winslow's motion; and it was agreed to; and the House resolved itself into a Committee of the Whole House, (Mr. FOSTER in the chair.)

The CHAIRMAN. The Chair will hold that adverse reports are not for consideration to-day; but, under the rules of the House, bills must be considered to which no objection shall be made.

Mr. HOUSTON. Does the Chair refer to all adverse reports, or to those only from the Court of Claims?

The CHAIRMAN. Adverse reports from the Court of Claims are not to be considered to-day. This is "objection day," and the committee will consider the bills upon the Calendar to which no objection shall be made.

Mr. MAYNARD. I would suggest, if there is no objection, that the adverse reports from the Court of Claims might be laid aside, to be reported to the House with a recommendation that they be concurred in.

Mr. WINSLOW. I think we had better go on in the regular order.

The committee then proceeded to consider the bills and joint resolutions in their order on the Calendar.

COMMANDER H. J. HARTSTENE.

A resolution (S. No. 11) for the relief of Commander H. J. Hartstene, of the United States Navy. The resolution directs the accounting officer of the Treasury to allow and pay the sum of \$2,008 60 to Commander H. J. Hartstene, on account of expenses incurred by him in restoring the bark Resolute.

Mr. HOUSTON. Read the report.

The CHAIRMAN. There is no report accompanying the resolution.

There being no objection to the joint resolution, it was laid aside, to be reported to the House with a recommendation that it do pass.

ANSON DART.

A bill (H. R. No. 290) for the relief of Anson Dart. [Objected to by Mr. THOMAS.]

TENNESSEE RIVER IMPROVEMENT.

A bill (H. R. No. 89) to liquidate the undischarged contracts of the Tennessee river improvements. [Objected to by Mr. TOMPAINS.]

WILLIAM BROWN.

A bill (H. R. No. 229) for the relief of William Brown.

The bill directs the Secretary of the Treasury to pay to William Brown, for property taken for the use of the United States troops in the war of 1812, \$500, out of any money in the Treasury not otherwise appropriated.

The report was read. The evidence shows the claimant to have been a man of means during the war of 1812, and that he was liberal in his efforts to sustain the honor and credit of his country. His losses were evidently heavy; but, under principles laid down by the committee in a number of cases already decided, the Government cannot be held liable for these losses. The testimony, however, shows that Mr. Brown surrendered for the use of the troops, on demand of officers of the Government, a wagon, two horses, and certain goods; which were reasonably worth, at the time, the sum of \$500, and this the committee think is a fair charge against the Government.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

LYDIA FRAZEE.

A bill (C. C. No. 93) for the relief of Lydia Frazee, widow and administratrix of John Frazee, late of the city of New York.

The bill directs the Secretary of the Treasury to pay to Lydia Frazee, widow and administratrix

of John Frazee, late of the city of New York, the sum of \$2,908; being in full for the services of John Frazee, as architect and superintendent of the New York custom-house, from the 3d of March, 1841, to the 21st of May, 1842.

The report was read. It appears therefrom that John Frazee was employed by proper authority as the architect and superintendent of the custom-house in New York, at a compensation of nine dollars a day. On the 5th of December, 1840, he was dismissed from that employment, and on the 3d of March, 1841, he was reinstated in it. He continued to perform the duties of architect and superintendent from the day last mentioned till the completion of the custom-house, some time in the spring or summer of the year 1842. The precise time when the custom-house was finished being uncertain, Mr. Durfee stating it to be early in the spring, and Mr. Lannitz in the summer of 1842, we have adopted the day stated by the decedent on oath; first, because it is so stated, and second, because it is about intermediate between the period stated by Mr. Durfee and that stated by Mr. Lannitz. The petitioner claims that the decedent was entitled to compensation from the 5th of December, 1840, till the 3d of March, 1841, as well as afterwards; but our opinion is that he did not, during that interval, perform the duties of architect and superintendent. This is obvious from the report of the deputy naval officer and surveyor.

On the other hand, it is objected that after the 1st of May, 1841, the decedent served gratuitously. It is plain that he made an offer to do so, but it seems to us to be equally plain that his offer was never accepted. Moreover, the just inference from the evidence is, that if it had been accepted, then, upon an arrangement for that purpose being formally made, two conditions would have been annexed; first, that his pay from December 5, 1840, till March 3, 1841, should have been made good to him; and second, that the work should be completed on or before the 1st of August, 1841. Our opinion is that there never was any definite and binding arrangement for him to serve gratuitously. The Secretary of the Treasury took no notice of the offer made by him for this purpose. In this respect he acted wisely. If the United States needed the services of the decedent, justice, as well as public policy, required that they should make him a fair and reasonable compensation therefor. If they did not need his services, then he ought not to have been employed.

The opinion of the committee is that the decedent was entitled to compensation, at the rate of nine dollars a day, from the 3d of March, 1841, till the 21st of May, 1842, subject to a deduction of \$522, the amount found due by the select committee, under the act of Congress approved May 18, 1842, (5 Statutes at Large, p. 485, ch. 29, No. 179), and of thirty-nine dollars for articles made for the decedent at the custom-house. For three hundred and eighty-one days, at nine dollars a day, \$3,429, subject to a deduction of the sum of the two sums just mentioned, \$561, leaving a balance of \$2,868.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MARIANO G. VALLEJO.

A bill (C. C. No. 92) for the relief of Mariano G. Vallejo.

The bill directs the Secretary of the Treasury to pay to Mariano G. Vallejo, in full for the occupation by the troops of the United States of a building on the square of Sonoma, in California, from May 30, 1848, to August, 1853, the sum of \$4,800.

The report was read. It shows that on the 4th of August, 1846, the United States, then at war with Mexico, occupied a building on the square of Sonoma, called in the evidence the cartel, or barracks; it was at this time in the possession of the Revolutionists in California, known as the "Bear party," and had previously been in the occupation of Mexican troops under the command of General Pico. The building was situated in the district. Munitions of war belonging to Mexico, and three hundred horses, brand of different brands, were found in the barracks and captured by our troops. The United States occupied the barracks as soldiers' quarters from August 4, 1846, (Records, p. 103,) to the 16th of August, 1848, (R. p. 35.) They were then left by the Uni-

ted States, and came into the possession and occupancy of the petitioner, (R., pp. 88, 93.) In the month of June, 1849, (R., p. 44,) they were again employed by the soldiers of the United States, and continuously thereafter until the 31st of January, 1852, when they were delivered in charge to Mr. Bartlett, an agent of the United States, (R., p. 44,) appointed by the United States chief quartermaster for the Pacific division, and they remained in the use of the quartermaster's department until August, 1853, (Sed. brief, p. 13.)

The petitioner alleges that the premises thus occupied by the United States belonged to him; and he claims to be paid for such occupancy as follows: From July, 1846, to July, 1849, twenty-four months, at \$300, \$4,800; from July, 1849, to July, 1851, thirty-six months, at \$10, \$360; from July, 1851, to August, 1853, twenty-five months, at \$200, \$5,000; total, \$10,600. Upon all the evidence, it is considered that a reasonable rent to be paid by the United States is \$250 per month from June, 1849, to July, 1851, and \$300 per month for the other portions of their occupancy after May 30, 1848, thus: from May 30, 1848, to November 16, 1848, four and a half months, at \$200 per month, \$1,100; from June, 1849, to July, 1851, twenty-six months, at \$250 per month, \$6,500; from July, 1851, to August, 1853, twenty-two months, at \$300 per month, \$6,600; total, \$12,200. The Committee of Claims report that, after an examination of all the testimony submitted to the court, they are of the opinion that the allowance of the sum of \$12,600 is an extravagant one, and not justified by the evidence. The following allowance appears to them to be not only fair under the proof, but liberal: rent from May 30, 1848, to November 16, 1848, at \$300 per month, \$1,100; rent from June, 1849, to July, 1851, at \$200 per month, \$5,300; rent from July, 1851, to August, 1853, at \$100 per month, \$2,500; total, \$8,900. And they therefore report back the bill from the Court of Claims, with an amendment, to strike out "twelve thousand six hundred," and insert "eight thousand eight hundred."

The amendment reported by the Committee of Claims was agreed to and the bill, as amended, was laid aside, to be reported to the House with a recommendation that it do pass.

SHADE CALLAWAY.

A bill (H. R. 230) for the relief of Shade Callaway.

The bill directs the proper accounting officers to allow and pay out of the Treasury to Shade Callaway the sum of \$1,350, for work done by him on the Tennessee river, under his contract with Brevet Lieutenant Colonel J. McClellan, dated September 16, 1853, according to the account approved and certified by the agent placed in charge of the work at the death of the officer.

It appears, from the report, that on the 16th of September, 1853, the petitioner made a contract with Brevet Lieutenant Colonel J. McClellan, an officer of the United States Army, for the improvement of the Tennessee river, for the construction of a dam at the head of Ross's Island, to be two feet high and two hundred yards long, for which he was to be paid \$1,500. The dam was completed on the 30th of November, 1853, "if the high water were to arise in accordance with the terms of the contract. At this stage of the work, in August, 1854, Colonel McClellan ordered it to be suspended, for the reason that the appropriation made by Congress was not sufficient to complete it. On the 1st of December, 1854, without having reported to the Department the condition of the work done under the said contract, the Secretary of War appointed K. W. W. Byrd, who had been assistant under Colonel McClellan, to take charge of and "to execute the same, then in charge, connected with the improvement of the Tennessee river."

This officer duly approves and certifies that the petitioner's account for \$1,350, which is the proportional amount due for the work done in pursuance of the contract. This certificate is appended to this report. The witnesses are Samuel C. Davis, James Lewelling, John Long, and John

Finley, fully prove the faithful execution of the work according to the terms of the contract; and the official certificate of Mr. Byrd and the testimony of J. E. S. Blackwell, one of the commissioners of the United States appointed for this river, to establish the fact that no payment was made to Callaway, or to any other person for him. But this latter fact also sufficiently appears in the accounts of the work, for it is not claimed that any payment was made.

In the letter of the Third Auditor of the Treasury, dated November 19, 1855, all the material facts of the case are admitted, but the certificate of the agent of the United States, R. W. W. Byrd, is discredited, because not sworn to, and for the reason that Colonel McClellan's reports to the Department do not give information of this particular part of the work under his charge. This omission, however, is fully accounted for by the sudden death of that officer, which took place very soon after he had ordered the work to be suspended. But the objections of the Auditor are based chiefly upon the absence of proof, and it is to the State that the affidavits appended to the report were not before him, as their dates will show. It is apparent, from the Auditor's letter, that the condition of the appropriation fully justified the contract at the time the latter was made, and the progress of the work. The contractor had no means of ascertaining condition of the funds, and perhaps even the officer in charge himself could not accurately proportion the different parts of the improvement to the sum in hand; but there can be no good reason why this bill alone should remain undischarged. The claim of the petitioner is the following:

The United States to Shade Callaway, Dr.

(On account of Tennessee river improvements.)
For building one hundred and eighty yards of dam at Ross's Island, in Tennessee, \$12,600.....\$12,600.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

ISAAC S. SMITH.

A bill (H. R. No. 231) for the relief Isaac S. Smith, of Syracuse, New York.

The bill appropriates, out of any money in the Treasury not otherwise appropriated, the sum of \$17,743 77 to be paid to Isaac S. Smith, of Syracuse, New York, for his work and labor bestowed, for materials furnished, and for expenses incurred, in building for the United States a light-house on the Horse-Shoe reef, in the Niagara river, near Fort Erie, in the province of Canada.

It appears, from the report of the committee, which was read, that the petitioner claims compensation for losses sustained by him by reason of the termination on the part of the Government of a contract made by him with the United States to construct a light-house on Horse-Shoe reef, in the Niagara river, near Fort Erie, in the State of New York; that, in 1851, Congress appropriated \$45,000 for the erection of a light-house on this reef, and presented to the President the same year a memorial from the petitioner, who had addressed a letter to the then Secretary of the Treasury, proposing to construct for the Government a foundation and light-house thereon, in conformity to certain drawings and descriptions there annexed, filed on the 18th of November, 1851, with the Secretary of the Treasury. The committee, in their report, set out in detail the articles of agreement with Sullivan Ketchum, Esq., collector of customs and superintendent of lights at Buffalo, in behalf of the United States, for the construction of the said light-house, on a plan devised by the petitioner, submitted to the Secretary of the Treasury, and approved by him. By the terms of the contract, the whole price to be paid to him for the materials and building the light-house was \$40,000; but in view of the novelty of the plan, and to secure the Government against loss, if the structure should not be completed, the contract provided that, in the current of the river, and the ice, it was stipulated that the Government should pay to Mr. Smith, on the completion of the house, "the satisfaction of such person as should be appointed by the Secretary of the Treasury to oversee and certify the work." The sum of \$40,000 was the other sum of \$20,000 within twelve months afterwards, if, in the mean time, the work should be found to have successfully withstood the effects of the ice, winds, and storms, but not otherwise; it being a part of said agreement that the first payment should be a full discharge of the contract, and that if the work should have received essential

damage from the causes aforesaid, or should exhibit any deficiency in its construction.

It appears that Mr. Smith immediately commenced the erection of the work; but that in consequence of the cold weather setting in, he was unable to make any progress until the summer following, when the ice broke up. The engineers of the Government were entirely mistaken in reference to the rocky character of the reef. Instead of finding it a solid rock, he excavated to the depth of eleven and one half feet into the substance of the reef, to a point about nineteen feet below the surface of the water, when he came to rock; but finding only boulders, gravel, shells, and sand. Immediately on discovering that there was no rock at practicable depth below the water, Mr. Smith, on the 23d of August, 1852, applied for, and obtained from the Secretary of the Treasury, an extension of the time, and also a modification of the plan of construction; which extension, dated August 28, 1852, concludes in these words: "If Mr. Smith concludes to progress with the work, agreeable to the above, the additional time he may require shall be granted." The evidence in the case shows that the petitioner is not chargeable with negligence in the prosecution of the work after the time was extended, as above stated. Indeed, the testimony of Captain Benham, the engineer in charge of this work, to the probability of the success of the project, is so strong and full, and, in the opinion of the committee, so just, that they extract it from his letter to the Secretary of the Treasury of August 27, 1852, as follows:

"I would only add that I take great pleasure in giving my testimony to Mr. Smith's evident honesty and integrity in this matter; to the desire he has constantly shown to construct the work of the best materials, and in the strongest manner; and to his undisturbed and untiring efforts, all of which would lead me to recommend, should his plan be deemed feasible upon such a site as this one appears to be, my reasonable indulgence as to the extension of time that he may desire."

There is no pretense set up that Smith, after the extension of time, did not prosecute the work with his accustomed energy and skill. It appears from Mr. Smith's letter to the Secretary of the Treasury, of October 18, 1852, that the Secretary of the Treasury had overlooked the letter of 28th August, 1852, from the acting Secretary, extending the time of performance of Smith's contract indefinitely, or, in his own words, granting him "such time as he might require, but not more than a reasonable time." But at this time, (October 18, 1852,) the Secretary's second letter, extending the time of performance of the contract, was returned by Keichum to the Secretary, without delivery or notice to Smith. In his last report Captain Benham says:

"Yet his persevering determination to attempt to execute his contract under so many unexpected and opposing circumstances, and against the adverse opinions of many, perhaps nearly all, other persons who have examined the subject, leads me to fear that the further prosecution of this work must result in a continued, and, perhaps, much more extensive expenditure of money than was originally contemplated. Withholding every precaution that may be taken by the officers of the Treasury Department, I have reason for thinking it not only possible, but probable, that the project will be called upon, and perhaps successfully so, to terminate."

On the 13th May, 1853, after the lapse of some weeks, months from the date of Benham's report, the Secretary transmitted to Mr. Smith the report of the "committee on engineering," respecting his plan for constructing the light-house; which plan had been previously adopted, and the time for construction was then extended. The course appears to have been in violation of the extended contract on the part of the Government, and unjust to Mr. Smith. It is in proof that during the winter of 1852-53 Mr. Smith was pushing on the work on the modified plan in every part of it (which would admit of prosecution during that season, and he was doing this with the consent of the Government. The eagerness and energy with which Smith was prosecuting his contract in October, 1852, was such as to attract the attention of Captain Benham. Nevertheless, the Government, by its own admission, abandoned the same time seem to have mediated a rejection of the plan, but neglected to inform Smith of that intention. This conduct of the Government, not through design, but neglect, seems wholly inconsistent with the rights of the petitioner. Had the Government, even after the termination of the contract, notified him of construction, did not notify him of the termin-

tion of his contract. But again, on the 21st of January, 1854, a period of more than eight months, the Light-house Board, by Captain Harwell, its secretary, issued instructions to Captain J. C. Woodruff "to report again upon the feasibility of Smith's plan of constructing the light-house, and to state the time which will be required for that purpose." On the 6th May, 1854, P. G. Washington, for the Secretary of the Board, directed the secretary of the Light-house Board to notify Smith "that his contract for building the light-house had been annulled."

On the 12th May, 1854, Captain J. C. Woodruff, light-house inspector of the tenth district, wrote to Captain Harwell, secretary of the Light-house Board, informing him that he had immediately communicated to Smith Mr. Washington's letter annulling Smith's contract for building the light-house. In this letter Captain Woodruff states:

"I have been aware that Mr. Smith has been engaged at various times during the intervals of labor on the reef in experiments to test the practicability of cutting out the cause for the fouling of his shaft, excavation by drillings and blasting having failed during the last season of work on the reef. He has resumed work at the reef, clearing out the work, which had been done in the winter, and the waves with stone from the adjacent compartments of the crib. This operation has been nearly completed. He has his engine ready to transport to the reef, and is waiting out the stone. This statement seems to be called for from the nature of his reply to my letter, that the Board may be advised from this office of the extent of his operations on the cause."

It also appears, from accounts and vouchers, that the actual expenses for labor and materials furnished, after deducting for materials received, amount to the sum of \$13,543 77, exclusive of Mr. Smith's own services during the period the work was in progress, from the 23d of July, 1851, to the time he was notified of the annulling of his contract by the Government, on the 12th of May, 1854—a period of two years nine months and eighteen days. He estimates the value of his personal services at the rate of \$2,000 per year for the time he was employed in this work. This sum is deemed higher than it would be reasonable to allow, all the circumstances considered, and a compensation is allowed at the rate of \$1,500 per year, for the above period of two years nine months and eighteen days, amounting to the sum of \$4,200; making in the whole the sum of \$17,743 77.

Mr. HOUSTON. I do not want to object to that bill for I know nothing about it, and the facts are disclosed by the report of the committee, which has just been read. I would like to know from the gentleman who made the report whether he applied at the Treasury Department or to the Light-house Board, where the information was properly to be sought, to learn why the Secretary of the Treasury annulled the contract of Mr. Smith? Was there no explanation from either the Treasury Department or the Light-house Board in reference to that point?

Mr. EDWARDS. It is in that order.

The CHAIRMAN. It is not, if objected to.

Mr. HOUSTON: If objection is made to the House ascertaining whatever information there may be on that subject, then I will be compelled to object.

Mr. NIXON. In reply to the interrogatory of the gentleman from Alabama, I will say that application was made to the Department, and it was stated that the annulment of the contract was made during a previous Administration. I understand that Mr. Guthrie, then Secretary of the Treasury, admitted to Mr. Smith and his friends that he did do Mr. Smith injustice. We were told that, as the proceeding took place under a preceding Administration, the present Administration did not feel itself responsible for what had taken place.

Mr. HOUSTON. I am not looking to find what Administration the proceeding took place under; not at all, sir. If the Treasury Department had no good reason for annulling the contract, then the bill ought to pass; if there was good reason, then it ought not to pass.

Mr. NIXON. The committee looked into the matter, and were satisfied, from the facts brought to their knowledge, that the bill ought to pass.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

WILLIAM GEIGER.

A bill (H. C. No. 96) for the relief of William Geiger.

The bill directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to William Geiger, in full for all claims against the United States, by virtue of his contract made on the 18th of October, 1854, at Fort Smith City, with Captain French, for lime, stone, and mason work, for and on the barracks at Fort Washita, in the Cherokee nation, the sum of \$4,010 62.

The CHAIRMAN. The Committee of Claims concur in the report of the Court of Claims, and recommend the passage of the bill.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

DECEASED CUSTOM-HOUSE CLERKS.

A bill (H. R. No. 233) for the relief of the legal representatives of five deceased clerks in the Philadelphia custom-house.

The bill and report were read in extenso.

Mr. SMITH, of Virginia. The amount proposed to be appropriated is too large to be hastily passed by this committee.

Mr. FLORENCE. I trust that it will not be objected to this bill.

Mr. JOHN COCHRANE. What is the amount of the bill?

The CHAIRMAN. It directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to the legal representatives of David Gibson, John B. Shill, Eli Valente, William Bryant, and C. G. Treichel, deceased, late clerks in the Philadelphia custom-house, the sums due them respectively for arrears of compensation, amounting, in the aggregate, to \$9,895 17, as per certified statement of the custom-house.

Mr. SMITH, of Virginia. Let the bill be informally passed over until we can look into it.

Mr. WINSLOW. We had better go on regularly.

The CHAIRMAN. Then the bill must be considered at this time. Is there objection?

Mr. SMITH, of Virginia. If I cannot have an opportunity to look into the bill, I must object.

LOT HALL.

A bill (H. R. No. 16) for the relief of the heirs of Lot Hall.

The bill directs the proper accounting officers of the Treasury to settle and pay to the heirs and legal representatives of Lot Hall, deceased, who was a lieutenant of marines, under Lieutenant United States during the Revolution, the sum of \$1,906, together with the interest thereon, at six per cent. per annum, from May 25, 1840, for the pay of a lieutenant of marines, due to Lot Hall, and for the subsistence of Hall while a prisoner of war, and also for the share of prize-money due to him, under the resolutions of Congress, for the proceeds of the vessels captured by Lieutenant Payne, while Hall was under his command.

The report was read. It shows that Lot Hall entered the service of the United States in May, 1776, as a lieutenant of marines, under Lieutenant Elijah F. Payne, of the ship Randolph, of twenty guns, then lying at Charleston, South Carolina, under the command of Robert Cochran; that Hall entered the service under the regulations of Congress, and the directions of General Washington, in Massachusetts, where he enlisted twenty-nine men and a boy, whom he transported to Providence, Rhode Island, and placed, as well as himself, under the command of Lieutenant Payne. From Providence they sailed in June, 1776, with a design to make a cruising voyage to Charleston, South Carolina, to join their ship, (the Randolph.) On their passage they took four prizes, the last of which Hall was put on board of as prize-master, with orders to take the prize into Boston; but she was retaken by a British vessel, and Hall carried a prisoner of war to Glasgow, in Scotland, where he was detained about a year, when he was enabled to take passage for Virginia, where he arrived about the 1st of January, 1778, as an exchanged officer; and through the munificence of Patrick Henry, then Governor of Virginia, he was enabled to reach his home in Massachusetts February 22.

Mr. BURNETT. I move to strike out the interest clause from the bill. If it is struck out, I shall have no objection.

The amendment was agreed to.

The bill, as amended, was laid aside, to be re-

ported to the House with a recommendation that it do pass.

THOMAS ATKINSON.

A bill (H. R. No. 234) for the relief of Thomas Atkinson, of Parke county, Indiana. [Objected to by Mr. BEANETT.]

CONGRESSIONAL TOWNSHIP IN ILLINOIS.

A bill (H. R. No. 235) for the relief of congressional township two north, of range nine west, of the fourth principal meridian, in Adams county, State of Illinois.

The bill recites that section sixteen, in township two north, of range nine west, of the fourth principal meridian, in Adams county, Illinois, is located in a lake, or pond, and is, in consequence thereof, wholly unfit for cultivation, and is worthless to the inhabitants of said township for school purposes; and therefore it authorizes the school trustees for the said township to select one section of land in legal subdivisions of any of the public lands of the United States subject to entry or sale at the minimum price of \$1 25 per acre; and further provides that when the same shall have been selected by the trustees, and a description thereof returned to the State, as required by the Commissioner of the General Land Office, a patent or patents shall issue therefor to the inhabitants of the congressional township, and shall be held and disposed of by them for the use of schools within the congressional township in the same manner as other school lands now sold and disposed of; and that section sixteen in the township shall revert to and invest in the United States, and be disposed of in the same manner as other public lands.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JOHN DIXON.

A bill (H. R. No. 236) for the relief of John Dixon.

The bill directs the Secretary of the Interior to issue a bounty land warrant for one hundred and sixty acres to John Dixon, of Dixon's Ferry, in Illinois, for services rendered in the Black Hawk war.

Mr. BURNETT. Is there a report accompanying that bill?

Mr. LOVEJOY. There is no report; but the facts upon which the bill is based are well known to my colleagues on the Committee on Public Lands, and to several colleagues from my State. This Mr. Dixon was one of the earliest soldiers in that part of the State of Illinois, and rendered efficient and essential services to the troops in ferrying them across the river, and in providing them with means of support—not at his own expense, it is true; but his services were gratuitous. He was in good circumstances then, and refused to charge anything for his services. He is now old and poor, and he asks for one hundred and sixty acres of land. The committee were unanimous in reporting that his prayer should be granted.

Mr. WASHBURN, of Illinois. I can bear testimony to the correctness of all that my colleague has said in reference to that venerable old man. He rendered efficient services in the Black Hawk war.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

ROBERT JOHNSON.

A bill for the relief of Robert Johnson. The bill authorizes Robert Johnson to locate, on any of the public lands of the United States subject to location with military bounty land warrants, certain bounty land warrants issued under the act of 11th of February, 1847, to certain soldiers; the discharges received by the soldiers after the expiration of their respective terms of service, having, as is alleged, been purchased from them for a valuable consideration; provided, that if it shall hereafter appear that the soldiers did not, in whole or in part, receive a fair and valuable consideration for such discharge, it shall be lawful for them or their heirs, to assert their service respectively in a court of law; and the particular tracts selected in satisfaction of the warrants shall be subject to such claims in law or equity, and the patents which may issue for such tracts shall certify accordingly; and provided further, that any assignment made of either of the land

warrants, or the limitations thereof, prior to the issuing of patents, shall be absolutely null and void in law and equity.

Mr. HOUSTON. I think the proviso of that bill is objectionable, and I must object to the bill, unless it is modified so as to make the assignment show that this legislation couples with the land warrant the liability of redempcion upon the part of the heirs; for instance, this bill, as I understand it, will authorize Johnson to transfer the warrant to me, or to any other man. The assignee will not know of this law, and you authorize the heirs hereafter to reclaim and recover those lands without their assent, if their ancestors did not get full value for their discharges. The result will be that you will throw the loss upon innocent men, instead of upon Johnson himself.

Mr. SMITH, of Virginia. I desire to make an inquiry, in reference to another point, of the chairman of the committee, or of the member who reported the bill. It seems that Johnson's title is derived under a power of attorney. Of this power of attorney we have no evidence, except upon his allegation, unless there be such evidence on file with the committee.

The CHAIRMAN. The Chair will state, that while he is disposed to indulge inquiry, yet debate is not in order; and unless the bill is objected to, it will be laid aside, to be reported to the House.

Mr. SMITH, of Virginia. The bill is of too much importance to be acted upon hastily.

Mr. COBB. I will say that the bill was drawn up at the Land Office, with a view to protect every person's rights.

Mr. GARTRELL. I object to the bill.

GEORGE F. BROTT.

A bill (H. R. No. 239) for the relief of George F. Brott.

The bill authorizes George F. Brott to enter the following described lands: Lots Nos. 1, 2, 3, 4, and 4, and the southeast quarter of the northwest quarter, and west half of southwest quarter of fractional section thirteen; and the south half of the northeast quarter, and the southeast quarter of the northwest quarter, and the east half of the southeast quarter of section fourteen; and the east half of the northeast quarter of section twenty-three, and lot No. 1, in section twenty-four, all in township one hundred and twenty-four north, of range twenty-eight west, in the district of lands sold by the sale at the land office at St. Cloud, Minnesota; said tracts containing five hundred and sixty-two and twenty hundredths acres, upon the payment by Brott of the usual minimum of \$1 25 per acre therefor; and directs the Commissioner of the General Land Office to issue a patent on the entry.

Mr. ALDRICH. There is no report accompanying this bill; but I am familiar with this case, and hope no gentleman will object to it. Mr. Brott was a mail carrier under the law granting preemption rights to mail carriers made by the Mississippi bill, which has already passed the House, this winter, confirming all the entries made by mail carriers. Mr. Brott has never been able to enter his land, and pay for it as other carriers have done, for the reason that the plat of survey was not returned in season, and not until the Secretary of the Interior put such a construction upon the law as would prevent him from allowing the land to be entered by Mr. Brott. He now asks the privilege; and asks that this bill be passed, authorizing and allowing him to enter this land under that law.

He will also state that I hold in my hand a petition, signed by a number of individuals who reside on that land. He proposes to enter the land, and pay the Government \$1 25 an acre; which is all they ask.

Mr. BURNETT. What do the Interior Department say upon the subject?

Mr. ALDRICH. They recommend the passage of the bill.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

EBEN S. HANSCOMB.

A bill (H. R. No. 225) for the relief of Eben S. Hanscomb.

The reading of the report was called for.

Mr. HAIRM. N. There is no report accompanying this bill.

Mr. STANTON. I think that is a very satisfactory reason why the bill should be objected to. Bills of this sort ought to be accompanied with some explanation.

Mr. ALDRICH. The facts are stated in the memorial.

Mr. STANTON. I object.

CARLES M. CLAY.

A bill (H. R. No. 240) for the relief of Cassius M. Clay. [Objected to by Mr. Moore, of Alabama.]

CHARLES T. SCAIFE.

A bill (C. C. No. 82) for the relief of Charner T. Scaife, administrator of Gilbert Stalker.

The bill directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to Charner T. Scaife, administrator of Gilbert Stalker, deceased, \$5,615 16 in full, for the use and service of the accomachee James Adams, belonging to Stalker, from August 1, 1841, to July 9, 1842.

The report was read. It shows that this is a claim for a certain sum alleged to be due the estate of Gilbert Stalker, deceased, for certain services of the accomachee James Adams, of which Mr. Stalker was the owner. The boat was, on the 22nd of December, 1840, chartered for the United States by Captain Ogden, quartermaster, at \$2,500 a month. The service of the boat under the charter-party was to the Seminole war in the west side of Florida. The boat was discharged on the 26th of April, 1841. On the 28th of April, 1841, the same boat was chartered on the part of the United States by Major Thimmas, quartermaster, at \$2,000 a month, and was in service on the west side of Florida, in the war with the Seminole, until the 9th of July, 1842, when she was discharged. On the 28th of September, 1842, Captain Hill, quartermaster, chartered said boat for the United States at \$1,500 a month, for a service similar to that above mentioned. The amount chargeable to the United States for the service of the boat under those three charter-parties has been long since paid. But the claimant alleges that his intestate, Stalker, is entitled to \$500 a month for the service of the boat, from the 1st of September, 1841, until the 9th of July, 1842, in addition to the \$1,000 a month received by him under the charter-party of the 28th of April, 1841. This claim for additional pay is founded on a promise made by General Worth, who was the commanding officer, to Mr. Stalker, the owner of the boat, on the 28th of April, 1841. It cannot be said that the promise was without consideration; for either can it be said that the promise was made without authority, it having been made by the commanding officer in the presence of the quartermaster. It would, no doubt, have been more regular if the general had made a new charter-party for the boat; but still, as the unusual service was performed in consequence of the promise, it seems to be proper that the Government should pay for it. The charge for the service from the time of the promise to that of the discharge of the boat is \$5,615 16, for which sum we report a bill.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MOSES NOBLE.

A bill (C. C. No. 12) for the relief of Moses Noble.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Moses Noble, agent for the brig General Hayne and the schooner Delta, of Sardinia, Five Sisters, Commonwealth, and Two Brothers, for the benefit of the persons entitled thereto, the sum of \$1,704 68, the same being for fishing bounties to which the vessels became entitled in the fishing season of 1859.

The report was read. It appears that this is a claim for fishing bounties, under the act

of June 19, 1813. In the spring of 1852, the claimant, as the agent and manager of certain fishing vessels, engaged masters, or skippers, for the fishing season, and caused each of the masters to make an agreement with every fisherman employed in each of the vessels in accordance with the act of Congress. Under the law, the owners of the vessels became entitled to be paid by the collector of the district of Portsmouth, New Hampshire, out of any money of the United States appropriated for such purposes, the sum of \$1,074 68. The payment, however, was refused by the collector, on the ground that no log-book of the voyage was furnished him; but the Secretary of the Treasury, to whom an appeal had been taken, refused the allowance on account of a slight infirmity in the instrument of agreement with the fishermen. The Court of Claims decided that the agreement with the fishermen was substantiated by the fishermen with the act of Congress of June 19, 1813, and reported the bill for the relief of the claimant. The Committee of Claims concur with the Court of Claims in this view, and accordingly report back the bill without amendment and recommend its passage. The committee add, that no question as to the entire legality of the contract made with the fishermen. The informality was an omission in reducing the contract to writing. This omission the Court of Claims held to be immaterial, in which opinion the committee concur.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

ROBERT H. MORRIS'S REPRESENTATIVES.

A bill (H. R. No. 242) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York.

The bill directs the Auditor of the Treasury for the Post Office Department to readjust and audit the account of Robert H. Morris, late postmaster of the city of New York, from May 26, 1845, to June 1, 1846, and to allow in the account all sums of money paid out by Morris for defraying the expenses of the office within that period, including the amount paid on account of the city dispatch office; provided that, in the opinion of the Postmaster General, such expenses were properly incurred and were necessary for the business of the office. And, in addition thereto, the Auditor shall also allow, for the same period, such sum as should make the compensation of Morris equal to the sum of \$2,000 per annum, as provided for by the act of March 3, 1845. If the sum so found to be due, shall be paid to the executor or other legal representative of Morris, out of any money appropriated for the Post Office Department.

The report was read. It appears therefrom that R. H. Morris was postmaster of New York when the act of March 3, 1845, in relation to postages, took effect, namely, July 1, 1845, and continued to act in that capacity until 1849; that in consequence of the act of March 1845, the commission fund for the post office was appropriated to the local expenses of the office, owing to the great increase of the business of the office, resulting from the reduction of postage as provided for by the act, became wholly insufficient for the purpose; that he was compelled to meet the demands of the public, and to procure the discharge of the duties, to increase the number of clerks, and augment other contingent expenses. It appears that these charges were all properly presented, and appeared in the quarterly returns of Mr. Morris to the Post Office Department. They were allowed at the time; but, on the settlement of the account for the fiscal year, these charges for expenditure, amounting to \$5,680, were stricken out and disallowed, simply on the ground that the Department, under the law which regulated its powers, the commission fund being exhausted, had no authority to pay them, and not on the ground that they were not necessary and proper in themselves. Mr. Morris was then compelled to pay over the amount for which he had creditted himself. It appears that, for that year, Mr. Morris received only \$1,045 81 for his services.

It appears further, that the commission fund, out of which expenses were paid, was also reduced by the action of Mr. Morris's predecessor, who, shortly before going out of office, removed the post office from the returns in New York to the Dutch church, and an increased cost for rent of \$4,400 per annum. All these facts appear from

the books and papers of the Department, which also show the fact that between July 1, 1847, and May 19, 1849, Mr. Morris paid over to the Department surplus commissions to the amount of more than thirty-three thousand dollars. It appears further, that Mr. Morris was subjected to a further expense out of his own funds, by the establishment of a city dispatch, under the orders of the Postmaster General, amounting to \$2,331 51. The committee report that, in justice and equity, the legal representative of Mr. Morris should be paid the sum of \$5,680, the amount paid by him for clerk hire, &c., for the year ending June 30, 1846. Also, the sum of \$354 19, to make up for the same year the amount of \$2,000, to which he was entitled by the act of 1825; and the sum of \$2,331 51, being the amount paid by Morris for the city dispatch office during the year ending June 30, 1846.

Mr. JOHN COCHRANE. I would inquire of the chairman of the Committee on the Post Office and Post Roads, whether this is a unanimous report of the committee?

Mr. COLFAX. It is. One member of that committee went to the Old Department, examined the papers in the case, and found that the claim was unquestionably just.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

CHARLES PORTERFIELD'S REPRESENTATIVES.

A bill (H. R. No. 243) for the relief of the legal representatives of Charles Porterfield, deceased.

Mr. STANTON. That case was reported to the last House and discussed. A vote was taken on it, and the bill was defeated by ten majority—the vote being, I think, 78 to 88. I understand that the claim ought not to pass; and it is hardly worth while to take up time in reading the report.

The CHAIRMAN. If the bill be objected to, it is not necessary to have the report read.

Mr. STANTON. I object.

DR. GEORGE YATES.

A bill (H. R. No. 244) for the relief of the heirs of Dr. George Yates.

Mr. CURRY. Interest for about sixty years is provided for in that bill. I object.

MARYETT VAN BUSKIRK.

A bill (H. R. No. 245) for the relief of Maryett Van Buskirk.

The bill directs the Secretary of the Treasury to pay to Maryett Van Buskirk, out of any moneys in the Treasury, the sum of \$20,367, in full payment for the claim for furs, grain, cattle, and other supplies furnished to the American army by the late Thomas Van Buskirk, deceased, of Bergen county, State of New Jersey, during the revolutionary war.

The report was read. It appears therefrom that Maryett Van Buskirk is the lineal descendant of Thomas Van Buskirk, who was in his lifetime a citizen of Bergen county, New Jersey. That during the period of our revolutionary struggle he was a wealthy farmer and grazier, and a man of great influence. The evidence before the committee shows that he was one of the most ardent Whigs of the Revolution, and in a community where a large part of the population was hostile to the American cause. It further appears, from the evidence and certificates on file, that the American troops, at different times, under the command of Generals Wayne, Greene, and other officers, during the period ranging between the years 1777 and 1780, encamped at Harrington, (or Peramus, as sometimes called,) in said county and State. In the latter years—the winter of 1779–80—General Washington, with the main army, was encamped at Morristown, near by. When the committee state that as early as the year 1777 date the poverty and extreme wants of the army, and prostration of the credit of the Government, they state facts known to all men.

It abundantly appears by the evidence that from this time, while our army was in winter quarters at Valley Forge, until the year 1780, Thomas Van Buskirk was frequently applied to by the several officers commanding the American troops for supplies of cattle, horses, forage, grain, and other necessary articles, all of which he furnished; and he frequently purchased articles from others with his own money to enable him to supply the army. The difficult task of obtaining supplies at this

time, and in a part of the State notoriously afflicted; the resort to force by our officers to obtain them, under the command of a resolution of Congress, are facts known in history. The evidence establishes the fact that it was during this time that the ancestor of the petitioner, Thomas Van Buskirk, furnished the supplies, and the evidence shows, with cheerfulness and accuracy, it is also proved that when the British had possession of Philadelphia in 1778, and Colonel Lee had been sent into New Jersey to carry off and destroy all that otherwise might fall into the hands of the enemy, in order to cut off their supplies, among those that suffered in this expedition was Thomas Van Buskirk, who cheerfully gave up what he had. It appears that he seldom was paid in money for his property, but instead received certificates, executed by the several officers in command, as proved by the depositions of parties who saw the officers sign many of the same. One of the witnesses examined on the 1st of December, 1854, says that he was then ninety-six years of age, and that he saw Colonel Lee subscribe two of the certificates, and that he saw the property destroyed, and the objects of the expedition accomplished.

It is satisfactorily proved that the amount of supplies of every kind thus furnished by Thomas Van Buskirk to the American army, with those destroyed by Colonel Lee, amounted to the sum of \$30,367, which is covered by the bounty of the American Government, and remains unpaid. Thomas Van Buskirk died in March, 1811, while the country was yet poor, without having presented his claim for payment. He had been several times requested to do so by his friends, but he declined, assigning as his reason that the country had not recovered from the embarrassments occasioned by the struggle for independence, and that it required the money more than he did; at the same time, he expressed his conviction that the debt would, at a future day, be paid to his heirs.

Mr. JOHN COCHRANE. I would like to ask the gentleman who reported this case, whether it is a unanimous report of his committee. I ask him further, whether the certificates to which this report alludes were presented to their inspection, and the report avers that they all cover this sum of \$30,367.

Mr. BRIGGS. In answer to my colleague, I will say that the committee was unanimous on the report in this case, and that the papers were before the committee.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

HEIRS OF MAJOR JOHN RIPLEY.

A bill (H. R. No. 246) for the relief of the heirs of Major John Ripley.

The bill directs the Secretary of the Treasury to pay to the heirs of the late Major John Ripley, of the town of Windham, in the State of Connecticut, the sum of \$3,000, the commutation pay due for the services of Ripley in the war of the Revolution.

The report shows that Major John Ripley, late of Windham, Connecticut, was commissioned as captain in the continental army on the 6th of July, 1775, and served as such in Colonel Jrdiah Huntington's regiment, in the war of the Revolution, until the 18th of December, 1775, at which time, in May, 1776, he was appointed as captain in Colonel Ward's regiment, and continued in that regiment until the 15th of February, 1777, on which day he was commissioned by the Continental Congress as major. He was afterwards assigned to the command of four companies in the continental army. Major Ripley continued in the service as such until June, 1778, when he became supernumerary on the reduction of the regiments in the Connecticut line from six to two. He was again called into service as major on the 11th of June, 1778, and continued during the war of the Revolution.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

REPRESENTATIVES OF FRANCIS CHAUDONET.

A bill (H. R. No. 247) for the relief of the legal representatives of Francis Chaudonet.

The bill directs the Secretary of the Treasury to pay, out of any moneys in the Treasury not otherwise appropriated, to the administrator of Francis Chaudonet, a lieutenant of General Harris's regiment, the half pay for life promised by

the resolve of Congress of October 21, 1780: Francis Chaudonet having lived to the 6th of April, 1810.

The report of the Committee on Revolutionary Claims states that it appears, from the balloting-book of military service in the war of the Revolution for the State of New Jersey, that Francis Chaudonet served as a lieutenant in General Hazen's regiment of Canadians, and that he drew lands from the State, equal to the amount allowed to such officers as served to the end of the war. It also appears from the testimony of a soldier who served in the regiment of New Jersey, who was well acquainted with Chaudonet, that he served through the entire war. It appears also from the Treasury Department, that Chaudonet did not receive his commutation, or half pay, promised by the resolves of Congress of October 21, 1780, and March 22, 1781. In view of that the officer never received the commutation or half pay, the committee are of opinion that the officer was justly entitled to the half pay promised by the resolve of October 21, 1780; and they report a bill and recommend its passage.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

BRIGADIER GENERAL THOMPSON.

A bill (H. R. No. 248) for the relief of the legal representatives of Brigadier General William Thompson.

The bill directs the Secretary of the Treasury to pay, out of any moneys in the Treasury not otherwise appropriated, to the administrator, or legal representative of Brigadier General Thompson, widow of Brigadier General William Thompson, the seven years' half pay promised by the resolve of Congress of August 24, 1780.

The report was read.

Mr. SMITH, of Virginia. I understand, from the testimony of the witnesses to this case, that it is proposed to give to General Thompson's representatives the benefit of that resolution, which requires a service to the end of the war. He died before the close of the war, and therefore was not within the resolution, of course. I cannot consent to the bill, unless it passes with this change.

The CHAIRMAN. Objection being made, the bill will be passed over.

CHARLES PORTERFIELD—AGAIN.

Mr. STANTON. I objected to bill No. 243, for the relief of the legal representatives of Charles Porterfield, deceased. At the suggestion of the gentleman from Virginia, [Mr. HAARIS,] I will consent that the bill may be reported to the House, with the understanding that if it gets into the House the report shall be read, explanations made, and a vote taken upon it.

Mr. HARRIS, of Virginia. I assent to that.

Mr. STANTON. I do not want it taken into the House, and the previous question moved on it.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

DECEASED CUSTON-HOGE CLERKS.

Mr. SMITH, of Virginia. I withdrew my objection on the same terms to bill No. 253, for the relief of the legal representatives of five deceased clerks in the Philadelphia custom-house.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

CHILDREN OF COLONEL PHILIP JOHNSTON.

A bill (H. R. No. 249) for the relief of the orphan children of Colonel Philip Johnston.

The bill directs the Secretary of the Treasury to pay, out of any moneys in the Treasury not otherwise appropriated, to William H. Johnston, administrator of the estate of Rachel B. Johnston, widow of Colonel Philip Johnston, for the benefit of the orphan children of Colonel Philip Johnston and Rachel B. Johnston, the seven years' half pay promised by the resolves of Congress of May 15, 1778, and the 24th August, 1780, after deducting the sum of \$1,612 66, heretofore paid.

Mr. SMITH, of Virginia. I would like to ask how it is that the bill is a partial and not an entire payment in this case?

Mr. WINSLOW. I would like to pass that bill over for a few moments.

The CHAIRMAN. The bill is objected to. Mr. WINSLOW. I do not object to it; but I

would like to look at the bill. The same course was pursued in reference to bill No. 233.

The CHAIRMAN. The bill will be passed over for the present.

REPRESENTATIVES OF LOUIS MARNEY.

A bill (H. R. No. 250) for the relief of the legal representatives of Captain Louis Marney.

The bill and the report were read.

Mr. HOUSTON. I think that bill ought to be looked further into; and I therefore object.

COLONEL PHILIP JOHNSTON—AGAIN.

Mr. WINSLOW. I now withdraw my objection to House bill No. 249, for the relief of the orphan children of Colonel Philip Johnston, and offer the following amendment:

Provided, however, That the money hereby appropriated shall be paid to said Johnston in person, or to such agent or attorney as shall appear to the accounting officers of the Treasury to be in nowise interested in said sum or in any part thereof.

Mr. SMITH, of Virginia. It will be remembered that I called upon some one to explain why it was that there was a partial payment in this case, and I desire that information now. It was half paid, according to the report. Now, I want to know how it was that the Federal Government paid a part and not the whole of that claim? I have no wish to obstruct the claim, but I shall object unless I can have that information.

Mr. WINSLOW. I know nothing about it. I cannot state the principle of this amendment to apply to every case as far as it can be done.

Mr. SMITH, of Virginia. I object to the bill.

CLEMENT GOSSELIN.

A bill (H. R. No. 251) for the relief of the heirs of Clement Gosselin. [Objected to by Mr. CRAWFORD.]

BASIL MIGNAULT.

A bill (H. R. No. 252) for the relief of the surviving children of Basil Mignault.

Mr. SMITH, of Virginia. The report in that case is as long as the moral law; and as the reading may prevent the action of the House upon some more meritorious claims, I object.

CAPTAIN SAMUEL MILLER.

A bill (H. R. No. 253) for the relief of the heirs of Captain Samuel Miller. [Objected to by Mr. ANDERSON, of Massachusetts.]

JOHN BAPTISTE LABONTE'S HEIRS.

A bill (H. R. No. 254) for the relief of the heirs and descendants of John Baptiste Labonte, a captain in the revolutionary war. [Objected to by Mr. LOVEJOY.]

LIEUTENANT WILLIAMS'S REPRESENTATIVES.

A bill (H. R. No. 255) for the relief of the legal representatives of Lieutenant Thomas Williams, a revolutionary officer. [Objected to by Mr. UNDERWOOD.]

Mr. WINSLOW. I move that the committee rise.

Mr. TAPPAN. I hope the gentleman will not insist upon that motion. Let us go on with the Calendar.

Mr. WINSLOW. Very well; I will withdraw the motion.

Mr. CRAIGIE, of North Carolina. I renew the motion.

The House divided; and there were—ayes 37, noes 65, upon the motion; no quorum voting.

Mr. TAPPAN. Before the committee rise, I will ask them to allow the gentleman from Alabama to withdraw his objection to the bill for the relief of the heirs of Dr. George Yates.

Mr. CURRY. I am willing to withdraw my objection if an amendment striking out the interest is agreed to.

Mr. BURNETT. I object to that bill.

The question was again put on Mr. CRAIGIE's motion, and it was agreed to.

So the committee rose, and the Speaker having resumed the chair, the Chairman [Mr. PREBLE] reported that the Committee of the Whole House had according to order had the Private Calendar under consideration, and had directed him to report to the House (some with and some without amendments) bills of the following titles:

A resolution (S. No. 11) for the relief of Commander H. J. Hartstone, of the United States Navy.

A bill (H. R. No. 229) for the relief of William Brown.

A bill (C. C. No. 93) for the relief of Lydia Frazee, widow and administratrix of John Frazee, late of the city of New York.

A bill (C. C. No. 92) for the relief of Mariano G. Vallejo.

A bill (H. R. No. 230) for the relief of Shadrach Calloway.

A bill (H. R. No. 31) for the relief of Charles Knapp.

A bill (H. R. No. 231) for the relief of Isaac S. Smith, of Syracuse, New York.

A bill (H. R. No. 232) for the relief of the legal representatives of five deceased clerks in the Philadelphia custom-house.

A bill (H. R. No. 235) for the relief of congressional township two north, of range nine west, of the fourth principal meridian, in Adams county, State of Illinois.

A bill (H. R. No. 236) for the relief of John Dixon.

A bill (H. R. No. 239) for the relief of George F. Brout.

A bill (C. C. No. 82) for the relief of Charner T. Seale, administrator of Gilbert Salkner.

A bill (C. C. No. 12) for the relief of Moses Noble.

A bill (H. R. No. 242) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York.

A bill (H. R. No. 243) for the relief of the legal representatives of Charles Porterfield, deceased.

A bill (H. R. No. 245) for the relief of Maryett Van Buskirk, heir of Thomas Van Buskirk.

A bill (H. R. No. 246) for the relief of the heirs of Major John Ripley.

A bill (H. R. No. 247) for the relief of the legal representatives of Francis Chaudonet.

Mr. WINSLOW. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. COLFAX. On that motion, I demand the yeas and nays.

Mr. TAPPAN. I appeal to the gentleman to withdraw his motion until the bills from the Committee of the Whole have been acted on.

Mr. WINSLOW. Very well; I will withdraw it, but will renew it again presently.

Mr. TAPPAN. I now call the previous question upon all the bills reported from the Committee of the Whole on the Private Calendar.

Mr. BURNETT. I rise to a question of order. There is no rule of this House by which the previous question can be called upon more than one bill at a time. I have no objection to the previous question being asked upon all the bills of Claims bills reported from the Committee of the Whole House; but I object to its being called upon all the bills reported.

Mr. TAPPAN. I suggest, then, that the bills be read over, and the previous question called upon such as no objection is made to.

Mr. BURNETT. I have no objection to that course.

The SPEAKER. That will be the course, there being no objection.

The Clerk then proceeded to read the titles of the bills reported from the Committee of the Whole House on the Private Calendar.

Mr. BURNETT. I demand separate votes on the bill for the relief of the legal representatives of five deceased clerks in the Philadelphia custom-house; on the bill for the relief of the legal representatives of Charles Porterfield, deceased; on the bill for the relief of the heirs of Major John Ripley, and on the bill for the relief of the legal representatives of Francis Chaudonet.

Mr. FLORENCE. I call for the previous question on all the bills upon which no separate votes are reported.

Mr. STANTON. Amendments have been reported to some of the bills from the Committee of the Whole; and I suppose it is understood that the previous question is called upon the action of the Committee of the Whole House.

Mr. FLORENCE. That is my motion.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the report of the Committee of the Whole House, excepting the bills upon which separate votes were asked, was concurred in.

Mr. WINSLOW moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DECEASED CUSTOM-HOUSE CLERKS.

The SPEAKER. A separate vote is asked upon the bill (H. R. No. 233) for the relief of the legal representatives of five deceased clerks in the Philadelphia custom-house, reported from the Committee of the Whole House.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

CHARLES PORTERFIELD, DECEASED.

The SPEAKER. The next bill upon which a separate vote is asked, is House bill No. 243 for the relief of the legal representatives of Charles Porterfield, deceased.

Mr. STANTON. If the House will permit me, I will, in five minutes, say all I have to say upon the bill. If it is not the wish to go on now, let the bill go over. [Cries of "Go on!"]

Mr. Speaker, the claim is for land scrip for some six thousand acres of land. Charles Porterfield was entitled, under the laws of Virginia, to land warrants for service in the revolutionary war. By those laws these land warrants were to be located in what was called the Territory of Virginia, and which now includes the States of Kentucky and Ohio. Land warrants were issued under those laws, and a proportion of them were located in Virginia and Ohio. It is said that the warrants, for which scrip is now proposed to be issued, were located upon lands in the State of Kentucky, which Porterfield lost in consequence of a prior entry and survey in favor of George Rogers Clark. From my knowledge of these military land warrants, I know that, under the laws of Virginia and the United States, where a party loses his location in consequence of a prior location and survey, he is entitled to withdraw his warrants. By an act of 1825, the lands which were subject to location by Virginia bounty land warrants were ceded to the United States, and the holders of Virginia bounty land warrants, upon their presentation at the Pension Office, were entitled to have them converted into land scrip. Now, I can see no reason in the world, if the land warrants of Charles Porterfield have not been satisfied, why they cannot be withdrawn and converted into land scrip.

Mr. BURNETT. I am not in favor of the claim; but I will say that, by the construction given to the act of 1825, these parties are prevented from locating these warrants.

Mr. WINSLOW. Then, why is it not proper that these men should have their claim allowed?

Mr. BURNETT. If I had time I could tell you why.

Mr. STANTON. The law of 1825 authorizes the Commissioner of Pensions, or the Secretary of the Interior, I do not remember which, to take certain action in regard to the military warrants which may be presented to him. I understand very well that there is a great deal of difficulty in getting a great number of Virginia bounty land warrants converted into scrip for the reason that the Secretary of the Interior is authorized by the law of 1825 to call for proof of the validity of the claim upon which the warrants were issued.

Mr. BURNETT. I understand the opinion of the Secretary of the Interior is founded upon lapse of time, and that his construction of the act of 1825 is based upon the opinion of the Attorney General.

Mr. STANTON. The act of 1825, after some controversy, had been decided to authorize the Secretary of the Interior to revise the proofs upon which warrants were issued by authority of the State of Virginia. The truth was, I think, that under those laws of Virginia, authorizing land warrants to be issued, there were warrants issued and used to cover the claims of the military men of all the States of the Confederacy; and there is not an end of them yet. And in consequence of the continuance of applications, it was thought there ought to be an authority vested in the Secretary of the Interior to take proof as to the validity of the claim upon which the warrants were issued. This is a controversy going on now between the authorities of the State of Virginia and the United States, as to the construction of that law. The authorities of Virginia claim that upon the allowance being made by the authorities of the State, the Federal Government could at once, upon the credit of the State, to convert those warrants into scrip, under the act of 1825.

Sustained by the opinion of the Attorney General, the Secretary of the Interior holds himself authorized to call for proof of the validity of the warrants. That is the difficulty, as I understand it, in this case. I understand that this bill is intended to exempt the heirs of Charles Porterfield from the necessity of procuring the proofs required by the act of 1852.

These are briefly the reasons why I am opposed to the passage of this bill.

Mr. WASHBURN, of Illinois. I demand the previous question upon the passage of this bill.

Mr. BURNETT. I hope the gentleman will not call the previous question, but allow the bill to go over to another day.

ADJOURNMENT OVER.

Mr. WINSLOW. I move that when this House adjourns, it adjourn to meet on Monday next.

The yeas and nays were called for and refused. Mr. DAWES called for tellers upon the motion to adjourn over.

Tellers were ordered; and Messrs. BEVINGTON and FLORENCE were appointed.

The House divided; and the tellers reported—yeas eighty-four, nays not counted.

Sober House determined that when it adjourns, it will adjourn to meet on Monday next.

CHARLES PORTERFIELD—AGAIN.

Mr. WASHBURN, of Illinois. I again move the previous question upon the bill for the relief of the heirs of Charles Porterfield.

Mr. HARRIS, of Virginia. I ask the gentleman from Illinois to withdraw his demand for the previous question, in order that I may make a few remarks upon the bill.

Mr. WASHBURN, of Illinois. I will withdraw it for a few moments.

Mr. HARRIS, of Virginia. Mr. Speaker, as the Representative of the claimants under this bill, I beg the indulgence of the House to hear me for a moment. Sir, I was reared and live in the midst of the heirs and descendants of that gallant officer, Charles Porterfield. I know them to be honest and just men, of the highest sense of honor and the strictest integrity; men whose labor merited a right, in some way to know how, evidence conclusive of the justice of their demand. I shall not detain the House by going into the dry details of this bill—for it is presumed that every member understands it—but I wish simply to say that it commends itself to all serious and all parties, and that this is the only young officer who, in the summer of 1775, left his native country of Jefferson, in Virginia, and passed over that memorable rock at Harper's Ferry, so eloquently and touchingly described by my honorable friend and colleague, [Mr. BOTELLS.] To him I will not appeal for his support. I will not thank him for it; for that blood-stained rock speaks in tones more eloquent and effective than anything I can say. [Applause.] To the members of Massachusetts and New England, to whose relief he died in that serious moment, I appeal with every confidence that I shall receive rather than doubt, [applause.] and to you, gentlemen, of the sunny South, to the sons of the old Palmetto, on whose soil the gallant young officer fell, I appeal. Yes, I appeal to that chivalry which has ever distinguished her sons, and I feel confident that it will not be wanting now in doing honor to the memory of a brave young officer who fell in defense of her rights and liberties, and in doing a simple act of justice to his heirs and representatives. [Applause.]

Mr. Speaker, I have nothing further to say, except I hope it will be the pleasure of every member of the House to vote for this bill.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BURNETT. I call for a division of the House upon the passage of the bill.

The SPEAKER ordered tellers; and appointed Messrs. HERNETT and TRAIN.

The House divided; and the tellers reported—yeas 67, nays 44; no quorum voting.

Mr. STANTON called for the yeas and nays.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKY, their Chief Clerk, notifying the House that that body had passed a bill (No. 329) in relation to the return of undelivered letters in

the post office, in which he was directed to ask the concurrence of the House; that the Senate had passed without amendment House bill No. 326, to establish certain post routes in the Territory of Kansas; and also that the Senate agreed to the amendment of the House bill No. 192, authorizing the corporation of Washington city to make a loan and issue stock for \$200,000 for building a market-house, with an amendment, in which he was directed to ask the concurrence of the House.

Mr. LOVEJOY. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at half past four o'clock, p. m.) the House adjourned till Monday next.

IN SENATE.

MONDAY, March 26, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY. The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, communicating, in answer to the resolution of the Senate of the 29th of February, a statement showing the number and location of the marine hospitals; the number of seamen or patients admitted into each, from 1854 to 1859, inclusive, in each year; the number and compensation of the persons employed in each; and the total expenditure at each hospital for each of the years aforesaid; which was ordered to lie on the table; and a motion by Mr. GRIMES to print the report was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. BIGLER presented the petition of Rice, Baird & Heclner, contractors for furnishing marble for the Capitol extension, praying Congress to prevent a threatened violation of their contract by the Secretary of War, which was referred to the Committee on Public Buildings and Grounds. Mr. KING presented a petition of Joseph M. Price and others, citizens of New York, praying Congress to pass a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in lots and lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. SLIDELL presented the memorial of the Mayor and Council of the city of Baton Rouge, Louisiana, praying the confirmation of certain land claims; which was referred to the Committee on Private Land Claims.

Mr. CLAY presented a petition of inhabitants of township eighteen, range four east, in the county of Marengo, in the State of Alabama, praying a grant of land scrip equal to the value of the sixteenth section of that township, which was set apart and disposed of for the encouragement and cultivation of the vine and the olive; which was referred to the Committee on Public Lands.

Mr. CHASE presented a petition of merchants of Detroit, Michigan, praying an extension to lake commerce of the same limits to the liabilities of ship owners and others as are in force on the ocean; and that in cases of collision, the vessel trespassing, or at fault, shall only be held liable for damages, and not the individual owners thereof; which was referred to the Committee on Commerce.

Mr. ANTHONY presented a memorial of Edward Larned, of New York, submitting a method for building a railroad to connect the Atlantic and Pacific coasts of the United States by the present railroad companies of the United States; which was ordered to lie on the table, and be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CRITTENDEN, it was Ordered, That the petition and papers of Stewart MacGowan, on the floor of the Senate, be referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. POWELL, from the Committee on Pensions, to whom was referred the petition of C. Champ and others, praying a grant of land to the heirs of those who, if living, would be entitled to

bounty land, for services in the war of 1812, and in the Indian wars, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Mary J. Malloy, praying to be allowed a pension as widow of the late Lieutenant James West, of the Army, submitted a report, accompanied by a bill (S. No. 310) for the relief of Mary J. Malloy. The bill was read, and passed by a second reading; and the report was ordered to be printed.

Mr. HEMPHILL, from the Committee on Claims, to whom was referred the memorial of Colonel William Gates, of the United States Army, praying to be indemnified for losses sustained by the destruction of his property on board the steamship San Francisco, submitted a report, accompanied by a bill (S. No. 311) for the relief of the officers and soldiers who sustained loss by the disaster to the steamship San Francisco. The bill was read, and passed to a second reading; and the report was ordered to be printed.

DOCUMENT REFERRED.

On motion of Mr. YULEE, it was Ordered, That the report of the Secretary of the Interior, communicating, in answer to a resolution of the Senate, the correspondence on file in that Department, in relation to the obstruction of streets, avenues, and public navigation in the city of Washington, be referred to the Committee on the District of Columbia.

COMMITTEE SERVICE.

Mr. BROWN. There is a vacancy on the Committee on the District of Columbia, occasioned by the resignation of the Senator from Virginia, [Mr. MASON.] The committee meet to-morrow, and it is important to have the vacancy filled. I move that the Vice President be authorized to fill it. The motion was agreed to; and Mr. CLINGMAN was appointed.

PRINTING OF DOCUMENTS.

Mr. MALLOY. The Senator from Maine, whom I do not see in his seat, [Mr. FESSENDEN,] has handed me an amendment to the naval pay bill, and I presume he desires it to be printed. It is necessary it should be done. It is very long, I move, therefore, that the substitute be printed. The motion was agreed to.

Mr. CHESNUT. The special committee to whom was referred the matter of the Houmas grant made a report a few days ago, and submitted a motion to print certain documents. In behalf of the committee, I now also move to print the argument and statement of Louis Janin, counsel for certain claimants, with the papers, for the information of the Senate.

The motion was agreed to.

Mr. FITCH subsequently, from the Committee on Printing, to whom was referred a motion to print the report of the Attorney General on the Houmas land claim, and also a motion to print the statement of Louis Janin, counsel for certain claimants, and also a claim, as an appendix to the report of the subject committee on the Houmas land claim, reported in favor of printing the same as an appendix to the report; which was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had passed the joint resolution of the Senate (No. 11) for the relief of Commander H. J. Harstene, of the United States Navy.

The message further announced that the House concurred in the amendment of the Senate to the bill of the House (No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers, and for other purposes.

The message further announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 229) for the relief of William Brown; A bill (No. 230) for the relief of Lydia Frazee, widow and administratrix of John Frazee, late of the city of New York;

A bill (C. C. No. 92) for the relief of Mariano G. Valhjo;

A bill (No. 230) for the relief of Shade Calloway;

A bill (No. 31) for the relief of Charles Knapp;

A bill (No. 231) for the relief of Isaac S. Smith, of Syracuse, New York;

A bill (No. 233) for the relief of the legal representatives of five deceased clerks in the Philadelphia Custom-house;

A bill (No. 235) for the relief of congressional township two north, of range nine west, of the fourth principal meridian, in Adams county, State of Illinois;

A bill (No. 236) for the relief of John Dixon;

A bill (No. 239) for the relief of George P. Brott;

A bill (C. C. No. 82) for the relief of Charles T. Seafie, administrator of Gilbert Stalker;

A bill (C. C. No. 12) for the relief of Moses Noble;

A bill (No. 242) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York;

A bill (No. 245) for the relief of Maryett Van Buskirk, heir of Thomas Van Buskirk;

A bill (No. 16) for the relief of Lot Hall; and

A bill (C. C. No. 96) for the relief of William Geiger.

TELEGRAPH TO THE PACIFIC.

Mr. GWIN. I ask the Senate to proceed to the consideration of the bill (S. No. 84) to facilitate communication between the Atlantic and Pacific States by electric telegraph. It is a very important measure.

The motion was agreed to.

Mr. HUNTER. Is the motion to take up the bill for consideration?

Mr. GWIN. Yes, sir; it is up now, and we can get through with it, I hope, before the appropriation bill will be taken up. I am in favor of taking up the appropriation bill, which the Senator intends to call up to-day.

Mr. HUNTER. I shall wait till one o'clock, and then move to take up the appropriation bill. The Senate, as the Committee of the Whole, proceeded to consider the bill (S. No. 84) to facilitate communication between the Atlantic and Pacific States by electric telegraph, which had been reported from the Committee on the Post Office and Post Roads, with an amendment to strike out all after the enacting clause, and insert the subject, which was contained in the proceedings of Thursday last.

Mr. GWIN. I have but little to say in favor of this bill. The Senate very well knows the great importance of establishing a communication across the continent. The passage of the bill has placed the control of the telegraphic lines throughout the United States in various sections. They have agreed upon the plan of connecting the Atlantic and Pacific by telegraph under the measure which was presented, and which has been reported from the Committee on the Post Office and Post Roads. The compensation has been put at the very lowest amount that it was supposed possible for a work of such importance could be undertaken for. I hope, inasmuch as a measure of this kind passed the Senate some years ago by a very large majority, it will not be necessary to go into an enlarged discussion in regard to it.

Mr. GRIMES. I move to amend the bill, by striking out of the second section all after the word "distance" in the thirteenth line, in the following words:

And contracts for their services, to be held by the State to purchase such lands as may be necessary to the construction during the term aforesaid, at the rate of \$1 25 per acre.

The purpose of this provision is evidently to confer a right of preemption on the gentleman on whom the privilege is conferred of constructing this telegraph line. If I understand anything of the topography of that country, if they be permitted to take a preemption right on quarter sections of land through the gorge of the mountains, it will preclude the possibility of ever being able to build a railroad through them unless you shall first acquire the title from this company on whom you now confer the title to this land. I do not wish to put any future company that may be organized for the purpose of constructing a Pacific railroad in that dilemma. I do not wish them to be compelled to buy, at such exorbitant rates as this telegraph company might impose on them, the right to pass through these lands, which are now public.

Mr. GWIN. I have not observed particularly the Senator's amendment, but I think they have only this right to one quarter section for every fifteen miles.

Mr. GRIMES. Fifteen miles on an average throughout the whole route, the bill says. Their line may be seventeen hundred miles long, for aught I know, and they can take those lands in certain quarter sections, provided they do not take a number exceeding one quarter section in every fifteen miles. I observe further, that they have a right to occupy during ten years any quantity of land that may be deemed necessary by the quarter sections of their company, in addition to this right to purchase under preemption these quarter sections.

Mr. GWIN. The object in drafting the bill in this particular was to give them the right to enter, within a period of ten years, a quarter section at the rate of not more than fifteen miles each. I think that is the wording of the bill.

Mr. COLLAMER. Make it "not less than fifteen miles apart."

Mr. GRIMES. That is not the bill.

Mr. COLLAMER. We can have it so; make it "not less than fifteen miles apart."

Mr. GWIN. I am willing to put it in such form that they shall not take quarter sections nearer than fifteen miles to each other. That was the object in drawing the bill.

Mr. BENJAMIN. The amendment which the Senator proposes, I think suggests, it seems to me, a necessary one. His objection is, that even if this telegraph company only purchase a quarter section in every station for fifteen miles, if the line of the railroad happens to pass through those quarter sections, (and in certain mountain passes will be absolutely essential probably to pass through them,) this telegraph company can impose any amount they please for the privilege of passage.

Mr. GWIN. I shall not object to its being stricken out. I do not want any monopoly. I only want them to have the right of occupation.

The amendment was agreed to.

Mr. YULEE. I propose, in the first section, and wherever afterwards the same words occur—and I make this motion by direction of the committee—to strike out the words "the Postmaster General" and substitute "the Secretary of the Treasury."

Mr. GWIN. The object of the amendment is, that this compensation shall not be paid out of the Post Office funds, but out of the general Treasury.

The amendment was agreed to.

Mr. DUNFORD. I wish to offer an amendment to the first section. There is no limitation as to the amount of charges which these persons may impose; and I desire to offer an additional proviso to the first section:

And provided also, That such charges shall not exceed four dollars for a single dispatch of ten words, with the usual proportionate reduction upon dispatches of greater length.

The amendment was agreed to.

Mr. BENJAMIN. There is no section of the bill which I do not altogether like. It is the third section. The bill begins by authorizing a contract not exceeding \$50,000 per annum. The third section provides that whenever the price of the Government's dispatches exceed \$50,000 per annum, the Government shall pay the excess; so that at the beginning, when the Government's dispatches will probably only amount to but five, ten, or fifteen thousand dollars per annum, we are to pay \$50,000; but if they increase after the company is established, and established with the money of the PEOPLE, then the Government is to pay the excess. I do not think that is necessary to the bill. I should like to have an explanation of its necessity.

Mr. GWIN. The great advantage to the Government that will result from the establishment of this telegraph, saving probably millions of dollars in military communications and other Government purposes, was looked upon by the committee as an equivalent to the \$50,000 a year. If, in the progress of time, the Government's dispatches exceed this amount of \$50,000, especially with the limitation which has been put on the charges by the amendment of the Senator from Wisconsin, it would seem to be proper for the Government to pay the additional expense, with the exception named in the bill, of the dispatches for the Coast Survey, the National Observatory, and the Smithsonian Institution. I think there can be no better appropriation of pub-

lic money made than that. The Government dispatches may not amount to \$50,000; but, in my judgment, they will never be less; and the Government has a right to connect all its military establishments in its contract up to a certain amount of line, and those dispatches have to be sent over without any additional expense.

Mr. BENJAMIN. I shall move an amendment. I am not satisfied with the explanation of the Senator from California. I think if we agree to pay by contract up to a certain amount, say \$50,000, since that is the sum mentioned in the bill—we ought to have the use of the telegraph for that sum; for then, in point of fact, it would be built on this Government fund, and we ought not to subject the Government's treasury to any further charge, after having added those persons to build the line so that they can make money on it. I will move, in the sixth line of the third section, after the word "aforesaid," to insert the words "no charge shall be made for such excess."

Mr. GWIN. I hope the amendment will not be agreed to.

The amendment was agreed to.

Mr. YULEE. In order to make that amendment effective, the words "the excess shall be paid by the Secretary of the Treasury" ought to be stricken out.

Mr. BENJAMIN. Of course the rest of the line ought to be stricken out, so as to insert the words I have proposed.

The PRESIDING OFFICER. (Mr. Foor.) Those words will be stricken out.

Mr. BRAGG. There is one provision I should like to hear some explanation of from the Senator who introduced the bill, and that is in relation to the power given to the Secretary of War by the proviso to the first section. That proviso reads:

Provided, That the Government shall at all times be entitled to priority in the use of the line or lines, and the telegraph lines, and to be used by the Secretary of War, and line or lines by telegraph with any military posts of the United States, and to use the same for Government purposes.

That is a very broad power; one that I confess I am not willing to give to the Secretary of War; for it is to run telegraph lines all over the whole country. At least, that is the power here given.

Mr. GWIN. The object was to enable the Secretary of War to connect with this line in the interior, in the Rocky Mountain States, and in the country, all the military posts, so that he could run, at the expense of the Government, connecting lines from those military posts, in order to send dispatches over this line without any additional expense, and to be used by the other Government purposes. It seems to me it is one of the most important provisions of the bill for the benefit of the Government. He has no power to make this connection anywhere except for Government purposes alone. In the settled portions of the country, of course, the Secretary never would make any such connection.

Mr. BRAGG. It seems to me the power is an unlimited one, to incur any amount of expense that the Secretary may in his discretion deem necessary. For one, I am not willing to invest any Secretary of War with any such broad power as that. I would suggest to strike out the words "Secretary of War," and insert "the Congress of the United States;" or put some check on it.

Mr. FESSENDEN. I would suggest to the Senator that we may reach it by striking out a few words so as to limit it. I propose: "That the Government shall at all times be entitled to priority in the use of said line or lines, and shall have the privilege of connecting said line or lines by telegraph," &c., unless by the word "Government" there is understood the Executive Government; and then, I should be obliged to propose to insert the word "Congress."

Mr. BRAGG. Anything of that kind will suit me.

Mr. FESSENDEN. I agree with the Senator from North Carolina, that it is altogether too great a power to put into the hands of the Secretary of War.

Mr. GWIN. I have no objection to providing that Congress shall have the power.

Mr. FESSENDEN. Let it read: "and shall have the privilege of connecting such Congress," striking out the words "and that the Secretary of War;" and then it will read:

That the Government shall at all times be entitled to

priority in the use of the line or lines, and shall have the privilege, when authorized by Congress, of connecting said line or lines by telegraph with any military post, &c.

Mr. COLLAMER. I wish to alter the phraseology of the amendment, so as to read: "when authorized by law."

Mr. FESSENDEN. I accept it.

Mr. HAMLIN. I now desire to make this suggestion for the consideration of my colleague who offers the amendment. I had myself introduced this bill with the very words he has now proposed, after the word "War." Why will it not be better to let the section remain as it is and add the words moved by my colleague after the word "War." The Secretary of War, it seems to me, will be the appropriate officer under which any telegraph line to connect with this should be constructed. Let that section remain as it is, simply adding these words after the word "War." Then it will read:

That the Government shall at all times be entitled to priority in the use of the line or lines, and that the Secretary of War, when authorized by law, shall have the privilege, &c.

Let him be the person designated.

Mr. FESSENDEN. The only difference would be that he might do it on his own responsibility.

Mr. DAVIS. I think the language as amended is an improvement, but that the whole proviso is radically wrong. It looks to the construction of telegraph wires, wherever it shall be deemed necessary to connect a military post with this great line of telegraph across the continent of the Government of the United States. It is better that we should leave such things generally to private enterprise. If it be useful to connect particular posts under an exigency which will require Government to undertake it, it can be brought forward and decided upon its merits; but this is a provision in anticipation, looking generally to the construction of telegraph lines by the United States. I think it is unsound in principle, and I shall object to the whole proviso.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maine, [Mr. FESSENDEN.]

The amendment was agreed to.

Mr. LATHAM. I desire to offer an additional section.

Mr. DAVIS. I desire first to move to strike out the proviso before proceeding to another section.

The PRESIDING OFFICER. That will be in order.

Mr. DAVIS. I move to strike out the proviso. The PRESIDING OFFICER. The Secretary will read it as amended.

The Secretary read it, as follows:

Provided, That the Government shall at all times be entitled to priority in the use of the line, or lines, and shall have the privilege, when authorized by law, of connecting said line, or lines, by telegraph, with any military post of the United States, and to use the same for Government purposes.

Mr. DAVIS. I move to strike out all after the word "lines," so as to strike out all that refers to branches, leaving the Government priority in the use of this line.

The PRESIDING OFFICER. The words proposed to be stricken out will be read.

Mr. COLLAMER. I take it the Senator means to strike out down to the words "United States." Not the whole proviso, but down to the words "United States."

Mr. DAVIS. If we have no more lines, it is useless to provide how they shall be used. The words I propose to strike out are:

And shall have the privilege of connecting said line or lines by telegraph with any military post of the United States, and to use the same for Government purposes; and provided also, That said line, or lines, except such as may be constructed by the Government in connection said line or lines with the military posts of the United States, shall be open to the use of all citizens of the United States, during the term of the said contract, on payment of the regular charges for transmission of dispatches.

The Senator wishes to preserve the second proviso, and then amend the branches.

Mr. COLLAMER. The last expression, I understand, is that it shall be open to all people to use it. You do not wish to strike that out, I suppose.

Mr. DAVIS. It is so, anyhow. Strike out the words, "and shall have the privilege, when authorized by law, of connecting said line or lines, by telegraph, with any military posts of the Uni-

ted States, and to use the same for Government purposes." That is the first. Then, if it is the wish to preserve the other proviso, let us strike out the words "except such as may be constructed by the Government to connect said line or lines with the military posts of the United States." Striking out these two clauses removes the objection.

Mr. GWIN. I would suggest to the Senator from Mississippi that this is an important privilege reserved to the Government of making this connection; but they have to pass a law before they can do it. It is to come before Congress before the connection can be made; and I think it is guarded so as to meet the very object he has in view, and that is, to provide that power shall not be given to make these lines unless by Congress. I think the amendment of the Senator from Maine covers the case entirely; for it is to come before Congress before the connection can be made. The privilege is reserved to Congress, if it is hereafter looked on as important.

Mr. DAVIS. I do not wish to give a general invitation to the Government to commence the work of constructing telegraph lines. I do not wish so to provide as to allow some member to rise hereafter, and by authority of this law, to move an appropriation for connecting these lines, before it is to be wronged as it is.

Mr. FESSENDEN. I would call the Senator's attention to the fact, that in the case of all charters now granted by the State Governments to railroad companies, by State laws, they reserve the privilege of connecting other lines with them afterwards, for the simple reason that, unless it is reserved when the charter is given, when the road is built it becomes private property; and there can be no connection, unless with the consent of the corporation, except the right to do so is retained by the Government, because it is in the nature of the Government, as I understand it, that it is only intended to go that far—that is to say, to put it out of the power of this company, when they have constructed their line of telegraph, to prevent other lines from being connected with it, or to reserve terms which might be onerous as a condition for making such connection. It does not necessarily involve the idea that the Government are to pay other lines of telegraph, but assimilates this line of telegraph to lines of railroad that have been built with the consent of the Government is necessarily required. In this case, it becomes expedient that one line should be connected with this from another quarter, it is intended not to leave it wholly in the power of this company to say that it shall or shall not be done, or on what terms it shall be done. I esteem the reservation as an important one, connected with so very great a line as one from the Mississippi river to the Pacific ocean. I do not think it involves necessarily any such difficulty as the Senator seems to suppose.

Mr. DAVIS. If it were reduced merely to the privilege of connecting another company—which is hereafter to construct a telegraph, to connect with this, then it would be the case supposed by the Senator from Maine. That, certainly, is not the contemplation of this language. This is for the Government to connect.

Mr. FESSENDEN. Undoubtedly; but perhaps that is the only way by which the right can be reserved. The Government cannot very well stipulate for a private company; and in case you undertake to do so, the objection would be made that it was not in the power of the Government to do so.

Mr. DAVIS. That being the purpose, it would be expressed in the usual language applied to railroads, and that is, that any other company making a branch road shall have the privilege of connecting with this.

Mr. FESSENDEN. That company is always chartered by the same Government.

Mr. DAVIS. I do not see how the Federal Government is going to charter a company, unless in the Territories.

Mr. FESSENDEN. To be sure they will not charter it, but grant the privilege over the public land, and that is practically the same thing.

Mr. DAVIS. It still returns to the same point. Within the limits of a State, the company must be chartered by the State, and all this Government can reserve or impose as a condition is, that this company shall allow other companies to connect

with it, and that is clearly not the object of this language.

Mr. FESSENDEN. It effects that purpose.

Mr. DAVIS. I will say, moreover, that I never attached much importance to the provision, even in the case of railroads, for it would be a most stupid directory that would object to the connection of a branch, knowing that it must be a feeder to the trunk; and so of the directory of a telegraph who should object to the construction of a branch line, which would bring to it messages to pass over its line. That is hardly supposable. Therefore, I would not object to this in a railroad grant or a telegraph grant, if it were in the usual form. I do not find it so.

The amendment was rejected; there being, on a division—ayes ten; noes not counted.

Mr. GWIN. I desire to move an amendment to come in after the words that were inserted on motion of the Senator from Louisiana, "unless such excess shall be incurred in time of war," so that there shall be no excess over \$50,000 paid, unless incurred in time of war. In the event of war, the line might be entirely taken up by the Government; and it would be absolutely necessary to pay for this excess, when the private patronage of the line would be taken away.

Mr. BRAGG. I hardly think that is sufficiently guarded. It says "in case such excess shall be incurred in time of war." Suppose we were at war with any European Power—Great Britain, for instance; if there was an excess of dispatches sent over the line, no matter how incurred, according to the amendment, we should have to pay.

Mr. GWIN. By the Government.

Mr. BRAGG. I am not at all concerned at all our hostilities with foreign nations.

Mr. GWIN. The Government might monopolize the line entirely. It has the first privilege of using the line, and it might take possession of the line in time of war for war purposes; and such a case, I think, would be a good one.

Mr. COLLAMER. The \$50,000 proposed to be paid for subsidizing the line, it seems to me, will be of very little or no use to the Government at all in time of peace. The time of war is about the only time we shall have the use of to any great extent; but we are paying in time of peace in order that they may have the use of it, in case of necessity, in time of war. It is therefore right as it is.

The amendment was rejected.

Mr. LATHAM. I ask that my amendment be read.

The Secretary read it, as follows:

And be it further enacted, That the Secretary of the Navy and the Secretary of War be and they are authorized to convey, free of charge, any material to be used in the construction of said telegraph line or (in any case of Governmental transport, whenever the same can be done without inconvenience or additional cost to the Government service.

Mr. FESSENDEN. I do not see any reason why, in addition to giving \$50,000 a year, we should undertake to build the line.

Mr. LATHAM. The amendment says it is not to be at additional cost to the Government; and when the transports are going over this very line, if they are not filled with Government stores, if, without inconvenience or additional expense, they can carry the material, I do not see any objection to allowing them to do so.

Mr. FESSENDEN. I do not see how the transportation of materials over such a country can be made without costing something.

Mr. LATHAM. Very briefly; these transports going over the country are not always filled up with Government stores; and they might as well be filled as not.

Mr. FESSENDEN. This will oblige them to take the material anyhow. There is no reason why we should build the line, and then pay for using it.

The amendment was rejected; there being, on a division—ayes ten; noes not counted.

Mr. GRIMES. I move to amend the first section by adding, in the twenty-fourth line, after the word "same," the words:

Unless said lands shall be required by the Government of the United States for railroad purposes; and provided, That no right to preempt any of the said lands under the laws of the United States shall inure to the said company, thereunto as servants, or to any other person or persons whatsoever.

Mr. HUNTER. It is now one o'clock. I did

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pursued; and the sections of the bill to which amendments are proposed will be read, together with the amendments proposed.

The first amendment of the Committee on Finance was in line fifteen, page 2, after the words "Argentine Confederation," to insert "Paraguay."

Mr. HUNTER. A mission to Paraguay was estimated for, and not agreed to by the House of Representatives; but I believe they were aware at the time that there was a minister from Paraguay here. The Senate is aware that we have had a difficulty with that country, which has been lately compromised and settled. Paraguay has a minister here, and the Secretary of State thinks there is good reason for returning the compliment, and sending a minister there. The Committee on Finance concur in that, and propose the appropriation.

Mr. BENJAMIN. I objected to a similar proposition made some year or two ago, by an amendment proposed by the Committee on Finance for a minister to Persia. If this were sending a mere commissioner abroad for a temporary purpose, I do not know that I should make the objection; but I think this extending of our foreign diplomatic corps to every country on the face of the earth, is getting to be a monstrous abuse. Now what is a minister to do at Paraguay? What are to be his duties? We are to have a minister to Paraguay at a permanent expense to the Government forever. We shall never get rid of him.

Mr. HUNTER. I think there is a great difference between establishing diplomatic relations with Persia, a country with which we have little or no trade, and with Paraguay. We have a deep interest in preserving friendly relations with all the South American States.

Mr. HUNTER. We are hoping to have the river Plate already, on which it is, and hope at some day to open up a trade with all those countries; and it seems to me, if it is proper to have a minister anywhere there—I do not say it is as proper in Paraguay as in Rio—but it seems to me that this is a place at which we ought to have a mission. However, it is in the power of the Senate to determine.

Mr. BENJAMIN. I ask the Senator from Virginia whether the gentleman here from Paraguay is not merely a commissioner to settle claims under the treaty, or whether he is to remain here as a permanent minister?

Mr. HUNTER. I understand from the Secretary of State that he is expected to remain as a permanent minister. That is my understanding.

Mr. BENJAMIN. The gentleman told me he expected to remain here but two or three years. He expected to study the country. He was here as a commissioner to settle claims under the treaty, but I did not understand from him that his Government expected to maintain a permanent mission here. I think we are going too far in this matter.

Mr. HUNTER. I cannot answer as to the intentions of the Government of Paraguay; but I suppose, from the Secretary of State who informed me on that subject, that this Government expects it to be a permanent mission. I may, however, be mistaken on that point.

Mr. GRIMES. The Senator from Virginia speaks of our commercial relations with the Government of Paraguay. I ask him how extensive our trade is with that country? I suppose he is familiar with the subject.

Mr. HUNTER. We have no trade yet, but we are endeavoring to open one. We have an exploring expedition now exploring their rivers. We have already had a difference with the country, which has been settled.

Mr. ANTHONY. We have already very considerable interests in Paraguay; and certainly so long as our commercial affairs there are unsettled, and this commission is in existence, we ought to have some representative there.

The amendment proposed by the Committee on Finance was, in lines fifteen and sixteen to strike out "\$225,500," and insert "\$304,000."

Mr. HUNTER. That will now be unnecessary. It was to make the amount of the appropriation for ministers' salaries correspond with the amendment proposed by the Committee on Finance, to which the Senate has not agreed. This last amendment is therefore unnecessary.

The amendment was rejected.

The next amendment of the Committee on Finance was, in lines twenty-two and twenty-three, to strike out the words "secretary of the legation," and insert "interpreter"—after the word "interpreter," to insert "to the legation to China," so that the clause will read:

For salary of the interpreter to the legation to China, \$5,000.

Mr. HUNTER. The amendment was made for this reason: in line nineteen we have an appropriation for the secretary of the legation; but at the same time we have also an interpreter, whose salary is \$5,000. The description is wrong. It now reads: "For salary of the secretary of legation to China, acting as interpreter." It is not a secretary of legation acting as interpreter; but he is a mere verbal amendment.

The amendment was agreed to.

The next amendment of the committee was, in line twenty-seven, after the word "Japan," to insert the words:

From the 1st day of January, 1860, to the 1st day of July, to be paid, and for the fiscal year ending the 30th day of June, 1861.

So that the clause will read:

For compensation to the interpreter to the mission to Japan, from the 1st day of January, 1860, to the 1st day of July, to be paid, and for the fiscal year ending the 30th day of June, 1861, \$2,500.

Mr. HUNTER. That is upon this estimate of the Secretary of State:

"I request that an appropriation of \$2,750 may be made for compensation to the interpreter for the mission to Japan, for the same term, \$1,250; and for the fiscal year ending the 30th day of June, 1861, \$2,500."

Part of this is in the nature of a deficiency, the Secretary of State has already made last year.

The amendment was agreed to.

The next amendment of the committee was, in line forty-three, after the word "hundred," to insert the words "and twenty-five;" and in line forty-four, after the word "dollars" to insert "\$75,000 of which is to be used in the fiscal year ending the 30th of June, 1860."

Mr. HUNTER. The history of that amendment is this: last year the estimate "for the relief and protection of American seamen in foreign countries" was \$175,000. Congress gave \$150,000.

It turns out that there is a deficiency which will probably amount to \$25,000. The Department has already drafted which it has received, which there is no appropriation to meet. They ask for \$75,000 deficiency for this fiscal year, and they estimate for \$300,000 for the next year. The committee thought that this sum was growing so large that it would be better to appropriate the \$150,000, which was done last year, for the next year, and to provide for the deficiency of this. That will give us time to look into this subject of expenditure, in regard to which it would seem some legislation is necessary. If it should turn out that the \$150,000 is not enough they can ask a deficiency again for next year, as they do for this.

The amendment was agreed to.

The next amendment of the committee was, after line forty-six to insert:

For expenses which may be incurred in acknowledging the arrival of the United States mail at the various receiving cities of the United States from shipwreck, \$10,000.

Mr. HUNTER. That is the amount estimated, and the Department says that is the least sum that will meet the case. The House of Representatives struck it out. The amendment speaks for itself. I need not say anything to the Senate in regard to it.

The amendment was agreed to.

The next amendment of the committee was in line sixty, after the word "Alexandria," to strike out the word "Hondas."

Mr. HUNTER. That was put in by mistake. It is a mere clerical error copying the words of the act. There is no consul there.

The amendment was agreed to.

The next amendment of the committee was, after line one hundred and one, to insert:

For expenses incurred under instructions from the Secretary of State to the consuls in foreign countries persons charged with crime, and expenses incident thereto, \$10,000.

Mr. HUNTER. That was an estimate from

the Department of the Interior. Here is the estimate; I ask to have it read.

The Secretary read, as follows:

DEPARTMENT OF THE INTERIOR, March 1, 1860.
SIR: I have the honor to acknowledge the receipt of your letter of the 26th inst., and in reply to inform you that the Committee of Ways and Means, a copy of a communication addressed to Hon. JAMES A. HAYARD, chairman of the Judiciary Committee of the Senate, suggesting an appropriation for the payment of expenses incurred in the transportation of prisoners and witnesses sent home by our consuls from foreign countries, and to suggest that for the reasons therein assigned, an appropriation, to be disbursed under the direction of the Secretary of State, may be made to carry the same into effect, as follows:

For expenses incurred under instructions from the Secretary of State in bringing home from foreign countries persons charged with crime, and expenses incident thereto, \$10,000.

Very respectfully, your obedient servant,

J. THOMPSON,
Secretary of the Interior.

Hon. JOHN HENRICKS, Chairman Committee of Ways and Means, House of Representatives.

DEPARTMENT OF THE INTERIOR, February 29, 1860.

SIR: I have the honor to call your attention, and that of the Judiciary Committee of the Senate, to a communication upon pages 18 and 19 of my last annual report, a copy of which is annexed, in relation to the payment of expenses incurred in the transportation of prisoners and witnesses sent home by our consuls from foreign countries, and to suggest that for the reasons therein assigned, an appropriation, to be disbursed under the direction of the Secretary of State, may be made to carry the same into effect, as follows:

For expenses incurred under instructions from the Secretary of State in bringing home from foreign countries persons charged with crime, and expenses incident thereto, \$10,000.

Very respectfully, your obedient servant,

J. THOMPSON,
Secretary of the Interior.

To Hon. JAMES A. HAYARD, Chairman of the Committee on the Judiciary, United States Senate.

The amendment was agreed to.

The next amendment of the committee was, after line one hundred and five, to insert:

To enable the Secretary of State to defray the cost of a prison ship at Anson, China, from the 1st day of July, 1854, to the 1st day of January, 1857, and for compensation of the marshal of the consular court at Anson, from January 1, 1854, to the 1st day of January, 1857, \$4,750, or so much thereof as may be necessary.

Mr. HUNTER. That is, in effect, to appropriate for a deficiency. There was a failure to appropriate in those years to meet the purpose designated in the amendment, to pay the expenses of the prison ship at Anson.

The amendment was agreed to.

THE PRESIDING OFFICER. The amendments reported by the Finance Committee are disposed of.

Mr. HUNTER. There is another amendment that stands on the same ground as the one last adopted, sent to me after it was reported the bill. I have not had a chance to consult the committee; but it stands upon the same ground, and I ask general consent to offer it. If the committee object to it, they can say so, and I will withdraw it.

For compensation of the consuls at the five ports in China, to wit: Kwangchow, Amoy, Puchow, Ningpo, and Shanghai, from the 1st of July, 1855, to the 31st of December, 1856, \$9,000.

It is the same deficiency, only providing for a different set of persons. Here is the estimate on which it is based, as it is to be read.

The Secretary read, as follows:

DEPARTMENT OF STATE,
WASHINGTON, February 23, 1860.

SIR: I have the honor to state that, by the eighteenth section of the act of August 11, 1846, to amend certain provisions in the treaties between the United States and China and the Ottoman Empire, giving certain judicial powers to ministers and consuls of the United States in those countries, it was provided that "in consideration of the duties hereon imposed upon the commissioner, there shall be paid to him out of the Treasury of the United States, annually, the sum of \$4,000 in addition to his salary; and there shall be paid to him, in addition to his salary, for a like reason, the sum of \$1,000, in addition to the consular fees."

In conformity with the provisions of the statute, appropriations were annually made until 1855, for compensation of the consuls at the five ports in China, viz: Kwangchow, Amoy, Puchow, Ningpo, and Shanghai, \$5,000 annually.

Under the act of August 11, 1846, the act above mentioned.

The act of the act allowing this compensation was repealed by the twentieth and thirty-third sections of the act of August 18, 1856, which went into operation on the 1st day of July, 1856.

Indevitably, no estimate was made for the compensation of the commissioner and consuls in China, for judicial services, for the period of a year and a half, from July 1, 1855, to December 31, 1856, and no appropriation was accordingly made for this purpose. The services, however, under the provisions of the act above mentioned, by the Department, and treaty stipulations, continued to be rendered during the above-mentioned period by the commissioner and consuls, and they have claimed the compensation for which would have been paid but for the absence of an appropriation.

I respectfully recommend, therefore, that provision be made for an appropriation of \$9,000, for this purpose, in the

plomatic and regular appropriation bill now before the House of Representatives.
I am, sir, your obedient servant,
LEW. CARB.
Hon. JAMES MASON, *Chairman of the Committee of Ways and Means, House of Representatives.*

The amendment was agreed to.

The bill was reported to the Senate, as amended.
THE PRESIDING OFFICER. The question is on concurring in the amendments agreed to in Committee of the Whole.

Mr. MASON. There was one amendment offered while I was out of the Senate, I understand, by the chairman of the Committee on Finance, appropriating for the salary for minister to Paraguay.

Mr. HUNTER. That can be offered as a separate amendment afterwards. That was rejected.

Mr. MASON. Very well.

The amendments made in as Committee of the Whole were concurred in.

Mr. MASON. I was not present when the amendment was offered, and I ask the chairman of the Committee on Finance if the appropriation was recommended by the Executive.

Mr. HUNTER. It was recommended by the Secretary of State. I had an interview with him. There is no written recommendation; but I had an interview with him on this subject, in which he put it in very concisely. It was estimated for, but the House left it out, and I went to see the Secretary of State in regard to it.

Mr. MASON. We know from the history of the country that the Government of the United States, I think with great wisdom and propriety, has prosecuted a series of explorations in the waters of the Plate river for the last four or five years, with a view to the extension of our commerce. We know that within the last two or three years some American citizens, I think from Rhode Island chiefly, who had gone into Paraguay, at the invitation of the President of Paraguay, and made large investments there, were maltreated and driven off, and other injuries done to American citizens who were there; and our flag was insulted, with the loss of life of one man, which resulted in the expedition by which a treaty of amity and commerce was made with the Government of Paraguay, and full indemnity provided for all injuries sustained by American citizens, and every avenue opened to us, so far as that, which is one of the important States bordering on the Plate and its tributaries, is concerned. I have not held any official intercourse or conversation with the Executive upon the subject of this mission; I have thought it was desirable to have such a mission, and I think it would be undesirable now to discourage, disaffect, or throw cold water on the relations that are growing up between the United States and that Government, by the refusal of this minister, and the more especially as there is now in our country a minister from Paraguay, who has arrived within the last few days, and who brought with him a commission for the purpose of sustaining American claims under the convention made by Commissioner Bowlin. I move the amendment which the chairman of the Finance Committee before presented for an appropriation to that mission.

THE PRESIDING OFFICER. The amendment will be read.

The Secretary read the amendment, which is, in line fifteen, after the words "Argentine Confederation," to insert "Paraguay;" and in line fifteen and sixteen to strike out "\$295,500," and insert "\$204,000."

Mr. CRITTENDEN. That is to include a minister to Paraguay?

Mr. MASON. Yes, sir.

Mr. CRITTENDEN. I would inquire of the chairman of the committee whether we have any consuls to Paraguay?

Mr. MASON. We have a consul there.

Mr. CRITTENDEN. I shall vote against this amendment. I think one of the evils and one of the burdens of the day is the multiplicity of our ministers abroad and the multiplicity of treaties. They are almost overwhelming in their number. I do not wish to add to the expense or to the number by sending a minister, at an expense of eight or ten thousand dollars a year, to Paraguay. We have a consul there through whom, it seems to me, we can keep up all the civilities and courtesies that are necessary between this Republic and the

Republic of Paraguay, and keep on very good terms with her. It has not seemed to me that our quiet and good understanding with foreign nations, particularly with the small Governments of South America, has at all corresponded with the number of our ministers. Each and every one of them seems to have an ambition to negotiate. He must be something. He must come loaded with a short time, and he must bring along with him some title to the nation's attention, and to some degree of renown; a treaty he must have, or his time has been misapplied; and in making that treaty, he is as apt as not to get into one or two little quarrels.

I think, therefore, our peace will be best preserved with nations of this description by consuls, who, having no diplomatic ambition, no ambition to raise little nines in order that petty titles may follow, will be willing to act as mediators in respect to all due civilities and courtesies. I am totally opposed to the multiplication of this class of officers. Often, and very often, with many honorable exceptions, these appointments may be considered, I think, very much in the character of a sort of out-of-door relief given there to poor nines, he said; here, we may say, to unfortunate politicians. I want to see no multiplication of that class. I think the expenditure is too large, and I hope the amendment will not be made.

Mr. HAMLIN. From the conversation which is elicited around me, and which is not heard in the Senate, I take it the amendment submitted by the Senator from Virginia is not very favorably received here. Still, sir, I have no opinion upon that point, and am very decidedly of the opinion that the amendment ought to prevail. Taking the whole range of our diplomatic relations, I do not know but that I would concur with the Senator from Kentucky, and say that consuls and consulates might do about as much good in the various offices that now devolve upon officers of a higher grade. I do not know that I would not concur with that Senator in a radical reformation of the whole system; but I am not quite certain that his remarks are not as applicable to the consular system as they are to the diplomatic point to which he alludes—the South American Republics.

Now, sir, I am in favor of this amendment, because I believe it will be really beneficial to the commercial interests of this country. It is constantly suggested a treaty with Paraguay, and, in my judgment, a proper deportment on the part of our Government and a kind of reciprocity in treatment—they have sent a minister here—will give to us, and ought to give us, the commerce of all the South American Republics. We are much nearer to them than are the European States. We ought to commend their commerce, if we are on equal terms with other Powers, from proximity, from the difference in freight, from the difference in time which it will take to communicate between us and them, and between them and the European Governments. We ought to have it, and I think we have lost it to a very great extent, unfortunately, and have not extended it for a variety of reasons.

Things having received here an officer of this grade from the Government of Paraguay, we ought to reciprocate by sending an officer of the same grade of our own there. I believe that if we only cultivate the relations we ought to cultivate with all the Republics in that region, by sending proper adequate and suitable officers there, we can open up a very large trade with them, and the very small amount which is stipulated here for that purpose, it seems to me, promises a very large return. These are the reasons which will induce me to vote for this amendment, if I vote at all.

Mr. MASON. The honorable Senator from Kentucky I could not hear very distinctly, because of his position; but I did understand from him that he thought the office of consul at this Republic, and many others, would suffice for the public service in conducting with them our diplomatic intercourse. That honorable Senator knows very well that a consul has no diplomatic power; that he has no relations whatever to the Government of the country where he resides; and that it is not in the power of the United States to bargain with diplomatic relations. A diplomatic officer is an

officer known to the public law; he is not the creation of statute in any form; and it depends upon the public law, to which all nations are parties, whether they will or will not hold intercourse with any particular grade of officer who is sent to them. The usage of nations is such that they do not hold official intercourse, and cannot be made to hold it, with any but one who comes there in a diplomatic garb. That may be considered as very artificial, rather unmeaning and technical, but it is not within our reach. The Congress of the United States cannot vary any public officer with diplomatic functions but an officer of the grade, of the character known to the public law. What is our condition here with Cuba? We have a consul there; and we have attempted in vain to induce the Government of Spain to allow the colonial government in Cuba to hold official intercourse with our consul. All our public intercourse of every kind, affecting our relations to the Island of Cuba, has to be transacted with old Spain, through a public minister.

Now, in reference to this particular case, I would say, with all respect to the Senate, this; it results, therefore, that the public intercourse of the Government; and it is a part of the law of the Government—it is in the law of the Constitution—that the President of the United States, who holds the executive power, given to him as supreme—not named or limited, for the security of the country is vested in the President—constitutes one of the departments of the Government; and he is responsible to the American people for his management of that department, as the Legislature is responsible for its management of the legislative. As a result, therefore, that the public intercourse between this country and all other countries must be regulated and conducted by the Executive; and we have no power to restrain the President (unless by impeachment if he goes wrong, and that not in this branch, but in the other) further than his very ordinary and ordinary duties. The Executive can hold official public intercourse with a foreign nation, that requires money, unless we appropriate it.

Now, it is in the power of Congress, of course, if they believe as the honorable Senator from Kentucky, already stated, that the consular system is needless or superfluous, to withhold the appropriation, and that paralyzes the Executive arm; but I would submit respectfully, without any regard whatever to the politics that divide the country, and without any regard to the course of the times, to that, just the just, the decorous, the patriotic administration of the Government requires of each of the departments to give to the other, as far as it can exercise any restraint, a full opportunity to manage the department intrusted to him or them, as the case may be, under his or their own responsibility. I suspect there are few Senators on this floor who have less respect for the mere pageantry of diplomatic intercourse than I have; but I acknowledge the obligations of public law as they govern civilized society and civilized nations in their intercourse with each other. Therefore, with great courtesy to the honorable Senator from Kentucky, that nation is not recognized in any foreign nation as a medium of communication with the country from which he comes; and that a statute of the United States cannot give him with that power. Hence, we must have no public intercourse by the Government of the United States with the Government of Paraguay, or we must have it through a functionary known to the public law—the law of nations.

Then, as to the necessity of—I remain I may individualize myself as a very humble member of this body—the part of the country from which I come has as little interest in the subject as any other State in the Union. But the wealth of a nation depends on her commerce. All will agree to that. Her commerce and of no small consequence can be exchanged. I belong to a producing State. Other gentlemen belong to the commercial States, who make exchanges. I am one of those who consider it my duty, and it is my interest, in serving my constituents, by all legitimate, sound, and constitutional means to open up an extensive every avenue of commerce, of every character, for the purpose of exchanging the products of this country. We are the producers; others make the exchanges.

As I have said, the Government of the United States, for the last three or four years, under two

Administrations, have employed a part of the naval service in very successful explorations of the great tributaries of the river Plate. It is a very rich country. Their principal, almost their exclusive, commerce has been with the European nations; their products are valuable; and the design and desire is, by getting the right of way up their rivers, (which has been a difficulty,) and the right to navigate and trade by them, by conventions, to stimulate our commerce into these channels. With the Government of Paraguay, as I have said, we have had a difficulty—a difficulty that, I presume very strongly, never would have occurred if we had had a functionary there of a public character capable of holding intercourse with that Government; but a difficulty which it cost us some half a million dollars, probably, to redress. We have opened the way for commerce. Our merchants will go there; our products will go; our people will go; and, on the score of economy, the salary which is to be paid to the minister, multiplied by a hundred ten times, would not more than reimburse the expense of a single expedition to redress the injuries to the commerce of the citizens of the United States, which may be prevented by holding official relations with them. The minister is now taxed by law for all ministers of that grade not fixed in the bill—\$7,500. I think it would be injurious to withhold an appropriation for a minister to that country.

Mr. BENJAMIN. Mr. President, I thought that the indication of the sense of the Senate was so decided against the allowance of this mission, so far as the vote of the Senate could control it, that it would scarcely be renewed; and I should not have deemed it necessary to say anything further on the subject. I do not mean for a remark of the Senator from Virginia broaching a doctrine which has been previously broached in the Senate, and to which I cannot for a moment yield my assent, even by silence; and that is, that the Constitution of the United States contemplated the establishment by the President, without any controlling being exercised by, or any discretion being vested in, Congress) of any number of diplomatic missions abroad that he might think proper to initiate.

I admit, sir, that the President has the power to name ministers, to send diplomatic agents abroad; that it may frequently be very proper to do so during the recess of the Senate, or even pending the session of the Senate, in case of urgency and for particular business; but I do not admit that, by any just interpretation of the terms of the Constitution, power is vested in the President of the United States to establish permanent missions abroad at his discretion. The language of the Constitution is the same in relation to ministers as it is in relation to judges of the Supreme Court. It gives the President power, "by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States," &c.

The clause evidently places the judges of the Supreme Court and foreign ministers in the same category; that is to say, it has reference merely to the appointing power of the President, and does not at all contemplate a case of the initiation of missions any more than it would authorize the President of the United States, without the action of Congress, to nominate and appoint judges of the Supreme Court. I think that the construction is, that the President cannot, though he may send a minister abroad, is dependent upon the action of Congress for the pay of that minister; and although we might not hesitate at any time to refuse payment to a minister thus sent, we may very properly, in the exercise of our constitutional power, refuse to recognize a permanent mission abroad by refusing to consent to its appropriation. That is what I say in this instance. If the proposition was for a temporary minister abroad, as a matter of compliment to a sister Republic, I should not deem it necessary to say a word on the subject. The President, in such a case, I might deem the payment on the occasion, or however unnecessary the expense to be incurred, it would be a small matter. But, sir, we are increasing these foreign diplomatic appointments

in a manner that is absolutely extravagant; and when these missions once take hold they never cease to multiply. I never stop at one instance. Some years ago, the Republic of Ecuador, which is possessed of, I think, some three or four hundred thousand inhabitants, the capital city of which is on the Andes—I believe the highest inhabited city on the globe—having one small seaport, to which we have a consul, sent us a minister here. He remained here for a year or two. It was considered proper, just as it is now in the case of Paraguay, to recognize this country, by naming a minister in return to the Republic of Ecuador. The relations between the countries for the last five or six years have been commercial relations, confined to the annual dispatch of a single vessel from the port of Guayaquil by our consul there, who is the only American merchant in the place. The Republic of Ecuador, poor, unable to keep up the expense of extensive foreign staff, withdrew at the end of two or three years, its minister here, because it was not able to pay his salary; but that has been no reason for our minister being withdrawn; he still remains in that Republic, living in Quito with nothing on the face of the earth to do but to receive the salary which we have agreed to, by treaty, by way of giving us knowledge that he exists.

Mr. CRITTENDEN. Who is he?

Mr. BENJAMIN. I do not know who the present incumbent is. I know very well the gentleman who was there a few years ago, and that I myself paid a visit to Quito and saw him there—a very worthy, estimable gentleman, to whom I was indebted for kindly hospitalities—perfectly competent and able to represent the interests of the country, but having really, in my judgment, nothing to do; not seeing an American one in six months, and considering it a perfect godsend when a fellow-citizen came near him with whom he could exchange a few words in his native language. Yet there is the mission, and there it will remain, until some experiment is made. I appointed office-seeker or politician—out-door relief for a broken down politician, as the Senator from Kentucky says.

Now we are to establish a mission in Paraguay. What commercial relations have we with that country? It is a sterile, arid, desolate country. Is there any prospect of any? Yes, gentlemen say, we hope to have commercial relations with that country. How are commercial relations with that country to be promoted by having a minister residing there? In what way? Will a solitary merchant in the United States, if he sends a ship to trade with Paraguay, or send a steamer up the river, because we have a minister residing there? Is there one who will be influenced by that consideration? If the business to be done with Paraguay is a profitable business, the spirit of enterprise of our people is sufficient to procure their eagerness for legitimate gain is sufficient to induce them to engage in the business without the paraphernalia attendant on the establishment of a minister there.

What shall we get the minute a ship we will never get him away. Since I have been in the Senate, I have never seen a proposition from any quarter to discontinue any consularship, however unnecessary it may be, however useless it may have proved. Here is \$7,500 a year. That is equivalent to an outright expenditure of \$150,000. That is the interest on \$150,000 at the rate at which Government borrows money. Is it worth it to \$150,000 to put a minister in Paraguay? Can anybody say it is worth that? Is there any necessity for it? On the contrary, does not experience teach us that the Senator from Kentucky, as we well said, that we are more apt to get into quarrels; that there are more subjects for making little disputes about, with these ministers who have nothing to do, in small and remote States, than any advantage which can be gained, either directly or indirectly, by their presence. On that point, at this time we should exercise some control over our subject.

The Senator from Virginia [Mr. HENRY] admits that the Committee on Finance, a few years ago, did propose a system of appropriation for a minister to Persia, with no support, but a single miserable seaport on the Persian gulf—no place at which our citizens had any communication at all—doing all its commerce by caravans

across the desert. We were to have a minister there, to ride out with the Shah's officers, praise those officers, kiss them in the forehead, kiss the courtiers, and go back to the palace again, with nothing on earth to do; no commercial relations whatever—just as we have none now with Paraguay; just as we have none worth mentioning with Ecuador; just as we have none worth mentioning with Persia. I think it is a waste of the property States that I might name; if I had the list of our foreign ministers before me.

I think the House of Representatives has done wisely in refusing this appropriation. It is time to arrest our steps in this path. We all speak of economy, but Heaven knows I cannot imagine a subject in which expenditure is more utterly worthless than it is in this whole system of nominating foreign ministers to places where we have no relations whatever. I trust the Senate will persist in its refusal of this appropriation.

Mr. GREEN. Mr. President, the Senator from Louisiana is a little mistaken. Our relations with Ecuador are of greater importance than he imagines. The old Colombian Government embraced Ecuador, Venezuela, and New Granada. When they dissolved that government, they made a division of the territory into three Governments. New Granada assumed fifty per cent. of those obligations; Venezuela thirty-one and one half per cent.; and Ecuador twenty-eight and one half per cent. Our citizens have, to this day, more than three hundred thousand dollars of claims against the three Governments, to be all the proportion which I have named by the division and the agreement at the time of the dissolution of the Colombian Government. I hold it to be the duty of this Government to protect its citizens; and when our citizens, whose claims they may be on the northeastern coast, have in commercial enterprises, sustained losses, I hold myself responsible to assist in securing them adequate remuneration and redress. That redress has not yet been afforded. A portion of it has, but all has not. There is therefore every necessity for having a minister at Quito, the capital of Ecuador; there is a necessity for having one at Bogota, the capital of New Granada, which assumed fifty per cent. of the debt; and, besides all this, there is a commerce and a business, of which the Senator seems to be ignorant, which connects the commerce from Guayaquil, which comes up and crosses the isthmus at Panama, there is a large commerce across the plains and down the Cauca, to Magdalena, by Sabanilla, and by ship thence to New York. A part of the commerce is in what we call Panama hulk, but what is called the commerce, a large portion of it is in Peruvian bark as we call it, or Jesuit bark as they call it. There are various other articles of commerce. To pay for these things, cotton goods are shipped there and various articles of eastern manufactures. These are facts that I know to be true, but which the Senator, not knowing the claims of our citizens against those Republics, it is our duty to be properly represented, so as to get proper redress.

So far as Paraguay is concerned, all I have to say is that there is every necessity for having one in our Government and that. It was adjudged on honorable terms with the President, Lopez. It is our duty to meet his courtesies with the proper degree of respect. We can only do so by sending a minister of the same grade. When the Senator says that a minister once sent there has never recalled, and a ministry once established is never abolished, I have but to say to him, in this growing country, when a Territory is created, it is never abolished; we grow; we expand; we increase. As with our population; as with our commerce, so with our necessities. We grow; we expand; we increase; and it ought; and it is one of the strongest evidences of the continuing prosperity of this country.

Mr. CRITTENDEN. Mr. President, I wish to say a word only in reply to my friend from Louisiana. I have no objection to his remark, but I doubtless I made no remark in any spirit of unkindness or discourtesy towards him.

Mr. MASON. Certainly not. I never thought of it. Mr. CRITTENDEN. There are few gentlemen in the body or out of it for whom I have more respect than for the Senator from Virginia. I simply differ in opinion with him as to the necessity or propriety of sending this mission. I am

must still keep up the minister there, with a little hope and prospect of ever getting the \$300,000 as at first? There is no money paid. The nation is unable to pay any. The presence of the minister there does not help to pay it. The nation does not repudiate its obligations; but it has not got the money to pay them. That was its condition, as I ascertained it at the time I was there. I shall say nothing further on this subject. I think the debate has gone far enough.

Mr. GREEN. The Senator is wholly mistaken, as he was before. There are claims undusted, controverted. When the dissolution of the Colombian Government took place, it was in 1830—thirty years ago. Since that time we have received a portion of the claims, and our ministers are annually and periodically adjusting a portion of our claims for indemnity. The Senator is mistaken when he says it would be better for the United States to assume the debt and pay it; but even if he is not mistaken, will he receive the payment of the debt? I know he will not.

Mr. BENJAMIN. No, I will not. I think all the money you have got would not pay the salary of the minister. That is what I mean. In that sense, I mean it would be cheaper to pay the debt than to pay the minister.

Mr. GREEN. If the Senator will look at the records, he will find the contrary. A larger portion has been recovered than the cost of the mission, and besides, it has been the means of opening up, or aiding in opening up, a commerce which is of immense importance to the country. With regard to Ecuador, the Senator tried to diminish the importance of that place. I do not know who fills the mission. It was not for the purpose of showing the necessity of a mission there, but to answer his objection against the mission there.

But again: the Senator from Kentucky says that a certain old particular friend of his went to some Government—he has forgotten what—could not find the Government, presented his credentials to the Secretary of War, and was insulted, and called him out to mortal combat. Well, my man sent abroad who will present his credentials to the Secretary of War, instead of the Minister of Foreign Relations ought to be insulted, and is so utterly incompetent that if we could get a better man, that mission ought to be abandoned.

Mr. CRITTENDEN. He was not recalled; he returned voluntarily.

Mr. HUNTER. I hope we shall have a vote on this question. The amendment does not involve much, certainly not this great constitutional question. It is a question of propriety, whether we shall authorize this mission or not, and I hope the Senate will determine it in some way or other at once.

The amendment was rejected; there being, on a division—ays thirteen; noes not counted.

Mr. DAVIS. I have an amendment to come in after line ninety-six, and the appropriation for the northwestern boundary commission:

Provided, That when the boundary line is determined between the Pacific ocean and the Rocky Mountains, any unpaid balance of this appropriation shall be applicable to the determination of that portion of the boundary which lies east of the Rocky Mountains, and which has not, as yet, been traced on the face of the earth; and that the United States commissioner be, and he be authorized, in connection with the commissioner of Great Britain, to ascertain and trace and bring to the record of the Rocky Mountains, as far as the Lake of the Woods.

A very brief explanation will suffice. In 1856, when a first appropriation was made to trace the boundary line between the Territory of Washington and the British possessions, it seems to have been supposed that, by the treaty of 1846, we had determined the line of the boundary by a survey line, at least so far as the forty-ninth parallel constitutes it; for, in that first appropriation, the amount appropriated was limited to the portion of the line which was between the Pacific ocean and the Rocky Mountains. This indicates very clearly, to my understanding, it was supposed by Congress that the treaty of 1846 determined the boundary from the Lake of the Woods to the Pacific ocean. There were many reasons why they should require the line to be commenced on the Pacific ocean, which is not necessary now to consider. But we find ourselves in the condition of a treaty which is about to be executed under this appropriation, so far as the land portion of the boundary line is concerned; and then, in-

stead of the same treaty (as seems to have been the supposition of Congress when the act of 1856, making the appropriation, was passed), extending to the boundary on the east side of the Rocky Mountains, that portion of our boundary was provided for by the convention of 1818, but has not been traced upon the face of the earth. Our settlements, in the mean time, have extended to the Pacific ocean, in the fall of the year of the Red River of the North, and it has become important that we should know what is the exact dividing line between the British possessions and the United States.

Unless the commissioner which I have offered to adopt, when the commissioner has reached the Rocky Mountains it will develop upon him to return to the Pacific ocean, and bring home all his assistants, and make out his report of so much of the boundary as lies between the Pacific ocean and the Rocky Mountains; and I believe the expense of returning from the Pacific coast to the land to find his way to the Atlantic coast, will be equal to a sum which would serve to extend the line considerably on the east side of the Rocky Mountains and towards the Mississippi river. By crossing over the Rocky Mountains in the fall of the year, and then following the river to the mouth of Fort Benton, he will be in a position there to receive his supplies in the spring, and much more economically can extend the line to the Lake of the Woods than can ever be done if this organization be broken up and the work afterwards recommenced.

These are the principal considerations in offering the amendment.

Mr. HUNTER. Mr. President, as it now stands, we have appropriated what is estimated to complete the survey, which, according to the statement of the Department, was required by the treaty; that is, the line west of the Rocky Mountains, making in all about three hundred and fifty miles. I do not know—the Senator from Mississippi is a better judge of that subject than I am—whether it is necessary to extend the line eastward, and by my objection to the amendment is, that it will initiate another survey; it will commence a survey of all that portion of our northern boundary between the Lake of the Woods and the Rocky Mountains. This may be very good, but it will not be a part of the treaty as a separate and independent enterprise. We ought, at least, to know whether the British Government will join us, so that the survey, when made, shall bind both Governments. In the absence of that information, it seems to me an appropriation bill just here is not the place to commence such an enterprise or such a survey as that. If the Senator will bring it up as a separate bill, or if he will give us all the information necessary, perhaps by the time some other appropriation bill may come up to which it may be germane, I may vote with him; but in the present state of my information upon the subject, I should be unwilling to take the responsibility, so far as a vote would attach any responsibility to me, of initiating an additional survey, as it seems to me that the treaty is a line west of the Rocky Mountains and the Lake of the Woods.

Mr. DAVIS. The Senator has stated, only in other words, a very good argument for the proposition which I make. The estimate, as he must be aware, covers the expense of taking the party from the Rocky Mountains back to the Pacific ocean, and bringing them from there to this portion of the United States. That sum of money, if expended in extending the line agreed upon by the convention of 1818, would carry the party far to the eastward of the Rocky Mountains. So far from my having any intention of not extending that this is beginning a work, and that I ought to bring it up and inaugurate it by a new act, he must be aware that there has been a party in that remote region with their instruments, and if they sent them, and afterwards reorganize a party requiring new instruments and provisions, and sending them into the field will involve a very heavy expenditure as well as delay in the work. That portion of the water boundary which constituted the agreement or treaty of 1846 certainly involved no difficulty in carrying it out, and it is not necessary to be afraid to have it speedily executed; but except that, there is no portion of the line between the Pacific ocean and the Rocky Mountains which was nearly so important as that between

the Mississippi river and the western extremity of the valley of the Red River of the North.

The importance of tracing and marking upon the face of the earth a geographical line depends very much upon the liability in contest, the value of the land, and the hazard of controversy between the people residing on the two sides of it. We have been surveying a line on the west side of the Rocky Mountains, and it is not necessary to completion, along which there is no probability of controversy; a remote place, indeed, if ever shall have population there. The same is true immediately on the east side of the Rocky Mountains; but as you approach the Mississippi river, the fact changes, and there it is important that the line should be traced. I see no advantage, therefore, in delay. I see increased expenditure in consequence of delay. As to the British Government being associated with us, that was so plainly a requisite, that it is stated in the amendment. We have fallen into vast confusion, in the legislation, at least, in regard to the survey of that boundary. It was originally supposed that the commissioner appointed by Great Britain was to run the whole line; but it was afterwards ascertained that the commissioner appointed by Great Britain had no authority, except to define the line between the United States and the British possessions; and the commissioner was appointed to survey the land boundary; and my impression is, though I am not able to state it at all positively, that the commissioner appointed by Great Britain for the survey of the land boundary has not been able to do so, and will not be able to do so until he reaches the Lake of the Woods, or, indeed, unless we consider the residue of the boundary settled, until he reaches Lake Superior.

Mr. HUNTER. What will remain of this estimate, I do not know, nor does the Senator from Mississippi. The Department estimates that this sum may be required to finish the survey to the Rocky Mountains—three hundred and fifty miles. Of course the party will have to come home, and it will cost no more to come home in one direction than in another. It is not necessary that they come home by the Pacific ocean than to cross the country on the eastern side of the Rocky Mountains. We know that anything which might remain of this appropriation would be a mere drop in the bucket towards executing the survey east of the Rocky Mountains, and the Lake of the Woods. When we have once commenced, we shall go on; we shall have an estimate from year to year until the work is accomplished. It seems to me such an enterprise as this we ought not to enter on in this hasty manner. We ought to wait until we have an estimate. There is no proposition from any of the Departments; there is no statement of what it is to cost. I do not know that there is any stipulation by which we should have a joint commission to run the boundary. Under these circumstances, I think I am right in asking the delay in commencing such an expenditure. What is the reason of using the little balance that may exist, for running a little part of this survey, unless we intend to carry it on, and if we intend to carry it on, why commit the Government to the undertaking until we know upon what the Government think it would be better to wait and mature this scheme, and bring it forward hereafter, either in an independent bill or otherwise.

Mr. HAMLIN called for the yeas and nays; and they were ordered; and being taken, resulted yeas 28, nays 9; as follows:

YEAS.—Messrs. Briggs, Butler, Clark, Clark, Collamer, Davis, Fitch, Fitzpatrick, Ford, Grimes, Gwin, Hamlin, Harris, Humphreys, Johnson of Arkansas, Johnson of Tennessee, Johnson of Wisconsin, Kellogg, McKim, Nelson, Pillsbury, Robinson, Sargent, Smith, Sibley, Stanley, Stebbins, Sumner, and Wigfall—28.

NAYS.—Messrs. Chandler, Percusse, Hammond, Hunter, Johnson of New York, and Tilden—9.

So the amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed; and the title of the bill was amended by adding the words "and for other purposes."

PAY OF THE NAVY.

Mr. MALLORY. If there be no further business before the Senate, I move to take up the bill in regard to the pay of the Navy, not for the purpose of considering it to-day.

THE PRESIDING OFFICER. The bill now before the Senate in regular order is the homestead bill.

Mr. MALLORY. But I desire, with the consent of the Senator from Missouri, who has the floor on that bill, to make this motion, for it will not interfere with that bill; and I presume the Senator from Missouri will give way, under the circumstances, for the purpose of considering the naval bill to-morrow. I am anxious to have it taken up to-morrow. The amendment which the Senator from Maine has proposed will be printed here. I move to take up this bill, and that we adjourn we shall adjourn, and leave it as the unfinished business for to-morrow.

The PRESIDING OFFICER. The question is on the motion of the Senator from Florida, to take up the bill (S. No. 229) to increase and regulate the pay of the Navy of the United States.

Mr. MALLORY. When the bill is before the Senate I shall ask to have it passed over informally, so that when we adjourn we may adjourn with that bill before the Senate.

The motion to take up the bill was agreed to; and it was read the second time.

Mr. MALLORY. Let us pass it over informally.

Mr. GWIN. Let us pass it now.

Mr. MALLORY. The amendment of the Senator from Maine is not printed yet.

The PRESIDING OFFICER. The general consent it will be passed over informally.

There being no objection, the bill was passed over.

SALE OF ARMS.

The PRESIDING OFFICER. The next bill before the Senate regularly is the homestead bill.

Mr. DAVIS. I move to postpone that with a view to take up the bill (S. No. 45) to provide for the sale of arms to the States, which has been several times discussed.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 45) to authorize the sale of public arms to the several States and Territories, and to regulate the appointment of armorers to the national armories, the pending question being on the amendment of Mr. HALE, in the fifth line of section two, after the word "repealed," to strike out the words, "and that the superintendents of those armories shall hereafter be selected from officers of the ordnance corps."

Mr. DAVIS. That question has been so fully discussed heretofore that I believe I have nothing to add. I have received a statement in relation to the course of instruction at West Point, showing how fully it covers that branch of mechanics which is so requisite to one who takes charge of these armories; but the subject has been so much discussed that it is unnecessary.

Mr. MASON. When this bill was before the Senate on a former occasion, in reference to the particular clause now under consideration, in one way, I do not know how, an impression prevailed, that was alluded to afterwards by my colleague here, that in some remarks I made on the expediency of changing the present mode of superintendence at the armories, I had spoken in disparaging terms of the Department, and in charge as superintendent at Harper's Ferry. I only want the permission of the Senate to allow me for an instant to do justice to that officer, and to remove any such impression. The gentleman who is now the superintendent at Harper's Ferry is one who has been known to me, and his family before him, for a great many years. I know him personally; and I do not know any man more competent to discharge the duties, or who, so far as I know or have reason to believe, has discharged them better. I do not know how such an impression was made upon me at the present; he was absent at the time of the foray of Brown at Harper's Ferry, and had been absent for a week; he is not at all responsible for anything connected with that. He had been, I happen to know, sent by the War Department on some official duties to the army at Springfield, in Massachusetts, and was absent during that whole time. Nothing was further from my mind than to make any reflection on him; and how that impression got abroad, I do not know. I looked upon the department, and I said nothing in disparagement of that officer. I said nothing, in his commendation because nothing was required; but nothing certainly to his disparagement. I know him to be an able, efficient, and

honest man; and if this superintendency were to be continued in the civil branch of the public service, I do not know anybody more competent to fill it.

The amendment was rejected.

The PRESIDING OFFICER. The question is on engrossing the bill.

Mr. SIMMONS. What was done with the amendment offered by the Senator from Maine?

Mr. FESSENDEN. It was rejected; and the second section stands as it was, except that a new section has been offered by the Senator from Mississippi, which had better be read.

Mr. SIMMONS. I should like to hear the bill read as it is now before I vote on it.

The Secretary read the bill, as follows:

Be it enacted, &c., That the Secretary of War, be, and he is hereby, authorized to issue any State or Territory of the United States, on application of the Governor thereof, arms made at the United States armories, and primers prepared by the United States, to such extent as may be approved by the public supplies without injury or inconvenience to the service of the General Government, upon payment therefor in cash, at the time of delivery in each case, of an amount sufficient to replace, by fabrication at the national armories, the arms so issued: Provided, That the sales of each year shall not exceed the increased manufacture which may result from said sales, and that the whole number to be sold shall not be more than the quantity made, shall be divided equally between the States and Territories, as arms furnished by the United States are now distributed.

Sec. 2. And if it further enacted, That no such of the arms so issued, as is hereinafter provided, shall be the property of a civilian as a superintendence of each of the national armories, be, and the same is hereby, repealed; and that the sale of these armories shall hereafter be selected from officers of the ordnance corps.

Mr. SIMMONS. I should like to inquire of the chairman of the Committee on Military Affairs whether it is proposed to sell arms of the recent model which have been made within the last two or three years. I understand we have some four or five hundred thousand arms, and of this new model there are not over forty thousand. I think, from what I can learn, that it would be better to preserve the arms of the new model for the service of the militia. If I understand the bill right, the guns we have recently rifled—Minnie guns—I have no objection to selling them; but, as I learn, there have been only fifty thousand of the new arms made, and perhaps about ten thousand of them have been distributed among the States. There were only five thousand in the possession of the Government, and I think the United States troops had better be armed with this recent model of gun. If the State troops have the old model, which carries a little heavier ball, I should have no objection myself to letting them have the same. Most of the States would undertake to keep on hand four or five hundred thousand, so that our troops will have different sized balls to their muskets, or Minnie guns, or whatever you call them, in my opinion, bad policy. I should like to have this distribution confined to guns made prior to 1854 or 1855, when we began manufacturing on the new pattern, if the Senator has no objection.

Mr. DAVIS. I can do little more than repeat—my respect for the Senator would induce me, of course, to repeat as often as he desires—that the United States arms which is now the subject of this bill to take an arm away and put back another of the same kind in its place. For every one that the States take, under this provision, they pay the amount of money which will replace it by fabrication at the armories, and to be replaced with the year. They cannot war more under the provisions of the bill than can be replaced by the money which they put in lieu of the arms thus taken away.

I will restate the capacity of the armories greatly exceeds the appropriation which we annually make for the purchase of arms. We have eighteen thousand stand of arms, when the capacity of the armories is forty thousand. If, then, twenty-two thousand are called for by the States, and money equal to twenty-two thousand deposited in the armories, the armories are brought up to the full establishment; they make forty thousand in a full of eighteen thousand; so that the supply accumulated for the use of the Government remains the same. In the mean time, the militia are getting supplied more rapidly than under our appropriation. The result is, that the militia are not now have the lightest model and the best kind of arms that can be carried by troops. It is not proposed to reduce the appropriation for the ordinary manufacture. That remains as before. The

eighteen thousand are still to be made as before. The increased manufacture will result from the sale to the States; and the sale to the States is limited by the capacity to increase the manufacture. That is the whole question.

Mr. SIMMONS. That does not meet the question I propounded. I suppose, of the arms made prior to 1855, we have distributed large numbers.

Mr. DAVIS. Yes.

Mr. SIMMONS. Now I propose to distribute the same kind of arms, so that they will not have two calibers to the musket, and to retain the new ones for our own troops. Whatever money they pay for the old ones, I am willing to retain for manufacturing the new ones for the United States. We have got a different caliber to the musket, I understand—similar to that which it would be better for both sides to have the United States have all their arms of one caliber, and the militia all theirs of another caliber, if there must be two.

I suppose I understand what the purpose is. I have made some objection to the plan of manufacturing these arms at the paper cost, and I have taken some pains since the question has been up to find out what the cost of these establishments was, and what was the annual expenditure of the armories for the manufacture of arms, and I find that a fair interest and the wear and tear of these establishments annually amount to more than double the appropriation we make; so that every musket we make would annually cost the Government, if we had to pay interest, three times what we should get for it. The bill, I have no objection to increasing the manufacture of arms somewhat, but I would have the arms for our troops all of one caliber; and as the militia got some of the other kind, I thought it would be better to let them have more. I think the Senator will agree with me, as a military man, that it is a little awkward to be having State troops armed with guns carrying two-sized balls. If they have had none of the new arms, let them have the other kind, and have them of the pattern they have already got; and let us keep guns of the same caliber for the militia. I do not think that would be better, and certainly it is manufacturing them cheap enough. I have no objection to let them have the old ones. They seem to be very good arms when they are rifled. I do not desire to speculate on arms, but I should like to keep them for the militia.

Mr. DAVIS. The Senator runs into an error which I find very often prevails, that the militia of the States are not a part of the Army of the United States. It is our glory that the defense of our country rests on the militia. As the States, then, to arm the militia in time of peace with a weapon which they will not use in time of war. He proposes to instruct them through the whole period of peace with a weapon such as the Government does not employ in war. Is that his proposition?

Mr. SIMMONS. No, sir.

Mr. DAVIS. That is no proposition. Then why does he say to me that he proposes that the militia shall have one caliber of the old model, and the United States troops another of the new model? Does he not know that the old model is smooth-bore; that that cannot be brought to the condition of the new model rifled musket? It may be rifled, it is true, but not the pattern as old as some of these of which he speaks; and I imagine no one will have rifled the oldest model musket which is now in store. It was only the model which was made after the period of the old model that I believe it has been attempted to rifle. The others have received percussion locks; but many of them were condemned and sold—sold for a mere song. They passed through the hands of the Government, the militia wanted them, they could have bought them without legislation. No met are so careful about the character of the arms they carry as the southern and western militia. They have a pride in their weapons, accustomed to use them, trained to handling them. The Government, if it is to stop the sales as we increase the appropriations, limiting them always to the increase which may result from the sales. I cannot imagine why, upon the argu-

ment presented by the Senator from Rhode Island, he should continue to resist it.

Mr. SIMMONS. I hope the Senator will try to understand me. I understand that within two or three years the caliber of the muskets has been changed, and been made smaller.

Mr. DAVIS. Yes; it has been made a rifled musket.

Mr. SIMMONS. And orders have been issued to rifle the muskets made prior to that time.

Mr. DAVIS. To some extent.

Mr. SIMMONS. I understand it is a standing order, and they are rifling them all the time. I want to know why we are going on with the expense of rifling these muskets, if they are useless. I learn that we are going on with it; making the old muskets Mispie rifles, and when rifled they carry a larger ball than the new musket. The Senator says these are arms that are excluded from the use of the regular Army. I proposed to confine it to arms made up to within three or four years since, when the smaller bore was introduced; and I am very certain I have heard it repeatedly here that those muskets, when changed and rifled, would make very good muskets. If they are good for our troops, why are we doing it? I have heard I understand these new ones are rather heavier. That is all I know about it.

Mr. DAVIS. I say to the Senator that I do not think it is the weight of the weapon, but the weight of the ammunition, of which he has heard.

Mr. SIMMONS. Of many dollars are taken here; a little heavier to carry on the shoulder. I never heard that the ammunition in them was much. If it is the purpose to carry this bill at all events, without any reference to making up a variety of calibers in the different corps, it will not make any further objection to it. But I am quite certain that if we need these arms at all, it would be better to retain those of one caliber and sell those of a larger one, and I would have no old muskets rifled at all. I think we had better sell them for the regular army. I have heard of selling them for; but I understand there are large numbers of them that make a very effective arm by being rifled, and that the armories are now rifling them. I would prefer to sell them, and if we add anything to the number we are now making, add those of one caliber. If, however, my suggestion meets such serious opposition, I do not wish to press it.

Mr. DAVIS. I dislike to enter into a mere question of ordinance; but to make the Senator understand me, I will say that I doubt very much whether the States which have a large number of guns make a requisition for a single musket; they want nothing but rifles probably, and in that event he will see that his proposition would defeat the requisition entirely.

The PRESIDING OFFICER. (Mr. Massey in the chair.) The question is on ordering the bill to be engrossed and read a third time.

The bill was ordered to be engrossed and read a third time, was read the third time; and on the question, "Shall the bill pass?"

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 29, nays 18; as follows:

YEAS—Messrs. Benjamin, Bigler, Briggs, Chace, Clay, Clingman, Crittenden, Davis, Fish, Fitzpatrick, Green, Hall, Hammond, Hoar, Ives, Johnson, Keith, Lester, Kezley, Lane, Latham, Mallory, Mason, Nicholson, Palk, Powell, Rice, Rumbler, Sebastian, Stidell, and Yulee—29. NAYS—Messrs. Anthony, Bingham, Cameron, Chandler, Clark, Colburn, Woodruff, Durkee, Fessenden, Ford, Grimes, Hamlin, Harris, King, Stanton, Sumner, Ten Eyck, and Wade—18.

So the bill was passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the Speaker had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

A bill (H. R. No. 326) to establish mail routes in the Territory of Kansas.

A joint resolution (S. No. 11) for the relief of Commander H. J. Hartstene, of the United States Navy.

REGULATIONS FOR THE GUANO TRADE.

Mr. HAMLIN. I ask the Senate to take up bill No. 303, reported by the Committee on Commerce, which I think will give rise to no debate, and which it is very important should be passed.

The motion was agreed to; and the bill (S. No. 303) supplementary to the act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856, was read the second time, and considered as in Committee of the Whole.

It provides that when the President of the United States has accepted the bond or bonds of any citizen or citizens of the United States, or his or their assigns, in compliance with the second provision of section two of the act of August 18, 1856, and notification of the acceptance has been made to him or them, the same shall be deemed and taken in all legal proceedings to be evidence that the island, rock, or key, therein specified, shall be considered as appertaining to the United States, and shall be held for the exclusive right and use of said citizen or citizens of the United States, or his or their assigns, for the purpose of obtaining guano, and of selling and delivering it from the time of the acceptance of the bond. And the President of the United States is to make proclamation thereof. But if, upon the production of evidence satisfactory to the Secretary of State, it shall appear that the said certificate has been obtained by mistake, fraud, or upon insufficient evidence, he may, at any time within one year from the date of the certificate, review the proceedings and issue a certificate to the party properly entitled thereto. There is a proviso that nothing in this act shall be construed to deprive any person of his rights in the courts under the law to which it is supplemental.

The second section extends all the provisions of the revenue laws of the United States, relating to manifests, reports, entries, and inspection of cargoes, in all respects, so far as they may be applicable to guano, either imported or brought coastwise from any island, rock, or key; and before it shall be passed through the custom-house where entered, it is to be examined and analyzed, and a proper certificate shall be given by the Secretary of the Treasury, so as to ascertain the proportions and purity of its component parts, and a certificate of the result of the examination and analysis is to be given and marked upon or affixed to each barrel, box, bag, mark, or package of the same. It shall be deemed a misdemeanor to violate such regulations as the Secretary of the Treasury shall direct, and in such manner as in his discretion shall be best adapted to protect the purchasers and consumers of guano from imposition and fraud. Any person or persons who shall knowingly violate any provision of this act for the sale of any guano, other than that to which the same shall relate, or any compound of which guano is a component part, are to be deemed and taken to be guilty of a misdemeanor against the laws of the United States, and, on conviction in any court of the United States, to be punished by a fine not to exceed \$1,000, or imprisonment for a term not to exceed three years, or both, at the discretion of the court.

The third section repeats so much of the second section as is contained in the act of August 18, 1856, as respects the sale and delivery of the guano to the citizens of the United States, and for use therein, and provides that henceforth it shall be lawful for any citizen or citizens of the United States, or his or their assigns, who have delivered their bond, or acceptance thereof by the President of the United States, to sell and deliver the said guano to other than citizens of the United States, and for other than use therein.

To obviate the necessity of placing revenue officers on the guano islands and keys, the fourth section makes it the duty of any shipper of guano from the same to any foreign port or country, to report to the collector of customs in the United States, at some port, and clear therefrom, or he may proceed to a foreign port at which a consul or consular agent of the United States is stationed, and deliver to him duplicate manifests, on which the consul or commercial agent shall inscribe a certificate in the nature of a clearance for the vessel: one to be returned to the master of the vessel, and the other to be forwarded to the Treasury Department; these certificates to have the same force and effect of similar documents issued and received by collectors of customs.

Mr. YULEE. One of those sections provides penalties and punishments; makes a new class of

criminal offenses. I should like the bill to lie over so that we may look into that a little further. My attention was attracted to the reading of it. I think the second section makes a new class of crimes or offenses. I should like to see whether it is within the limits—

Mr. HAMLIN. I think, if the Senator will give his attention to it now, he will see that there is no crime in it. It is a crime to forge the collecting department of the Government. It is a provision that runs through all your revenue laws.

Mr. YULEE. It is to operate within the States. Mr. HAMLIN. Certainly, it is to operate everywhere.

Mr. YULEE. Let the second section be read. The Secretary read the second section of the bill.

Mr. YULEE. I hope the Senator from Maine will consent to let the bill lie over. I think we ought not to pass upon a bill which proposes to increase the number of criminal offenses hastily. My attention has not been directly called to the subject; the bill comes up out of order, and at a period of the day when we could scarcely have expected it. I desire the Senate to be proposed for final action by the Senate.

Mr. HUNTER. I hope it will lie over. It is important in many respects. I see there is a provision for analysis. Who is to pay for it? Are we to have a new set of officers, like inspectors of drugs?

Mr. HAMLIN. No, sir.

Mr. HUNTER. I fear it will lead to that. Let it lie over, so that we may examine it.

Mr. HAMLIN. I had hoped that the bill was in such a shape as to elicit no opposition from any quarter. I desire the Senate to act upon it now, because there are a vast number of vessels waiting to know whether this bill is to become a law, and desiring to enter into the trade in shipping guano from our own to foreign ports. I do not wish to ask up the time of the Senate, but I will, in as few words as I can, explain some of the provisions of the bill, and what has been its origin, and the sources which the Committee on Commerce have consulted in relation to it. In the first place I desire to say, that I think no bill during this session has excited so much discussion and consideration in the Committee on Commerce as this one. I think the chairman will concur with me in that expression. [Mr. CLAY nodded assent.] After the fullest examination we could give to it, the bill is its present form; the unanimous approval of the committee, and the concurrence of the Senate, was not a single dissenting voice upon it, and for very good reasons.

The first section of the bill changes the present law by making the title to these islands vest exclusively in the discoverers under the existing law; and it requires the President to issue proclamations, when an island shall have been discovered and the bonds are filed with him under the law to which this is supplemental. That is an addition to the present law. The proviso in the first section speaks for itself, that where, by mistake, fraud, or otherwise, a claim is made to an island, the War Department shall have been granted to the wrong person, the Secretary shall have one year's time in which he may review his opinion, and grant his certificate to the party entitled to it. If any party, therefore, should make a claim under the existing law to an island wrongfully, there is a right of review granted to other parties outside of it, any time within the period of one year. Another provision to that section simply confines litigants now in court to the existing laws, and without attempting to interfere with them by the passage of this law. That is the first section.

The second section of the bill provides for an inspection of the guano. It is found that there have been adulterations made. The committee consulted with the Treasury Department on it, and the Treasury Department has decided that there should be inspections of guano at such ports as the Secretary should determine, he determining the ports where there are now inspectors of drugs; and the inspectors of drugs being officers who have a compensation fixed by law, will have to assume this additional duty. His report on this guano has been so analyzed and inspected, and a certificate under the proper officer granted, this section provides that if any person shall willfully use those certificates on guano never so im-

spected, he shall be subject to a penalty. Surely I think the Senator from Florida can discover no wrong in that, unless he is disposed to let the shippers spread broadcast among those who may want to use this fertilizer, certificates that apply to other guano that have been analyzed.

Mr. YULEE. I would prefer to leave it to the States to protect their own citizens from the effect of such a fraud.

Mr. HAMLIN. Why not under all your revenue laws leave it to the States? The idea of leaving it to a State to punish a violation of the revenue laws of the United States, passed by Congress and extending over all the States, seems to me a novel one, indeed.

Mr. YULEE. You do not propose to derive any revenue from this?

Mr. HAMLIN. None whatever.

Mr. YULEE. I would protect the United States against offenses which looked to the diminution of its revenues, to defrauding the Government of those revenues; but when you come to act upon the citizens of a State for what the State may or may not choose to make criminal, when it is not necessary to the protection of the revenues of the Government at all, I would then consider it. I do not wish to enlarge the criminal jurisdiction of the United States, to increase the number of Federal offenses, any further than is absolutely necessary for the execution of Federal power. That is the point. To the general execution of the bill, I have no objection.

Mr. HAMLIN. I take it not; and I think the Senator's objection is entirely hypercritical. He surely could not frame a law which would allow a State to intervene, and undertake to tell what are the penalties for violating a law of the United States. The thing is postposterous.

Mr. YULEE. No; but the States can do this: they can punish a man for selling guano within their limits, under a false pretense of purity, when it is not pure. They can do that, if they choose. But Mr. HAMLIN, the objection is, that the bill allows guano from all these islands discovered by our citizens, to be carried to foreign, as well as domestic ports. The parties interested, so far as I have been able to learn—those using and those shipping—are in favor of that section, because it is the only one in which the States have no keys that have been discovered, is possessed of those fertilizing powers that adapt it much better to the soils in foreign countries, while the guano upon other islands and keys is much better adapted to ours. There is much phosphate in the one; there is more ammonia in the other; and as the one or the other preponderates, so it is adapted to this or that soil. Indeed, the restriction in the original law seems without any well-founded reason, and the committee were unanimously of opinion that if those points are discovered, if we receive from other islands, let our commerce participate and carry this to foreign countries, if they find it beneficial so to do.

But it was objected by myself that throwing the revenue laws over this matters the second section did not involve the necessity of placing the revenue officers at these islands and keys; and to obviate that, the last and fourth section of the bill was drawn under instructions received from the Treasury Department; and that provides that the shipper of the guano may bring it to any port he pleases in the United States, and from that port clear to a foreign port, or he may ship it directly to a foreign port at which an American consul or commercial agent may reside, and that commercial agent shall inhale upon his manifest, two copies of which the collector is bound to transmit, as an endorsement in the nature of a clearance. One of these manifests is to be returned to the Department here, the other is to be retained by the master of the vessel to operate in all its parts as a clearance of the vessel would if cleared from a port in the United States.

These are the provisions of the bill, and all parties are in favor of it; and there are, if it shall become a law, as I have said, a very large number of vessels—I am told more than forty—now lying in readiness to participate in the trade, if it shall be open to our commerce, to go to foreign ports. I hope there will be no objection to considering the bill; and I trust it will receive the favorable consideration of the Senate.

Mr. HUNTER. The bill seems to me to be ob-

scure in regard to the provisions for inspecting the guano. Is the guano to be carried only to those ports where an inspector of drugs has been appointed? Cannot they enter it anywhere else?

Mr. HAMLIN. Anywhere else.

Mr. HUNTER. If they enter anywhere else, it is to be landed without inspection.

Mr. HAMLIN. Yes, just as it is now.

Mr. HUNTER. The bill provides that before it shall be entered it shall be inspected. The bill says:

Before the same shall be passed through the customs where entered, it shall be examined and analyzed by an inspector of drugs to be designated by the Treasury, so as to ascertain the proportions and purity of its component parts.

That is to say, if I understand it, the Secretary of the Treasury is to designate the ports at which it is to be entered, and there it is to be analyzed. There is nothing in the bill to make it compulsory on the inspectors of drugs to analyze it, and if they analyze it, what are to be the fees? Are they to do it for nothing?

Mr. HAMLIN. If the Senator will speak a little further in that section, he will see; "under such rules and regulations as the Secretary of the Treasury shall direct," and the Secretary of the Treasury, as will be seen by the papers accompanying the bill, proposes to have it done by the inspectors of drugs.

Mr. HUNTER. Is the Secretary of the Treasury to be authorized, under his general power, to add to the duties of the inspectors of drugs, and that without additional compensation, or is he to be allowed to say what shall be the fees, or is it to be given to him to say that it shall be entered at certain ports, and not at others? Suppose they bring a cargo to Norfolk, in my State; a great deal of it is used in my State; there is no inspector of drugs there. If I understand this section, it cannot be entered at all until it has been analyzed. How is it to be analyzed? Who is to analyze it? What is to pay for analyzing it? What is he to get? It seems to me that that section is not well drawn; it is not specific enough. It does not define the duties of the shipper or of the officers at the ports, with sufficient distinctness to leave no room for dispute. It seems to me that such powers as have never been vested in him before—legislative powers. To the other provisions of the bill I do not object; but to this, unless it is to be more accurately defined, I have objection, because it will restrict the shipment of goods to certain ports, or else vest this indefinite discretion in the Secretary of the Treasury.

Mr. HAMLIN. I will state in a word what is my understanding, and what, I think, was the express understanding of the committee which reported it. The parties interested, for the purpose of protecting purchasers from being imposed upon by an impure article, an adulterated article, asked that there should be an inspection. Every body would see the propriety of it, where it could be done, but if we were to add to our revenue officers, inspection officers of guano at all the ports of the country, it would very materially add to the collecting force, and very much to the expense of collecting the revenue.

Mr. HUNTER. I would suggest that all that is so; and therefore the provision ought not to be here. The States appoint inspectors of guano.

Mr. HAMLIN. I understand it all. We consulted the Secretary of the Treasury on this point as to what could be done. The Secretary said that at the ports where there were now inspectors of drugs, the inspection could be imposed upon them, and there would be no additional expense. We are entitled to all of their time.

Mr. HUNTER. Will the Senator state to me by what law we can impose that duty upon the inspectors of drugs?

Mr. HAMLIN. I think by the same law that we would if we were to change the revenue law and add another drug to the drugs now enumerated to be inspected. I take it that in the collection of your revenue, every officer in the Department is bound to discharge the duties that are placed upon him by the existing laws and laws that we may pass.

Mr. HUNTER. But this law does not impose it upon him. Could the Secretary of the Treasury make him inspect tobacco if imported?

Mr. HAMLIN. It does not impose a punish-

ment on the inspector, but only upon the person who falsely says the certificate.

Mr. HUNTER. I am not speaking of the punishment; but I ask, could the Secretary of the Treasury add it to the duties of inspectors of drugs, to inspect tobacco?

Mr. HAMLIN. Clearly. I have not an earthly doubt about it.

Mr. HUNTER. I think not.

Mr. HAMLIN. We have an import and the right to have it inspected. I have no doubt we could impose it on the inspectors of drugs. The embarrassment was this: if we required it to be inspected at every small port, we should find two difficulties: first, the difficulty of finding a well-qualified person at many of the small ports; secondly, if you could find them at all, it would add materially to the expense of the collecting department. Then we consulted the Secretary of the Treasury. He said to let there be an inspection at ports where there are now by law inspectors of drugs, and let the duty be placed on them. It is in answer to the suggestion of the Secretary of the Treasury that we have placed this duty on the inspectors of drugs. They understand that Department, I presume, very well whether they have a right to impose additional duties on these officers. I have no doubt about it; and if they do not want to hold their offices, let them resign, and others will be found equally competent to discharge them.

The bill is, that the Secretary of the Treasury shall designate such ports as he pleases. He will designate such ports as there are now inspectors of drugs at; not others. Therefore, at all other ports, the guano will be imported as it now is. You will get some protection against an adulterated article by providing for an inspection at some six or eight of your ports. I am not able to state where the inspectors of drugs will be; but I think they are at Boston, New York, Philadelphia, Baltimore, Charleston, and New Orleans. I think that is about all. I concur with the Senator as to the ports I have named. You have inspectors there; and, so far as you get a protection, you will get it on the guano imported into those ports, and you get it without additional expense. That is my understanding of the section. If there is any obscurity in it, I concur with the Senator from Virginia, let us remove it. I do not think there is the slightest difficulty about placing the additional duty on the inspectors of drugs. I have no sort of doubt about that.

Mr. MASON. I think the Senator from Maine would act judiciously in allowing this bill to go over until we can examine it further. I do not mean to interpose at all between that Senator and the chairman of the Committee on Finance as to its financial view; but, as I read it, it involves a total departure from the policy on which the law of 1856 was based; when, for the first time, a law was passed authorizing the President of the United States to take possession, and, as it were, to annex to the United States guano islands that might be discovered derelict; and I am rather disposed to think that I should in favor of that bill, that whatever the design was, the effect of it will be to give advantages to commerce by the provisions of this new bill over the interests of agriculture. The law of 1856, as shown upon its face, provided that wherever it should appear to the President that any island having deposits of guano might be discovered by citizens of the United States, and the President should be satisfied, from evidence to be exhibited to him, that they were not in possession of, or claimed, according to my recollection of the law, by any foreign power—in other words, where they were islands which were not owned or claimed to appertain to any foreign Power—then the President might, under the stipulation contained in the law, by proclamation, declare such islands to appertain to the United States; and if it should in order to give effect to the act, the President might, if necessary, use the whole military and naval force of the country for the purpose.

It was a law that was drawn with a great deal of care at the time, and was reported from the Committee on Foreign Relations, after much conferences with the executive branch, to endeavor, as far as we could, whilst running some risk of embroiling us with foreign Powers in taking possession of desert islands, to avoid as far as prac-

"twenty-four dollars." The man to whom this pension is to be granted was a soldier in Colonel Basch's regiment, if I remember rightly—one of the volunteers from the State of Illinois—and was wounded by a shot through his body, cutting his liver, at the battle of Buena Vista. The result of this wound, according to the testimony of surgeons of the Army, and of surgeons who do not belong to the Army, has been an entire destruction of his sight and almost an entire destruction of his hearing. He has spent his entire fortune, as the Committee on Pensions understand, in trying to recover the sense of sight and hearing, without any success; and it is now understood that the testimony of the physicians is, that it is impossible for him to recover either of those senses. He has a family, consisting of a wife and four children. It is an exceptional case. Even the Senator who reported this bill (Mr. CLAY) was willing to make this pension double the ordinary amount. I was willing, as a member of the committee, to treble it. Very few such cases will ever be presented to the Senate, and none hardly that appeals so strongly to the sympathy, and, as I believe, to the justice, of this body.

Mr. CLAY. I trust the amendment will not be adopted; and I am rather surprised that the Senator has made the motion. I had supposed—

Mr. GRIMES. I will state, in explanation of the motion why I made it, that the Senator from Alabama was not present at the meeting of the Committee on Pensions this morning. The question was discussed there whether I should make this motion, and I believe it had the entire concurrence of every member then present. And I am not right.

Mr. CLAY. I do not know. I was not there.

Mr. GRIMES. I ask the members of the committee who were present.

Mr. CLAY. According to the general law, eight dollars a month is the highest amount allowed as a pension to a private soldier. If there are any cases in which Congress has exceeded that amount, even though the disability were total, I cannot now recall one. This case was one, as the Senator has remarked, that appealed very strongly to our sympathies, because the man was not totally deaf and blind. The evidence was persuasive, I would not say conclusive, of the fact that he lost his hearing and his sight from exposure incident to his service in the war with Mexico. Under these circumstances I consented, as a member of the committee, that the amount should be doubled. The Senator now proposes to increase it threefold, to twenty-four dollars, which is within six dollars of the highest amount allowed by general laws to any pensioner of the United States. In other words, it is within six dollars of the amount of one half the pay of a lieutenant colonel under the old laws of the United States, which was the maximum of pension allowed any pensioner. Even allowed him sixteen dollars, I have no doubt, will cause a murmur, because it is to us for increase of pension in other cases where the amount is inadequate to the support of the invalids.

I presume it was not the intention of Congress by a pension to provide ample support for the pensioner or the invalid soldier, but, in my opinion, it is utterly absurd to talk about eight dollars a month providing a man, his wife, and several children with the means of subsistence. It was only intended to provide for him individually, not for his family; and perhaps in most of the United States twenty-six dollars a year would be inadequate for the support of a single individual, providing him with his food and raiment.

The Senator, however, proposes by the amendment to provide for the man, his wife, and his children. It is a little disposition to depart from the policy of our laws, will prove a very vicious precedent, and will return to plague us habitually. We have already during this session reported against two or three similar applications. They come in continually. I never yet have known or heard of a pensioner who was content with all he received. All of them maintain that they are wholly inadequate, and all desire an increase of them; and they will never cease to cry "give," as long as you afford such pretext as this bill will offer.

I had hoped that the Senator would have saved me the necessity of making these remarks, be-

cause I desired the bill to pass without debate, so as to excite as little observation as possible; for I know it will be the predicate for similar applications for increased pension before the close of this session. If you agree now to raise this man's pension to twenty-four dollars a month, you give him six dollars more than the pension that General Scott would be entitled to, if he was to retire and seek an invalid pension.

Mr. GRIMES. I think the Senator from Alabama is mistaken in regard to this being within six dollars of the amount of pay that General Scott would be entitled to, if he should be admitted on the pension roll under similar circumstances.

Mr. CLAY. The Senator is wholly mistaken himself. I am a little older soldier in the pension service than he is; and I speak by the book. I assure him that, under the general laws, the highest pension allowed any pensioner is thirty dollars a month. We have made exceptional cases here; for we have broken in on the whole pension system; and the Senator himself has assisted in doing so, and it is now no system at all—all a matter of personal favoritism; but according to the general law, thirty dollars is the highest pension allowed to any one.

Mr. GRIMES. The laws we have passed here are exceptional cases; for every pension we have granted exceeds, I believe, the amount of this pensioner's pension, even with the additional six dollars. The Senator observed that I now propose to take care of the wife and children of this applicant. In that the Senator is mistaken. I merely stated that this man had a wife and four children, who were dependent on him for their support; but it is the man who is deprived of the important senses of hearing and of sight for whom I propose to provide; and when he shall cease to exist his pension ceases, and will not inure to the benefit of his wife or of his children. The Senator stated, I think, that the evidence was persuasive to entirely disprove as to the facts in this case.

Mr. CLAY. That is my impression.

Mr. GRIMES. Allow me to read from the report made by the Senator himself:

"That the evidence shows said Webster served as a private in the Mexican war; was disabled by wounds received at the battle of Buena Vista by a musket ball passing through his body, which has resulted in total blindness, and almost entire deafness; and is entirely disabled from doing any kind of work for making the best possible support for himself and a helpless family."

The Senator will observe that, in drawing this report, he has used this expression in regard to the highest family, as well as myself in the statement I made:

"The petitioner appeared before the committee, and they are satisfied, from his appearance and from an inspection, that he is not capable of attending to the ordinary functions of life without assistance."

"Sergeant Bond and Homans, of the State of Illinois, certified to of good standing in their profession, and credible witnesses, testify that petitioner is entirely blind and almost entirely deaf, and, as they believe, from the effects of wounds received during the Mexican war, and is totally disabled."

John G. T. Holton, M. D., Professor of Surgery in the National Medical College, Washington, D. C., states that he has examined and described him; that he is blind, partially deaf, and in very precarious general health; that his present state of inability is traceable to a wound sustained through the liver, in the war with Mexico.

Surgeon General Lawson, and Assistant Surgeon Colonel, United States Army, state that upon examination "we find petitioner blind in both eyes, and deaf in both ears, and from official reports, caused by a gun shot wound received in the battle of Buena Vista, the ball having entered the right side in the region of the liver, and passed out in the back."

I say further say: "We have seen no case which appeals with more force to our sympathies, or which deserves in a higher degree our favorable consideration of the Congress of the United States."

I have nothing further to add in behalf of the petitioner.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and the third reading was ordered.

Mr. MALLORY. I move that the Senate adjourn.

Mr. SLIDELL. I hope we shall have an executive session.

Mr. MALLORY. Certainly; I will yield to that.

EXECUTIVE SESSION.

On motion of Mr. SLIDELL, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, March 26, 1860.

The House met at twelve o'clock, Mr. Payser by the Chaplain, Rev. THOMAS H. STROETON.

The Journal of Friday last was read and approved.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported, as truly enrolled, an act (H. R. No. 326) to establish mail routes in the Territory of Kansas; when the Speaker signed the same.

QUALIFICATION OF A MEMBER.

Hon. CLARK B. COCHRAN, Representative from the eighteenth congressional district of the State of New York, appeared and qualified by taking the usual oath to support the Constitution of the United States.

PERSONAL EXPLANATION.

Mr. UNDERWOOD. I rise to a personal explanation. I am reported as having objected, on Friday last, to House bill No. 255, for the relief of the legal representative of Thomas Williams. I did not object to that bill, or to any other bill.

SAFETY OF PASSENGERS ON STEAMERS.

Mr. WASHBURN, of Illinois. I desire to give notice to the House that House bill No. 114, the consideration of which was postponed till tomorrow, will be called up then. I have directed the bill and accompanying report to be laid on the desk of each member; and I hope an examination will be given to the bill, so that we may take it up and pass it to-morrow.

WILLIAM M' Cormick.

Mr. FOUKE. The Committee on the Post Office and Post Roads made an adverse report on Friday last on a bill for the relief of William M' Cormick, which was laid on the table. I ask for a reconsideration of that order, and to have the subject recommitted to the same committee, with additional evidence.

There being no objection, it was so ordered.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States by Mr. John A. Brevard, his Private Secretary, informing the House that the President had approved and signed bills of the following titles:

"An act (H. R. No. 331) to repeal the third section of an act entitled 'that House bill No. 114, regulate the terms of the circuit and district courts for the northern district of the State of New York,' approved July 7, 1838; and

"An act (H. R. No. 19) to amend an act entitled 'An act to regulate the carriage of passengers in steamships and other vessels,' approved March 3, 1855, for the better protection of female passengers, and for other purposes."

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported, as truly enrolled, a joint resolution for the relief of Commander H. J. Hartstene, of the United States Navy; when the Speaker signed the same.

INTRODUCTION OF BILLS ON LEAVE.

THE SPEAKER. The new rules require the Speaker to call all the States and Territories for the introduction of bills on leave, for reference only, as the first thing in order. Under that rule the Speaker will have the States called. The Speaker will have the rule read so that all the members may see why the Chair places that construction on it. According to the rule, if the bill is placed on it by the Chair, the call will be confined to bills on leave.

The rule read, as follows:

"At all the States and Territories shall be called for bills on leave and read twice, and shall be taken up during each session of Congress; and if necessary to secure the object on said days, all resolutions which shall give rise to debate shall be taken up on the first day of each session of the House already established; and the whole of said days shall be appropriated to bills on leave and resolutions, until the regular order of business is completed; and the Speaker shall first call the States and Territories for bills on leave; and all bills so introduced during the first hour after the adjournment of the House shall be taken up on the next appropriate committee: *Prayered*, because that a bill so introduced and referred shall not be brought back into the House upon a reconsideration."

The Speaker proceeded, under the above rule,

to call the States and Territories for bills on leave, commencing with the State of Maine.

BUREAU OF STATISTICS AND AGRICULTURE.

Mr. TAPPAN. I ask leave to introduce the resolutions of the State of New Hampshire on the subject of a national bureau of statistics and agriculture.

Mr. WINSLOW. That is not in order. I call for the regular order of business.

The SPEAKER. The first part of the call is confined to bills on leave. This being a resolution, cannot be presented at this time.

NON-RESIDENT LANDHOLDERS.

Mr. THAYER introduced a bill to withdraw the protection of Congress from non-resident landholders in several of the States and in the Territories; which was read a first and second time, and referred to the Committee on the Judiciary.

IMPROVEMENT OF BUFFALO HARBOR.

Mr. SPAULDING introduced a bill making an appropriation of \$75,000 for the repair and improvement of the harbor of Buffalo; which was read a first and second time, and referred to the Committee on Commerce.

IMPROVEMENT OF ST. CLAIR FLATS.

Mr. SPAULDING also introduced a bill to authorize the improvement of the navigation of the St. Clair flats, in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

LITTLE FALLS BRIDGE.

Mr. CARTER introduced a bill to reimburse the corporation of Georgetown, in the District of Columbia, for a sum of money advanced toward the construction of the Little Falls bridge; which was read a first and second time, and referred to the Committee for the District of Columbia.

CIRCUIT AND DISTRICT COURTS OF NEW YORK.

Mr. ELY introduced a bill to amend an act entitled "An act to increase and regulate the terms of the circuit and district courts for the northern district of the State of New York;" which was read a first and second time, and referred to the Committee on the Judiciary.

DISTRICT COURT AT CANANDAIGUA.

Mr. POTTLE introduced a bill to provide for the holding of the terms of a district court for the northern district of New York at Canandaigua, in the county of Ontario, instead of the city of Rochester; which was read a first and second time, and referred to the Committee on the Judiciary.

BREAKWATER AT CROW SHOALS.

Mr. NIXON introduced a bill making an appropriation for the erection of a breakwater at Crow Shoals, near the mouth of Delaware Bay; which was read a first and second time, and referred to the Committee on Commerce.

FEES OF OFFICERS OF UNITED STATES COURTS.

Mr. FLORENCE introduced a bill to regulate the fees and costs to be allowed to district attorneys of the United States, clerks, marshals, attorneys, and other officers of the circuit and district courts of the United States; and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

PORT OF PHILADELPHIA.

Mr. FLORENCE also introduced a bill to extend the limits of the port of entry and delivery for the district of Philadelphia; which was read a first and second time, and referred to the Committee on Commerce.

THE TARIFF.

Mr. FLORENCE. I desire to submit a bill, which I would like to have referred to the Committee of the Whole on the state of the Union. I propose to offer it as a substitute for the bill reported from the Committee of Ways and Means, to fix and regulate the duties. I gave notice of the bill, and I should like to have it printed. The bill to regulate the duties on imports, and for other purposes, was read a first and second time.

Mr. FLORENCE. I move that the bill be referred to the Committee of the Whole on the state of the Union, and be printed.

Mr. HOUSTON. If the gentleman proposes to offer the bill as an amendment to one now pending in the Committee of the Whole on the state of the Union, I will not object to that reference.

Mr. FLORENCE. I shall propose it as a substitute for the bill reported from the Committee of Ways and Means when that bill comes up. The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ASSAY OFFICE IN KANSAS.

Mr. MONTGOMERY introduced a bill to establish an assay office at Atchison City, in Kansas Territory; which was read a first and second time, and referred to the Committee of Ways and Means.

ATCHISON CITY A PORT OF ENTRY.

Mr. MONTGOMERY also introduced a bill constituting Atchison City, in the Territory of Kansas, a port of entry and delivery; which was read a first and second time.

Mr. MONTGOMERY. I move that the bill be referred to the Committee on Commerce.

Mr. HOUSTON. The gentleman does not intend to make it a port of entry, I suppose, but only a port of delivery.

Mr. MONTGOMERY. I will discuss the subject with the gentleman from Alabama when the bill comes up for consideration.

The bill was referred to the Committee on Commerce.

MILITARY POST IN KANSAS.

Mr. MONTGOMERY also introduced a bill to establish a military post at or near Atchison City, in the Territory of Kansas; which was read a first and second time, and referred to the Committee on Military Affairs.

NEW REVENUE CUTTER.

Mr. WHITELEY. I understand that the States are being called for bills and resolutions.

The SPEAKER. No, sir; for bills only, during the first hour.

Mr. WHITELEY. There will probably be no objection to a resolution which I desire to offer. It is a mere matter of reference. It is as follows:

Resolved, That the Committee on Commerce be instructed to inquire into the propriety of reporting a bill making an appropriation for the construction of a new revenue cutter for service on the Delaware river and bay.

There being no objection to the resolution, it was considered and agreed to.

Mr. HUGHES. I desire to offer a resolution calling for information, to which I think there will be no objection.

Mr. THAYER. I object to any resolution, until the call of the States for bills has been concluded.

PUBLIC BUILDINGS AT MONTGOMERY.

Mr. CLOPTON introduced a bill making an appropriation for the erection of a building in the city of Montgomery, Alabama, for the use of the post office and the district court of the United States; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. CLOPTON. I ask the unanimous consent of the House to offer a resolution.

Mr. CURTIS. After we get through with bills, resolutions will be in order. I must therefore object.

The SPEAKER. After the States have been called for bills, resolutions will be in order, under the rule.

Mr. HUGHES. Will you call the States again?

The SPEAKER. Yes, sir; the States will be called for the residue of the hour.

RAILROAD GRANT TO LOUISIANA.

Mr. LANDRUM introduced a bill granting alternate sections of land to the State of Louisiana to aid in the construction of a railroad in said State; which was read a first and second time, and referred to the Committee on Public Lands.

REPEAL OF THE FUGITIVE SLAVE LAW.

Mr. ELAKE introduced a bill to repeal the fugitive slave law, approved September 18, 1850; which was read a first and second time, and referred to the Committee on the Judiciary.

PAIRING OFF.

Mr. DUNN. I desire to offer the following resolution:

Resolved, That hereafter pairs shall neither be announced on the floor of this House, or entered on the minutes, or published in the proceedings as reports for the Globe.

Mr. CURTIS. I object. Resolutions are not in order until the call of the States for bills has been completed.

ILLINOIS COURTS.

Mr. LOGAN introduced a bill authorizing the holding of the circuit and district courts of the United States for the southern district of Illinois at the city of Cairo; which was read a first and second time, and referred to the Committee on the Judiciary.

CAPTAIN JOHN HALL.

Mr. NOELL introduced a bill for the relief of Captain John Hall, of the State of Missouri; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

REUBEN J. CHAMPTION.

Mr. WALDRON introduced a bill for the relief of Reuben J. Chamption, only child and heir of Reuben J. and Rhoda Chamption; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

SAULT STE. MARIE MISSION CLAIMS.

Mr. LEACH, of Michigan, introduced a bill for the relief of the mission claims of Sault Ste. Marie, in the State of Michigan; which was read a first and second time, and referred to the Committee on Private Land Claims.

PACIFIC RAILROAD

Mr. CURTIS introduced a bill to secure contracts and make provision for the safe, certain, and speedy transportation of the mail, troops, munitions of war, and military and naval stores, between the Atlantic States and the Pacific, and for other purposes; which was read a first and second time, referred to the select committee on the Pacific railroad, and ordered to be printed.

On motion of Mr. CURTIS, it was

Ordered, That all the bills referred to the select committee on the Pacific railroad be printed.

PREEMPTIONS IN CALIFORNIA.

Mr. SCOTT introduced a bill for the extension of the preemption privilege in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

WILLIAM Y. STRONG.

Mr. ALLEN introduced a bill for the relief of William Y. Strong; which was read a first and second time, and referred to the Committee on Public Lands.

BALTIMORE CUSTOM-HOUSE.

Mr. KUNKEL introduced a bill making an appropriation for repairing the custom-house of the United States at the port of Baltimore; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

RIGHT TO CARRY PROPERTY TO KANSAS.

Mr. GARNETT introduced a bill to enable the citizens of the United States to carry their property freely, and without fear or molestation, into the Territory of Kansas; which was read a first and second time, and referred to the Committee on the Judiciary.

BALTIMORE CUSTOM-HOUSE—AGAIN.

Mr. HOUSTON. I wish to call the attention of the House to the bill introduced by the gentleman from Maryland [Mr. KUNKEL] a few minutes ago, which was referred to the Committee of the Whole on the state of the Union. I think it is introducing bad practice to allow gentlemen to have their bills referred to the Committee of the Whole upon their first introduction. I think the gentleman's bill ought to go to the Committee of Ways and Means. I regret to interfere with the gentleman's bill; I know nothing about it. I may be wrong in this, but it is to refer the custom-house in Baltimore, I believe; and I think the gentleman from Maryland himself will see that it is a very injurious practice to indulge gentlemen in the reference of their bills at once to a Committee of the Whole House, without refer-

ence to any of the standing committees. The practice is wrong, and I therefore suggest to the gentleman from Maryland that he give his resolution referred to one of the standing committees.

MR. KUNKEL. Is debate now in order?

THE SPEAKER. It is not; and the motion to reconsider would not be in order, unless the gentleman from Maryland, of his own motion, sees fit to have the resolution referred to a committee.

MR. KUNKEL. It is proper that I should say, in reply to the remarks of the gentleman from Alabama, (Mr. Houston)—

THE SPEAKER. No debate is in order.

MR. KUNKEL. Well, sir, I hope the Speaker will indulge me for a moment. It is proper that I should reply to the remark of the gentleman from Alabama, that this bill has had, informally, the consent of the Committee of Ways and Means. The proposed appropriation is a very small one—amounting to but \$15,000—for repairing damages caused by a fire in September, 1859. The Secretary of the Treasury, in his report made to the last Congress, recommended that this appropriation ought to be made.

MR. FARNSWORTH. Is this debate in order?

THE SPEAKER. It is not.

MR. KUNKEL. I have been asked for information, and I have risen to give that information.

MR. HOUSTON. As this is a new rule under which we are now acting, it is important that, at the beginning, it should have a proper construction. I therefore put the question whether a gentleman under this call can introduce a bill, and move to have it referred to any other committee than one of the standing committees of this House? Can the gentleman from Maryland introduce his bill and move its reference to the Committee of the Whole on the state of the Union? Most not that bill go to one of the standing committees of the House?

THE SPEAKER. The bill indicated was referred to the Committee of the Whole on the state of the Union, no objection being made. If there had been objection, the suggestion of the gentleman from Alabama would be a proper one, so far as this bill is concerned.

MR. HOUSTON. I object to the reference of the bill to the Committee of the Whole on the state of the Union, and insist that it be referred to one of the standing committees.

THE SPEAKER. It is now too late to object. The Chair will now call the States for resolutions. Resolutions are in order from Maine.

ABOLITION OF THE FRANKING PRIVILEGE.

MR. BURNETT. I was in the House when Kentucky was called, but could not get to my seat time enough to introduce the bill to hold in my hand before the call passed from my State. I now ask the unanimous consent of the House to introduce a bill to abolish the franking privilege.

There being no objection, the bill was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CHEBROK IMPROVEMENT COMPANY.

MR. MORSE offered the following resolution; which was read, considered, and agreed to:

Resolved, That no amount of time reported by the Secretary of the Navy as relative to conditional contracts made by him with the Chebroke Improvement Company be referred to the Committee on Naval Affairs.

AFRICAN SLAVE TRADE.

MR. MORSE offered the following resolutions; which were read, considered, and referred to the Committee of the Whole on the state of the Union:

Resolved, That for the more effectual suppression of the African slave trade, the treaty of 1845 between Great Britain and the United States, and the treaty of Washington, requiring each country to keep strictly upon the coast of Africa for that purpose, should be so changed as to require a specified and sufficient number of small steamers and fast-sailing brigs or schooners to be kept on said coast; and that the officers commanding the same should be enabled to hold the coast under their surveillance, and to enforce their duty, and cordially sustained by our Government in every discharge thereof.

Resolved, That as the African slave trade appears to be rapidly increasing, some effective mode of identifying the nationality of a vessel on the coast of Africa, suspected of being the slave trade, or of carrying slaves aboard, should be immediately adopted and carried into effect by the land and maritime nations of the earth; and that the Government of the United States has thus far, by refusing to establish such a system, shown a strange neglect of one of the best means of suppressing said trade.

Resolved, That the African slave trade is against the moral sentiment of mankind and a crime against human nature, and that, as the most highly civilized nations have

made it a criminal offense or piracy under their own municipal laws, it ought at once, and without hesitation, to be declared a crime by the code of international law; and that for the purpose of aiding in the establishment of a more benevolent and wise, and so honorable to a nation and worthy of a philanthropic age, the President be requested to open negotiations on this subject with the Government of Europe, and make known to them the willingness and desire of the United States to have the African slave trade declared a crime against international law, and brought under the ban of the nation's civil and criminal laws.

MR. WASHBURN, of Illinois. I ask leave to introduce a resolution.

MR. WINSLOW. I object; let the call proceed regularly.

BOOKS ORDERED BY CONGRESS, ETC.

MR. PERRY offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to this House the whole amount that has been paid out of the Treasury for books ordered to be published by resolution of either or both Houses of the Thirty-third Congress; also the amount paid out of the Treasury for books ordered by the members in said Congress under the usual resolutions for supplying new members with books; also the full amount paid the said members of Congress as per diem compensation and mileage, and the full amount paid for each; also the estimated per diem expense of the members during the sessions of Congress over and above any of the said payments, and such officers and employees as are paid annual salaries.

BUREAU OF STATISTICS AND AGRICULTURE.

MR. TAPPAN presented joint resolutions of the State of New Hampshire, on the subject of a national bureau of statistics and agriculture; which were laid on the table, and ordered to be printed.

WEIGHTS AND MEASURES.

MR. MARSTON presented joint resolutions of the State of New Hampshire, in reference to weights and measures; which were referred to the Committee on Commerce, and ordered to be printed.

ADDITIONAL LAND DISTRICTS.

MR. THAYER offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands, and they are hereby, instructed to report a bill creating two land districts, which shall include all the public domain situated between the northern and southern boundaries of the States of Kansas and the eastern boundary of the State of California, and lying between Nebraska Territory, Washington Territory, and the State of Oregon, on the north, and the Indian Territory and the Territory of New Mexico on the south; the easterly part of said tract to be called the Jefferson land district, and the western part the Nevada land district.

BUREAU OF STATISTICS AND AGRICULTURE.

MR. TAPPAN. I move that the resolutions of the Legislature of the State of New Hampshire, which I presented a short time since, in reference to an agricultural bureau, be referred to the Committee on Agriculture.

The motion was agreed to.

WILLIAM H. HOOPER.

MR. BRIGGS introduced the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, instructed and directed to pay out of any money in the Treasury which may be appropriated for that purpose, and may be done by the accounting officers of the Treasury to have been incurred for the proper legislative expenses of the Territory of Washington, by William H. Hooper, within the limits of said Territory under the appointment of Governor Brigham Young.

MR. BRIGGS. That resolution is one more of form than of substance; and I therefore decline.

MR. GROW. I must object to having this hour taken up by discussion.

MR. BRIGGS. Is it in order to move to suspend the rules?

THE SPEAKER. It is not during the morning hour.

MR. FLORENCE. If a resolution gives rise to debate, it goes over under this new rule.

MR. BRIGGS. I hope there will be no objection to the resolution.

MR. GROW. To allow debate would defeat the whole object of the rule.

MR. BRIGGS. I move to refer the resolution to the Committee of Ways and Means.

The motion was agreed to.

RECIPROcity TREATY.

MR. ELY introduced the following resolution:

Resolved, That the President of the United States be, and

he is hereby, requested to communicate to this House, if in his opinion not incompatible with the public interest, all the information in his possession relative to the practical working of the reciprocity treaty concluded with Great Britain on the 5th day of July, 1854, whether the provisions of said treaty are in accordance with the interests of the respective countries; what measures, if any, have been taken to procure correct information touching the practical operation and effect of the third clause of the said treaty upon the interests of American citizens; and whether, in his opinion, the said third article of the said treaty could not, with advantage to American interests, be either amended or rescinded.

MR. BRANCH. I desire to inquire if the Speaker holds that resolutions can be put upon their passage to-day, under the rule under which we are acting?

THE SPEAKER. Such is the ruling of the Chair.

MR. BRANCH. As I understand it, we are now calling States and Territories under the 26th rule—the new rule.

THE SPEAKER. That is so.

MR. BRANCH. That rule says that "all bills so introduced during the first hour after the Journal is read, shall be referred, without debate, to their appropriate committees." Now, I do not understand that any bill can be passed, except by unanimous consent, and the unanimous consent of the House can do anything.

THE SPEAKER. If the gentleman from North Carolina will read the whole resolution, he will see that the Chair is correct.

MR. BRANCH. My reason for calling the attention of the Chair to this matter now is, that I have any objection to the pending resolution, but that we may establish a correct practice under this new rule at the outset.

THE SPEAKER. The Chair stated some time ago that at the expiration of the morning hour he would call the States and Territories for resolutions, which would be referred to their appropriate committees; but that in case discussion should arise they must lie over.

MR. BRANCH. Does the Chair hold, then, that a resolution can be put upon its passage?

THE SPEAKER. If objected to, it cannot be put upon its passage.

MR. BRANCH. If there is but a single objection, will that prevent its being put upon its passage?

THE SPEAKER. If it give rise to debate, it must go over.

MR. BRANCH. Suppose a gentleman rises, under this rule, and offers a resolution and calls the previous question, and the previous question is seconded, and debate thus cut off: does the Chair hold that the resolution can be put upon its passage?

THE SPEAKER. The Chair supposes, if the previous question is seconded, that it might be. That would cut off debate.

MR. HOUSTON. Then what good does the resolution do?

MR. BRANCH. I do not make the point upon this resolution; but I hope the Chair will look to the rule, and determine its proper construction. It is an important resolution should come up, to which I should object. If the Chair is to make a decision in the present decision, I shall be compelled to appeal to the House. I think the Chair's decision would defeat the whole object of the rule.

The resolution was agreed to.

PUBLIC STORIES, ETC.

MR. JOHN COCHRANE introduced the following resolution:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to ascertain the names and addresses of the Thirty-sixth Congress all the information of which may be possessed respecting the performance of the labor required by the Government, and the purchase and the delivery from the public stores, of foreign goods and merchandise, entered, approved, and taxed with impost, at the port of New York; and here the same is performed, whether by laborers employed by the Government, or by laborers in the employ of contractors under contract with the Government, and the manner in which the same is performed with the date of any contract or contracts that may have been thus executed and delivered, the parties thereto, and the conditions thereof, and the object and purpose of the same, and the reasons therefor; what is the present condition of said contract or contracts; who is now interested in the same; and especially if he has been so interested by any member or members of Congress now here, or at any time have had, any direct or remote or contingent pecuniary interest therein; and the Secretary be, and he is hereby, directed to furnish the House aforesaid any information in his possession of the effect produced, or that may be produced,

by a contract system for the performance of such labor at the public stores, upon the labors of the Government, upon those of the importers, and upon those of the laboring classes; and, further, whether the expense of performing such labor can be reduced by the price paid, together with any other and further information touching the subject of this inquiry that, in his opinion, may be either feasible or useful.

The resolution was agreed to.

CONSUL AT ASCENCION.

Mr. BARR introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Foreign Affairs be requested to inquire into the expediency of fixing the salary for consul at Ascension in South America.

LABOR OF THE PUBLIC STORES AT NEW YORK.

Mr. BARR offered the following resolution: *Resolved*, That the Committee on Public Expenditures be, and they are hereby, discharged from the further consideration of the memorial of the citizens of New York to examine into the contract made by the Secretary of the Treasury with McIntyre, Bixby & Co., for the labor of the public store, No. 11, Broadway, New York; and that the memorial be referred to a special committee of five, to be appointed by the Speaker; said committee to leave power to send for persons and papers, and to report at an early day.

Mr. BURNETT. Cannot we see the necessity for discharging the Committee on Public Expenditures from the consideration of this matter. It seems that that committee has charge of the investigation, and I certainly think that the House has quite enough of such committees.

THE SPEAKER. If the gentleman proposes to debate it, the resolution is the order.

Mr. BURNETT. I will not object to it; but I think it is all wrong.

Mr. BARR. I would say, for the information of the gentleman, that the chairman of the committee has told me that the committee has so much to attend to in relation to other matters, that they could not attend to this.

Mr. SPINNER. The chairman of that committee is not now in the House.

Mr. HINDMAN. As one of that committee, and after having conferred several months with it, I am very willing that the resolution offered by the gentleman from New York should be adopted. We have more business already referred to us than we can possibly get through with during the session.

The question was taken; and the resolution was adopted.

NAVIGATION OF THE HARLEM RIVER.

Mr. SICKLES offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States, and he is hereby, required to transmit to this House all information in possession of the officers in charge of the Coast Survey, showing the practicability of making Harlem river navigable for commercial purposes, and the expense thereof.

BRONZE COPIES OF UNITED STATES MEDALS.

Mr. CONKLING introduced a joint resolution for bronze copies of United States medals; which was read a first and second time, and referred to the Committee on the Library.

FEES OF THE PORT OF NEW YORK.

Mr. HUMPHREY offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be required to furnish this House with copies of all correspondence with the collector of the port of New York in reference to the practice of collecting fees at the custom-house at that city for permits to land the baggage of passengers; also with a copy of the decision of the United States circuit court of the State of New York, in the case of Lloyd Ogden, and others, owners of the bark Rover, vs. Hugh Maxwell, collector of the port, for the recovery of fees there collected; and that he be also required to state the amount of fees retained as consequences of said decision, and what amount, if any, is still claimed as remaining unpaid.

BACK PAY TO RETIRED OFFICERS.

Mr. HUMPHREY also presented a joint resolution from the State of New York, proposing to give back pay to retired or dropped officers who have been restored to their positions in the Navy, and at a higher grade; which was referred to the Committee on Naval Affairs, and ordered to be printed.

LIABILITY OF SHIP-OWNERS.

Mr. HUMPHREY also introduced a bill to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851; which was read a first and second time, and referred to the Committee on Commerce.

PACIFIC RAILROAD.

Mr. JOHN COCHRANE. I ask the unanimous consent of the House to present a memorial from Edward Larned, of the subject of the Pacific railroad; and ask that it be referred to the select committee on that subject, and be ordered to be printed.

It was so ordered.

METEOROLOGICAL OBSERVATIONS.

Mr. FLORENCE offered the following resolution; which was read, considered, and referred to the Committee on Printing:

Resolved, That the usual number of the report of meteorological observations, and the accompanying report of the Commissioner of Patents, be printed; and that the Committee on Printing be directed to inquire into the expediency of printing, for the use of the House, five thousand such copies.

THE UTAH EXPEDITION.

Mr. PALMER offered the following resolution:

Resolved, That the Committee on Public Expenditures be instructed to inquire into the purchase, and the contracts for the purchase, of supplies of military stores, and the means of transportation made by the War Department, in connection with the late military expedition into the Territory of Utah; and generally to inquire into the alleged abuses of said Department in reference to its expenditure for transportation to and from said Territory, and the purchase and sale of public property on account of said expedition; with power to send for persons and papers, and with leave to sit during the sessions of the House, and to report at any time.

Mr. BRANCI. I prefer that this resolution should lie over for debate.

THE SPEAKER. If the gentleman proposes to debate it, it must lie over.

DUTIES ON BANK NOTES.

Mr. WHITELEY offered the following resolution; which was read, considered, and agreed to: *Resolved*, That the Committee on Commerce be instructed to inquire into the propriety of reporting a bill imposing duties on notes of banks, and on any notes, bills of exchange, bank checks, or other obligations payable by banks.

REORGANIZATION OF THE MILITIA.

Mr. HUGHES offered the following resolution; which was read, considered, and agreed to: *Resolved*, That the Secretary of War be required to furnish this House with a copy of the report to him from Lieutenant Colonel B. S. Roberts of the United States Army, on the reorganization of the militia, and the militia of the United States, under the laws of Congress carrying into effect the Constitution of the United States.

THE TOBACCO TRADE.

Mr. HUGHES also offered the following resolution; which was read, considered, and agreed to:

Resolved, That a select committee of — members be appointed by the Speaker to inquire into the present condition of the tobacco trade of the United States with foreign nations, and to report what negotiation or legislation may be necessary to improve its condition.

Mr. SMITH, of Virginia. The blank ought to be filled. I move that the committee consist of five.

Mr. HUGHES. I would move that it consist of seven, to be taken from the tobacco-growing States.

The motion of Mr. HUGHES was agreed to.

RECIPROCITY TREATY WITH CANADA.

Mr. SPAULDING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury communicate to this House any information in his possession in relation to the operation of the reciprocity treaty with Canada.

ADMISSION OF EX-MEMBERS OF CONGRESS.

Mr. SMITH, of Virginia. I desire to offer the following resolution:

Resolved, That ex-members of Congress, elected agents excepted, shall be allowed admission to the floor at any time during its sessions; and that, in any rule thereof as denies this privilege shall be, and is hereby, repealed.

Mr. WINSLOW. The resolution proposes to change one of the rules of the House. I suppose there must be notice given of it. It lies over, of course.

THE SPEAKER. It must lie over one day.

SALARY OF CONSUL AT SWATWA.

Mr. SMITH, of Virginia, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Foreign Affairs be in-

structed to inquire into the expediency of establishing a salary for the consul at Swatwa, in China.

Mr. SPINNER offered the following preamble and resolution; which were read, considered, and agreed to:

Whereas it appears from the last annual report of the Postmaster General that the Postoffice at Swatwa, in China, at the post office at the city of New York the sum of \$97,000 for the delivery of letters by carriers or penny-post boys; *Resolved*—

It is resolved, That the Postmaster General be requested to furnish this House with a statement of the number of persons employed at Swatwa, and the number of letters delivered there from said post office, their respective duties, the amount of compensation allowed to each, and also an account of other expenditures made in connection with said business.

DOCUMENTS FOR GLOBE REPORTERS.

Mr. WASHBURN, of Illinois. I wish to ask that an order may be entered that the reporters for the Globe shall be entitled to one copy each of every document printed by order of the House. There seems to be some trouble about it now, and it is absolutely necessary in order that they may be able to make up their reports. I trust there will be no objection.

There being no objection, the following resolution was agreed to:

Resolved, That the Doorkeeper be directed to furnish to the reporters of the House for the Congressional Globe one copy of each bill and report as have been or may be printed.

Mr. SHERMAN. The morning hour has expired, I believe. I desire to make some privileged reports from the Committee of Ways and Means; but I am willing that the call shall go on until all the States and Territories have been called, with the understanding that no motions shall be made to suspend the rules.

THE SPEAKER. If there be no objection, that will be the understanding.

There was no objection.

THE UTAH EXPEDITION.

Mr. BRANCH. A few moments ago, I objected to a resolution offered by the gentleman from New York [Mr. PALMER], to inquire into certain expenditures connected with the expedition to Utah. I objected under the impression that the resolution called for a special committee. I have since looked at it, and ascertained that I was mistaken, and that it only directs the Committee on Public Expenditures to make the inquiry; and I desire, with the consent of the House, to withdraw the objection I then made. I would make this suggestion, however, to the gentleman from New York: I think he had better strike out the clause of the resolution which gives a right to the committee to sit during the sessions of the House. That is very irregular.

Mr. PHELPS. I would suggest also to the gentleman from New York not to clothe the committee now with power to send for persons and papers. That power can be given to the committee whenever they ask it and it shall be requisite.

Mr. PALMER. In compliance with the suggestion of the gentleman from North Carolina, I have stricken out the clause in the resolution authorizing the committee to sit during the sessions of the House. In regard to the objection of the gentleman from Missouri, I can assure the gentleman and the House that the committee do not feel disposed to abuse the privilege given them by the resolution, of sending for persons and papers; and that, at this late day of the session, they will bring the examination to a speedy close.

The resolution was then agreed to.

NATIONAL FOUNDRY IN NORTH CAROLINA.

Mr. GILMER offered the following resolutions, which were read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of establishing a national foundry in the valley of Deep River, in North Carolina, and to report thereon by bill or otherwise.

Resolved further, That the petition and papers on this subject, submitted to said committee at the last Congress, be again referred for consideration.

MACON A PORT OF ENTRY.

Mr. HARDEMAN introduced a joint resolution constituting Macon, Georgia, a port of entry for the bargeage for the purpose of the proposed and for other purposes; which was read a first and second time.

The preamble to the joint resolution recites that it is in the contemplation of the cotton-planters' convention of the State of Georgia to hold a fair,

in the month of December, in the city of Macon; that it is contemplated by a foreign association to exhibit their goods at such fair; and that Macon, being neither a port of entry nor of delivery, the articles imported for exhibition cannot, under the existing law, be exempted from duties, though exempted again when withdrawn from exhibition.

The joint resolution constitutes Macon a port of entry so far and to such extent as to authorize the Secretary of the Treasury to extend thereby all the existing revenue laws prevailing at ports of entry and applicable to bonded warehouses, and to the bonding of imported goods, wares, and merchandise, and the exportation of the same; provided, that the effect and force thereof shall only appertain to importations made for the purpose of exhibition at the said fair.

Mr. HARDEMAN. I ask that the joint resolution be put upon its passage.

Mr. JOHN COCHRANE. I think it should be put upon its passage.

Mr. WASHBURN, of Illinois. There can be no objection to it.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDEMAN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon its table.

The latter motion was agreed to.

ARRANGEMENT OF SEATS.

Mr. MILES. I desire to offer the following resolution and call the previous question upon its adoption:

Resolved, That it shall be the duty of the Doorkeeper and Superintendent of Public Buildings to preserve the present arrangement of the benches in the Hall of the House; and that any existing order of the House to the contrary is hereby rescinded.

Several MEMBERS objected to the resolution.

Mr. MILES. I call for the previous question upon the adoption of the resolution; and I call the attention of the Chair to the following paragraph from the Manual.

"A demand for the previous question immediately upon submitting a resolution prevents debate, and, if seconded, the resolution need not be voted, as in the case of debate arising."

I suppose, therefore, an objection to the resolution will not prevent its adoption at this time, if the previous question be seconded.

The SPEAKER. The resolution can only be adopted by unanimous consent. The State of South Carolina had been passed in the call, and the gentleman from South Carolina could only introduce his resolution by unanimous consent.

Mr. DAVIS, of Indiana. I object to the consideration of that resolution at this time. When the States have been called through it will then be in order to offer it, I presume.

MASSACHUSETTS SHOEMAKERS.

Mr. McQUEEN submitted the following resolution, which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of, and if deemed fit to report a bill for, emancipating the inhaling oom and voo-oom in slavery in the State of Massachusetts, from the tyranny of the "capital" men in this State, by repelling all duty on boots and shoes, leather, and all other imported articles used in their business.

ARRANGEMENT OF SEATS—AGAIN.

Mr. HILL. I now offer the resolution, which my friend from South Carolina [Mr. Miles] just now sought to offer, in relation to the preservation of the present arrangement of the seats in this Hall. The State of Georgia, I understand, is now called; and I have the right, therefore, to offer the resolution.

Mr. LANDRUM. I object to the introduction of that resolution.

Mr. MILES. I think the resolution cannot be objected to. It was received by unanimous consent.

Mr. HILL. I think I had the right to offer it under the call of the State of Georgia for resolutions.

Mr. MILES. I again call attention to the paragraph which I read from the Manual, by which it will be seen that, under the rules, any gentleman may have an any resolution, under the call of the States for resolutions, acted on finally if the previous question is seconded upon it; and

that an objection cannot prevent a vote of the House upon it.

The SPEAKER. The Chair understood the agreement of the House, made at the suggestion of the gentleman from Ohio, [Mr. SHERMAN], to be, that the States should continue to be called for resolutions only to which no objection should be made.

Mr. DAVIS, of Indiana. I make the further point of order that the State of Georgia had been passed in the call, and that Alabama had been called.

Mr. HILL. No, sir. The State of Georgia had been just called, as I understand it.

The SPEAKER. The Chair has decided in every case that when a State has been passed in the call, no gentleman can offer any resolution from that State, unless by unanimous consent.

Mr. HILL. The State of Georgia had not been passed, to the best of my knowledge and belief.

The SPEAKER. The Chair has already decided that the resolution of the gentleman is not in order, objection having been made.

ADJOURNMENT OF CONGRESS OVER.

Mr. DAVIS, of Mississippi, offered the following resolution:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the two Houses of Congress do adjourn on the 30th of April next, until the 30th of May next, 1860.

Several MEMBERS objected.

Mr. HUGHES. I wish to know, if these resolutions go over now, when it will be in order to discuss them.

The SPEAKER. At some future day, the Chair supposes, when they come up in their order for consideration.

Mr. HUGHES. Do the rules make any provision for calling up these resolutions for discussion? If so, I wish to know when they will come up.

The SPEAKER. Whenever the House sees fit to order them up, the Chair supposes.

Mr. HUGHES. I wish to ask how they may be called up?

The SPEAKER. The Chair supposes they may be called up by proceeding to the business on the Speaker's table. It is enough for the present, however, that they cannot be debated now.

Mr. DAVIS, of Mississippi. I call the previous question upon the adoption of the resolution.

The SPEAKER. Is there any objection to the resolution?

Mr. SEDGWICK. I object.

The SPEAKER. Then the resolution cannot be introduced.

Mr. DAVIS, of Mississippi. Then I move to suspend the rules.

The SPEAKER. That motion is not now in order.

Mr. DAVIS, of Mississippi. Then I want it to be understood that I will move to suspend the rules to act on the resolution whenever it will be proper to do so.

Mr. LOGG. I hope the gentleman will withdraw his objection. I think it is desirable that the resolution should be voted on. If we are to adjourn over for a month, I think we should know it.

The SPEAKER. Debate is not in order; the resolution has not been received.

VICKSBURG CUSTOM-HOUSE.

Mr. SINGLETON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of the mail between Columbia and Hound Bay, in the parish of Claiborne and State of Louisiana; which were referred to the Committee on the Post Office and Post Roads.

LOUISIANA POST ROUTES.

Mr. LANDRUM presented joint resolutions of the Legislature of the State of Louisiana, asking provision by Congress for the transportation of the United States mail between Camden, in Arkansas, and —, in Louisiana, and for the transportation of the mail between Columbia and Hound Bay, in the parish of Claiborne and State of Louisiana; which were referred to the Committee on the Post Office and Post Roads.

RIGHTS OF HEBREWS IN SWITZERLAND.

Mr. VALLANDIGHAM offered the follow-

ing resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate, if not incompatible with the public interest, any correspondence between the United States and Switzerland relating to that class in the treaty between the two countries which discriminates against the privileges of the citizens of the United States holding the Hebrew faith, when visiting or residing in Switzerland.

CRUELTY TO SEAMEN.

Mr. VALLANDIGHAM also offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of immediate and adequate legislation for the punishment and suppression of cruelties in the American merchant naval service, and report measures accordingly.

HOOR RULE.

Mr. VALLANDIGHAM. I give notice of my intention to move an amendment to the 34th rule of the House, by striking out the first clause thereof, limiting debate to one hour.

The SPEAKER. It will be entered.

WAR OF 1812.

Mr. HOWARD offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to furnish to this House, as early as practicable, an account of the number of the regular army, militia, volunteers, marines, privateers, and marines who were in the service of the Government of the United States during the war with Great Britain, 1812, for a period of six months and upwards.

SLAVERY.

Mr. BLAKE. I offer the following resolution: Whereas the chattelizing of humanity and the holding of persons as property is contrary to natural justice and the fundamental principles of our political system, and is notoriously a reproach to our country throughout the civilized world, and a serious hindrance to the progress of republican liberty among the nations of the earth: Therefore,

Resolved, That the Committee on the Judiciary be, and the same are hereby, instructed to inquire into the expediency of reporting a bill for the speedy and effectual abolishing and interdicting slavery wherever Congress has the constitutional power to legislate on the subject.

Mr. SMITH, of Virginia, and others, objected. [Cries from the Democratic benches of "Don't object!"]

Several MEMBERS. Let the resolution be read again.

The resolution was again read.

Mr. BLAKE. I trust that, as the resolution is one of reference only, there will be no objection.

Mr. BARKSDALE. I withdraw my objection.

The SPEAKER. Is there objection to the introduction of the resolution? [Cries of "Don't object!"] The Chair hears no objection.

Mr. BRANCH. Object to the preamble. [Cries of "It is too late!"]

Mr. HINDMAN. I hope that there will be no objection to the introduction of the resolution. Let it come in, and let us have the yeas and nays upon it. Let us make the record.

Mr. SINGLETON. I hope that all objection will be withdrawn. I want, upon the vote by yeas and nays, to let the country see how many Representatives upon this floor will vote for such a resolution.

Mr. BRANCH. At the request of friends all round me, I withdraw my objection to the preamble.

Mr. SINGLETON. I demand the yeas and nays on the adoption of the resolution.

Mr. KILLINGER. I object to the resolution [Cries of "It is too late!"] No, it is not too late I object to the resolution, and I ask that my objection be noticed.

Mr. BRANCH. It is too late. The resolution has been received, and the yeas and nays demanded on it. [Cries of "Call the roll!"] "Let us vote!"

The yeas and nays were ordered.

The question was taken on the adoption of the resolution; and it was decided in the negative—yeas 60, nays 105; as follows:

YEAS.—Messrs. Chandler, Adams, Aldrich, Allen, Bingham, Blair, Bliss, Bryson, Buffum, Burlingame, Burroughs, Butterfield, Clark, Carter, Coffey, Conkling, Curtis, Delano, Davis, Edwards, Edwards, Jr., Merrill, Furman, Foster, Frank, Gooch, Gow, Gurley, Hale, Helms, Hurd, Humphrey, Hurlbut, James, W. K. Kellogg, DeWitt, C. K. Key, Lovell, Mack, May, Merritt, Olney, Palmer, Foster, Pottle, Rice, Sedgwick, Sherman, Simes, Spaulding, Spinner, William Stewart, Tappan, Tompkins, Train, Vandever, Walden, Watson, Cullahan,

der C. Washburn, Ellen B. Washburn, Wells, and Windsor—40.

Mr. NAYLOR. Messrs. Allen, Thomas L. Anderson, Ashmore, Barry, Burkholder, Barry, Barrett, Bosack, Roelke, Boyce, Branch, Briggs, Bristol, Burch, Burwell, Campbell, John B. Clark, Cropper, Cobb, John Cochran, Cooper, Calk, James Craig, Burton Colgate, Crawford, Curry, H. W. Davis, John C. Davis, Beaman Davis, De Jarnette, Dunn, Edmunds, Eldridge, Florence, Fox, Foster, Giddens, Gault, Gilmer, Hamilton, Haslam, J. Morrison Harris, John T. Harris, Hinton, Hickman, Hill, Hindman, Hutcheson, Jackson, James, Jackson, Jones, Keane, Keane, Kunkel, Lammie, Landrum, James M. Leach, Lusk, Logan, Love, Mabey, Charles H. Martin, Elbert H. Martin, Mc Knight, McPherson, McDowell, McMillan, Miles, Milner, Millard, Montgomery, Latham T. Moore, Sydney Moore, Edward Jay Morris, Isaac N. Morris, Niblack, Nixon, Nowell, Pugh, Potter, Fryer, Pugh, Thomas, Reagan, Rags, James I. Robinson, Louis Schwartz, Scott, Seranston, James, Singleton, William Smith, Stallworth, Stevenson, James Stewart, Stokes, Taylor, Thomas, Thomas, Trimble, Underwood, Vandykham, Whitely, Winslow, Woodson, and Wright—109.

So the resolution was rejected.

Pending the above call,

Mr. DUNN said: I move that the resolution be laid upon the table.

Mr. PHELPS. That motion is not in order. The Clerk has proceeded with the call of the roll, and there has been a response; and pending the call of the roll no other business is in order. The roll-call must be proceeded with.

Mr. DUNN. I made my motion in time.

Mr. PHELPS. The call of the roll was proceeded with, and the gentleman from Massachusetts [Mr. ADAMS] answered in the affirmative.

Mr. HINDMAN. And I heard his response.

THE SPEAKER. The Clerk has recorded the name of the gentleman from Massachusetts in the affirmative.

Mr. PHELPS. Then the motion to lay upon the table is not in order and cannot be received.

THE SPEAKER. Such is the decision of the Chair. The motion of the gentleman from Indiana, [Mr. DUNN], that the resolution be laid upon the table, was not made until the call of the roll was commenced and there was a response, and it is of course out of order, and cannot be entertained.

Mr. KILLINGER. What becomes of my objection? I objected to the resolution.

Mr. SICKLES. I ask that the resolution be read.

Mr. DAVIDSON. and others. It is too late. There has been a response.

Mr. GARNETT. I hope that there will be no objection to the reading of the resolution.

Mr. DAVIDSON. The resolution has been read twice already.

Mr. KILLINGER. I insist on my point of order. I objected to the introduction of the resolution.

THE SPEAKER. What becomes of that objection?

THE SPEAKER. It came too late. [Cries of "Call the roll!"]

Mr. JOHN COCHRANE. I ask that the rule be enforced, and that members shall not be allowed to go near the Clerk's desk during the vote.

Mr. BURNETT. I hope that the resolution will be read, so that we may all know exactly what it is.

Mr. HOUSTON. Does the Chair consider that the roll has been commenced?

THE SPEAKER. The Chair has already so decided.

Mr. HOUSTON. Will the reading of the resolution interfere with the call of the roll?

THE SPEAKER. It will not suspend the call of the roll.

Mr. COLFAX. It is merely a resolution of inquiry, and not mandatory; and being willing to inquire into the expediency, I shall vote "ay."

Mr. BLAKE. I ask that the resolution be read again. I am sure that it is not understood by members.

Mr. HILL. I wish to remark that this resolution has been read twice; and, to my astonishment, the mover now calls for the rereading of it. That certainly cannot be necessary for information.

Mr. DAVIDSON. I object to all debate during the call of the roll.

Mr. HILL. Whenever any gentleman rises in his place and demands the reading of a resolution for information, he ought to have it read.

Mr. HINDMAN. Only by unanimous consent.

THE SPEAKER. The Chair will have the resolution read.

Mr. CLARK, of Missouri. I object.

Mr. TAPPAN. I did not hear the resolution read, and I want to know what it is before I vote on it.

Mr. BURNETT. I rise to a question of order, and I hope the Chair will preserve order.

The roll has been ordered to be called; the call was commenced, and there has been a response; and nothing is in order except the call of the roll.

THE SPEAKER. The Chair will not have the call interfered with by the reading of the resolution.

The call will be recommenced after the name of Mr. ADAMS.

Mr. HILL. That is all I ask.

Mr. JOHN COCHRANE. I rise to ask a question of the Chair, for information. After the reading of the resolution will it be in order to move to lay the resolution upon the table?

THE SPEAKER. It will not be.

The resolution was then read.

Mr. JOHN COCHRANE. Mr. Speaker, [cries of "Call the roll!"] I desire to ask whether the first vote is not upon the resolution?

THE SPEAKER. The question before the House is upon agreeing to the resolution. [Cries of "Call the roll!"]

Mr. SHERMAN. [Cries of "Order!"] I desire to ask whether the question is now upon the adoption of the resolution, or upon the adoption of the resolution and preamble?

THE SPEAKER. It is upon the adoption of the resolution.

Mr. SHERMAN. And not upon the preamble?

THE SPEAKER. The preamble is another thing; and this vote has nothing to do with the preamble.

The Clerk resumed the call of the roll.

During the continuance of the call, the following proceedings took place:

Mr. MALLORY. I desire to state that my colleague, Mr. ANDERSON, was called from the House unexpectedly, and I know he will regret his absence at this time. [Laughter.] I cannot imagine what gentlemen are laughing at. Gentlemen may be laboring under an impression which I do not intend to permit them to labor under. They shall not impute anything wrong to me.

Mr. HINDMAN. I do not intend myself to impute anything wrong to the gentleman, but I have the right to comment upon the absence of the gentleman.

Mr. MALLORY. I will say to gentlemen that my colleague was called from the House before he knew that this resolution was to be introduced.

Mr. BARR, when his name was called said: I desire to say a word in reference to my vote. I am opposed to all this agitation of the slavery question in every sense. [Order! "order!"] I vote "no."

Mr. BOULIGNY. I am paired off with Mr. ASHLEY, of Ohio. If I were to vote I should vote "no."

Mr. FRANK stated that Mr. BURNHAM was paired off with Mr. SICKLES.

Mr. DAVIDSON. My colleague on the Committee on Enrolled Bills [Mr. THEAKER] is detained from the House, and I cannot vote while he is absent. If called away, I shall vote "no."

Mr. DAWES. Last week I paired off upon all questions of this character with Mr. WESTER, of Maryland; otherwise I should vote in the affirmative.

Mr. FRANK stated that Mr. FERRY was paired off with Mr. MALLORY.

Mr. KILGORE. I desire to give the reasons—

Mr. BURNETT. I object to all debate.

THE SPEAKER. All debate is out of order.

Mr. KILGORE. Will the gentleman allow me to state my reasons for my vote?

Mr. BURNETT. No, sir, vote "ay" or "no," without explanation.

Mr. MARTIN, of Virginia, when his name was called, said: I ask the gentleman from Illinois [Mr. KILGORE] to give his attention a moment. I believe he paired me off with Mr. CASE until twelve o'clock to-day.

Mr. KILGORE. That is so; and I would be glad, as Mr. CASE is not here, if the gentleman would extend his pair until Wednesday.

Mr. MARTIN, of Virginia, said: I have a right to vote "ay" or "no." I would disagree my district should I make an explanation.

Mr. STOKES stated that Mr. MAYNARD was paired off with Mr. STANTON.

Mr. LOGAN stated that his colleague, Mr. McCLENNAN, was paired off with Mr. KELLOGG, of Illinois.

Mr. MOORE, of Kentucky. I desire to announce the pair of my colleague, Mr. PETTON, (who has been called home by the sickness of his daughter,) with Mr. WOOD, from the 24th of March, for twenty days.

It was noted that Mr. FENTON was detained in his room by illness.

Mr. McKNIGHT stated that Mr. MOOREHEAD was paired off with Mr. LAMAR on all questions on which there might be an antagonism between them.

Mr. BRABSON stated that Mr. NELSON was paired off with Mr. KILLINGER.

Mr. CLARK, of Missouri. I desire to have the 42d rule read, requiring all members present to vote. I want it read now during the call of the roll, as I notice that several members have declined to vote. I want every man in the House to vote on this resolution.

Mr. STEWART, of Pennsylvania. I object.

THE SPEAKER. Objection being made, the rule cannot be read now.

Mr. SICKLES. I have paired off with Mr. BRABSON, of Connecticut, upon this and kindred questions; otherwise I would have been glad to extinguish this firebrand by voting "no."

Mr. STEVENS, of Pennsylvania. I was paired off with Mr. CLEVERLY until to-day; but as he is not here, I decline to vote.

Mr. GILMER stated that Mr. VANCE was paired off with Mr. COVODE.

Mr. McKNIGHT stated that Mr. VANCE was paired off.

Mr. ENGLISH. I was not within the bar of the House when my name was called, but I have been present, I should have voted "no."

Mr. VALLANDIGHAM stated that his colleague, Mr. PENDLETON, was detained from the House by sickness.

Mr. CLARK, of New York. I ask leave to vote. I think I was in the adjoining room when my name was called.

Objection was made.

Mr. CLARK, of New York. I desire to say that if I had been present I should have voted "no."

Mr. BRABSON. I ask the unanimous consent of the House to vote. I was out when my name was called. I hope there will be no objection.

Mr. KUNKEL. I object.

Mr. GARNETT. I hope it will be agreed all around that gentlemen upon all sides may vote.

Mr. BOCKO. I have voted; but lest I might lose the opportunity, I wish to state that I shall ask for the enforcement of the 42d rule, which requires every member in the House to vote.

I have seen several gentlemen sitting in their seats and not voting. I think it is a shame, if they refuse to comply with the rule, is to pass a vote of censure upon them, and I shall designate members by name and move a vote of censure unless they vote.

Mr. KILLINGER stated that he was paired off with Mr. WOOD.

Mr. FRENCH. I did not answer when my name was called, because I was not certain of the purport of the resolution. I have examined it, and regard it as ill-advised and ill-considered.

Mr. BURNETT. I object to all debate upon this vote.

Mr. FRENCH. I am opposed to negro slavery, and will resist its extension into territory where it does not now exist. So far as this resolution is applicable to that institution, I have no personal objection to it; but as it proposes to give freedom to every individual, and may be fairly construed to apply to criminals in the penitentiary in this District, and to convicts under the laws of the United States everywhere, I am opposed to it, and shall vote "no."

Mr. JENKINS. In reference to this matter of pairing off, I want to know if one gentleman can pair off with another gentleman upon the same side; and whether, if a gentleman is paired off with another who would vote in the negative, he does not thereby practically put himself upon the affirmative side of the question?

THE SPEAKER. The Chair cannot settle these questions of pairs. It does not belong to the or-

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der of the House, but is a mere matter between gentlemen. The Chair will not undertake to settle it.

Mr. CURTIS, when his name was called, said: I want to have this matter referred to the Judiciary Committee. I think that we would then get light upon it. I therefore vote "ay."

Mr. HOWARD stated that he had paired off with Mr. CAVE.

Mr. BONHAM. Having gone into the Senate Chamber to see the Senators from my State, I was not within the bar when my name was called. I therefore ask leave to vote.

Mr. KELLOGG, of Michigan. I object.

Mr. BARKSDALE. I hope that no objection will be made to all gentlemen voting. This is a very important resolution, [laughter,] and I hope that gentlemen on the other side, and on this side, may be desired to vote will be permitted to do so, who may DENYME. I ask the gentleman to withdraw his objection.

Mr. KELLOGG, of Michigan. I withdraw my objection.

The SPEAKER. Is there any objection to the gentleman from South Carolina voting?

Mr. WINSLOW. I think it is a bad rule to allow gentlemen to vote who have not been in the Hall when their names were called. I therefore object.

Mr. BONHAM. Then I desire to say—

Mr. LOVEJOY. I object to debate.

The SPEAKER. No debate is in order. When the question shall be disposed of the gentleman may make his statement.

Mr. BONHAM. I have the floor, and I desire to say by a word—

Mr. LOVEJOY. I object to debate.

Mr. BONHAM. I do not propose to debate it.

Mr. LOVEJOY. What is the gentleman doing now?

Mr. BONHAM. I merely desire to say that perhaps I ought to be paired with the gentleman from Ohio, the chairman of the Committee on Military Affairs, [Mr. STANTON.] A friend of his called on the honorable gentleman from Virginia and myself to-day, and spoke about procuring a pair with Mr. STANTON. I would have paired with him with great pleasure, and will pair with him now, although I do not know that I have a right to say that he would like to pair off with me on this question. If his friends on that side of the House are agreed, I am willing to take that course, and that it shall be regarded as a pair from the beginning. I should have paired with him if he could have got no objection. I have only to say, in addition, that I would have voted against the resolution.

Mr. MORRIS, of Illinois, when his name was called said: Regarding slavery as a local and not a national institution.

The SPEAKER. Debate is objected to on all sides of the House. The Chair, therefore, asks the gentleman to vote.

Mr. MORRIS, of Illinois. If objection is made to remarks, I will not insist upon speaking out of order. I vote "no."

Mr. HASKIN said: I was not within the bar when my name was called. I ask the privilege of the House to vote.

Objection was made.

Mr. HASKIN. Then I desire to state that if I had been within the bar when my name was called, I would have voted "no."

Mr. SICKLES. As it appears that many gentlemen of the House were not present when their names were called, and as, I suppose, there is a strong desire that the record on this question shall be complete, I suggest that some gentleman voting with the majority shall move to reconsider, and have the yeas and nays taken on that motion, so that all gentlemen may have an opportunity of getting on the record.

Mr. BRABSON. I want to know whether my vote was recorded?

The SPEAKER. It was not; objection being made.

Mr. BRABSON. The gentleman from Indiana

[Mr. KILGORE] objected, but he afterwards withdrew that objection, and then I voted. After I had voted, some other gentleman objected; but I insist that my vote was recorded.

The SPEAKER. The Chair stated that the objection was in time.

Mr. BRABSON. But the gentleman from Indiana withdrew that objection.

Mr. KUNKEL objected.

The SPEAKER. Other gentlemen objected.

Mr. FLORENCE. I suggest that, by unanimous consent, the votes which gentlemen would have given may be journalized. Thus, gentlemen who have not had an opportunity of voting on this resolution, may get on the Journal the fact as to how they would have voted. Gentlemen are very sensitive on this subject, and desire to have their votes recorded, that they may perpetuate their fame. I propose, therefore, that, by unanimous consent, gentlemen be permitted to state on the Journal how they would have voted.

Mr. SHERMAN. I object, and insist that the call of the roll shall be proceeded with.

Mr. FLORENCE. I do not know that the proposition is in order; but if it be, I will make that motion, and suppose a majority of the House would agree they would have voted.

Mr. BURNETT. It is not in order at this time.

Mr. FLORENCE. The proposition is simply that gentlemen who were not within the bar of this House when their names were called, and who have not voted, may have the opportunity of inserting on the Journal how they would have voted.

Mr. BRABSON. I make this point of order, if an objection is made to my voting: an objection was made and withdrawn. Do I understand the Chair to decide that, after the objection was withdrawn, I had not the right to vote?

The SPEAKER. Not when another gentleman objected.

Mr. BRABSON. If the objection was before I voted.

The SPEAKER. Yes.

Mr. BRABSON. But suppose that I voted before the objection was made?

The SPEAKER. If there be an objection made to the gentleman voting, and that objection stands good at the time of voting, and if the objection be subsequently withdrawn, another gentleman may object; otherwise, gentlemen might be intentionally deceived.

Mr. BRABSON. Then I say that, if I had been entitled to vote, I would have recorded my vote in the negative.

Mr. GARNETT. I rise to a privileged question. I move to suspend the rules so far as to allow all members who were not present when their names were called, to vote.

The SPEAKER. The Chair considers that the motion is not in order while the vote is being taken.

Mr. FLORENCE. Do I understand the Chair to rule that the proposition which I made is out of order at this time?

The SPEAKER. Yes.

Mr. FLORENCE. Very well; then I will take an opportunity to propose it when it is in order; or the proposition of the gentleman from Virginia [Mr. GARNETT] may answer the same purpose.

The SPEAKER. It will be a proper motion when it is in order.

Mr. KILGORE. I rise for the purpose of asking to be excused from voting on this question.

Mr. BOCKOCK. That is not in order.

The SPEAKER. It is not in order while the vote is being taken.

Mr. POTTLE. I desire to inquire whether my name is recorded?

The SPEAKER. It is recorded in the affirmative.

Mr. POTTLE. I desire to say that I voted "ay" on the resolution, not on the preamble.

Mr. BRANCH. I object to debate.

Mr. POTTLE. My vote was simply on the resolution.

The SPEAKER. The question is on the resolution.

The Clerk proceeded to read the vote.

Mr. BONHAM. I desire to be understood on the subject of my pair with the honorable chairman of the Committee on Military Affairs. I do not feel myself at liberty to say that I am paired with Mr. STANTON, unless it meets with the entire approval of his friends on the other side.

Mr. SHERMAN. The gentleman from South Carolina had better vote.

The SPEAKER. The gentleman may vote now, if he feels himself at liberty to do so.

Mr. BONHAM. I was not within the bar when my name was called, but I ask unanimous consent to vote.

Mr. LOVEJOY. I object.

Mr. BONHAM. Then I have only to say that had I been within the bar when my name was called I would have voted in the negative.

Mr. EIGHTON. I hope that by unanimous consent the gentleman from South Carolina will be considered as paired with my colleague, [Mr. STANTON.]

The SPEAKER. That is a matter for the gentleman themselves.

Mr. DIMMICK. I was not within the bar when my name was called, but I ask the unanimous consent of the House to vote.

Mr. COLFAX. I object.

Mr. DIMMICK. If I had been within the bar I would have voted "no."

The vote was then announced, as above recorded.

Mr. BOCKOCK. I rise to a privileged question.

Mr. SHERMAN. I desire to submit a motion that the preamble be laid on the table, unless the preamble falls with the resolution.

Mr. JOHN COCHRANE. I interpret a question of higher privilege. I move to reconsider the vote just taken; and move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SHERMAN. I wish to know whether the preamble is disposed of. If not, I move to lay it on the table.

The SPEAKER. The preamble falls with the resolution, and there is nothing left on which to attach a motion.

Mr. BOCKOCK. I will now state my question of privilege. In offering the resolution which I propose to offer, I say that I do not wish to do any gentleman on this floor injustice. If, therefore, I include in this resolution the name of any gentleman who did not violate the rule, and if he will get up, and so state the fact, I will have his name stricken out, or offer the following resolution as a question of privilege:

Resolved, That Hon. DAVID KILGORE, a member of this House from the State of Indiana, and Hon. ISAAC WARREN, a member of this House from the State of Maine, being in the House—

Mr. PERRY. I object to the reading of the resolution.

Mr. BOCKOCK. It is a question of privilege.

The SPEAKER. It is presented as a question of privilege.

Mr. BOCKOCK. I will state it as a question of privilege. I think it is a question of high privilege. I offer this resolution:

Resolved, That Hon. DAVID KILGORE, a member of this House from the State of Indiana, and Hon. ISAAC WARREN, a member of this House from the State of Maine, being in the House and in their seats while the vote was being taken upon the resolution just offered, and failing to vote, while the rules of this House require them to do so, unless excused, have entitled themselves to receive, and do hereby receive, the contents of the House.

Mr. KILGORE obtained the floor.

Mr. GROW. I suppose the Speaker will submit to the House whether this is a question of privilege or not.

The SPEAKER. The Chair supports that it is a question of privilege, and has to be submitted to the House.

Mr. GROW. I ask the Speaker to submit it to the House to decide whether it is a question of privilege or not.

The SPEAKER. It is the duty of the Chair,

as the Chair supposes, to decide whether it is a question of privilege or not.

Mr. GROW. The Chair can submit the question to the House.

Mr. SPEAKER. Not unless the Chair is in doubt.

Mr. COLFAX. I wish to state a fact which, perhaps, the gentleman from Virginia [Mr. Bowers] has overlooked. I am glad to find gentlemen upon the other side anxious for the maintenance and observance of the rules; but I wish to call attention to the fact that the gentlemen who have insisted on speaking when called to order and instructed by the Chair to take their seats, have been members upon his own side of the House.

Mr. CRAIG, of North Carolina. I call the gentleman from Indiana to order. His remarks are not pertinent to the question before the House.

Mr. COLFAX. I desire to ask the gentleman from Virginia why, if he is so vigilant for an enforcement of the rules, he has overlooked these breaches of the rules heretofore?

Mr. HINDMAN. The gentleman has himself been called to order. Why doesn't he take his seat?

Mr. KILGORE. I suppose I have the floor.

Mr. COLFAX. I understand that I am speaking by the consent of the gentleman from Virginia. Does the gentleman from Arkansas ask me to order?

Mr. HINDMAN. The gentleman from North Carolina called you to order.

Mr. COLFAX. Then, I will set an example to gentlemen opposite by taking my seat.

Mr. KILGORE. Mr. Speaker, there is, perhaps, no gentleman in this House who would reject a vote of censure by his peers more than I would. I was anxious to end my vote upon this resolution; but I did not desire to be placed in an awkward position. A portion of that resolution I endorse heartily; a portion of it, although it proposes an inquiry merely, I could not consistently vote for. That portion of the resolution which instructs the Judiciary Committee to inquire into the expediency of interdicting slavery wherever Congress has the power to do so, I endorse to its fullest extent.

Mr. BARKSDALE. Where has it the power, in your judgment?

Mr. KILGORE. I will tell the gentleman in a few moments. I could not vote for that portion of it which declares in favor of liberating every human being.

Several MEMBERS. That is not in the resolution it is in the preamble.

Mr. KILGORE. Yes, it is in the resolution. Will the Clerk read me the resolution?

Mr. JOHN COCHRANE. I rise to a question of order. I would like to know whether the abstract question of slavery, or slavery in any of its forms within the Union, is now the subject of discussion on the resolution of censure presented by the gentleman from Virginia?

Mr. SPEAKER. The Chair supposes not. The question of slavery is not before the House.

Mr. SHERMAN. I appeal to the gentleman from Indiana to vote.

Mr. KILGORE. I cannot yield the floor now. Mr. HILL. I desire to make an inquiry of the Chair. It seems to be very difficult for gentlemen to confine themselves to the proper range of debate. I wish to know whether, in connection with this resolution of censure, it would be at all germane to discuss the coming presidential election, and the influence which the resolution which has been acted on to-day may have upon it?

Mr. SPEAKER. The Chair must refer that question to the gentleman from Georgia himself.

Mr. NIDELACK. I wish to appeal to gentlemen upon this side of the House not to interrupt my colleague. This is rather a serious matter to him. The resolution affects him personally, and I hope the strict rules will not be enforced upon him. It is due to him that he should be heard.

Mr. KILGORE. Mr. Speaker, I am very glad to find that my colleague has such kind personal regard for myself, as I know he has for all his colleagues.

The part of the resolution to which I objected is as follows:

Resolved, That the Committee on the Judiciary be, and the cause is hereby, instructed to inquire into the expediency of reporting a bill giving perfect freedom to every human being.

I object to that part of the resolution. Although it is a mere matter of inquiry, I would not be willing to cast my vote in favor of that portion of the resolution; and hence I did not vote.

The closing part of the resolution is as follows: "and interdicting slavery wherever Congress has constitutional power to legislate upon the subject."

That part of the resolution I heartily approve and should most cheerfully vote for; but the resolution was not susceptible of division. I was required to vote for it as a whole; and not choosing to vote for the first portion of it, I declined to vote at all. I could not vote in favor of the first branch of the resolution, because it would restrict Congress in the postmaster's office all over the country; and I am the last man who would be willing to add to the strength of any party by turning those men loose, and particularly at this period of time, when their votes would be of such service in the coming political campaign.

Mr. PAYOR. Have you finished?

Mr. KILGORE. No, sir; I am not through yet. The gentleman from Mississippi [Mr. BARKSDALE] asked me a question, and I presume I may be permitted to respond to it. The gentleman from Virginia, when Congress had the power to interdict slavery? I answer, in the District of Columbia, and in all the Territories of this nation.

Mr. BARKSDALE. Are you in favor of the exercise of the power?

Mr. KILGORE. I am in favor of the gradual abolition of slavery in the District of Columbia. I am in favor of prohibiting the extension of slavery into one foot of territory now free. I am opposed to its extension in every form. So far as the States are concerned, I do not believe that Congress has any power to interfere with the act situation there. If, as gentlemen say, the legislation of Congress within its proper jurisdiction will drive those States where slavery exists to abolish it, that is but a consequence of the exercise of a legitimate power, and it is their misfortune, not my fault.

Mr. BARKSDALE. Do you believe in the power of Congress to abolish slavery in the dock-yards and arsenals?

Mr. SHERMAN. If the gentleman from Indiana is correct, I think it is time that we proceed with the public business.

Mr. KILGORE. Let me first answer the question of the gentleman from Mississippi.

Mr. BARKSDALE. My question is, whether the gentleman believes that Congress has power to prevent the slave trade between the States, and to abolish slavery in the forts, dock-yards, and arsenals?

Mr. KILGORE. It is not a question that is now before the House; and, therefore, it is not necessary that I should express any opinion upon it.

Mr. SHERMAN. The gentleman from Indiana yields to me now, as I understand him; and, in order that we may do some little public business still to-day, I move to lay the resolution on the table.

Mr. BURNETT. I desire to ask the gentleman from Indiana one question, which it will take but a moment to answer.

Mr. SHERMAN. I object. I think we have spent time enough on this subject.

Mr. BURNETT. I merely wish to ask the gentleman from Indiana why, if he is in favor of abolishing slavery in the District of Columbia, inasmuch as all the papers relating to that subject are in his hands, which have been referred to the Committee for the District of Columbia, he has not reported a bill for that purpose?

Mr. SHERMAN. I object to debate. I insist upon my motion to lay the resolution on the table.

Mr. GARNETT. I want it understood that we on this side are ready to take a straight vote upon this resolution. I call for the yeas and nays upon the motion to lay on the table.

Mr. BOCCOCK. I was about to say that I wanted to hear some explanation from the gentleman from Maine, [Mr. WASHBURN], when I should have been willing to have withdrawn the resolution.

Several MEMBERS. No debate.

Mr. BOCCOCK. I withdraw the resolution.

Mr. HINDMAN. I object to the withdrawal.

Mr. GROW. It is to be voted on, I want to offer an amendment.

The SPEAKER. The gentleman has the right to withdraw his resolution.

THE MAIL CONTRACTORS.

Mr. COLFAX. I ask the consent of the House to report from the Committee on the Post Office and Post Roads a joint resolution for the relief of the contractors of the Post Office Department.

The order was read, and the joint resolution was introduced and read a first and second time.

Mr. COLFAX. I now ask that a letter from the Third Assistant Postmaster General may be read, explaining the necessity there is for the speedy passage of this joint resolution, and then I think there will be objection to its being put on its passage immediately.

The letter from the Third Assistant Postmaster General was read.

Mr. COLFAX. I will say, in explanation of the joint resolution, and under the law, technically, the net revenues of the thirty thousand post-offices of the United States are in the Treasury of the United States; really, however, they are in the pockets of the postmasters until they are paid over to the mail contractors under the direction of the Post Office Department.

The deficiency bill for the Post Office Department, which was passed near the commencement of the present session of Congress, made appropriations for the service of the Department only up to the 31st of December last. Another quarter's revenue has not been received. Now I am going to the House that owing to the failure in making appropriations for this service at the last session of Congress, most of the mail contractors were compelled to borrow money at most exorbitant rates, for which the bill passed at the present session afforded no relief. Now I ask that this measure be passed, permitting the Post Office Department to devote the legitimate revenues of that Department to the payment of the amounts due at the present quarter, which will afford relief to the contractors, and enable them to keep out of the hands of the money lenders. I repeat that the resolution only authorizes the use of the income of the Post Office Department. Whatever surplus is required must, of course, be appropriated directly out of the Treasury. This will enable the Department to pay about one-third of the indebtedness to the contractors at the beginning of the quarter.

Mr. HOUSTON. I understand that this bill is confined in its operations to the present quarter, and that it does not give this general power to the Department for any longer time.

Mr. COLFAX. It does not. I will remark, further, that it was recommended unanimously by the Committee on the Post Office and Post Roads.

Mr. STEVENS, of Pennsylvania. I ask the gentleman if the postmasters in the country do not usually pay the revenues of their offices over to the contractors?

Mr. COLFAX. No, sir; they are not permitted to do it by law until the money has been appropriated by Congress.

Mr. STEVENS, of Pennsylvania. I know they do not pay through my county last year. I do not know whether it will be the same this year.

Mr. COLFAX. I will say to the gentleman from Pennsylvania that by the law the postmasters retain the revenue of their offices in their own pockets until authorized to pay it out by the Department.

Mr. STEVENS, of Pennsylvania. I know nothing about that. I know they pay it directly over to the contractor.

Mr. COVODE. I call for the reading of the joint resolution.

The joint resolution was read. It authorizes the Post Office Department to use the revenues of the Post Office Department up to the 31st March, 1860, in part payment of contracts for carrying the mails, salaries of route agents, &c.

Mr. COLFAX. Now, if there be no objection, I will move the joint resolution may be put on its passage.

There being no objection, the joint resolution was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. COLFAX moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE PUBLIC PRINTING.

Mr. HASKIN. I rise in a privileged question. I am instructed, by the Committee on Public Expenditures, to report the testimony taken by them in relation to the public printing, and to enable the minority to report on the case, I shall offer now, on behalf of the majority of the committee, a joint resolution, and ask that it be made the special order for Tuesday, the 3d of April, at two o'clock, p. m.

Mr. REAGAN. I rise to a question of order. I submit that this committee has no privilege to make this report on this day. The rules provide that to-day shall be set apart for the transaction of a particular business, and the power granted to the committee to print and publish at any time only extends to their right to report when they can do so without interfering with matters coming up directly under the rules. In other words, I submit that the power given this committee to report at any time does not have the effect of abrogating the standing rules of the House. There is a rule which provides that this day shall be consumed in the introduction of resolutions.

Mr. HASKIN. The resolution adopted by the House gave this committee the right to report at any time, and my only object now is to enable the joint resolutions set down for some future day, so as to enable the minority of the committee to submit their report. I move that the report be postponed to and made the special order for Tuesday, the 3d of April.

Mr. JOHN COCHRANE. I will suggest to my colleague that he say Wednesday, the 4th of April.

Mr. HASKIN. Very well; but what will accommodate gentlemen, I will name that day.

Mr. SHERMAN. I am apprehensive of special orders. They will, by and by, come so thick that we shall have no time to devote to the ordinary business of the House.

Mr. HASKIN. Well, sir, I submit the motion that the joint resolution be made the special order for the 4th of April.

Mr. BRANCH. I shall ask that the joint resolution be read before I consent that they be made a special order.

The Clerk read the joint resolutions as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no person shall be elected, either as the Printer to the Senate or House of Representatives, who is not, in the regular election, a principal printer, and who is not a person of skill and ability as a member of that trade or profession. That hereafter, upon the election of the Printer to the Senate, he shall execute a bond, with at least two good and sufficient sureties, in the penalty of \$25,000, to the Superintendent of the Public Printing, and subject to the approval of the said Superintendent and the Secretary of the Senate and the Clerk of the House, for the faithful and honest performance of all the duties devolving upon him as such Senate Printer. And in like manner, upon the election of a Printer to the House of Representatives, he shall execute and deliver to the said Superintendent a bond, with at least two good and sufficient sureties, in the penalty of \$25,000, subject to the like approval, and for the like objects, which bond shall be made, executed, and delivered within ten days after such election respectively, and shall, within that time, be filed in the office of the said Superintendent. That the prices exacted by the printer for the public printing by the act entitled "An act to provide for executing the public printing and establishing the prices thereof for each printed copy," approved August 1, 1846, and by the several acts amendatory thereof, that is to say, for composition, press-work, folding, stitching, and inserting, and plates to be, and the same are, reduced forty per cent.; and that for the purpose of giving full force and effect to this resolution, the Superintendent of the Public Printing is hereby authorized and directed to cause the accounts of the Public Printer or Printers, to be made out and rendered to him as heretofore, under the provisions of the act of August 1859, (except as to the printing of the Post Office blanks, which have been ordered by law to be put out by contract at the lowest bidder) and before certifying the same to the Treasury for payment, to deduct the aggregate amount of each account so rendered the sum of forty per cent., and the residue shall be received by the said Printer, or Printers, as so far as concerns the work stated in said accounts. This resolution shall take effect from the passage thereof.

Reading the reading of the joint resolutions, Mr. REAGAN said: Mr. Speaker, I rise to a point of order. Can this report come in here interfering with the regular business before the House, and must it be acted upon now, to the exclusion of all other business?

The SPEAKER. The report is properly before the House.

Mr. BRANCH. I hope the resolutions will be read. It is an important matter, and we ought to know what they provide.

Mr. REAGAN. I make the point of order that the authority to report at any time does not also give authority to consider anything reported from that committee at any time.

The SPEAKER. The power to report includes the power to ask for the consideration of the report.

The Clerk finished the reading of the resolutions.

Mr. HASKIN. I will say to the House that this is a subject which should be acted upon speedily. The object of the joint resolutions which I have just reported from the Committee on Public Expenditures proposes a reduction of the present enormous prices upon the public printing. I do not ask that the resolutions shall be considered at this time, but that their further consideration shall be postponed until Wednesday, the 4th of April. By that time the minority of the committee will be ready, I understand, to submit their views on the subject.

Mr. REAGAN. I do not object, if this subject does not now give rise to debate.

Mr. CLOFTON. I am one of those who propose to submit a minority report, and I hope that another day than the one named shall be fixed to make the further consideration of the subject shall be postponed. I want to leave for some next week.

Mr. HASKIN. Let the gentleman state the day he wants.

Mr. CLOFTON. Next Tuesday will suit me.

Mr. JOHN COCHRANE. I must object to that. The revenue bill has been made the special order for that day. Say Friday of next week.

Mr. FLORENCE. I must object to that. Friday is private bill day; and the days for considering bills of a private nature are too few to spare any of them.

Mr. GROW. Say Thursday, then.

Mr. SHERMAN. After the morning hour.

Mr. STEVENSON. That will do.

Mr. JOHN COCHRANE. It suits me.

Mr. CLOFTON. I agree to Thursday.

Mr. HASKIN. Then I move that the further consideration of these joint resolutions be postponed until next Thursday, after the morning hour.

Mr. SICKLES. I make a point of order that, when the resolution raising the committee they have a right to report at any time, it does not follow that the resolutions or bills they recommend are privileged questions, and can come in to the exclusion of the regular order of business. I call for the regular order of business.

The SPEAKER. The Chair is of opinion that the right to report carries with it the right to have the report considered. Such has been the practice heretofore.

The question was taken on the motion to postpone; and it was agreed to.

Mr. SHERMAN took the floor.

CALL OF STATES FOR RESOLUTIONS.

Mr. STEVENSON. I rise to make an inquiry of the Chair. I believe that it was the general understanding, after the expiration of the morning hour, that we should go on with the call of the States for resolutions. Some States have not yet been called. I insist that we shall go on with the call of the States for resolutions.

Mr. SHERMAN. If the call of the States could be finished without debate, and without an hour or two being uselessly expended, as was done upon a resolution awhile ago, I do not know but that I would be glad to see it go on. I have some business which I have the right to report at any time. I have also a privileged resolution, which I wish to submit. I will withhold them now if we can go on and finish the call of the States for resolutions.

Mr. CURTIS. Let it be the understanding that there shall be no debate allowed.

The SPEAKER. If there be no objection, the Chair will go on with the call of the States.

IMPRESSMENT OF AN AMERICAN CITIZEN.

Mr. STEVENSON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to communicate to this House, if he deemed incompatible with the public interest, any recent correspondence which may have taken place between our consul general at Havana and the Captain-General of Cuba touching the impressment, in that island, of American citizens.

USELESS CUSTOM-HOUSES.

Mr. SIMMS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to ascertain the number of custom-houses in the United States now established by law, and the annual expenses of which exceed the amount of their receipts, and that they be instructed to inquire into the expediency of abolishing the same, and that they report by bill or otherwise.

PARAGUAY EXPEDITION.

Mr. STOKES. I offer the following resolution: *Resolved,* That the Committee on the Expenditures in the Navy Department be directed to inquire into, and report on, the expenditures on account of the Paraguay expedition, including the hiring and purchase and outfitting of steamers for that service, and all the expenditures thereon, considered, and the condition of the vessels sent on that expedition, and the progress of the war; and that the committee have power to send for persons and papers connected with the same.

Mr. BURNETT. Does the resolution propose the raising of a select committee?

The SPEAKER. It does not.

Mr. BURNETT. I must say to gentlemen that I am opposed to this thing of conferring upon the committees of this House the privilege of sending for persons and papers, under the name of a select committee. We may incur a very heavy expense in this way, when there is no necessity for it. Mr. REAGAN. I rise to a question of order. This resolution is not debatable.

The SPEAKER. It is not.

Tellers were called for.

The SPEAKER ordered tellers; and appointed Messrs. HEGGINS and BEFFINGTON.

The House divided; and the tellers reported—aye 15, nays 46.

So the resolution was agreed to.

EXPENSES OF COLLECTING REVENUE.

Mr. ETHERIDGE introduced the following resolution; which was read, considered, and agreed to:

Whereas, by the fourth section of the act approved June 14, 1854, entitled "An act making appropriations for the expenses of collecting the revenue from customs," it is provided "that the Secretary of the Treasury be and he is hereby, authorized, at his discretion, to discontinue all per diem of the revenue officers, at a rate of which not amount to the sum of \$10,000 per annum."

Resolved, That the Secretary of the Treasury is hereby requested to discontinue the per diem of the revenue officers, if any, he has discontinued since the passage of said act of June 14, 1854, and in conformity with its directions.

COST OF INDIAN TREATIES.

Mr. ETHERIDGE also introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Commissioner of Indian Affairs be requested to make an estimate of the amount that will be required to make a treaty of peace, unity, &c., with the Kiowa, Comanches, and other Indians who roam near the Arkansas river, west of the one hundredth degree west longitude; with the Arapahoes and Cheyennes, located between the south fork of the Platte river; with the Sioux and other Indians of the Plains, to be concentrated for the occasion at their Creek, a tributary of the Platte river; and also for a treaty with the Red Lake Chippewas and the Indians of the Red river, in the State of Minnesota, for the extinguishment of their title to lands in that State.

ABOLITION OF CUSTOM-HOUSES.

Mr. STOKES introduced the following resolution:

Resolved, That the Committee of Ways and Means be directed to inquire and report to this House whether any, and how many, of the custom-houses now established can be abolished without detriment to the public service; and, in making that inquiry, that they specially inquire with reference to those custom-houses which are situated far inland, or at which only small amounts of revenue, in proportion to their cost, are collected.

Mr. BURNETT. A resolution similar to that has been just passed, and referred to the Committee on Commerce. I propose to debate it.

The SPEAKER. It is not in order, under the rules.

Mr. NIBLACK introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Revolutionary Claims be instructed to inquire into the expediency of having ascertained, why the currency issued by the Congress of the Confederate States prior to the adoption of the Constitution of the United States, and which has not been redeemed by the United States and further as to the justice and expediency of making any present provision by law for such redemption, with such sum either in whole or in part, and report by bill or otherwise.

WILLIS BENAFIELD.

Mr. DAVIS, of Indiana, offered the following resolution:

Resolved, That the Committee of the Whole House be

discharged from the further consideration of the adverse report of the Court of Claims, No. 211, in the case of *Wills Beardslee*, of Indiana, and that the same, with the papers in said case, be referred to the Committee on Public Lands.

Mr. HUSTON objected, and the resolution was not received.

AMENDMENT OF RULES.

Mr. SICKLES. I desire to give notice that I will, at a future day, move to amend rule 135, so as to confine debate in the Committee of the Whole on the state of the Union to the bill, resolution, or proposition under consideration.

MANUFACTURE OF CANNON, ETC.

Mr. PHELPS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs is hereby requested to inquire into the expediency of establishing an armor and a foundry for the manufacture of cannon at the Manassas town works, in the State of Missouri.

APPAIS IN TEXAS.

Mr. WOODSON offered the following resolution:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to this House copies of all official correspondence between civil and military officers stationed in Utah Territory and the heads of bureaus in their respective Departments, or between any of said officers, illustrating or tending to show the condition of affairs in said Territory since the 1st day of October, 1855, and which may not have been heretofore officially published.

Mr. CURTIS. It seems to me, Mr. Speaker, that it would require a very large volume to give all this correspondence, if we are to go back to 1857 and come up to this period. It would include all this matter relative to the war.

Mr. WOODSON. The gentleman is a very much mistaken. It will take a very small volume to give the correspondence which this resolution calls for. It is important correspondence that we have never had published. All that has been heretofore published is expressly excluded from the resolution.

Mr. CURTIS. If the gentleman thinks that it is only going to take a small amount of matter, I have no objection.

Mr. WOODSON. That is all. It calls for information which I require before I can act intelligently.

Mr. CURTIS. Then I withdraw all objection. The resolution was agreed to.

HARRISON & HODGE.

Mr. CLARK, of Missouri, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of providing by law for paying to Messrs. Harrison & Hodge a just compensation for carrying the United States mails from Hannibal to Brunswick, in Missouri.

THE TEXAS FRONTIER.

Mr. HAMILTON. I present in duplicate a joint resolution of the Legislature of the State of Texas, requesting the Senators and Representatives in Congress from that State to procure the reimbursement to the State of Texas of funds expended for the protection of the frontier, and making other requests with relation to frontier affairs. I ask that one copy may be referred to the Committee on Military Affairs, and the other to the Committee on Indian Affairs.

It was so ordered.

CAPTAIN JOHN B. TODD.

Mr. HAMILTON also presented a joint resolution of the Legislature of the State of Texas, instructing the Senators and requesting the Representatives from that State to use their influence to procure the incorporation of Captain John B. Todd, of the late army of Texas, into the Navy of the United States; which was referred to the Committee on Naval Affairs.

MAIL ROUTE IN TEXAS.

Mr. HAMILTON also presented a joint resolution of the Legislature of the State of Texas, instructing the Senators and requesting the Representatives in Congress from that State to use their influence to obtain the passage of an act of Congress, appointing a mail stage route from the city of Austin, to some point on the overland mail stage route from St. Louis to El Paso, so as to

connect Austin and El Paso; provided that it shall not be construed to express a desire to change any of the existing routes; which was referred to the Committee on the Post Office and Post Roads.

MAIL ROUTES IN IOWA.

Mr. CURTIS presented a joint resolution of the Legislature of the State of Iowa, in relation to mail routes from Eddyville, via Knoxville, to Des Moines, in Iowa; which was referred to the Committee on the Post Office and Post Roads.

SECRETARY TO A COMMITTEE.

Mr. CURTIS offered the following resolution: *Resolved*, That the special committee on the matter of the Public Salaries, and others they are investigating, not to employ a secretary, who shall be paid four dollars per day while employed in the service of the committee.

Mr. CORB. I object to that.

Mr. CURTIS. A secretary is very much needed, and I hope the gentleman will withdraw his objection.

Mr. CORB. I withdrew to withdraw it.

Mr. CURTIS. I move to suspend the rules.

The SPEAKER. The Chair supposes that that motion is in order.

Mr. REAGAN. I desire to debate that question.

The SPEAKER. The question is on suspending the rules.

The rules were not suspended.

Mr. CURTIS. I withdraw the resolution.

BENCHES FOR INSANE ASYLUM.

Mr. WASHBURN, of Wisconsin, offered the following resolution:

Resolved, That the superintendent of the Capital extension be directed, when he removes the present benches from the Hall of Representatives, to deliver them over to Dr. Charles H. Nichols, superintendent of the Government hospital for the insane, to be used in seating the patients of said hospital, making one bench for each of the superintendent of said hospital his receipt therefor, and obligation to return the same whenever called for by the House of Representatives.

Mr. REAGAN. I object to that resolution.

Mr. WASHBURN, of Wisconsin. The resolution contemplates that if these seats are to be removed—

Mr. MILES. I am perfectly willing that a portion sufficient for the accommodation of the gentleman who offered the resolution shall be given.

Mr. WASHBURN. I beg leave to send up, and have read, a letter from the superintendent.

The letter was read, as follows:

GEOFFREY HERRICK, of the INSANE, (of the Army and Navy and of the District of Columbia.)

DEAR SIR: Having noticed that the present seats in the Hall of Representatives are to be removed, and the former desks and chairs replaced, it has occurred to me that the House might be pleased to permit the seats, when removed, or as removed, to be deposited in the chapel or lecture-room in this institution, for male-keeping, and such occasional, careful use, as would be no more than sufficient to insure attention to their preservation.

It is true, that a small appropriation has been made for furnishing the chapel and adjacent rooms with the wings of the hospital edifice, and it has been in contemplation to defray the costs of cheap seats for the chapel out of that appropriation; but if the Hospital should be favored with the use, in the way I have suggested, of furniture already belonging to the Government, and not needed for the purposes for which it was originally intended, the superintendent would be able to furnish most parts of the house in a more liberal and comfortable manner.

The Hospital is now constituted of a rectangular room, sixty-one feet and six inches by forty-five feet; and the speaker's desk is placed in part in the alcove opening from the side of one of its sides. It will thus be perceived that the curved form of the seats in question is adapted to our chapel as well as to the Hall of Representatives, for which they were made.

If the House shall see fit to give the seats to the hospital, the committee constructed with the wings of the Hospital; and the deposit of them in the institution, subject to reclamation whenever the House may need them for its depository, will be highly appreciated by the benevolent liberality of the honorable Representatives of the people of a great and prosperous country.

The enlightened interest in the propriety of this institution which you have ever manifested since you early into the councils of the nation, justifies me, I hope, in soliciting your efforts to the proposition for the benefit of the hospital which I have here ventured to make, and in asking you to make such steps in the matter as you may deem to be in the line of your public duty.

I am, sir, very respectfully and truly, yours,
C. H. NICHOLS, Superintendent, District of Columbia.

Objection was not withdrawn.

MAIL ROUTES.

Mr. WASHBURN, of Wisconsin, presented a

memorial from the State of Wisconsin, for a change in a mail route; which was referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Wisconsin, also presented a memorial from the State of Wisconsin, for a mail route from Hudson, in St. Croix county, by way of the Ash Boardman, Apple River Bridge, Ceylon, Iron Prairie, and Hammond, to Warren; which was referred to the Committee on the Post Office and Post Roads.

POTOMAC RIVER RIGHTS.

Mr. EDWARDS presented a memorial of the Great Falls Manufacturing Company, relating to their rights in the water of the Potomac river, praying for the appointment of a joint committee of both Houses of Congress, consisting of three members each, to take into consideration the facts stated in said memorial, and to report in relation thereto; and moved for the appointment of said joint committee.

Mr. PHELPS. I object.

Mr. BRANCH. I do not understand this to be a resolution for the appointment of a committee; but only a memorial presented praying for that.

The SPEAKER. Does the Chair understand the gentleman to move for the appointment of a committee?

Mr. EDWARDS. Yes.

Mr. BRANCH. I object to it.

Mr. EDWARDS. Then, I move to refer the memorial to the Committee on Commerce.

Mr. FLORENCE. Let it be referred to the Committee on the Judiciary.

The SPEAKER. The memorial can be presented and referred under the rule.

FORMATION OF A NEW STATE.

Mr. BURCH. I offer the following resolution:

Resolved, That an act of the Legislature of the State of California concerning the formation of member government for the southern portion of said State, approved April 18, 1859, which is herewith presented, be referred to the Committee on Territories and Territories.

I desire, in justice to myself, that as a member of the California Senate, I opposed the passage of that act, and that I am still opposed to Congress granting any consent to the formation of this new government; but I present the act in accordance with the request of certain of my constituents as residing in the northern portion of the State.

The resolution was agreed to.

MEMORIALS FROM WASHINGTON TERRITORY.

Mr. STEVENS, of Washington, presented the memorial to Congress of the Legislative Assembly of the Territory of Washington, relative to the tide-flats lying in front of and adjacent to the town of Olympia; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. STEVENS, of Washington, also presented the memorial of the Legislative Assembly of the Territory of Washington, praying the establishment of a port of delivery at Cananda City; which was referred to the Committee on Commerce, and ordered to be printed.

BOUNDARY LINE.

Mr. STEVENS, of Washington, also offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of making provision for running and marking the forty-six parallel of latitude, so far as said parallel is the boundary line between the State of Oregon and the Territory of Washington, and report by bill or otherwise.

LAND OFFICE AT OLYMPIA.

Mr. STEVENS, of Washington, also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law for the necessary clerical force required to conduct the business of the land office at Olympia, including compensation for services already incurred, and to report by bill or otherwise.

REPORT ON WAGON ROAD TO THE PACIFIC.

Mr. STEVENS, of Washington, also submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the House the report of Lieutenant Mullen, United States Army, in relation to the wagon road from Fort Benton to the Walla Walla.

APPROPRIATION BILLS REPORTED.

The call of the States and Territories for resolutions having now been completed.

Mr. SHERMAN, from the Committee of Ways and Means, reported the following bills, which were severally read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1860.

A bill making appropriations for the naval service for the year ending 30th June, 1861; and

A bill making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1861.

CHANGE OF REFERENCE.

On motion of Mr. SHERMAN, the Committee of Ways and Means were discharged from the further consideration of sundry communications from the Secretaries of War and the Navy, and the same were referred to the Committee on Military Affairs and Naval Affairs.

DISCONTINUANCE OF NAVY-YARDS.

Mr. SHERMAN, from the Committee of Ways and Means, reported the following resolution: which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be requested to inquire whether any of the navy yards may be discontinued without injury to the public service, with leave to report by bill or otherwise.

ARMY APPROPRIATION BILL.

Mr. SHERMAN, from the same committee, also reported the following resolution: which was read, considered, and agreed to:

Resolved, That at the expiration of one hour after the House shall have resolved itself into a Committee of the Whole on the state of the Union, House bill No. 285, making appropriations for the support of the Army for the year ending 30th June, 1861, shall be the special order in said committee, and no motion shall be in order.

LAW EXPENSES IN CALIFORNIA.

Mr. LOVEJOY. I was not in the House when the State of Illinois was called for resolutions. I ask the gentleman from Ohio to yield to me now to enable me to offer a resolution.

Mr. SHERMAN. I yield to that purpose.

Mr. LOVEJOY then submitted the following resolution; which was read, considered, and agreed to:

Whereas, in addition to the ordinary salaries and expenses of the office of Attorney General, the State of California, appropriations were made during the first session of the Thirty-Fourth Congress, and the first and second sessions of the Thirty-Fifth Congress, for legal assistance and other necessary expenditures in the disposal of private land claims in California, and for the service of special counsel, and other extraordinary expenses of such land claims, amounting in all to \$114,000:

Resolved, That the President be requested to cause to be communicated to this House what portion of said appropriations has been expended, with a statement in detail of the amounts paid, to whom, and for what purposes.

PONCA APPROPRIATION BILL.

Mr. SHERMAN. I ask that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill of the House (No. 216) making appropriations for fulfilling treaty stipulations with the Ponca Indians, and with certain bands of Indians in the Territory of Washington, and State of Oregon, for the year ending June 30, 1860, with the amendments of the Senate thereto.

Mr. BRANCH. If the gentleman can give me any consideration of great public emergency why this bill should not be considered in committee, I will not object to his proposition.

Mr. SHERMAN. I will state to the gentleman from North Carolina, no information I have. This bill is for fulfilling treaty stipulations with the Ponca Indians. It is considered of importance by the Department that it should be passed immediately, because they wish that the agents shall be discharged from the need to make payments to the Indians in that region. The bill has passed the Senate with amendments to conform to the requirements of the treaties as they exist, a new treaty having been made since the estimates on which the House acted were made up. The Senate amendments are strictly in accordance with the requirements of treaty stipulations.

Mr. BRANCH. I have nothing to say about the correctness of the amendments; I know nothing about these Ponca Indians. It is the matter

of principle upon which I found my objection. This House, by the construction which has been given to the Constitution, has alone the power of originating appropriations bills. The Senate, however, in the exercise of its undoubted constitutional rights, have placed upon the bill amendments making appropriations of money, which have not been considered in the House at all, and it is certainly in accordance with the principles upon which this House acts in reference to the original appropriation bills, that all such amendments shall be first considered in the Committee of the Whole on the state of the Union.

I would not object to discharging the Committee of the Whole from the consideration of an appropriation bill, and giving it its first consideration in the House, when very great public exigency requires it; but I will object to discharging the committee from the consideration of amendments which the rule requires shall be first considered in the Committee of the Whole, unless some good reason shall be given for departing from that rule.

Mr. SHERMAN. My only object was to save time; but I will avoid all difficulty in the matter by moving that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the amendments of the Senate to the bill there to-day.

Mr. BRANCH. That is a proper motion, and I hope the House will agree to it.

The motion was agreed to, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair.)

Mr. SHERMAN. I move that the committee take up the Senate amendments to the appropriation bill in relation to the Ponca Indians—House bill No. 216.

The motion was agreed to; and the amendments of the Senate were taken up for consideration.

First amendment:

After line twenty-four, insert:

For maintaining and rebuilding the Poncas during the first year after their removal to their new home, purchasing stock and implements, and for building and fitting land, building houses, and in making such other improvements as may be necessary for their comfort and welfare, per second article of the treaty of the 12th of March, 1855, \$10,000.

The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Second amendment:

Add at the end of the bill, as follows:

To provide the Poncas with a mill suitable for grinding grain and sawing timber, one or more mechanic shops, with necessary tools for the same, and dwelling houses for the tenant, mill, engineer for the mill, if one be necessary, farmer and mechanics that may be employed for their benefit, per second article of the treaty of the 12th of March, 1855, \$10,000.

The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Third amendment:

Add at the end of the bill, as follows:

To provide and set apart this sum to enable the Poncas to adjust and settle their existing obligations and engagements, including depredations committed by them on property of citizens of the United States prior to the date of the removal, as provided, so far as the same may be found and decided by their agent to be valid and just, subject to the approval of the Secretary of the Interior, per second article of the treaty of the 12th of March, 1855, \$20,000.

The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Fourth amendment:

Page 1, line twenty-two, after the word "and," when it occurs the second time, strike out the word "furnished," and insert "furnishing."

The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

ARMY APPROPRIATION BILL.

Mr. SHERMAN. I move to lay aside this bill now, and take up the Army appropriation bill.

Mr. MONTGOMERY obtained the floor.

Mr. SHERMAN. The gentleman from New York [Mr. SEDGWICK] is entitled to the floor, as I understand, upon this bill; and when he shall

have concluded, the resolution of the House making this bill a special order will apply.

Mr. MONTGOMERY. Is it the understanding, then, that I shall be entitled to the floor when any bill is up for general discussion?

The CHAIRMAN. The gentleman will, if he can obtain the floor.

Mr. SEDGWICK addressed the House for the hour to which he was entitled under the rules, upon the slavery question in connection with the Republican and Democratic parties. [His speech will be published in the Appendix.]

During the delivery of Mr. SEDGWICK's speech, the following interruptions took place:

Mr. GRAIG, of North Carolina. I rise to a point of order.

I submit that it has prevailed in this House for some time of reading speeches. I make the point that that practice is in violation of the rules of this House. I call the attention of the Chairman to this extract from Jefferson's Manual:

"A member has not a right even to read his own speech, committed to writing, without leave. This privilege is not an abuse of time, and, therefore, is not refused but where that is intended."

Mr. SHERMAN. That is Jefferson's Manual. Mr. CRAIG, of North Carolina, in Jefferson's Manual is adopted as a part of the rules of the House by express provision in the rules themselves.

The CHAIRMAN. The Chair overrules the point of order.

Mr. REAGAN. I rise with no purpose of especially interrupting the gentleman from New York, but to raise a question of order which ought to be settled at this time. This is the first occasion that we have been in the Committee of the Whole on the state of the Union since the adoption of various amendments to the rules. In discussing an amendment I offered when the rules were under consideration, I was told that it was already provided that debate in the Committee of the Whole on the state of the Union should be confined strictly to the pending question. I was told that general debate could only be gone into in the Committee of the Whole on the state of the Union when the President's message was under consideration. I was referred, sir, to this amendment of the rules:

"And all debate on special orders shall be confined strictly to the bill in question."

The CHAIRMAN. The Chair will state to the gentleman from Texas that the bill is open to general debate for one hour under a resolution adopted in the House. When that hour has expired, the debate must then be confined strictly to the bill itself. The bill then becomes a special order.

Mr. REAGAN. The Chair does not recognize the point I wish to make. I make the point that there cannot be general debate in the Committee of the Whole on the state of the Union, on a bill referred to that committee, but that the debate on that bill must be confined strictly to the provisions of the bill. We have heretofore acted on a different rule, but we have, I think, acted erroneously; and, sir, the additional rule which has been recently made in my opinion, carries out only the real intent of the former rules. I hold that it is not competent for gentlemen to go into general debate upon the bill now pending.

Mr. GROW. If general debate is in order, I insist that the gentleman from New York shall be allowed to proceed.

Mr. REAGAN. I state my proposition to the Chair, and I ask for a decision.

The CHAIRMAN. The Chair is of the opinion that general debate upon this bill is in order until the hour fixed by the resolution of the House has expired. After that, debate must be confined to the merits of the pending proposition.

Mr. SEDGWICK resumed and completed his remarks.

Mr. MONTGOMERY (who obtained the floor) said: I do not desire to open upon this subject the bill now under consideration; but I desire to speak upon general politics.

The CHAIRMAN. The Chair would state that the time for general debate upon this bill has expired; and that all debate hereafter must be confined to the merits of the bill.

Mr. MONTGOMERY. Then I suppose, by the courtesy of the House, I shall be entitled to the floor when general debate is resumed.

Mr. CONKLING. I desire to know whether

the gentleman who has the floor now for the purpose of debate upon this bill is to have it hereafter for another purpose when the House goes into the Committee of the Whole on the state of the Union on another bill?

The CHAIRMAN. The gentleman from Pennsylvania asks the indulgence of the committee, as he does not desire to speak upon the merits of this bill, that he shall be permitted to have the floor when the bill is referred itself into the Committee of the Whole on the state of the Union upon another bill.

Mr. CONKLING. At that time I suppose the gentleman from Pennsylvania will take his chance for the floor with other members.

Mr. LOVEJOY. I have some remarks upon the homestead bill, and I ask leave to print them, not wishing to consume the time of the committee. Leave was granted. [See Appendix.]

Mr. FLORENCE. I move that the committee do now rise.

The motion was agreed to.

The committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had under consideration the Senate amendment to House bill (No. 216) making appropriations for fulfilling treaty stipulations with the Ponca Indians, and with certain bands of Indians in the Territory of Washington and the State of Oregon, for the year ending 30th June, 1880, and recommended concurrence therein by the House. Also, that they had under consideration the Army bill, and had come to no conclusion thereon.

Mr. WASHBURN, of Illinois. I call the previous question upon the amendments to House bill No. 216.

The previous question was seconded; and the main question was ordered to be put.

COAST SURVEY REPORT.

Mr. FLORENCE. I offered a resolution this morning in reference to the printing of an extra number of the meteorological portion of the Coast Survey report. I ask that so much of that report as relates to the printing of the usual number be taken up and considered.

No objection being made, the usual number of copies thereof were ordered to be printed.

And then, on motion of Mr. FLORENCE, (at twenty minutes past five o'clock, p. m.) the House adjourned.

IN SENATE.

Thursday, March 27, 1880.

Prayer by the Chaplain, Rev. Dr. GURLEY.
The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. COLLAMER presented the memorial of Oliver Evans Woods, of Philadelphia, in relation to a plan for increasing the efficiency and revenue of the service of the Post Office Department of the United States; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented the petition of Henry L. Pierson, jr., and others, citizens of New York, praying Congress to pass a law to prevent all further traffic in and monopoly of the public lands of the United States, and that they be laid out in farms and lots of limited size, for the free and exclusive use of actual settlers, which was ordered to lie on the table.

He also presented a petition of Dr. Thomas Goodell, praying for a pension for services as a surgeon in the war of 1812; which was referred to the Committee on Pensions.

He also presented a memorial of Emanuel Cronkright, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. MASON presented the petition of Thomas W. Tamm, praying that the amount of money advanced by him as quartermaster and commissary for the commission to run and mark the boundary line between the United States and Mexico, may be reimbursed, which was referred to the Committee on Claims.

Mr. BINGHAM presented the petition of William G. Eaton and others, citizens of Michigan, praying the enactment of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. DAVIS presented a memorial of the Legislature of Mississippi, praying the cessation of certain public lands to aid in the construction of the Gulf and Ohio railroad, which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Mississippi, in relation to the graduation of public lands lying within six miles of the Gulf and Ohio railroad, which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Mississippi, in relation to the establishment of a navy-yard at the bay of Biloxi, in that State; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. CLAY presented the memorial of Edward D. Tippet, in relation to his discharge from the Army of the United States, and in relation to the report of the Court of Claims made upon the subject; which was referred to the Committee on Claims.

He also presented the petition of John Sandford, administrator of Jonas Mitchell, praying compensation for the services of his father, John Sandford, a soldier in the revolutionary war, which was referred to the Committee on Claims.

Mr. HARLAN presented the petition of James Harriott, praying permission to enter, as a preemption, one hundred and sixty acres of the land west and north of the bay of Spirit Lake, in the State of Iowa; which was referred to the Committee on Public Lands.

He also presented the petition of Margaret Ann Marble, praying that she may be permitted to enter a certain tract of land inherited by her husband, who was murdered by the Indians at Spirit Lake, in the State of Iowa; which was referred to the Committee on Public Lands.

He also presented the petition of Ford Barnes, praying compensation for the services of his father, John Barnes, a soldier in the revolutionary war, which was referred to the Committee on Claims.

Mr. DOOLITTLE presented a petition of citizens of Oshkosh, Wisconsin, praying the passage of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

He also presented the petition of William Blake, praying the repeal of the second section of the act approved March 3, 1859, making appropriations for the payment of invalid and other pensions of the United States for the year 1860; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. KENNEDY, it was Ordered, That leave be granted to withdraw the papers of Augustus Steele from the files of the Court of Claims, and that they be referred to the Committee on Claims.

On motion of Mr. IVERSON, it was Ordered, That leave be granted to withdraw from the files of the Senate the petition of Ann Jackson, the petition of Elizabeth Brown; the petition of Ruth Murphy; the petition of Ann Patterson; and the petition of William White.

BILLS INTRODUCED.

Mr. SLIDELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 312) giving the consent of Congress to the improvement of the Pass à l'Ouvre of the Mississippi river, and the levying of a tonnage duty to maintain the same; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SLIDELL. I ask, as a favor of the chairman of the Committee on Commerce, to act on this bill as early a day as possible, in order that it may be taken up with the bill of a similar character in relation to the bay of Mobile, which is also before the Senate.

Mr. BRAGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 314) to authorize a special session of the circuit court of the United States in the district of North Carolina; which was read twice by its title, and referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. SEWARD, from the Committee on Foreign Relations, to which was referred the memorial of John Reeves, praying the intervention of the Government in behalf of his claims against the Sultan of Turkey, asked to be discharged from its further consideration; which was agreed to.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred a petition of property holders in the city of Washington, praying the enactment of a law to reimburse the owners of property for damages sustained, or which may be sustained, in the execution of the act of Congress for the revision of the grades of avenues and streets in that city, submitted a report, accompanied by a bill (S. No. 313) to authorize the location of Claims against the Government in the United States in certain cases therein mentioned. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 261) to authorize the levy court to issue tavern and other licenses in the District of Columbia, reported it without amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred a bill proposed by the Court of Claims for the relief of Sturges, Bennett & Co., merchants of New York, with the report of the court in favor of the claim, reported the bill (S. No. 315) for the relief of Sturges, Bennett & Co., merchants of the city of New York. This bill was read twice, and ordered to be printed.

Mr. FITCH, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of the Treasury, communicating, in answer to a resolution of the Senate of the 29th of February, a statement showing the number in location of the marine hospitals, the number of seamen or patients admitted into each from 1854 to 1859, inclusive, in each year, the number and compensation of the persons employed in each, and the total expenditure at each hospital for each of those years, reported in favor of printing the usual number; and the report was agreed to.

DISTRICT BUSINESS.

Mr. BROWN, from the Committee on the District of Columbia, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That Saturday of the present week be set apart for the consideration of business relating to the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FOSBERG, its Clerk, announced that the House had passed a joint resolution (H. R. No. 36) constituting Macon, Georgia, a port of entry for the time being, for the purposes therein specified, and for other purposes.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 216) making appropriations for fulfilling treaty stipulations with the Ponca Indians, and with certain bands of Indians in the State of Oregon and Territory of Washington, for the year ending 30th June, 1880.

RELATIONS OF STATES.

Mr. SAULSBURY. I move that the resolutions submitted by the Senator from Mississippi (Mr. Davis) be taken up, with a view to ask of the Senate whether they be made the special order for a future day.

The motion to take up the resolutions was agreed to.

Mr. SAULSBURY. I now move that they be postponed until Monday next at five o'clock, and be made the special order for that time.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. MALLORY. If there be no further morning business, I desire to take up the bill (S. No. 293) to increase and regulate the pay of the Navy of the United States, on which the Senate adjourned yesterday.

The motion was agreed to.

Mr. JOHNSON, of Tennessee. I ask the Senator from Florida to allow me to make an explanation.

Mr. MALLORY. Certainly.

Mr. JOHNSON, of Tennessee. I rise, Mr. President, to do what I am not in the habit of doing in the Senate—make a personal explanation. As I see the Senator from New Hampshire (Mr. Clark) in his seat, I desire to make an inquiry of him in regard to a speech purporting to have been made by him, as reported in the New York

tion to its ultimatum, and the non-slaveholder will unite, heart and hand, in subjugating the Africans, and if resistance be made, in extirpating the negro race; and that is where this question will end, notwithstanding all the sympathy and all the philanthropy that may be evinced, if the agitation be carried out successfully to its consummation.

If I said anything in the presence or hearing of anybody on that point, that is what I said; and I repeat now, that the only thing being said in difference between the feelings of the slaveholders and non-slaveholders of the South on this question, is a mistaken one, a false one, as the demonstrations at Harper's Ferry proved most conclusively. When there was agitation in Tennessee, in 1856, I saw that the non-slaveholder was the radiant man to rise up and reduce the negro to subjugation; and he would join the master in extirpating, if necessary, this race from existence, rather than see them liberated and turned loose upon the country. Everything I said on this subject was to meet the fallacious and absurd idea that the non-slaveholders of the South would unite with the negroes against their masters.

The propriety or the courtesy of taking a portion of a brother Senator's conversation, or picking up a portion of it, or repeating it, or using it, and referring to him by name in a public speaking place, where, I will not undertake to discuss here, I leave that to those who think proper to indulge in that practice.

Mr. CLARK. I simply desire to say, Mr. President, that, if the resolution shall offer by any proper proceeding in the Senate, I will report to the Senator what I said in my own State; and the Senator shall then hear what I did say. In the mean time, he may rest assured that I shall say nothing even then in disparagement of his State; and I will not dispute, but that they raise more horses, asses, and mules, than we do.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had ordered this day the printing of the following documents:

Memorial of the Legislature of Wisconsin, for a mail route from Hudson to Warren, and in regard to the mail route from the village of Boston to the village of Scheuingerville—ordered at one o'clock and twenty minutes.

Memorial of the Legislature of Iowa, relative to a mail route from Edgely, via Knoxville, to Des Moines, in that State—ordered at one o'clock and thirty minutes.

Memorial of the Legislative Assembly of Washington Territory, relative to the Tide Flats adjacent to the town of Olympia—ordered at one o'clock and thirty minutes.

Memorial of the Legislature of Washington Territory, asking the establishment of a port of entry at Cascade City—ordered at one o'clock and thirty minutes.

Resolves of the Legislature of New Hampshire, in relation to the establishment of a national bureau of statistics and agriculture—ordered at one o'clock and fourteen minutes.

Resolves of the Legislature of the State of New Hampshire, in reference to weights and measures—ordered at one o'clock and fifteen minutes.

Memorial of Edward Loring, in relation to the construction of a railroad to the Pacific ocean—ordered at one o'clock and fifteen minutes.

Results of meteorological observations communicated to the Senate by the Commissioner of Patents, January 31, 1860—ordered at one o'clock and eight minutes.

BILLS BECOME LAWS.

* The message further announced that the President of the United States had approved and signed, on the 24th instant, the following acts:

An act (H. R. No. 19) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, for the better protection of female passengers, and other purposes.

An act (H. R. No. 331) to repeal the third section of an act entitled "An act to increase and regulate the terms of the circuit and district courts for the northern district of New York," approved July 7, 1838.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the following enrolled bill and joint

resolution; which thereupon received the signature of the Vice President:

An act (H. R. No. 216) making appropriations for fulfilling treaty stipulations with the Ponca Indians and with certain bands of Indians in the State of Oregon and Territory of Washington for the year ending June 30, 1860; and

A joint resolution (H. R. No. 21) for the relief of the contractors of the Post Office Department.

PAY OF THE NAVY.

Mr. MALLORY. I now call up the bill which was before the Senate a few moments ago.

Mr. GREEN. There is a resolution on the table that I will raise a few days ago, that I think can pass in a few moments.

Mr. MALLORY. Is the resolution alluded to the one in regard to an adjournment?

Mr. GREEN. Yes.

Mr. MALLORY. It cannot be passed this morning, I am satisfied. I prefer to go on with the bill.

THE PRESIDING OFFICER. (Mr. MASON in the chair.) The Senator from Florida has the floor.

Mr. GREEN. If he has the floor, I shall have to yield.

THE PRESIDING OFFICER. The bill (S. No. 299) to increase and regulate the pay of the Navy is now before the Senate as in Committee of the Whole.

Mr. MALLORY. Mr. President, in calling upon the Senate to vote an appropriation for the increase of the pay of the Navy, I know the importance of the measure, and I am prepared, as a matter of course, to give explanations as to the reasons which have induced the Committee on Naval Affairs to make these recommendations. I will not, however, trouble the Senate with any prolonged remarks, but shall be prepared to explain any item to which Senators may call my attention. I further, therefore, all general commentaries on the subject, and will proceed to move such amendments as the bill as I think called for; and, first, to amend that I wish to adopt the first amendment proposed by the Senator from Maine (Mr. FARRINGTON) in relation to the pay of flag officers. I think that his amendment in that respect is a good one, and I therefore adopt it in behalf of the committee, and ask the clerk at the desk to read the amendment.

THE PRESIDING OFFICER. The Chair is informed that the bill has not been read through. It is proper to have it read through.

The Secretary read the bill. It provides that hereafter the annual pay of the officers of the Navy, on the active list, shall be as follows:

The senior captain, while on duty, \$5,650; captains when commanding squadrons, \$6,000; all other captains on duty at sea, \$4,375; captains on other duty, \$3,857.

Commanders on duty at sea, for the first five years after the date of his commission, \$2,825; for the second five years after the date of his commission, \$3,150. Every commander on other duty, for the first five years after the date of his commission, \$2,625; for the second five years after the date of his commission, \$2,825. Every commander on leave or waiting orders, for the first five years after the date of his commission, \$1,908; for the second five years after the date of his commission, \$2,016; lieutenants commanding at sea, \$2,550.

Every lieutenant on duty at sea, \$1,500; after he shall have been seven years' sea-service in the Navy, \$1,700; after he shall have been nine years' sea-service, \$1,900; after he shall have been eleven years' sea-service, \$2,100; after he shall have been thirteen years' sea-service, \$2,350. Every lieutenant on other duty, \$1,400; after he shall have been seven years' sea-service in the Navy, \$1,600; after he shall have been nine years' sea-service, \$1,700; after he shall have been eleven years' sea-service, \$1,800; after he shall have been thirteen years' sea-service, \$1,975. Every lieutenant on leave or waiting orders, \$1,200; after he shall have been seven years' sea-service in the Navy, \$1,266; after he shall have been nine years' sea-service, \$1,333; after he shall have been eleven years' sea-service, \$1,400; after he shall have been thirteen years' sea-service, \$1,450.

Chaplains to be paid as lieutenants. Every master in the line of promotion, when on duty as such at sea, \$1,200; when on other

duty, \$1,100; when on leave or waiting orders, \$825.

Every passed midshipman when on duty as such at sea, \$850; while on other duty, \$600; when on leave or waiting orders, \$650.

Every surgeon on duty at sea, for the first five years after the date of his commission, \$1,666; for the second five years after the date of his commission, \$2,000; for the third five years after the date of his commission, \$2,333; for the fourth five years after the date of his commission, \$2,666; for twenty years and upwards after the date of his commission, \$3,000. Every surgeon on other duty, for the first five years after the date of his commission, \$1,562; for the second five years after the date of his commission, \$1,875; for the third five years after the date of his commission, \$2,178; for the fourth five years after the date of his commission, \$2,500; for twenty years and upwards after the date of his commission, \$2,812. Every surgeon on leave or waiting orders, for the first five years after the date of his commission, \$1,350; for the second five years after the date of his commission, \$1,500; for the third five years after the date of his commission, \$1,750; for the fourth five years after the date of his commission, \$2,000; for twenty years and upwards after the date of his commission, \$2,250.

Every passed assistant surgeon on duty at sea, \$1,500; when on other duty, \$1,437; when on leave or waiting orders, \$1,062.

Every assistant surgeon on duty at sea, \$1,187; when on other duty, \$1,087; when on leave or waiting orders, \$812.

Every purser on duty at sea, for the first five years after the date of his commission, \$2,000; for the second five years after the date of his commission, \$2,400; for the third five years after the date of his commission, \$2,800; for the fourth five years after the date of his commission, \$3,200; for twenty years and upwards after the date of his commission, \$3,100. Every purser on other duty, for the first five years after the date of his commission, \$1,500; for the second five years after the date of his commission, \$1,800; for the third five years after the date of his commission, \$2,100; for the fourth five years after the date of his commission, \$2,400; for the fourth five years after the date of his commission, \$2,600. Every purser on leave or waiting orders, for the first five years after the date of his commission, \$1,250; for the second five years after the date of his commission, \$1,500; for the third five years after the date of his commission, \$1,750; for the fourth five years after the date of his commission, \$2,000; for twenty years and upwards after the date of his commission, \$2,250.

Every professor of mathematics on duty, \$1,800; when on leave or waiting orders, \$960; but no appointments to this grade are to be made to fill vacancies.

Every chief engineer on duty at sea, for the first five years after the date of his commission, \$1,750; for the second five years after the date of his commission, \$2,000; for the third five years after the date of his commission, \$2,250; for the fourth five years after the date of his commission, \$2,500; for twenty years and upwards after the date of his commission, \$2,750. Every chief engineer on other duty, for the first five years after the date of his commission, \$1,625; for the second five years after the date of his commission, \$1,750; for the third five years after the date of his commission, \$1,875; for the fourth five years after the date of his commission, \$2,000; for twenty years and upwards after the date of his commission, \$2,125. Every chief engineer on leave or waiting orders, for the first five years after the date of his commission, \$1,500; for the second five years after the date of his commission, \$1,625; for the third five years after the date of his commission, \$1,750; for the fourth five years after the date of his commission, \$1,875; for twenty years and upwards after the date of his commission, \$2,000. Every first assistant engineer on duty at sea, \$1,400; when on other duty, \$1,125; while on leave or waiting orders, \$1,000. Every second assistant engineer on duty at sea, \$1,000; while on other duty, \$900; while on leave or waiting orders, \$750. Every third assistant engineer on duty at sea, \$750; when on other duty, \$675; while on leave or waiting orders, \$600, but the several grades of the engineer corps are not to be increased.

Every boatswain, gunner, carpenter, and sail-

maker, on duty at sea, for the first five years' sea-service after the date of his warrant, \$1,000; for the second five years' sea-service after the date of his warrant, \$1,150; for the third five years after the date of his warrant, \$1,250; for the fourth five years after the date of his warrant, \$1,350; for twenty years and upwards, \$1,450. When on duty, for the first five years' sea-service after the date of his warrant, \$200; for the second five years' sea-service after the date of his warrant, \$300; for the third five years' sea-service after the date of his warrant, \$400; for the fourth five years' sea-service after the date of his warrant, \$500; for the fifth five years' sea-service after the date of his warrant, \$600; for the sixth five years' sea-service after the date of his warrant, \$700; for the third five years' sea-service after the date of his warrant, \$800; for the fourth five years' sea-service after the date of his warrant, \$900; for twenty years and upwards, \$1,000.

This bill is not to be construed as to increase or modify the pay of chiefs of bureaus in the Navy Department, or the Superintendent of the Naval Ordnance; and in no case shall it be construed as sea-service but such as shall be performed at sea under the orders of a Department, and in vessels employed by authority of law. This bill is not to modify or affect the existing part of the Secretary of the Navy to furnish officers to affect the furlough pay.

Mr. MALLORY. I propose, under the head of captains, in lines seven and eight, to strike out the words "the senior captain while on duty, \$2,500," and insert:

The senior flag officer, created under and by virtue of an act of Congress, approved March 2, 1859, shall receive \$1,500.

That is in the printed amendment of the Senators from Maine, and I accept it. I think it is judicious.

The amendment was agreed to.

Mr. MALLORY. The next amendment I offer is in line fourteen, on the 3d page. It is not proposed by the committee to increase the leave pay of captains; but, by the reading, it may be supposed it was abolished altogether, and therefore I propose to put in, "when on leave or waiting orders, \$2,500." That is precisely as it is now.

The amendment was agreed to.

Mr. MALLORY. The next amendment is on page 4, lines eighty-one and eighty-two, to strike out "\$1,566," and insert "\$1,900;" so that the clause will read:

Every surgeon on duty at sea, for the first five years after the date of his commission, \$1,900.

This amendment is necessary, for my discovering that the Register does not truthfully set forth the pay of surgeons, and it is the only grade that is not truthfully set forth. It there appears that a surgeon, for the first year after the date of his commission, receives \$1,333; but he, in fact, receives \$1,966, under a clause in an appropriation bill passed in 1848, which dates his commission from the first commission he received as assistant surgeon, so that, in fact, he gets \$1,966; and I propose to increase that thirty-four dollars, giving him \$1,900.

The amendment was agreed to.

Mr. MALLORY. For the same reason, in line eighty-four, on the same page, it is necessary to make a similar alteration, by striking out "\$2,000," and inserting "\$2,300;" so that it will read:

For the second five years after the date of his commission, \$2,300.

The amendment was agreed to.

Mr. MALLORY. For the same reason, I offer another amendment, in line eighty-six, to strike out "\$2,333," and insert "\$2,500;" so that it will read:

For the third five years after the date of his commission, \$2,500.

The amendment was agreed to.

Mr. MALLORY. The next amendment is on page 5, line eighty-eight, to strike out "\$2,666," and insert "\$2,700;" so that it will read:

For the fourth five years after the date of his commission, \$2,700.

The amendment was agreed to.

Mr. MALLORY. The next amendment is, after ninety years' sea-service in their grade, to strike out "and upwards, \$3,100."

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line ninety-two and ninety-three, to strike out "\$1,566," and insert "\$1,900;" so that the clause will read:

Every surgeon on duty at sea, for the first five years after the date of his commission, \$1,900.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line ninety-five, to strike out "\$1,875," and insert "\$2,100;" so that the clause will read:

For the second five years after the date of his commission, \$2,100.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line ninety-seven, to strike out "\$2,178," and insert "\$2,300;" so that the clause will read:

For the third five years after the date of his commission, \$2,300.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line one hundred and three and one hundred and four, to strike out "\$1,250," and insert "\$1,400;" so that the clause will read:

Every surgeon on leave or waiting orders, for the first five years after the date of his commission, \$1,400.

That is the same as it is now.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line one hundred and six, to strike out "\$1,500," and insert "\$1,600;" so as to make the clause read:

For the second five years after the date of his commission, \$1,600.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line one hundred and eight, to strike out "\$1,750," and insert "\$1,800;" so that it will read:

For the third five years after the date of his commission, \$1,800.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in page 7, lines one hundred and fifty and one hundred and fifty-one, to strike out "\$1,250," and insert "\$1,400;" so that the clause will read:

Every purser on leave or waiting orders, for the first five years after the date of his commission, \$1,400.

All the amendments as to pursers are to carry out the original intention of the pay-bill of 1855, which was to make the pay of the surgeons and pursers on leave precisely the same.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line one hundred and fifty-three, to strike out "\$1,500," and insert "\$1,600;" so that the clause will read:

For the second five years after the date of his commission, \$1,600.

The amendment was agreed to.

Mr. MALLORY. The next amendment is in line one hundred and fifty-five, to strike out "\$1,750," and insert "\$1,800;" so that the clause will read:

For the third five years after the date of his commission, \$1,800.

The amendment was agreed to.

Mr. MALLORY. The next amendment is on page 10, lines two hundred and eighteen and two hundred and nineteen, to strike out this proviso:

Provided, That the several grades of the engineer corps shall not be increased.

The committee were under the impression at first that the number of engineers had come up to the allowance; but the law allows an engineer-in-chief for every steam vessel of the Navy. We have but twenty-four in the Navy now, and I think there are demands for them at present; and Congress should not limit the number, as the grade is not full.

The amendment was agreed to.

Mr. MALLORY. I propose to offer the amendments in regard to the warrant officers together, because they are all on the same principle. They are but twenty-three years' for five years from line two hundred and twenty-one on page 10, down to line two hundred and fifty-one, on page 11, so as to get the increased allowance for every three years of sea-service. There are very few warrant officers who would see the term of twenty years' sea-service in their grade, and very few of them, therefore, who would ever reach

the pay which the committee intended for them; as, on looking at their ages, I find the men are about thirty years of age when they get a warrant. I propose, therefore, to offer these amendments with reference to warrant officers together. They are to make that portion of the bill in relation to them read as follows:

WARRANT OFFICERS.—Every boatswain, gunner, carpenter, and sailmaker, and every other first three years' sea-service after the date of his warrant, \$1,000; for the second three years' sea-service after the date of his warrant, \$1,150; for the third three years' sea-service after the date of his warrant, \$1,250; for the fourth three years' sea-service after the date of his warrant, \$1,350; for twelve years and upwards, \$1,450.

When on duty.—For the first three years of sea-service after the date of his warrant, \$200; for the second three years' sea-service after the date of his warrant, \$300; for the third three years' sea-service after the date of his warrant, \$400; for the fourth three years' sea-service after the date of his warrant, \$500; for the fifth three years' sea-service after the date of his warrant, \$600; for the sixth three years' sea-service after the date of his warrant, \$700; for the seventh three years' sea-service after the date of his warrant, \$800; for the eighth three years' sea-service after the date of his warrant, \$900; for twenty years and upwards, \$1,000.

When on leave or waiting orders.—For the first three years' sea-service after the date of his warrant, \$200; for the second three years' sea-service after the date of his warrant, \$300; for the third three years' sea-service after the date of his warrant, \$400; for the fourth three years' sea-service after the date of his warrant, \$500; for the fifth three years' sea-service after the date of his warrant, \$600; for the sixth three years' sea-service after the date of his warrant, \$700; for the seventh three years' sea-service after the date of his warrant, \$800; for the eighth three years' sea-service after the date of his warrant, \$900; for twelve years and upwards, \$1,000.

The amendments were agreed to.

Mr. MALLORY. The next amendment is in section two, page 11, line three, after the word "the," to insert "present;" so that it will read:

That nothing in this act contained shall be so construed as to increase or modify the present pay of chiefs of bureaus, &c.

The amendment was agreed to.

Mr. MALLORY. Now I move to insert the words "sea-service"—in some instances in copying the bill they were omitted by mistake—in line two hundred and twenty-six, after the word "years," in line two hundred and twenty-eight, after the word "years," and again in line one hundred and thirty, and also in line two hundred and fifty-two. In those lines the words "sea-service" were omitted by an error in copying. I move that they be inserted.

The amendment was agreed to.

Mr. MALLORY. On page 2, line sixteen, before the word "every," I move to insert "every" and to strike out the letter "a."

The amendment was agreed to.

Mr. MALLORY. Those are all the amendments of the committee.

Mr. RICE. I offer an amendment, on page 11, in the fourth line of section two, to insert:

Provided, That the sea-service pay, as experienced in gunnery at the navy-yard, Washington, shall be the sea-service pay of the grade next above him, as provided by the act of March 2, 1851.

Mr. FESSENDEN. I should like to understand precisely what this amendment means. Why should the officer in charge of these experiments in gunnery receive anything more than the sea-service of his grade? Why should he receive the sea-service pay? That is the highest rate of pay of the grade next above him. He is not on sea-service.

Mr. MALLORY. The Senator from Minnesota requests me to make the explanation in consequence of his ignorance, and I will do so, if Senators will give me their attention for a moment. The officer in charge of these experiments in gunnery at the navy-yard, Washington—Commander Dahlgren—received by the act of March 2, 1851, when he was a lieutenant, the highest sea-service pay of the grade above him; consequently, instead of receiving the \$1,500 a year, which would be the sea-service pay of his own grade proper, he received, in fact, \$2,500 a year. The amendment proposed by the Senator from Minnesota, is to continue the principle of the act of March 2, 1851, and still continue to him the pay of the next highest grade, he having been promoted to a commander in the mean time, and now receives simply the pay of a commander, whereas the act of March 2, 1851, designed to give him the pay of the grade above him; and this amendment is to continue that principle. That is all there is in it.

Perhaps it is justice to Mr. Dahlgren that I should say, as all the Senators may not be as familiar with his services to the Navy as I am, that he is regarded, I believe, by every one in the Navy, and by the scientific men of the country, as having done more to advance the science and character of the Navy as any man in it or out

of it. His experiments in gunnery, his inventions in guns, have redounded to the honor of the country, and given him a national name, and a name abroad. We cannot recognize the value of those services that I know of in any other manner. We are entitled to his inventive genius, to all his capacity and time, and it is simply proposed to continue what has been heretofore granted—the pay of the grade above him.

Mr. FESSENDEN. I dare say that Mr. Dahlgren is entitled to very great credit; and there seemed to be a very good reason why the pay that he received before should be advanced. When he was a lieutenant he received only \$1,500, and was kept on shore making these experiments. There was then certainly a propriety in his having the highest pay of his grade; but he not only received that, but the highest pay of the grade above him, though he was not on sea-service, while lieutenants of the same grade received \$1,500. Now, he is advanced to the grade of commander; and, instead of receiving what commanders do when on other duties, he receives what other commanders do when on sea-service by the law as it stands. Now, the proposition is to give this gentleman, who is a young commander, the grade of \$2,500, which is the highest pay of a commander while he is on duty on shore, but to advance him to the highest pay of the grade next above him, which is that of captain; that is to say, to give him over four thousand dollars more than he is now to receive, while the oldest and best captain in the Navy receives by this bill. That seems to me to be quite unreasonable. I think his pay, as lieutenant, was too low before; the pay of the whole grade was; and it was proper to make a recognition; but to carry it further, is making too great a distinction.

I would say further, that we should have a system in regard to gentlemen who render these important services, or we should not continue to make these distinctions. If gentlemen feel disposed to have a system by which those who perform extraordinary services shall be recognized and rewarded in the way of pay, that is one thing; but to pick out a particular gentleman who happens to have more talent and inventive genius than another, and not only to give him up at one time, but keep him constantly in advance of his grade and receiving pay, making it a progressive thing, putting him in fact with the oldest officers of the Navy on active service while he is employed on gunnery, and confining that distinction to him, while we bestow the grade of captain upon gallantry at sea—no man, whatever may be his services in action, by the laws as they stand, can receive extraordinary rewards for it—I think is doing a little too much, and I hope this amendment will not prevail. I think he has been sufficiently rewarded by being advanced; and is now receiving on shore, or will be receiving on shore, the highest sea-service pay of his grade—an amendment to that effect might be made—while he remains there, and I think it should go no further. This gentleman at his age should not, for that matter to which he is entitled, receive so great credit, be placed on a par with regard to pay with the oldest and best officers of the Navy, those who have served longer than he has. Gentlemen, it may be remarked, who render these important and valuable services, receive a large credit; and that ordinarily pays a man if he has a good sustenance. He has a reputation, a large reputation in the country from his inventive genius; and I would remark further, that the country is entitled, if it pays its officers well, to all their services in their grade without a particular increase of pay. Still, I am willing to recognize those valuable services to a certain extent. I think, however, it has gone far enough in this instance.

Mr. GREEN. I recollect very well when the law of 1851 was passed, by which the late Lieutenant Dahlgren was promoted to a grade above his commission. He was then a lieutenant, and it was passed upon this consideration: he had made discoveries in the lock of the cannon, in the power of gunpowder, in the accuracy of shooting, in the proportion between the weight of the ball and the amount of the powder required, which, if he were a private individual, would have been worth millions to him; but, being an officer of the Government, he could receive no patronage, he could receive no reward. All the heavy guns called now in England, in Europe, and throughout the world,

the Dahlgren guns, were invented, constructed, shaped, and molded by him. In consideration of this extraordinary service, in which his talent, his genius, his enterprise, his knowledge, had been brought to play, Congress thought, in 1851, that he ought to receive the pay of the grade above the commission he held, and so passed the law. In the two years, in the interval of promotion, he was put up to the same commission, to wit: made a commander; so that the whole gratuity, or reward, or payment, which Congress had contemplated, failed, because he just took the place he would have had anyhow.

Now, I undertake to say, that the object of Congress then was to give him something above his grade. He did have it above his grade two years; and from that day to this, not a dollar has he received above his grade. So it is unfair for the Senator from Maine to assert that he has been receiving more than others have received. He only did for two years; it was expected, when the law was passed, that he would permanently. It has failed in consequence of his promotion. He was promoted in regular order, under the law of the United States. His service is none the less, for he has gone on to improve, day after day. Nor has he been confined to shore duties. He has been ordered to sea on the Plymouth, and performed valuable service down the coast and in the Gulf of Mexico, at Vera Cruz, and Sea Junia, and now at Newport. Now, if he had been doing extra services, for the benefit of his genus, his extraordinary energy, we should give him just the same *pro rata* increase that was contemplated by the law of 1851, and which failed for the reason I have stated.

Now, Mr. LORRY. In addition to what my friend from Missouri says, I will say to the Senator from Maine, that it is no unusual practice thus to recognize the services of public officers. The commanding officer of the Naval Academy; the commanding officer of the Observatory; the officer in charge of the Naval Almanac; and others whom I could name, have all received the pay of the grade above them. This fact induced Congress to recognize the services of Dahlgren in this way. Perhaps it is the only way in which we can recognize them.

Mr. GRIMES. I concur in everything that has been said by the Senator from Missouri in regard to Captain Dahlgren and his merits; but I understand that this proposition is a permanent one. If Captain Dahlgren dies to-night, or is removed to-morrow, or the Secretary of the Navy, or any one else is substituted in his place under this amendment, the man who takes his place, and has charge of the ordnance at your navy-yard, will receive the same salary that you now propose to confer on Captain Dahlgren.

Mr. GREEN. I am inclined to think the Senator is right, and that a change ought to be made in that respect.

Mr. GRIMES. If the Senator from Missouri will bring in a bill to reward Captain Dahlgren—to confer any honor on him—I am willing to vote for it, but he must not think that this amendment should draw any distinction in favor of Captain Dahlgren as against any other meritorious and gallant officer belonging to the Navy.

Mr. GREEN. Make it read "present officer in command."

Mr. MALLORY. The Senator may offer that amendment; but I hope he will not do so. I am not willing to legislate specially for any man. Mr. Dahlgren is not mentioned in this amendment. I referred to him as an example. There is a corps of officers there, and if Mr. Dahlgren should die to-morrow, the Secretary of the Navy might not put an officer in charge there; and therefore he need not pay out this salary. Mr. Dahlgren is instructing a corps of officers under him to discharge this duty. This amendment does not legislate in favor of Dahlgren, but of the officer in charge, whoever he may be, and if Congress at any time should think the recipient a wrong one, they could strike it out.

Mr. GRIMES. But the argument has been based entirely on the merits of Captain Dahlgren. Mr. MALLORY. Exactly; because he is there to receive it.

Mr. GRIMES. But, if he die or be removed to-morrow, why should we pay the man who becomes his substitute the salary we propose to pay him because of his individual merits?

Mr. MALLORY. The Senator is putting a case which is the last to occur. When the Government have found the right man of all others to fill a place, they keep him there. Mr. Maury has been at the Observatory all his military life, and will be probably kept there as long as he wishes. It would be folly to remove a man when you have got him in the right place, and to put him in the right place. If the Government were to remove him it would be a capricious measure, and Congress could repeal the salary. If you propose to legislate specially for Mr. Dahlgren, I shall object. You may provide for the man now there; and then the Department will be under the necessity of having to learn over again all that Mr. Dahlgren has accomplished already, he should not receive this salary. I confess it is designed specially for Mr. Dahlgren; and I confess that, if he were removed or to die to-morrow, and another officer were sent there, unless we were to make some change, he would get this salary under the amendment; but the Secretary of the Navy is supposed to have the public interests sufficiently under consideration to guard a matter of that kind. We must place confidence somewhere.

Mr. FESSENDEN. I do not see the propriety of legislating in a money point of view for particular individuals at all. I know Lieutenant Maury has been kept at the head of the establishment where he is, much better off than any other officer in the Navy, and he is not receiving a salary of \$3,000. I have not been disposed to quarrel with that arrangement on account of his great eminence in his line. Still I do not approve of the principle. I think that gentlemen who render extra services in the Navy should be promoted for that service, or paid a larger sum under some regulations, or else none of them should be. The idea here is to pick out a particular individual, and pay him for his genius, by giving him a greater amount of money than others of his class receive. It does not cost him any more to live than it does others in the same grade. He happens to render more service; but why should Commander Dahlgren be put up above Lieutenant Maury? Lieutenant Maury receives, as I understand, \$3,000. Mr. PEARCE. He has a house beside. Mr. GRIMES. Dahlgren has a house, too, I understand.

Mr. FESSENDEN. Lieutenant Maury receives that salary in consideration of the fact that he is in charge of the Observatory. Why should Lieutenant Dahlgren receive \$4,000? He has the same services.

Mr. GREEN. Will the Senator allow me to propose that little amendment which I suggested to obviate the objection made by the Senator from Iowa, and which I think a very proper one; that is to say, to use the words "present officer" or "the officer now in charge."

Mr. FESSENDEN. That is a question that the Senator must settle with the Senator from Florida.

Mr. GREEN. Will the Senator from Maine allow me now to name it, so that it may be accepted?

Mr. FESSENDEN. The Senator has named it. He can move it after I get through.

Mr. RICE. I accept that amendment.

THE PRESIDING OFFICER. (Mr. Foor in the chair.) It is competent for the Senator to do so, and that is the form of the amendment as it now stands.

Mr. FESSENDEN. I ask again why should this officer receive \$4,000 a year for his particular services, when Lieutenant Maury receives but \$3,000? Nobody pretends that he has conferred more honor on the service or on the country than Lieutenant Maury. Why should he be put up at once with the oldest captains in the Navy when they are at sea, unless commanding fleets or squadrons? I see no sort of propriety in it. I think it unjust to establish a rule by which all men who render valuable or important services can receive the same amount of money, or promotion, or something of the sort. At any rate, if it is to be particularly singled out, I think the amount ought to be reduced to \$3,000, which is higher than the pay of his grade.

Mr. MALLORY. Let me answer the Senator at that point. That, of course, did not escape the mover of the amendment, I presume. Inasmuch as the Senator institutes a comparison be-

tween the two, let me tell him that the officer in charge of the Observatory now, or who may come after him, has quarters, fuel, lights, a servant, and many other little conveniences, which in fact make his salary \$1,000.

Mr. FESSENDEN. So it is with any officer who serves at a navy-yard.

Mr. MALLORY. Dahlgren pays his own rent, and has none of the conveniences.

Mr. GRIMES. Because he chooses to live away from the yard, in the city.

Mr. FESSENDEN. He can have it, if he chooses to stay there.

Mr. MALLORY. There are no quarters there for them. There are many officers stationed at yards who pay their own rent. You have not quarters there for all.

Mr. FESSENDEN. If that is the case, it only proves that the other officer receives too much. If he has a house, fuel, quarters, and everything else, \$3,000 besides, when men of his own grade, who have done the best they can for the country's service, are only receiving \$1,500, and get no quarters and no fuel, I think it is manifestly unjust—a species of favoritism; and the Senate stop the bill.

Mr. MALLORY. He is a commander.

Mr. FESSENDEN. He did receive it while a lieutenant, for many years; but I was not disposed to carp at that. My objection is to carrying the thing further. I disapprove of this favoritism the Navy. It is entirely contrary to public feelings. None are more ready, I take it, than officers of the Navy, to recognize valuable services performed by those who are associated with them; but to make these broad distinctions, because one man has happened to be on shore and turned his attention to inventions, in which he has been successful, having inventive genius, and to place him at once on an equality with the oldest and best officers in the Navy, when he is on shore, is certainly too much. I shall vote against the amendment as it stands, and do not know but that I shall win in any case, but at any rate, it ought to be reduced to \$3,000. I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. FESSENDEN. (before the result was announced.) I want to call the attention of the chairman to the amendment, whether, as it now stands, it will not give this gentleman, even after he goes out of this particular pursuit, and is employed in some other duty, \$4,000 a year? Will it not continue that salary to him, whether he is employed in this particular service or not?

Mr. MALLORY. I did not propose the amendment. It is the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. It is too late to consider that question in the present state of the vote.

The result was announced—yeas 30, nays 15; as follows:

YEAS—Messrs. Bayard, Benjamin, Ripley, Brown, Chase, Clark, Crockett, Davis, Fiske, Fitzpatrick, Green, Harlan, Hendricks, Hunter, Johnson, Johnson of Arkansas, Kennedy, Lane, Latham, Mason, Nicholson, Perkins, Polk, Powell, Rice, Sumner, Sebastian, Ten Eyck, and Wigfall.

NAYS—Messrs. Bingham, Bangs, Cameron, Chandler, Clark, Claiborne, Dinkins, Fessenden, Fish, Grimes, Hamilton, King, Newton, Lincoln, and Sumner—15.

So the amendment was agreed to.

Mr. PEARCE. I move to amend the bill by striking out in page 2, lines thirteen and fourteen, which read:

"Captains on other duty, \$3,507. On leave or waiting orders, \$2,500."

And insert in lieu of them:

All other captains, one per cent. per annum on their present pay for and on account of every year of their sea-service, as shown by the records of the Navy Department.

I understand, sir, that the first three provisions, under the head of captains, apply to the senior captains, captain commands, and to other captains on duty at sea. Then comes the provision, which I propose to strike out, which gives to captains on other duty—that is, shore duty, since the sea-duty is already provided for—\$3,500 a year. That I propose to strike out, and give in place of that an increase of one per cent. per annum upon their present rate of pay for every year's sea-service they may have performed, as verified by the records of the Navy Department. The result of that will be to give to the

captains who have performed long duty at sea, larger compensation than to those who have performed short duty at sea. The increased pay will then be graduated according to their sea-service. This is a discrimination which, it seems to me, just and proper to make between those who have been a long time at sea, actively engaged, and those who have been at sea very little or no time at all, including also, and who have never been on leave. They now get, by law, \$2,500 a year. If they have served twenty years at sea, this will increase their pay \$500, and so in that proportion. I understand that this is desired by some captains. It will operate a discrimination which will be favorable to those who have performed the greatest service. On that account I submit it.

Mr. FESSENDEN. I hope the amendment will not be adopted, and I suggested to my friend to move it as an amendment to the substitute which I shall offer for the whole bill; but, as it stands, I will state my difficulties. I offered an order that this bill should be recommitted, with instructions to the committee to inquire into the propriety of fixing the pay of every officer in dollars and cents, and not in per centage, and to submit a bill to that description. My reason for that was that it is very important, in my judgment, to know exactly how much we pay every officer, so that there should be no misunderstanding about it. In fact we know very little about it, can find out nothing about it from the Navy Register; and in the case of the Army, the matter is very much worse; the Senator from Mississippi [Mr. Davis] shakes his head, but I repeat my assertion, very much worse, in my judgment, in the Army than it is in the Navy.

From time to time, in order to get the pay increased, and from a fear to meet the matter broadly in its face, there have been little amendments strung into the appropriation bills, giving such a percentage for length of service to this class, and that class, and the other, until the thing is so loaded down that from the Navy Register itself you can hardly tell how much any officer in the service receives. There is a document published by the House of Representatives from which you can form a more accurate conclusion. But if you want to know the exact amount of the pay of an officer, it is important, and nothing more than just to ourselves and to the Treasury, that we should know how much every officer receives in dollars and cents. It should not be left to be calculated in the dark by percentages, which not one man in twenty understands at all.

The question then arises whether this bill gives enough. Why, sir, the bill gives for captains on leave, waiting orders, \$2,500. If that is not enough, increase it in dollars and cents; give them what they ought to receive. I suppose it is the wisest. It was the conclusion that the committee came to. It was mine from the little examination I could give it. If the Senator will move to increase the pay of all the captains, he will place it in a different condition; but what is the justice, I would inquire, of increasing the pay of those who have been on sea-service? There is the contest between the system which the Senator from Florida has introduced, and that for which I shall contend in reference to this matter, that this graduating pay on sea-service is entirely deceptive and entirely wrong. I do not believe—I do not feel disposed to talk any more about it now, but shall when I come to offer my amendment—that it is a correct principle on which to graduate the pay, because sea-service is a thing for which the officers are not responsible; but at all events, if the Senator wishes to increase the pay, let him say that the officers who have seen such an amount of sea-service shall receive so much while on leave or waiting orders, and others so much.

The question is whether it is enough to support them on their pay. They are officers of the Navy, and they may be about the same as the others may have a large family, and not have been to sea as much as another who has no family at all; and yet the man who has no family at all, because he has been to sea for some reason or other, although it costs him one half as much to live, is to have his pay increased in his old age, while the other, who has not seen so much sea-service, is to have his not increased. I do not think that is just, unless you can fix on the officer some fault or blame. I think he should be treated in pre-

cisely the same way, on the principle of having always, since he has been in the service, done his duty. Nothing more can be expected of a man. Whether he has done it or not, is not, in my judgment, to be determined by his having gone to sea more or less; but, at all events, I object to introducing this system of percentages upon this bill, which has been drafted entirely with the idea of relieving all those that are on shore of their pay in dollars and cents, so that it may be known exactly how much each man receives.

Mr. PEARCE. It is not a difficult thing to calculate this matter of percentage; it requires the very smallest amount of arithmetic. I have no doubt the gentleman can figure it out for himself in a very few minutes; and it is not at all inconsistent with the principle of the bill, for here are hundreds of provisions almost, I might say, in which the pay is increased according to the length of service. That is precisely what I offer to do.

Mr. FESSENDEN. But no percentage.

Mr. PEARCE. Well, it is a sum in gross allowed for every three or five years' sea-service, according to the class of the officer. Here I propose to give a percentage of one per cent. I think any way, and that every year of sea-service, gross sum per annum, with about as much each year as he could add any gross sum to any other gross sum; and really I think there is a very good reason why we should increase the pay of officers according to the length of their sea-service.

Mr. MALLORY. Will the Senator allow me to suggest an amendment before he goes on? I think the amendment does not state what he wishes.

Mr. PEARCE. I will hear it, sir.

Mr. MALLORY. Let the amendment be read again.

The Secretary read it, as follows:

Strike out lines thirteen and fourteen, and insert: After other captains one per cent. per annum on their present pay for and on account of every year of their sea-service as shown by the records of the Department.

Mr. MALLORY. There are three classes of "present pay." Which one does it refer to?

Mr. PEARCE. The pay of the officer in his position, whatever it is. The officers who are on sea-duty are paid for their special duty in the bill.

Mr. MALLORY. I think the Senator means the leave pay of \$2,500 a year.

Mr. PEARCE. Yes; and I mean to give captains on other duty their present pay and an addition of one per cent. for every year's service. For instance, if a captain in command of a navy-yard gets \$3,500. If this provision be adopted, he will then receive his one per cent. for every year's sea-service upon that sum, and so on with all the others. I think it is perfectly pernicious. Whatever the pay of his station is, he receives the percentage upon that. If he is in command of a navy-yard, then, instead of receiving \$3,500 allowed by this bill, the amendment will give him the \$3,500 which he now has by law, and also one per cent. per annum on that sum for each year of his sea-service, while he remains in that command. For example, if he has \$3,500, he would get his one per cent. on the \$2,500, which is his leave pay.

Mr. MALLORY. I cannot concur in this amendment as it stands. I think the arrangement is wrong. We have already adopted this provision: "All other captains on duty at sea, \$4,375." Now the amendment of the Senator from Maryland would give a captain who has seen twenty years' sea-service, and many of them have—they ought to have seen it, all of them—\$4,300 at a navy-yard, besides quarters, and he would be in a far better situation than the captain who has seen twenty years' sea-service and shore-service pay too near together. Now, if the Senator from Maryland will not strike out line thirteen, not make it apply to officers on other duty, and let the captains apply to leave pay only, providing that the percentage, when on leave, for which they may receive \$2,500, shall have an addition of one per cent. for each and every year of sea-service they may have seen in the Navy, then it will not interfere with captains on shore duty, or the captains on duty at sea. I know that I should vote for that amendment, but it would be much more reasonable. It would be more reasonable in this way: this bill will not affect in any way the pay of a number of captains who have done the country very good service.

They have had their commands afloat; they have had their commands ashore; and, going regularly down the list, they will not, perhaps, come in for a ship during the rest of their service, and they may be said to be put aside. Perhaps they have been twenty-five or thirty years of their military career at sea, and for all that we give them nothing; and the bill might be considered as rather disrespectful, as ignoring all those old captains. Therefore, if the Senator will confine to the leave pay, it would give these very officers some little increase, and there would be reason for it; but I do not think there is any reason bringing the shore pay at a navy-yard up to \$4,200, when you give the same captain, if he should have to go to sea, where he has to make two mess-bills—one for himself, and one for his family—only \$1,75 more; and I suggest to the Senator, therefore, to confine his amendment to the leave pay only.

Mr. PEARCE. I had hoped that this amendment might meet with the favor of the Naval Committee. I take it for granted, if it does not, it will be in vain to attempt to pass it. Perhaps, on the whole, I had better withdraw it, and I do so.

Mr. FESSENDEN. I wish to move an amendment as a substitute for the whole bill.

Mr. MASON. Before that is done, I wish to move an amendment to this bill.

Mr. FESSENDEN. It can be offered just as well to the substitute.

Mr. MASON. The usual course, I think, is to let the friends of the bill perfect it, and then a substitute which is offered for the whole bill takes the place of the whole bill. My amendment is a very small one.

The PRESIDING OFFICER. (Mr. For.) The Chair will state that it is immaterial at what stage of the proceedings an amendment in the form of a substitute is offered; but in whatever stage offered, both the bill and substitute are open to perfection and amendment.

Mr. FESSENDEN. If Senators will excuse me, I would rather offer this now; for if Senators get in the bill all the amendments they like, I fear I shall not get any votes for mine.

Mr. CRITTENDEN. I wish to move an amendment to this bill.

Mr. FESSENDEN. I believe I have the floor. I offered my amendment, and ask the Clerk to read it.

Mr. CRITTENDEN. I wish to make an amendment to the original bill, if I can offer, before a substitute for the whole is offered.

Mr. FESSENDEN. Mine is an amendment to the original bill, in the shape of a substitute.

The PRESIDING OFFICER. The Chair will state again to the Senator from Kentucky that he is not precluded from offering his amendment to the original bill by the offering of this substitute. The Chair will receive the amendment of the Senator from Kentucky.

Mr. CRITTENDEN. I shall be very short about this. I have submitted the whole matter very willingly to gentlemen who suppose are much more conversant with the subject than I am; and it is only in consequence of a letter which I have received, that I trouble the Senate by offering this amendment:

That the share pay of midshipmen shall be \$400 per annum, and \$200 when at sea.

I know but little about this, nor did I know the condition in which this class of young public servants were placed. I received a letter from a boy at Annapolis, who informs me that he will be ready to go to sea in June. I beg leave to substitute my argument for anything I could have to say; it will be an abridgment of time.

Mr. FESSENDEN. I dislike to interrupt the honorable Senator from Kentucky; but I want to understand what my rights are. I offered an amendment as a substitute, and had the floor up to that. Has the Senator from Kentucky a right to take the floor from me to offer an amendment to the bill?

The PRESIDING OFFICER. It is the right of the Senator from Maine to offer his amendment. Mr. FESSENDEN. I have the floor on that amendment, of course.

The PRESIDING OFFICER. No proposition can interpose to take away that right; but before the vote shall be taken on the amendment of the Senator from Maine, it is the right of any other Senator to move an amendment to that, or to the original bill.

Mr. FESSENDEN. That I am willing to yield to, but I did not yield the floor at all; but it was taken from me before I had an opportunity to explain my amendment. I suppose the floor properly belongs to me.

Mr. CRITTENDEN. I will not contend about the floor; but the rules of the Senate will be prescribed by the Chair. I presume myself that if my amendment takes precedence of the Senator's, the floor belongs to me upon it.

The PRESIDING OFFICER. The amendment of the Senator from Kentucky takes precedence of the amendment of the Senator from Maine, so far as precedence in the action of the Senate upon the amendment is concerned. The Senator from Maine offered his amendment, which is properly before the Senate; the Senator from Kentucky offered the original bill, which is still open to further amendment or modification. The amendment offered by the Senator from Maine is before the Senate, but no vote can be taken upon it while any amendment offered to the original bill or to the substitute is pending.

Mr. GRIMES. I call for the reading of the amendment of the Senator from Maine, if it is before the Senate.

Mr. CRITTENDEN. If my amendment takes precedence of the amendment offered by the Senator from Maine, I have no objection to the original bill is perfected. However, I do not profess to know much about the rules of the Senate, and am ready to dispose of the matter so far as I am concerned.

The PRESIDING OFFICER. If both Senators insist upon what they claim to be their respective rights, and submit to the Chair as a matter of controversy between the two gentlemen, the Chair will not hesitate to decide, disliking, however, to interpose in any such position between the two Senators of the body. The Senator from Maine offered the original bill, and offered a substitute to the whole bill. That is appropriately before the Senate, and to be read if its reading is called for; but before the vote is taken on that, it is competent for the Senator from Kentucky to move an amendment to the original bill.

Mr. CRITTENDEN. The amendment of the Senator from Maine, as a substitute for the whole bill, is postponed to my amendment to perfect the original bill.

The PRESIDING OFFICER. The vote on it is postponed.

Mr. CRITTENDEN. But we may go on to debate it?

The PRESIDING OFFICER. We may go on and debate the substitute.

Mr. CRITTENDEN. While an amendment to the original bill has precedence, and is before the Senate? Can that be done, sir? It is a very involved course of proceeding if that is so; but if you say it is, I have not another word to say.

The PRESIDING OFFICER. No rule of parliamentary law, in the judgment of the Chair, in better to get into the question of striking out and insert in order at any stage of the proceedings on a bill; but before the question is taken on striking out and inserting, both propositions are open to modification and amendment and perfection.

Mr. CRITTENDEN. If the gentleman has a right to go on with the debate, what is he to speak on; on his amendment or mine? What is the subject? It is decided that my amendment has precedence. The gentleman claims the floor, because before he offered my amendment he offered a substitute for the whole bill. Now what is the subject of debate before the Senate? If the gentleman insists on his right, and has a right to speak, must he not speak to the subject that is before the Senate?

The PRESIDING OFFICER. The Senator from Maine offers a substitute for the whole bill, which it is his right to do. It is an amendment. He may debate that proposition, so far as he keeps within the rules of order in debating the question presented. After that is through, if any Senator wishes to express his proposition, or to move to modify the original bill, it is in order to do so. The Chair cannot explain himself more explicitly or more fully. Certainly there is no parliamentary rule better settled than that one. The Chair desires an appeal to be taken from the decision, if it is unsatisfactory.

Mr. DAVIS. I think the whole confusion arises

from the Senator from Kentucky introducing his amendment under the supposition that the Senator from Maine had yielded the floor. If the Senator from Kentucky was mistaken in the fact of his amendment being before the Senate, then the whole matter is very plain, and I think he will be so regarded.

Mr. CRITTENDEN. I regarded mine as before the Senate.

Mr. DAVIS. I say if the Senator from Kentucky was mistaken in supposing his amendment to be before the Senate, then the decision of the Chair is too plain for argument. The Senator from Maine had moved a substitute, which was to strike out the whole bill and insert what he sent to the Chair. Before that can be done, surely any one has a right to perfect the original bill but, if whilst the Senator from Maine is upon the floor offering his substitute, and wishing to explain his substitute, another Senator rises to perfect the original bill, it is clear that he cannot get possession of the floor to do it. That is, I suppose, the whole matter.

Mr. CRITTENDEN. I will not pursue any controversy upon a subject so unimportant as whether I am entitled to the floor or not.

The PRESIDING OFFICER. The question before the Senate, which is upon the substitute offered by the Senator from Maine, which will be read.

The Secretary read the amendment of Mr. FESSENDEN, which is to strike out all after the enacting clause, and insert the following:

That all officers of the United States Navy, on the active list, hereinafter named, shall receive an annual compensation, commencing with the next fiscal year, as hereinafter specified, and shall be entitled to travel and transportation, except ten cents per mile for travel and transportation of baggage, under orders, and one ration per diem on sea-duty, to be computed at five cents, namely:

The senior flag officer, created under and by virtue of an act of Congress, approved March 3, 1869, shall receive \$10,000.

Captains, when commanding fleets or squadrons, shall receive \$5,000; on other duty at sea, \$4,000; on other duty, \$3,200; on leave or waiting orders, \$2,000.

Commanders, for the first five years after date of commission, shall receive, when on duty at sea, \$3,750; when on other duty, \$3,000; on leave or waiting orders, \$2,000. After five years from the date of commission, commanders shall receive, when on duty at sea, \$5,000; when on other duty, \$4,250; on leave or waiting orders, \$2,500.

Lieutenants commanding at sea shall receive \$3,750. For the first five years after date of commission, lieutenants shall receive, when on duty at sea, \$3,500; on other duty, \$3,000; on leave or waiting orders, \$1,500.

For the second five years after date of commission, lieutenants shall receive, when on duty at sea, \$4,000; on other duty, \$3,500; on leave or waiting orders, \$1,750. For the third five years after date of commission, lieutenants shall receive, when on duty at sea, \$4,500; on other duty, \$4,000; on leave or waiting orders, \$2,000.

Ensigns shall be paid as lieutenants.

Masters in the line of promotion and other masters, shall be paid, when on duty, \$1,200; and on leave or waiting orders, \$1,000.

Passed midshipmen shall be paid, when on duty, \$1,200; and on leave or waiting orders, \$900.

Acting assistant surgeons shall receive, when on duty, \$1,800; on other duty, \$1,100; and on leave or waiting orders, \$900.

Surgeons, for the first five years after the date of commission, shall receive, when on sea-duty, \$1,800; on other duty, \$1,200; on leave or waiting orders, \$900. For the second five years after date of commission, surgeons shall receive, when on sea-duty, \$2,200; on other duty, \$1,600; on leave or waiting orders, \$1,100. For the third five years after the date of commission, surgeons shall receive, when on sea-duty, \$2,500; on other duty, \$1,900; on leave or waiting orders, \$1,200.

Passed assistant surgeons shall receive, when on duty at sea, \$1,800; on other duty, \$1,200; on leave or waiting orders, \$900.

Purser shall receive for the first five years after date of commission, when on sea-duty, \$1,800; on other duty, \$1,200; on leave or waiting orders, \$900. For the second five years after date of commission, pursers shall receive, when on sea-duty, \$2,200; on other duty, \$1,600; on leave or waiting orders, \$1,100. For the third five years after date of commission, pursers shall receive, when on sea-duty, \$2,500; on other duty, \$1,900; on leave or waiting orders, \$1,200.

Professors of mathematics shall receive, when on duty at sea, \$2,000; on other duty, \$1,400; and on leave or waiting orders, \$1,000. Provided, That no appointments shall be made to this grade to fill vacancies.

Chief clerk shall receive, for the first five years after date of commission, shall receive, when on sea-duty, \$1,750; on other duty, \$1,200; and on leave or waiting orders, \$900. For the second five years after date of commission, chief clerk

\$3,500; and so with a captain commanding a squadron. I propose to increase it to \$5,000. The committee propose that captains on other duty not at sea shall receive \$3,937. I have put it at \$3,500, which was the former pay of a captain on sea-duty. The committee and myself propose the same salary for the captains on leave or waiting orders—\$2,500. I supposed that was enough. I have proposed a round sum in these cases, believing that to be more convenient for the board.

Mr. HUNTER. Does the Senate mean to say that the sea-service does not relate to the grade?

Mr. FESSENDEN. Not to the grade in the committee bill; but it is sea-service in the Navy from the beginning. If you make it relate to the grade, you will cut it down too low. The effect will be to place about one hundred and eighty lieutenants at once on the highest rate of pay of lieutenants; for the reason that you calculate the sea-service from the time they first entered the Navy; and, in fact, I have not been able to find a single one, although you fix the pay of a lieutenant at \$1,500, who will not receive more than \$1,500.

Mr. MALLORY. You have not looked.

Mr. FESSENDEN. I have looked, but I may have omitted one. There may be such a case, but I do not know of any. If I am wrong about that, I shall be corrected, but there are very few of them at any rate.

Mr. MALLORY. You can go on, and I will correct you afterwards.

Mr. FESSENDEN. I see now, on referring to the Navy Register, one lieutenant whose sea-service between four and five years is shown on the list as Lieutenant Charles A. Babcock, who was appointed October 3, 1859, and he will at once receive pay for seven years' sea-service. He is placed then in a grade receiving \$1,700, although the bill assumes that a lieutenant's pay is \$1,500. He is the last man appointed, but a lieutenant but a few months; was appointed in October, 1859, and he goes up to the sea-service of pay of \$1,700.

Mr. BENJAMIN. What is a lieutenant's pay at present?

Mr. FESSENDEN. Fifteen hundred dollars.

Mr. GRIMES. This man gets at this time only \$1,050.

Mr. FESSENDEN. How is that?

Mr. GRIMES. All on the list after Robert L. May, twenty-six lieutenants, get what is called the bogus pay of \$1,050.

Mr. FESSENDEN. That is for another reason; but I have provided for that in order to bring the matter to the attention of the Senate. Now, what is the arrangement I have made in the substitute that I propose? I simply pay every man according to the date of his commission in his grade. For instance, a lieutenant enters the service as a lieutenant, and receives his commission to-day. I provide in this substitute that for the first five years after the date of such commission he shall receive such an amount; for the second five years, such a further amount; for the third such a further amount; and after that, another sum. The committee, however, carried it up to twenty years, and provided for the first, second, third and fourth term of five years, and for all after twenty years. I carry it to first, second, and third; then to fifteen years, for the simple reason that when men have been fifteen years in the service in this grade they are old enough and experienced enough to receive the highest rate of pay in their grade; they are then necessarily old men. The difference between a man who has been fifteen years in commission and one who has been twenty years in commission is not very large, and under the circumstances I think it better to bring it down to fifteen years, for according to their age when they entered the grade of lieutenant, for instance, they must be pretty well advanced when they have been fifteen years in the service. This increases the amount of the pay to some extent.

The objection that is made to this, is that it should be calculated according to sea-service, for the purpose of putting an end to the desire on the part of officers to shut out duty. That is very desirable; but I think it should be put an end to in another way. I believe that our affairs were properly conducted by the Department—and I do not mean to throw any particular blame on the Department at this time more than another—but it would be done away with. If a man shirks sea-duty, or attempts to do it, through favoritism or anything else, he should be brought

to a court-martial and punished in that way; but as a general rule, I am told, and believe it to be true, that the difficulty is the other way; that men cannot always get sea-service when they want it, and have not been able to do so heretofore. At any rate, my proposition in this respect makes it equal. They are in the line of their duty; and if there is nothing of record against them that in their work inquiring into and to show that they have shirked their duty, I think they should be rewarded for doing it, and after coming to a certain age, and having certain responsibilities on them, and when they must have support, the idea of going into a man's record to see how much A, B, and C have been at sea, when perhaps they have been on shore for very good reasons, is to my mind an entirely false mode of calculating what each man should receive. I have, therefore, adopted a different system in relation to that matter, and provided that in all the grades the pay should be calculated from the date of commission in that grade. I believe it to be the correct principle, and I believe that it will be better in the long run than to follow out the system which has been adopted by the committee, and which, as I said before, is entirely deceptive.

I believe that the lieutenants have been the worst of the service as a general rule, on account of their age and the long time they are obliged to stay in that grade; and I am perfectly willing, if the chairman thinks proper to make a motion to that effect, to reduce the term from the date of the commission, and put it at three, four, five, six, seven, eight, nine, ten, eleven, twelve years, instead of five, ten, and fifteen; thus reducing the whole time they would be obliged to be in the Navy and to have a commission, before having their pay raised. Then it would be on a regular system. I have suggested on the amendments, I have suggested on that idea—carrying it through—and that is, paying each man in his grade according to his length of service in that grade, and rising gradually from one point to the other. I believe, sir, that it will work better. I think it will do more to encourage, and do difficulty which certainly arises in calculating the sea-service. Instead of beginning where we ought to begin—in establishing the pay for a grade with a man's entrance into the grade—the committee go back to the commencement of his service in the grade. It is not applicable to the committee to commanders or to captains; not applied to anybody until you get to lieutenants, and then it is extended to pursers and others.

There were also some alterations that I made in the rates of pay in regard to surgeons and pursers; but as the committee's bill is now amended, the difference in this respect between the bill of the committee and the substitute which I have offered, is, that I have brought down the length of service from twenty to fifteen years; that is, I give the highest pay at the end of fifteen years' service and afterwards, instead of at the end of twenty years and afterwards. I do it for this reason: a surgeon enters the Navy, a man educated, not a boy to be educated. He has acquired his profession. Then he must remain, as nations are, for fifteen years before he can get to be a surgeon at all, and then if he serves fifteen years longer he is certainly to be supposed to be old enough to receive the highest pay of his grade. A man could not reach the highest pay of a surgeon if he entered at twenty-five years of age, and then serve thirty, as he would have to do, before he was fifty-five. The difference of five years between fifteen and twenty would seem to be immaterial; and a man at forty is very likely to need as much to support him comfortably as a man at fifty. When he is twenty years in the service, as the law now stands, he receives the pay of a commander, for the reason that he is obliged to give bond to the amount of \$25,000, and to be responsible for the property intrusted to his care, and for the fact that it is not his duty to be responsible for anything lost by accident or otherwise, unless he can get a special act of Congress to release him.

In reference to engineers and the minor class of officers, I have not interfered with the bill; but have made a different arrangement. I think I have improved on it; at any rate, I have put all that the committee had in two pages into eight, thus making a little difference of arrangement, and not repeating words unnecessarily. I have classified everything by itself, instead of spreading it over a large space.

These are the principal differences I have made in reference to the pay, from the captain down to the lowest officer, except midshipmen and those whose becoming midshipmen at the naval school, because the idea is a general one, and it is acceptable to all, so far as I have conferred with officers, that these boys should have no more than enough to pay for their education. More money would do them harm, instead of good. I have made one or two suggestions at the end as to the shape of the bill. When we passed the bill to promote the efficiency of the Navy, it required that those officers who were promoted to a higher grade than a vacancy, occasioned by those who retired, should not receive the pay of the grade to which they were promoted, but the pay between that and that of the grade which they left. There are certain officers in the Navy, in all the grades, captains, commanders, and lieutenants, who are receiving what they call the bogus pay; that is, not the pay of their grade, nor the pay of the grade below, but an intermediate grade of pay. The bill of the committee strikes that out, and the consequence is that the very large number of captains made by the additional commissions under that bill, and the very large number of commanders, and the very large number of lieutenants made by the same process, far exceeding the number allowed by law, all by the bill of the committee will receive the rate of pay of the grade to which they have been promoted in consequence of these vacancies. I have put a section into my substitute, restoring that regulation that they shall receive the same pay they now do, conforming it to the increased rates of the pay of the several grades. That is the first thing I have done. I have also put in another proviso, that no sailor-maker shall be appointed to fill any vacancy after the number of that class exceeds twenty in the whole. I did that at the suggestion of a naval officer that a small number of them were of use to the Navy. That is the first thing I have done. I would be well to stop the appointment of more.

I have made a slight alteration also in the third section, to which I will call the attention of the chairman. I propose "that hereafter no service shall be regarded as sea-service but such as shall be performed under the orders of the Navy Department;" not "under the orders of a Department," as he had it, because some service is performed under the orders of other departments, such as the Coast Survey, which I did not suppose would meet his view. That, however, is a question about which I have not much opinion one way or the other.

I believe, Mr. President, that I have, in the statement that I have made, covered all the grounds of difference between the committee and myself with regard to the pay, and I am perfectly willing to discuss it in the manner I propose, and to have the lieutenants by shortening the time within which they are to receive the proposed increase. That would make the bill more acceptable. I believe that the system adopted by the committee is one that will saddle the Navy with a very large expense, and do great injustice to the different officers in that grade, raising men up at once to the highest rate of pay who have just entered upon that rank.

Mr. HUNTER. What is the annual addition to the pay of the Navy?

Mr. FESSENDEN. I have not calculated that at all. I did not think of it any consequence; for, as I said before, I only considered how much each man ought to receive; and the amount, whatever it may be, we are able to pay, and ought to pay it. I do not know that I have anything further to say.

Mr. MALLORY. Mr. President—
THE PRESIDING OFFICER. Before the question is taken on striking out, the matter proposed to be stricken out is open to further amendment. If the Senator from Kentucky has moved for further amendment, and is entitled to the floor upon it.

Mr. CRITTENDEN. I have changed it some-

jection to that at all; but I would suggest to the chairman of the committee that he accept the amendment I propose. In line one hundred and sixty-five there is a proviso in relation to professors of mathematics:

Provided, That no appointment to this grade shall be made to fill vacancies.

I propose, which I think carries out the intention of the committee, to insert after the word "grade," the words "or that of chaplain;" so as to make it read:

Provided, That no appointment to this grade, or that of chaplain, shall be made to fill vacancies.

I appeal to the chairman of the committee whether the committee were not agreed as to the propriety of this amendment.

Mr. MALLORY. The Naval Committee did originally determine upon this amendment. At a subsequent meeting of the committee, however, I was directed by a vote of the committee to withdraw it. I am convinced myself that unless we can adopt some measures to induce our chaplains to go to sea, they do not answer the purpose for which they were appointed. I think there are seven now at sea, and the grade consists of twenty-four; and the rest are distributed around where every place can be found for them, at naval stations and navy yards. There are five or six, I think, for whom places cannot be found. The grade, in that respect, is too large. If we pay them as lieutenants, as proposed in the bill, they get no increase unless for sea-service. That is put in as an inducement for them to go to sea. The committee did not adopt this amendment to appoint no more chaplains to the Navy; but I am perfectly willing to leave it to the action of the Senate. My own opinion is, that we ought to adopt such a system of appointing chaplains as to leave the selection of a chaplain to the officer in command of a squadron, so that the chaplain would always have the opportunity to go to sea, as he does; and thus make his moral and religious influence greater in the squadron than under the present system.

Mr. HARLAN. I desire to ask the chairman of the committee if any chaplain has ever declined to go to sea where required to do so by the Secretary of the Navy?

Mr. MALLORY. I do not think an instance has occurred of a chaplain declining to go to sea. I think the grade is too large for the present means of sending them to sea. We can only send a chaplain to sea, under the present regulations, on a frigate. I know no chaplain who would not go to sea in a sloop. If they went in a sloop, out of the watch officers would have to give up his station to the chaplain; he would have to sleep in the country, as the sailors call it, to accommodate the chaplain. Hence they leave chaplains on the shore. No chaplain declines sea-duty; but we have no ships to send them in.

Mr. HARLAN. I have been informed by one or two chaplains of the Navy that the officers in command of ships at sea sometimes refuse to accept for the purpose of enabling some lumber officer to perform the duties of chaplain, and thus draw his pay. I inquire of the chairman if this be true?

Mr. MALLORY. It is an inquiry I cannot answer, of course. I do not know if the Secretary gets his information from the officers, or whether I believe it, I tell him no. I do not believe any officer of the Navy seeks himself to perform the duties of chaplain. There is no pay allowed an officer for the performance of the duty. I believe the fact is just as I said, that chaplains cannot be accommodated on sloops-of-war, without displacing a watch officer. I never heard of a chaplain desiring to go to sea in a sloop-of-war. They are always in frigates, and they are now at sea in frigates. Whenever you find a frigate or gun-ship, you find a chaplain occupying his station. For a moment, that any chaplain would decline sea-service when ordered to a frigate; but that the officers themselves do not want chaplains aboard, I am not advised; I am not able to say. I suppose, however, in a small vessel, where the officer would have to displace a watch officer, or lieutenants, to give place to a chaplain, he, of course, would not desire it.

Mr. IVERSON. This amendment of the Senator from Louisiana, I think, is rather too extensive in its operation. If I understand the verbiage of it, it is that if a vacancy occurs in Louisiana, it shall be filled. If that becomes the law, the num-

ber of chaplains may be reduced down to one, two, or three. The President cannot fill a vacancy that may occur, and the number may be reduced so that we shall have no chaplains in the Navy. I have no objection to passing a law to limit the number of chaplains in the Navy, if you will, to a certain quantity, and perhaps such a law might be very proper; because there may be more chaplains now than the service requires. I do not know how that is. I am not familiar with the service, and therefore cannot speak understandingly on it. But the operation of this amendment, as I apprehend, is intended to exclude two gentlemen who have been nominated by the President to the Senate, and whose nominations have been referred to the Committee on Naval Affairs, and that committee have not reported back those nominations. I suppose that the object of the amendment is really to exclude those gentlemen. If you limit the power to appoint as proposed, it may so operate, in process of time, as to cut down the chaplains to an inconsiderable number—far below the necessary demands of the service. At any rate, the Senator's amendment should be so worded as to guard against that contingency, it seems to me; but the language is that no vacancy hereafter shall be filled. For my own part, I think that as the law stands regulating the number of chaplains in the Navy, it is proper that all the officers should be filled until Congress passes a law reducing the number. I do not think it altogether fair that the two gentlemen who have been recently nominated by the President, in accordance with the law as it now exists, should be defeated by their nomination to a side-wind of this kind; and therefore I shall vote against the amendment.

Mr. SLIDELL. Mr. President, so far as I am concerned, and I think I may safely say as far as every individual member of the Naval Committee is concerned, we are not at all anxious to diminish the character of the two gentlemen who are said to have been nominated to the Senate. I do not know whether it is exactly in conformity with the theory of our peculiar body and institutions that reference should be made to what has occurred, or may occur, and a period in executive session; but I will say hypothetically, that if such nominations have been made, they were made after the Naval Committee had informed the Secretary of the Navy that, in their opinion, the number of chaplains did not require the appointment of these additional officers.

Now, there are two means of meeting the objection of the Senator from Georgia. If the number of chaplains be so reduced as to be below the number required by the exigencies of the service, it will then be in the power of Congress to authorize the appointment of additional chaplains. It may be obviated in a mode much more simple. We have many more chaplains now than are required for the wants of the service; and to meet the supposed difficulty of the Senator from Georgia, we may simply say, whenever any vacancy occurs, that no appointments shall be made to fill the vacancies until the number shall have been reduced to fifteen, which is more than the service requires.

I will state further, that I have very great doubts of the policy of having any chaplains in the Navy. We have been exceedingly anxious to get rid of them on every hand; and I think, in some instances, remonstrances have been made by the Legislatures of the different States that some persuasion, I think the Protestant Episcopal Church, seems to enjoy a monopoly in the appointment of chaplains in the Navy. I should prefer to get rid of these objections altogether; but as the Senate may not be prepared to act on so sweeping a proposition as that, I shall content myself now with endeavoring to reduce the number to fifteen.

Mr. SLIDELL. I have no objection to the amendment, as modified, is in line one hundred and sixty-five, to insert after "grade," the words "or that of chaplain;" and, in line one hundred and sixty-six, after the word "vacancies," to insert "until the number of chaplains shall be reduced to fifteen." That is the object that the clause has in view.

Provided, That no appointment to this grade, or that of chaplain, shall be made to fill vacancies, until the number of chaplains shall be reduced to fifteen.

Mr. DOOLITTLE. Mr. President, I do not rise to discuss this question, but simply to suggest to the honorable Senator from Louisiana that the subject of reducing the number of chaplains in the

Navy, it strikes me, had better be connected with some general law, reducing the number of officers of the Navy; either providing for their being retired at a given age, on some pay, leave pay or half pay, or furlough pay; or for cutting down the number of officers in the Navy to those required for efficient and active service. I do not propose any amendments of that kind myself to the pay of the Navy; but this whole subject of reducing the superfluities in the Navy, it seems to me, can be provided for by some general legislation, by a bill that will meet the whole case.

Mr. SLIDELL. I will suggest to the Senator from Wisconsin that already, by common consent, as well in the substitute of the Senator from Maine, as in the original bill reported by the chairman of the Naval Committee, these reductions have been made in other grades—the grades of professors of mathematics and of sail-makers.

Mr. HARLAN. I desire to record my vote against the amendment, and hence I ask for the yeas and nays.

The yeas and nays were ordered.
Mr. HARLAN. I desire to ask the chairman of the Committee on Naval Affairs another question: whether, by any regulation of the naval service, the chaplains of the Navy are required to conform to the regulations of the service?

Mr. MALLORY. No, sir; there is no such regulation whatever. The Secretary of the Navy would clearly be unauthorized to prescribe any form for service. The act of 1800, "for the better regulation of the Navy," was the original act which required uniformity of dress to be performed on board our vessels, and the regulation of the Department has simply conformed to that "divine service." I will say to the Senator from Iowa here, that every chaplain in the Navy conforms his services, whenever they are, to his own convictions and his own conscience, on best terms with the service, perhaps six different forms at the same time.

Mr. HAMLIN. The statement of the Senator from Florida may be law, but I do not think it is fact. I have no doubt he states accurately what is the law, and the rule the Department prescribes. I have also no earthly doubt that in very many cases the commanders of vessels have produced disturbance where the chaplain has not seen fit to comply with that kind of service which the officer thought it right to require.

Mr. MALLORY. As to that, there are controversies pending always between officers and chaplains, of course; the officers anxious to simplify the forms as much as possible, and the chaplains having their own convictions. That has nothing to do with the regulation of the service. When these complaints are made, the Department always notices them, and admonishes the officer that he cannot interfere with a thing of that kind.

The question being taken by yeas and nays, resulted—yeas 15, nays 23; as follows:

YEAS—Messrs. Butler, Brown, Chandler, Chewett, Clark, Davis, Hamilton, Fessenden, Fitzpatrick, Foot, Green, Groves, Doolittle, Hays, Iverson, Kennedy, Leatham, McKim, Seward, Simmons, Sumner, Ten Eyck, and Wright—23.

So the amendment was rejected.

Mr. HARLAN. I desire to offer an amendment, to come in after line sixty-five of the original bill:

In no case shall any person occupying as chaplain receive compensation therefor who is not a chaplain.

Mr. MALLORY. Such a thing has never been done since we have had a Navy. It is entirely unnecessary. No such claim has ever been made.

Mr. HARLAN. Then it will do no harm; and I will propose it, merely for the chaplains of the Navy themselves.

Mr. MALLORY. It is an implication that naval officers have received pay for acting as chaplains. I say again no such thing has ever occurred since we have had a Navy; no such pretension has ever been made.

Mr. HARLAN. I have no controversy with the Senator as to the fact. The amendment can do no harm.

Mr. MALLORY. Very well; but I hope it will not be adopted.

Mr. HARLAN. I have called for the yeas and nays; and they were ordered.

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WEDNESDAY, MARCH 28, 1859.

NOVEMBER.....No. 87.

Mr. HAMMOND. Suppose there is no chaplain on board a ship: does the Senator intend to prevent anybody saying prayers?

Mr. HARLAN. No. Allow him to read the service, but read it without pay.

Mr. HAMMOND. But, think the language is, "shall officiate as chaplain."

Mr. HARLAN. Let the amendment be read. The Secretary read it.

Mr. MALLORY. My objection to the amendment, and the reason why I hope it will not be adopted, is, that it is an implication on the fair dealing of naval officers, that they would thus travel out of the legitimate line of their sea-duties on board ship to perform the duties of a chaplain, and ask pay for it; when I tell the Senator such a thing has never occurred since we have had a Navy, and such a thing cannot be substantiated. I have never heard the pretension made before. I do not think such an amendment is essential.

You might as well insert a clause guarding against naval officers taking pay for performing almost any other act. You might go on and multiply tens of thousands of things which they have not received pay, and never expected it. The usual course on board ships that have no chaplains is, for the first lieutenant or the purser, either the one or the other, to read prayers at the capstan, at which the crew musters on Sunday. I know that you cannot find an instance in the whole files of our Department where such a pretense has been set up for an officer to receive pay for acting as chaplain.

Mr. HAMMOND. I think there is a law which permits any one in the United States service for receiving pay for performing two services. I think there is a law already existing that no officer or sailor on board a ship shall receive any pay for officiating as chaplain—the law of 1842.

Mr. HARLAN. The amendment does not use the word "officer." The word "person" is used, and I have been informed that the whole difficulty in shipping chaplains originates in this; that many of the officers of the Navy prefer the society of other persons than chaplains, and by going to sea without chaplains, and appointing some individual who may happen to be on board to act as chaplain, and allow him to draw the pay, the compensation can be disposed of more satisfactorily to those on board than if it should be paid to a regular chaplain. I know not that there may have been very much foundation for this; but that impression is abroad, not only among the chaplains of the Navy, but among other ministers. It has been a matter of complaint with the members of churches away from Washington city and away from the sea-board. But if this abuse never has occurred, as the chairman of the Committee on Naval Affairs seems to suppose, then the amendment can do no harm; it will injure nobody. If the abuse ever has occurred, it will correct it.

Mr. BENJAMIN. I will ask the Senator if he can indicate one case, or suggest one name, or refer to one instance, in which the abuse exists as it has ever occurred in the Navy. If he will specify a single case, I may vote for the amendment.

Mr. HARLAN. I could do so, but I should think it unfair dealing to the gentleman whose name I might mention, and it might render his berth more uncomfortable if he were shipped.

Mr. HAMMOND. It is impossible for the Navy Department to pay anybody as chaplain but chaplains; they know who are chaplains. I do not wish to appear as an advocate of the proposition to correct an abuse; but this is no abuse; it is an impossible thing, and therefore I shall vote against the amendment.

Mr. MASON. I did not hear the whole debate; but will the Senator from Iowa say that there is an instance where an officer has ever received, far more asked for, compensation for performing the duty of chaplain?

Mr. HARLAN. I have not yet said that officers of the Navy did; but other persons have been called on by the commander of a ship to per-

form the service, who are permitted to draw the pay; and a number of chaplains have told me that the difficulties which occur between them and officers of the Navy frequently originate in that fact; that they prefer to let some other person officiate in case of deaths and other ceremonies when the services of a chaplain may be required; for they prefer the society of other individuals than the chaplains.

Mr. BENJAMIN. I should like to understand this matter; for if there is an abuse it ought to be corrected; and if not, vague generalities ought not to induce us to legislate. Chaplains in the Navy, if I understand it, are paid for their services by law a certain rate. If these chaplains receive their pay, how is it possible for the commander to manage to pay somebody else for those services? The chaplain, of course, receives his pay. Where does the money come from that is paid to other persons, who do the duties?

Mr. GRIMES. Whether there has been an abuse of this kind or not, it is no imputation on anybody to adopt this amendment. It prevents any abuse of the kind in future; and we all know the public mind has been very greatly excited in some portions of the United States in regard to these chaplains in the Navy. Had we not better adopt the amendment, and quiet the public mind on this subject? It seems to me better.

Mr. MALLORY. The Senator says the public mind has been very much disturbed. I never heard of the suggestion before in all my life, and I have had something to do with naval affairs for many years. The idea is so novel to me that I cannot call to mind the slightest occasion on which I ever heard of it, beyond, perhaps, a few gentlemen particularly interested.

Mr. GRIMES. I will state to the Senator that religious denominations, in some portions of the North at least, have passed resolutions on this subject, and in connection with the chaplains which grew out of the transaction with Commodore Salust. I believe, on the Brazil station.

Mr. MALLORY. Passing resolutions generally on this subject does not meet the point that naval officers have ever charged, or pretended to charge, for doing the duty of chaplains, or any other person on board a ship.

Mr. GRIMES. The statement made by my colleague was that other persons had drawn pay for discharging the duties of chaplain, when those persons were not chaplains attached to a naval squadron.

Mr. MALLORY. Now, let me say to the Senator that that is impossible. In the first place, no man could get on board the ship at all, without the sanction of the Secretary of the Navy, other than those ordered to her. There is no man like him, and he would not be allowed there; not even one of the members of the captain's own family. Then there is a positive prohibition in the act of August 23, 1842, which meets every case, and this among them:

"No officer in any branch of the public service, or any other person whose salary, pay, or emolument is, or are, fixed by laws or regulations, shall receive any additional compensation, or compensation of any kind, for any service, for the discharge of public money, or any other service or duty whatsoever, unless the same shall be authorized by law."

Now, the parties on board a ship are the commanding officer, his subordinate in the line of promotion, and the captain's secretary, allowed by law if he has a ship large enough. The duty of chaplain is done, by a regulation of the service, by a warrant or order of the commanding officer of the ship. That is the uniform regulation, and no other man does it unless they are sick. These are bare generalities, on the supposition that somebody on board that ship will be taken in preference to the chaplain. I can tell the Senators from Iowa that it is the current desire of the Navy Department always to send chaplains to sea; but we have no ships for them to go in. They cannot go in sloops for the reason I have stated; but on board these sloops divine service is performed every Sunday by the parties named in the regu-

lations. If the Senator can give me one single instance where such an abuse has ever existed, or can state it upon any authority whatever, I promise to correct the error he has fallen into; but he cannot show one single instance, from the organization of the Navy down to the present time, when such a charge has ever been made before. I certainly never heard it. I can assure him there is no possible foundation for it.

Mr. KING. This subject of chaplains is one in which there is considerable interest felt in the country. There are a portion of our people who are opposed to the employment of chaplains at all, and we have had difficulties in some of our State Legislatures and in Congress on the subject. Some make this opposition because, they say, religion was in no way intended to be, and ought not to be, in this country, in any way connected with the Government. In my opinion the appointment of chaplains, both in the Army and Navy, in accordance with the practice of the Government, is very proper, and I think that any persons who perform these religious services in either case should be ministers of the Gospel, and should be chaplains, and the duty should not be devolved on other persons. Neither should the pay be drawn from the Treasury by other persons. It was the abuse in this respect which led to the adoption of the article in our Constitution which declared that in this country religion should be separate and independent matter from the Government entirely. It was that persons were selected to perform religious services on the ground that they were gentlemen. There are a great many persons in this country who would examine the character as gentlemen would not be questioned, who are very poor Christians, and who are entirely unfit to discharge the services which are required of chaplains and ministers of the Gospel in a great many of these cases. I myself think that this amendment is a very proper one, and I do not see any grounds on which it can be resisted, unless it be that it is desired to have this abuse practiced in the Navy, which certainly ought not to be.

Mr. MALLORY. The Senator in his closing remarks says there is an abuse. If there was an abuse, I of course would be the first to try to correct it. I have been endeavoring to show that there can be no abuse. No man can receive a dollar as chaplain until he shows his commission. He is a commissioned officer, and if he went to the Department and asked pay for performing the duties of chaplain, they would look to the muster-roll and see if he was a chaplain; and if not, he would have to come here. Here is the place for men performing duties of another grade to apply for pay, world-wide examination. He would possibly get a dollar from the Department unless he is a chaplain. I want that understood. The Navy Department has no authority, either by regulation of law or custom, to pay a dollar to a man who does not hold the commission.

As to the other question, whether a grade old first lieutenant in performing these religious duties would have any influence on the honorable Senator from New York, or any more influence than the chaplain, that is an *argumentum ad hominem* issue which I will not contest. It is the example of the man at large on board the vessel which is sought to be attained; and the reason why they perform the service is, that a chaplain cannot be accommodated on board the ship in consequence of her construction. You have to displace him from the cabin, or the berth, or the stateroom; and I do not know that any chaplain has ever applied to go to sea in a sloop-of-war. If they have it has not occurred to me. They are not entitled to go but on frigates.

Mr. MASON. Mr. President, I remember to have seen a portrait of a certain statesman and very learned man said that the time seemed to be approaching when society would have to interpose to repress religion from the hands of the clergy. I am afraid, sir, that if honorable Senators, who entertain a sort of sympathy for

An act (No. 106) authorizing the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States to enter a certain tract of land in the State of Wisconsin; An act (No. 108) for the relief of Mrs. M. E. Childs;

An act (No. 109) for the relief of John Hastings, executor of the last will of Henry and

An act (No. 306) to settle the titles to lands along the boundary line between the States of Georgia and Florida.

Also, that the Senate had ordered, on March 26, 1860, at twenty minutes after one o'clock, the passage of the usual number of copies of the memorial of Edward Larned, of New York, submitting a method for building a railroad to the Pacific by the present railroad companies of the United States.

DIPLOMATIC AND CONSULAR SYSTEM.

Mr. HOLMAN, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Foreign Affairs be instructed to inquire into the expediency of so modifying the diplomatic and consular system of the United States, as to conform with the different requirements of this Government in foreign countries, except consuls, commissioners, and other commercial agents, and providing for the appointment of other agents of this Government to the consular districts for diplomatic purposes, in such special cases as may from time to time arise, when the foreign relations of this country may require it, and that the committee be permitted to report by bill or otherwise.

PONCA APPROPRIATION BILL.

The SPEAKER. The first business in order is the consideration of the Senate amendments to the bill (H. R. No. 216) making appropriations for fulfilling treaty stipulations with the Ponca Indians and with certain bands of Indians in the State of Oregon and the Territory of Washington, for the year ending 30th June, 1860, upon which the previous question had been seconded, and the main question ordered to be put.

The question was taken on concurring in all the Senate amendments to the bill; and they were concurred in.

STEAMBOAT PASSENGER BILL.

The SPEAKER stated that the business next in order was the consideration of House bill No. 114, further to provide for the safety of passengers on vessels propelled in whole or in part by steam; the consideration of which had been postponed to this day.

Mr. SHERMAN. Its consideration was postponed till after the morning hour.

Mr. WASHBURN, of Illinois. I beg the gentleman's pardon. It was not so postponed, and I prefer to go on with the matter now.

The bill itself will not, I trust, invoke any very great amount of discussion. No man can be more fully aware than I am of the difficulties of passing a bill of this character; but I trust that, as gentlemen have had an opportunity of examining the bill, and as they undoubtedly have examined it, and have made themselves familiar with its provisions, they will be prepared to pass it at this time. I need not state that the Committee on Commerce consider it of great importance that this bill should be passed. It has been considered, not only by the Committee on Commerce of the present House, but by the Committee on Commerce of the House for the last two Congresses, and by one committee of the Senate. In the Thirty-Fourth Congress a bill substantially like that now presented was reported by the Committee on Commerce of the House; but no action was taken on it during that Congress, and it fell. During the last Congress a like bill was reported by the Committee on Commerce, and after discussion it was finally referred to that committee, and it came to be reached, but in relation to a bill of this character, where there may be very considerable differences of opinion, it must be evident—it is well known, particularly to every old member of the House—that if it is referred to the Committee of the Whole on the subject of the Union it will never be reached in

a regular order. If it be brought before the House at all, it must be by a motion to discharge the Committee of the Whole on the state of the Union from its further consideration; and when thus brought before the House, it must be passed under the operation of the previous question. I wish, therefore, to say to gentlemen that, if there be a desire to pass this bill, it must be considered and voted on if it be sent to the Committee of the Whole on the state of the Union, it will share the fate of the bill on the same subject that was sent there at the last Congress. It would be different if it were a bill for which there would be a majority of the House to come to the yeas and nays, and to vote on it up at any time, or discharge the committee from its further consideration.

This, sir, is a bill for the protection of the lives of passengers on vessels propelled in whole or in part by steam.

It is a bill in which the committee of the present law requires additional guards and restrictions. If we refer back, we will find that there was no law on this subject prior to 1838. A law was then passed which provided for the appointment of district inspectors, to be appointed by inspectors to be appointed by the judges of the district courts. Although that law was imperfect in detail, still the appointment of these inspectors, and the inspection of boilers and hulls made by them, were productive of the best consequences. It was, in fact, a very large degree, to the safety of human life.

Two amendments were made to that law, one in 1843, and one in 1849; they were amendments on particular points. In 1851-2, the subject was again brought before Congress, and another law was passed intended to be complete and perfect, and to cover all wants in that regard. That law was principally the work of one of the wisest and ablest men and legislators who ever sat in either branch of Congress—John Davis, of Massachusetts; but the Government of that law had not been tested, and further amendments are requisite, in order the better to protect life. The bill now reported by the Committee on Commerce is a bill of some thirty sections. If gentlemen will refer to the report made by the committee, they will find a full and complete statement of the provisions of the law. The first amendment proposed in this bill is in making the law apply to the ferry-boats, tug-boats, and freight-boats, which do not come within the provisions of the law of 1852. They do come within the provisions of the law of 1852, which, however, requires an inspection to be made by the inspectors appointed by the district courts. It is not required by that law that these ferry-boats, and tug-boats, and freight-boats, should have their pilots or engineers licensed.

Now, sir, it must be evident to every man who considers this subject, that there is an eminent propriety in bringing these ferry-boats under the law of 1852, so that they should be inspected, not by the inspectors appointed by the district judges, whose compensation consists of the fees, but by the Government inspectors, who are paid by the Government; and the fees received for that service go into the Treasury. We propose that the provisions of the law of 1852, in relation to the appointment of these inspectors, shall be repealed, and that these boats shall be inspected by the district board of inspectors, as provided in this proposed amendment.

There is, sir, I repeat, an eminent propriety in this. One of the most terrible accidents which has ever taken place in this country was upon these ferry-boats. The Governor of New York collected the inspectors in the Delaware river, on a ferry-boat, crossing from Camden, in your State, sir, to Philadelphia, where a large number of passengers, women and children, were destroyed, burned and scalded and drowned, in one of these ferry-boats, which had not been inspected before the House. It is not necessary to state that the necessity of such a board of inspectors is provided for in the proposed amendments. It is to remedy that evil that we propose, in the present law, to bring these ferry-boats, and these tug-boats, and these freight-boats, all of them, under the provisions of the first section of the law, which is now before the House.

I am aware, sir, that it is always the case when you undertake to legislate on we do by this bill, that you run after private interests, and that you find these steamboat proprietors coming here in order to defeat all legislation for the protection of the lives of passengers. They do not desire that

the strong arm of the law shall be placed on them. They do not desire that they shall be required to furnish such guards for human life as we propose here. They do not desire that their passengers shall be limited to a given number—a number which they can easily satisfy and provide for as they should provide for them. But I may say, in regard to this, that unless it be that of a remonstrance on your table against its passage from any quarter; although it has been before the country, and its provisions are well known. I know of no remonstrance which has come up here against its passage, and I presume there will be no opposition unless it be that of a particular part of the country, where a very large steamboat interest is concerned. There is no remonstrance against it from the great West, from our steamboat men there, who are willing that there shall be reasonable provisions of law on this subject. There is no objection to it from the South, and none from New England. There is no objection anywhere, except, perhaps, from a particular quarter, to the passage of these amendments, and whether there will be any serious opposition from that quarter remains to be seen. That quarter is New York city.

We extend the provisions of the law of 1852 to sea-going steamers. We provide that the number of passengers in some of these sea-going steamers shall be limited to a reasonable number.

We provide that the inspectors, who are appointed by these local inspectors from time to time, in order that they may know, and in order that they through them the public may know, whether these steamers are sea-worthy or whether they are old, rotten, worm-eaten hulks, which the cupidity and avarice of steamboat proprietors would put upon our waters, and perhaps, under new names, entrap unwary passengers into.

We also provide that they shall carry a given number of life-boats and other means of saving the lives of passengers in case of an emergency, sir, when this bill was up two years ago, it was urged against it that we limited the passengers to too small a number. We propose to provide in this bill that no ocean-going steamer, running more than four hundred miles, shall carry more than one passenger for every hundred tons of tonnage, and that we believe to be an entirely reasonable limit, and one to which there can be no just objection.

Under the law of 1852—and I beg the attention of gentlemen to it in the supervising and real inspection has power and authority to limit the number of passengers in these steamers. The law of 1852 embraced, to some extent, the provisions of the law of the British Parliament on this subject, and under it these supervisors were authorized to limit the number of passengers on the ocean-going steamers. But in 1855 the attention of Congress was called to the flagrant abuses on the emigrant passenger ships; and so great was the interest felt, so great was the demand of the public that there should be some legislation on that subject, that on the 3d of March, 1855, a bill was introduced by me, limiting the number of passengers on board of emigrant ships. That act referred more particularly to sailing vessels. Before that time the horrors of the middle passage were revived on board these emigrant ships. Congress stepped in, upon the motion, sir, of the distinguished Senator from New York—Governor Fish—and they passed an act limiting the number of passengers to one to every two tons. By that act, the discretion was taken out of the hands of the supervising inspectors, and the same limit was placed upon the number of passengers which might be carried in steamers as in sailing vessels—namely, one passenger to every two tons. Congress overlooked the difference between a sailing vessel and a steam vessel—that from one third to one half of the tonnage of the steam vessel was made up by machinery and her place for fuel. They did not take that into consideration; and it will be seen that, taking this into account, the number of passengers we propose to allow steam vessels to carry corresponds to that allowed to sailing vessels, allowing for the difference in the use of machinery and her place for fuel.

Now, sir, it was urged, I think, during the last Congress, that this was unreasonable, that it would strike down trade, and that none of these vessels could afford to run if the number of passengers was thus restricted. It was said, for that, that it was a discrimination in favor of foreigners.

ENROLLED JOINT RESOLUTION.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution for the relief of the contractors of the Post Office Department; when the Speaker signed the same.

STEAMBOAT PASSENGER BILL—AGAIN.

Mr. WASHBURN, of Illinois. It was, I say, contended that this restriction was against the interests of our commerce and in favor of the interests of foreign commerce, and that the ocean steamers of other countries were permitted to carry a larger number of passengers in proportion to their tonnage than the number here fixed. Now, by a reference to the acts of the British Parliament on this subject, which I have here before me, I find that the restriction in this is no greater, if as great, as the restriction imposed under the act of Parliament.

Sir, this act provides that no ship propelled by sails only shall carry a greater number of persons (including every person on board) than is the proportion of one statute adult to every two tons of her registered tonnage. Now, the English mode of registering the tonnage of steamships excludes everything pertaining to their motive power; so that by the act of Parliament which I have in my hand, the steam-going vessels of Great Britain will not be permitted to carry a greater number, if as great a number, of passengers as this bill provides that American steam-going vessels may carry.

Now, sir, to refer for one moment to some of the steam-going vessels which go out of the port of New York. You will see what limitation will be placed upon these steamship owners, and whether this bill bears unnecessarily heavy upon them. For instance, let us refer to the steamship Augusta, of thirteen hundred and seventy tons burden, running out of the port of New York; how many passengers will be allowed to carry under this bill? Why, sir, she may carry three hundred and seventy passengers. Is not that a sufficient number of passengers for a vessel of that amount of tonnage? Take, for instance, a foreign-going steamer of twenty-two hundred and forty tons; how many passengers can she carry under this limitation of one passenger to every three and a half tons tonnage? She may carry six hundred and forty passengers—literally a small army. Will gentlemen say that this is a restriction on Congress to allow a greater limit than that?

Mr. MORRIS, of Pennsylvania. Is that the number inclusive of the crew?

Mr. WASHBURN, of Illinois. No, sir; exclusive of the crew. This bill allows the number of passengers I have mentioned, exclusive of the number of officers and crew which may be on board.

Then, sir, I will call your attention to the effect this law will have in reference to some of the steamships going out of the port of New York to Panama and other points. Take, for instance, the North Star, with a registered tonnage of eighteen hundred and sixty-seven tons; how many passengers can she carry under this bill? She may carry five hundred and thirty passengers. Is that not a sufficient number of passengers for that ship? Gentlemen come here from New York and say: "Why, you will break down our commerce." You broken down, with the permission to carry five hundred and thirty passengers on a steamer of less than nineteen hundred tons! The passage money taken for passage by these steamers ranges from two hundred to five hundred dollars for every passenger to California. Why, sir, every trip of one of these steamers makes for her owner what would be an independent fortune for a modest man.

Then there is a smaller class of steamers. Take, for instance, the Star of the West, with eleven hundred tons. She is allowed three hundred and thirty passengers. Then, going on the Pacific coast, let us see how the matter stands there. There is the Gortez, of eleven hundred and seventeen tons. She is allowed three hundred and twenty passengers. There is the Golden Gate, of two thousand tons. She could carry five hundred and ninety passengers, under this bill. Yet we are told that we are confining the owners of steamships to the carrying of a few passengers; that we are striking at a great interest.

Now, Mr. Spenger, I think I have convinced

the House that the provision of law which is sought to be adopted in this bill is a provision eminently just, and demanded by every consideration of public interest as well as of humanity. The constituents of every man on this floor who have traveled on one of the California steamers, and who have told of the abuses which grow out of the crowding of these steamers as they have been crowded heretofore. Very often as many as twelve hundred passengers have gone out in one of these California steamers of one thousand or twelve hundred tons burden, and these passengers were crowded to sleep on the deck. A gentleman who had seen how these steamers going out of New York were crowded, remarked that the passengers were crowded together like hogs and fed like dogs.

That is one of the evils which this bill proposes to remedy. Then we propose—and I have referred to this provision before—that it shall be the duty of the inspectors to examine these vessels within a given time, to see whether they remain sound; to see whether the rot has commenced in them. There was a case which was referred to when this subject was under consideration in the last Congress—the case of the Illinois, which was supposed to be sound, yet when she came to be examined by the inspectors, she was found to be rotten almost from stem to stern. This bill provides that if a steamer periodical inspection is not made, and she is found to be unsound, she will be taken out of the service and she will be sound and safe—worthy or not.

Then we have a provision in relation to lights; and I will frankly say in this connection, that there are some things in this bill which I have no personal knowledge in reference to.

Mr. CRAWFORD. Before the gentleman leaves the point of these inspectors, to which he was speaking, I desire to ask him a question in relation to the increased cost to the Government that will be incurred under this bill? I ask the gentleman whether more inspectors will be appointed than were provided for under the law of 1852? At what points are these inspectors to be chosen, and what additional boards of inspectors are now provided for?

Mr. WASHBURN, of Illinois. I think the gentleman from Georgia is right in his suggestion, for I might have otherwise passed over these points without sufficient explanation. By reference to the report, the gentleman will find that if the provisions of this bill are adopted—and I call the attention of the gentleman to the fact that the district inspectors who have heretofore been appointed by the judges of the district courts are done away with, and the fees, which under the old system were paid into their pockets, now go into the Treasury. If this bill be passed, then, you will know that system; you repeat a portion of the law of 1838, which provides for the inspection of hulls and boilers by inspectors to be appointed by the judges of the district courts; and in bringing in the ferry-boats, tug-boats, and freight-boats under the law of 1852, and in going away with the law of 1852, the New York and New Jersey laws have had to provide two additional inspectors to take their place. We have had to provide two inspectors, I repeat, to take the place of those who were appointed by the district judge under the law of 1838.

Mr. CLARK, of New York. If my friend will permit me, I will hand him a table, which I have taken the pains to prepare, showing precisely the increased expense of the execution of the proposed law of 1860 over that of 1852. If the gentleman will permit me, I will bring it to the reading.

Mr. WASHBURN, of Illinois. The gentleman will have an opportunity to make his argument. I am not aware what are the calculations made by the gentleman from New York. Perhaps they may differ somewhat from my own.

Will the gentleman answer to the inquiry of the gentleman from Georgia, (Mr. CRAWFORD.) In addition to the offices really created by this bill, in the State of New York, upon the recommendation of the Secretary of the Treasury, we have provided for an additional supervising inspector for that State.

Mr. CRAWFORD. That provision is made in the seventeenth section of the bill.

Mr. WASHBURN, of Illinois. Yes, sir. It is deemed absolutely necessary, in order to carry out the objects of the law, that this new inspector should be created. The gentleman from Georgia is aware that, under the law

of 1852, nine supervising inspectors were provided to carry out the provisions of that law. The country was to be divided up into inspection districts, and to each district a supervising inspector was to be assigned. In this bill, we have created an additional supervising inspector for the State of Oregon. In addition to that, I have already alluded to, there are four boards of local inspectors created. That, I presume, is one of the matters which the gentleman from Georgia desires to come at. They are as follows: one at Memphis, Tennessee; one at Paducah, Kentucky; one at Oregon City, Oregon; and one at Galena, Illinois. Acting somewhat under the advice and by the suggestion of the Secretary of the Treasury, the Committee on Commerce were very much indisposed to constitute these new boards, unless it was shown that they were demanded by the wants and interests of the country. If gentlemen will refer to page 16 of the report, they will find a letter addressed to me, as chairman of the Committee on Commerce, by the then Secretary of the Treasury, Mr. Guthrie, as far back as 1856. It is as follows, and deserves particular attention:

THESEY DEPARTMENT, April 21, 1856.

Sir: I have examined the bill to amend the act passed the 20th of August, 1852, for the better regulation of passenger vessels, and for the better regulation of the supervision of inspectors, and think the new provisions well calculated to secure the safety of the lives and property of passengers, and to secure the sanction of Congress, that the law can be better and more satisfactorily carried out.

I have also examined the provisions of the bill provided in the fourth section, which open the door to the creation of boards in many places where they were not needed, and have the honor to express my dissent to the too great multiplication of the officers. After a consultation with the board, and hearing their reasons for the establishment of the board at Galena, and for the propriety of boards at those places, and that the same necessity does not exist at other places; and that, with a prudent restriction upon the creation of the boards authorized, the law can be carried into effect without inconvenience to the interest involved.

In the bill, I think I can see that the law was executed, has sent an agent to visit and report upon the operation of the law and its execution in the several districts, and to attend the meetings of the board of general supervising authority vested in the Secretary. It would be more effectual to give the Department direct authority to do so, and to have the report of the board of general deliberations of the board.

To effect this, I submit the enclosed amendment to be added to the bill, in the section of the proposed act.

I am, very respectfully,

JAMES GUTHRIE,

Secretary of the Treasury.

Hon. E. B. WASHBURN, Chairman of the Committee on Commerce, House of Representatives.

I have an official statement of the steamboats inspected at Galena, and many of them owned there. It adds force to the recommendation of the Secretary of the Treasury. By this statement it will be seen that the inspection of steam vessels at the port of Galena for the year ending 31st December, 1857, shows twenty-three steam vessels owned and inspected there, sixty-one pilots, and fifty-four engineers examined. Here are one hundred and fifteen engineers and pilots to be examined, and between twenty and thirty steamboats to be inspected, at the port of Galena. Now, there is no supervising inspector at Galena, and no board of inspectors. Michigan is five hundred miles distant. To have a steamboat inspected there, or an engineer or pilot licensed by a supervising inspector, we have to send five hundred miles, to Monroe, Michigan, for a supervising inspector to come and inspect, and to have a pilot, and a larger amount of tonnage than any port, except St. Louis, above New Orleans.

In regard to a new board for Paducah, Kentucky, that matter was examined into by the board of supervising inspectors; a board, sir, which was created in 1852, and was intended to be winding under the present law better than any other men. Upon consultation with that board, the Secretary of the Treasury has recommended the establishment of a board of inspectors at Paducah, Kentucky, as being necessary to meet the wants of commerce in that place. In the review of the case, the committee, though indisposed to create new offices, deemed it imperatively demanded by the public interest to provide for this new board. In regard to the Memphis board, I have only to refer the gentleman to the report of the supervising inspector, or the subject, of the gentleman who represents that district upon this floor. Here it is:

WASHINGTON, January 20, 1859.

Sir: In response to your favor of inquiry concerning the number of steamboats in the Memphis trade, the following table shows the necessity of the establishment of

an inspector's district at that place, I beg leave to submit the following facts, which have been gotten up with as much accuracy as could be done with the means of so doing which I could command:

Names of boats running regularly between New Orleans and Memphis.

Names.	Commanders.	Tonnage.	No. of men.
Eclipse.....	Cloot.....	1,500	100
John Simpson.....	Wray.....	1,500	100
Belfast.....	Wray.....	1,500	100
H. R. W. Hill.....	Newell.....	1,500	100
Laguna.....	Paris.....	1,500	100
Choctaw.....	Stivers.....	1,000	90
Nelunda.....	Irwin.....	1,000	90

From St. Louis to Memphis, regularly.

Names.	Commanders.	Tonnage.	No. of men.
John H. Dickey.....	Able.....	400	60
J. H. Lucas.....	O'Neil.....	400	60
Philadelphia.....	Marshall.....	500	65

From Louisville to Memphis.

Names.	Commanders.	Tonnage.	No. of men.
Alvin Adams.....	Lamb.....	500	65
Moreau McClintock.....	Irwin.....	400	60
Southern.....	Lippert.....	400	60

From Cincinnati to Memphis.

Names.	Masters.	Tonnage.	No. of men.
Glendale.....	Boughter.....	500	60
Memphis.....	Boughter.....	500	60
Hickman.....	Anderson.....	300	50

From Pittsburgh to Memphis.

Names.	Masters.	Tonnage.	No. of men.
Frisbee.....	McManus.....	450	60
Victoria.....	Whison.....	400	55
Morning Star.....	Mason.....	400	55

White river and Memphis packets.

Names.	Commanders.	Tonnage.	No. of men.
Admiral.....	Bleunt.....	400	50
Letitia.....	Jones.....	300	45
Evansville.....	Blunt.....	300	45

Memphis and St. Francis packets.

Names.	Commanders.	Tonnage.	No. of men.
St. Francis No. 2.....	Wood.....	300	45
St. Francis No. 3.....	Bennet.....	300	45
Conest.....	Kennett.....	300	45

Memphis and Nashville packets.

Names.	Commanders.	Tonnage.	No. of men.
Klaine.....	Davis.....	300	45
City of Huntsville.....	Rider.....	300	45
Albion.....	Milner.....	300	45

Memphis and Obion river.

Names.	Commanders.	Tonnage.	No. of men.
Obion.....	Milner.....	300	30

The Louisville, Cincinnati, St. Louis, Nashville, Evansville, Cairo, Tennessee river, Pittsburgh, and all the boats on the tributaries of the upper Mississippi river that run to New Orleans, invariably stop at Memphis on their downward and upward trips, making upwards of three thousand arrivals and departures annually at Memphis, exclusive of the regular packets above named.

A great many of the regular packets enumerated in the foregoing schedule lay up at Memphis every summer, besides others which lay up not in the regular trade.

I think, sir, that the above, although by an means a full and perfect schedule of the amount of business of this character transacted at the port of Memphis, is sufficient to satisfy any one of the great necessity of an inspection district at the city of Memphis.

All which is respectfully submitted.

Very respectfully,

Hon. E. B. Washburne.

W. T. AVERY.

I trust I have explained the bill to the satisfaction of the gentleman from Georgia.

Mr. CRAWFORD. I suppose the gentleman has forgotten to state the amount of increased expenditure to the Government under the bill.

Mr. WASHBURN, of Illinois. There are four new boards of inspectors created.

Mr. CLARK, of New York. Five.

Mr. WASHBURN, of Illinois. No, sir, four; at Memphis, Paducah, Oregon, and Cincinnati.

Mr. CLARK, of New York. And two assistants at New York.

Mr. WASHBURN, of Illinois. I have already stated that. They do not constitute a new board, but are assistants in New York to take the place of the two inspectors who acted under the law of 1838, upon the appointment of the district judge. They have no relation whatever to that part of the act about which I am now speaking. The salary of these officers is: for those at Oregon City, Oregon, \$1300; and for those at Galena, Memphis, and Paducah, \$600. It will be seen that the expenditure for them all is not a large sum.

I will make a remark or two in relation to the increased expense. The gentleman from New York [Mr. CLARK] says that he has a statement, am aware will show much more for a man get up here and talk about the creation of new offices. I am aware how susceptible the House may be to an argument of that kind. Now, sir, I have made a calculation on the subject, and by that calculation the increased expense under the act under law as it exists is \$237. That is, by allowing the fees exacted for the inspection of boats, now for the first time brought under the law, I believe experience will show that the additional amount coming into the Treasury will pay all the additional expenses, indeed, I hardly believe that it amounts to that. The Government pays these officers their salaries, but it does not pay them large salaries. These supervising inspectors are the best men in the country, of high character and great experience, men coming from all parts of the country, and who understand the business.

And what salary do you think is allowed a supervising inspector? The pitiful sum of \$1,500 per annum. Many of them are retired ship-owners, or steamboat-owners, or captains, who take an interest in this matter. I will refer to one man from Kentucky, known to all the members from Kentucky—Captain Schallcross—who informed me that he had run steamboats upon the Mississippi and its tributaries for thirty-five years, and had never lost a life, nor to an insurance company a dollar. He belongs to the class of men who have charge of this law, and who are endeavoring to carry out its provisions.

Mr. CRAWFORD. Do I understand the gentleman from Illinois to say that the expense to the Government, under this bill, will not exceed that under the law of 1832 more than \$237?

Mr. WASHBURN, of Illinois. I made a calculation of the comparative cost, and that was the result of my comparison. I was going on to say that this bill provides for the payment of fees which go into the Treasury, and that the salaries of the officers are paid out of the Treasury. If the gentleman from Georgia will look over the whole subject, he will find that there never has been a law upon our statute-book of so great use, which has been carried out at so slight an expense.

Mr. CRAWFORD. Let me say to the gentleman that, by taking the act of 1852 and comparing it with the present bill, and adding the cost of the new inspectors who are to be selected, he will find the expense increased over twenty thousand dollars per annum.

Mr. WASHBURN, of Illinois. The gentleman is mistaken, and I will tell him why; there will be a very large amount accruing under this law for the inspection of ferry-boats, tow-boats, and freight-boats, which now goes into the pockets of the inspectors, but will hereafter go, if this bill is passed, into the Treasury.

Mr. CRAWFORD. The gentleman will allow me to ask him a question touching this matter. I desire to know if he is aware of the amount of money which is collected by the inspectors and paid to the Treasury.

Mr. WASHBURN, of Illinois. I have that statement at my room, and will bring it here and show it to the House. I tell the gentleman I have

no concealment about this matter. I desire to mislead no man. If it be an objection to this bill that it increases the expense a few hundred dollars, or a few thousand dollars, why, gentlemen must make the most of it. While I believe that in fact the execution of the law under this bill will not cost the Government an additional dollar, yet if it did, when we take into consideration the objects accomplished by the bill, it is but as dust in the balance.

When the gentleman from Georgia interrupted me, I was going on to speak in reference to the matter of carrying lights. I was saying, as a matter of course, being no sailor, but only a "land lubber," I knew and could know nothing practically of the matter. But of great experience, seafaring men—experts we might call them—consulting with the supervising inspectors, have agreed in relation to a system of carrying lights, which I believe is satisfactory to the men who are engaged in navigation. It is a matter of very great importance that all vessels should be bound by law to carry its lights, and that we should provide a system of lights to be carried by them. In that respect I believe, from all the knowledge and all the information I can get, that the provisions of this bill are entirely satisfactory to those to whom it will apply.

The subject of carrying lights for the protection of life and property, is no new subject; but England and France have legislated in regard to it. This lends me to speak of some objections made to this bill, and which, as it respects discretion which is invested in these supervising inspectors and local inspectors. The laws of England confer a discretion far more extensive than that bestowed by this law. There they do not provide by law that the lights shall be left, but leave that matter to be regulated by a board conforming to our supervising inspectors—"the lords commissioners for carrying out the marine act of 1850." Those men prescribe what the lights shall be.

But the subject of carrying lights has not only been provided for by British law, but by the French law, which I hold in my hand. They provide for carrying lights for the protection of lives and property. In the report of the Minister of Marine, made in 1848, he says, (I translate from the *Journal du Palais*):

"Navigation of all nations have sought for a long time the means of preventing, during the night, the collision of steamships, and to prevent accidents which are the consequence of these dangers. The difficulties of the matter and signals admitted to be in operation, even at this day, are not fully of that extent which might be desired."

Therefore it will be seen that our country, in providing for this system of lights, is but following the example set us by the French and English nations.

Now, I wish to state, in reference to this bill, that there may be some amendments which gentlemen may think, and which the House may think, proper to be adopted, but I trust that no gentleman who is not desirous of killing the bill at the outset will vote to refer it to the Committee of the Whole on the state of the Union; because I properly, if it should be amended, as I believe are required and demanded by a majority of the House, to put them into a substitute and have the substitute adopted in the place of my original bill. I am aware that some objections were made to this bill at the last session upon constitutional grounds. In reply to that, I have only to say that this bill goes no further in any direction than the bills of 1838 and 1852. If this bill has in it any unconstitutional provisions, both in the bills had them; and, sir, one of those laws has been in operation for twenty-two years, and its constitutionality has never been questioned in any court of justice, and so far as I am aware, the question has never been raised.

I do not propose at this time to call the previous question. If any gentleman has objection to the bill and desires any information I possess, I am glad to be pleased to give it to him to the extent of my ability.

Mr. TAYLOR. The subject before the House is one of as great importance as can engage the attention of the Representatives of the American people. The object aimed at by the bill is worthy of consideration. It is to throw additional safeguards around the lives of citizens who are compelled to have recourse to the different methods of transportation by steam upon the navigable waters of

the United States. This Government possesses certain powers over the subject, and it is eminently proper that those powers should be exerted for the benefit of the people.

It is well known to this House that since the increase of navigation by steam, and the increase of travel, owing to the additional facilities afforded to our people by the growth of population and the multiplication of the means of intercourse, the community has been afflicted, from time to time, by accidents that have carried mourning to every neighborhood, and that have caused the death of members of thousands of families within the limits of the Union. The frequency of occurrences of this sort, growing out of accidents upon our rivers, or upon our lakes and bays—sometimes from the explosion of boilers on steamboats, sometimes from collisions between steamboats, or between steamboats and other vessels, and sometimes from fire—led to legislation upon this subject in the year 1838. The legislation of 1838 was ineffectual. These accidents still continued to occur. Families were still distressed by such accidents happening to their members, and the whole community was agitated, from time to time, because of a sense of the insecurity of those who were required by their necessities to travel upon boats propelled by steam. In consequence of this, the Congress of the United States legislated again upon this subject in 1840. It adopted a variety of propositions in reference to the manner in which vessels should be built. It adopted a variety of regulations in reference to the manner in which machinery should be constructed, and in which it should be tested. It required the exercise of great diligence on the part of those who were intrusted with the navigation of vessels, on the part of those who were intrusted with the management of the engine and machinery, and on the part of the pilots. Still, notwithstanding the multiplication of regulations of this character; notwithstanding the multiplication of penalties inflicted upon those who were in charge of boats on which accidents of this sort occurred, accidents still recur, and not a week passes by in which some portion of our people is not thrown into mourning, and in which the country is not called upon to deplore the loss of some valuable citizen by these accidents.

Now, Mr. Speaker, these facts, which are within the knowledge of every member of this House, lead upon us to look to the subject again, and upon the if there is not some defect in our legislation. For my own part, Mr. Speaker, my attention has been called to the subject, because I have at different periods of my life witnessed the dreadful effects of accidents of this description, and it was one of my fortune to be on one of our steamers on which there was great loss of human life from the explosion of the boiler.

Mr. HOARD. If the gentleman will allow me, and if he is not familiar with the subject himself, will explain to him where the defect in that regard lies.

Mr. TAYLOR. I have given great attention to the subject, and I will give my own views as to the cause. In the instance which came under my own observation, because my family and my wife were passengers, it was the negligence of the passengers on board that there had been criminal negligence; not only criminal negligence, but positive misconduct. The case to which I allude occurred on Lake Erie. The steamboat from Sandusky, where I embarked, had repeatedly failed to make its connection, and the owners of that particular boat were injured in business because of the bad reputation it was acquiring in consequence of those who embarked upon it not arriving at the port of Buffalo in time to make the railroad connection. Because of this, it became a matter of importance to the owners that the speed of the boat should be increased, and every art that could be had recourse to was had recourse to, for the purpose of increasing the head of steam, and giving additional speed to the boat. It was the result of this that the accident occurred. After midnight an explosion took place, which destroyed every human being that was in the neighborhood of the machinery and engaged in its management. Not a single being of them survived to tell the tale. Every passenger who was in the immediate neighborhood of the machinery was destroyed. The broken fragments of human bodies were to be

seen at different parts of the boat. The charred remains were thrown out in sight of the survivors. The boat, which was a wreck on the boom of Lake Erie, was taken in tow by another boat belonging to the same line, which came across it, and was taken into the port of Erie. I believe it was so taken to that port for the purpose of avoiding or defeating investigation; for when the explosion took place the boat was opposite Dunkirk. The surviving passengers on the boat were sent on to Buffalo, their respective friends. They separated, and no inquiry was ever instituted. The persons who were guilty of the negligence, some of whom survived, also departed, and no prosecution was had. These persons who were in charge, and were guilty of negligence, were unworthy of justice. There was no compensation made to those who met with loss. There could be none, of course, made to those who had lost their friends by death.

In another instance, something similar to that I have just referred to occurred. I have since given much attention to this subject, and the result of my observations satisfies me that the difficulty does not grow out of the inadequacy of the provisions of the law in reference to the construction and equipment of boats or of the machinery, but out of the failure to enforce the law. That is the result, and the cause of it is always the fault of the owners of the boats, of the masters in charge, and of the officers intrusted with the conduct and management of the machinery, that there should be no investigation; and there is no opposing interest to that, and no inquiry into the facts and ascertain where the fault lies. Besides, there is another difficulty. The penalties that are imposed by law are never enforced, because, in these cases as in others where the criminal law is attempted to be applied, the principle of the criminal law, which is that the punishment should be of no doubt, always operates so as to lead to his discharge; and, therefore, though there have been hundreds of these accidents, in which the conviction in the public mind has been complete that the destruction of human life has been the result of negligence and improper conduct, there have been no prosecutions; and when there have been prosecutions, these prosecutions have always languished in jail. For my part, I have never yet known an instance in which a conviction under the provisions of the existing law has been had, or a penalty imposed by the law has been collected.

Now, I will call the attention of the House to one fact within my own knowledge which illustrates the difficulty, perhaps I ought to say the impossibility, of enforcing penalties against those who are, in truth, responsible; who are really amenable to our existing laws. Less than two years ago, on a moonlight night, there were two steamers engaged in making voyages between the ports of Galveston and New Orleans, in the Gulf of Mexico. One was on a voyage from New Orleans to Galveston, the other from Galveston to New Orleans. They met, and came in collision upon the Gulf about midway between the two ports, and one of them was sunk, and a large proportion of those on board went to watery grave. Prosecutions were instituted in New Orleans. The officers of both boats were indicted. And though the testimony of persons who were on board of the steamers at the time of the collision showed that the night was clear, and that persons upon each of the steamers could and did see the other, yet no person on either boat, neither the master nor the pilot who was in charge of the wheel—though it is certain that those on one or the other of the steamers were guilty—was convicted of any offense.

Under these circumstances, for myself I am inclined to say that you legislate in vain, and that in the direction in which you have gone, and that it will be in vain; that you will not protect human life, and that you will not increase in any appreciable degree the security of passengers upon our steamers. If we desire to accomplish that, we must take the other side, and the bill before us is desirable to accomplish it—to my mind it is clear that we must take a new step, that we must invoke a new principle, or we cannot succeed.

This I now propose to do; and with that view, Mr. Speaker, I have prepared a bill which I wish to present to the House, and which I believe will bill now before the House, and which contemplates legislative action in another direction, and

upon a new principle. Its provisions are very simple. There are but three substantive provisions in it, which indicate the principle invoked. All the others are merely intended to obtain information and to provide means for enabling all those who have an interest in enforcing the existing provisions of law to do so.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 216) making appropriations for fulfilling treaty stipulations with the Ponce Indians, and with certain bands of Indians in the State of Oregon Territory; Washington, for the year ending June 30, 1860; when the Speaker signed the same.

STEAMBOAT PASSENGER BILL—AGAIN.

Mr. TAYLOR resumed the floor.
Mr. WINSLOW. With the permission of the gentleman from Louisiana, I desire to ask the gentleman from Illinois whether this bill was reported from a committee, or was introduced by himself.

Mr. WASHBURN, of Illinois. It was reported unanimously from the Committee on Commerce.

Mr. WINSLOW. Then the gentleman has no power to modify the bill.

Mr. WASHBURN, of Illinois. I can offer a modified bill as a substitute.

Mr. WINSLOW. I should like to move an amendment to the bill, to insert after the word "Severnath" the words "Wilmington, North Carolina," so as to supply a local inspector for North Carolina, without which I cannot support the bill. As Galena has one, I think it proper that Wilmington should have one also. I suppose there can be no objection to that. The modification would be nothing but an act of justice and fairness.

Mr. WASHBURN, of Illinois. In answer to the gentleman from North Carolina, I will state that I know nothing in relation to the wants of the commerce of Wilmington. We have had no memorials or petitions on the subject before the Committee. I have no amendments, and I have had no consultation with the supervising inspectors, or with the Secretary of the Treasury, in regard to this matter. If the gentleman had brought forward his proposition, we should have given it a fair examination. I will admit to a well-known fairness and candor of my friend from North Carolina, he should come here at this very late day and insist upon the adoption of a provision of that kind, without any examination, or refuse to vote for the bill.

Mr. WINSLOW. The gentleman will do me the justice to state that I brought this matter to his attention, and to the attention of the Committee on Commerce, during the last Congress.

Mr. TAYLOR. I think the gentleman from North Carolina can probably present his amendment at a future time, and that it can be then acted on.

Mr. WINSLOW. I was only asking the permission of the gentleman from Illinois to offer the amendment at the proper time. I should like to know if he will permit me to offer it before me, and to state the previous question.

Mr. WASHBURN, of Illinois. My friend from North Carolina very well knows that this bill cannot be regularly amended in the House. He knows that very much better than I do; because he is much more familiar with the rules than I am. He knows that it cannot be amended in that way.

Mr. WINSLOW. Well, then, would it be in order to move to refer the bill to the Committee of the Whole on the state of the Union?

Mr. TAYLOR. I believe so.

Mr. WASHBURN, of Illinois. I will repeat, for the information of the gentleman from North Carolina, what I stated before, that I propose to get the sense of the House in this discussion in regard to various amendments, and if the sense of the House is in favor of the amendments, I propose to put them in a substitute, which I shall offer for the bill now before the House.

Mr. WINSLOW. I only desire to get a vote upon my amendment at some time or other.

Mr. TAYLOR. The proceeding, which I was interrupted, to state the sense of the bill which I propose to offer as a substitute for the one before the House. The principle upon which that

bill is founded is embodied in the first three sections. It proposes to make the interests of men subservient to the protection of human life.

The first section declares that no owner of a steamboat shall be competent to effect an insurance upon his boat unless the requirements of law in relation to its building, and in relation to the fitting-up and construction of its machinery, and in relation to the employment of competent men, and the escape of passengers in the event of an accident, shall have been complied with. It declares, in effect, that if he does not obey the law, he shall not have the aid of the law to shield himself from loss. It prohibits him from insuring his vessel; it forbids him to employ an operator, it allows the underwriters, who have taken a risk upon such vessel, to have the policy of insurance granted by them vitiated and declared invalid if they show that there has been a failure in fact on the part of the owner to comply with the requirements of law. The second section proposes to make it the interest of all those who are engaged with the management of vessels engaged in the transportation of passengers, to give that care and attention which is due from them to the human beings whose safety is due to a certain extent, to the skill and to the capacity of common carriers. The second section provides that no master of a steamer who is in charge when a fire occurs which destroys the boat or leads to the loss of human life or serious injury to the passengers; that no engineer or crew who is in charge of the machinery, that explosion takes place, which occasions the destruction of human life or serious injury to passengers; that no pilot who is in charge of the wheel and the direction of the boat when a collision occurs which terminates either in the loss of the vessel or in such injury as destroys human life—that none of these various officers shall ever be again employed upon any steam vessel or steamboat unless there has been an actual prosecution at law and the verdict of the jury has not only acquitted him of the crime with which they are charged under our laws, in such cases, but has declared affirmatively that those persons—each in their respective capacities—had been guilty of no negligence or misconduct, and were absolutely free from blame. That is to say, instead of allowing persons in such situations to continue in such occupations, because there has been a failure to condemn them on account of the existence of a doubt, of which the accused is always entitled to the benefit, under our system of criminal law, they are absolutely and forever excluded from employment, in any capacity, or situation, unless the jury, upon all the evidence presented to them, not only refuses to find them guilty, but decides affirmatively that they are absolutely blameless and free from all capture when an indictment has been preferred; and unless, in such cases where no indictment has been preferred, the grand jury, whose duty it was to investigate the facts connected with any loss of life in such cases, shall not only refuse to find any bill of indictment, but shall positively declare, by a written report to the court, that they find the accused free from any misconduct, negligence, or intention in the premises.

The third section of this bill prohibits the owners of steamboats, or other vessels propelled in whole or in part by steam, or other persons acting for them, from employing on such vessels any person who is excluded, under the provisions of the second section, from such employment; and if one so situated is employed on any such vessel, and the vessel should be lost or suffer injury while such person is employed, it then declares any policy of insurance, or contract, for the benefit and advantage of the owners, to be absolutely null and void, and takes away any right of action upon it.

Now, Mr. Speaker, it may be thought that some of these provisions are too strict.

Mr. SICKLES. I wish to ask the gentleman from Louisiana one question in relation to the section of the bill upon which he has been commenting. I ask him whether, when he provides these disabilities upon those employed on vessels in the case of accidents, he contemplates a verdict shall have been rendered by a jury, he should not provide: "upon complaint first being made?" Otherwise he may be injustice to these men.

Mr. TAYLOR. The design of the section is to make it the interest of all the individuals connected in any way with one of these accidents to

have a speedy investigation into the circumstances involved in it whilst the witnesses are in reach and the facts are recent; for without this their occupation is gone.

The other sections provide the means of having a record made of the names and positions of all those employed on vessels of this description before their departure from any port on a voyage; and to provide the machinery for the collection of accidents given, for making the names of the persons connected with them known, and for having the information in relation to those accidents placed in the hands of the district attorney of the United States, whose duty it is to prosecute, and for having them recorded also in all of the custom houses in the United States, so that the owners of steamboats, and all others having an interest in knowing them may have access to them, and have them in their reach. And this is right. The best interests of society require, imperatively demand, that we should, if people, make it the interest of all persons concerned to have these steamboat accidents fairly and properly investigated.

Now, Mr. Speaker, the provisions in this bill contemplate such a change in our legislation as will require us to comply, in the future, with the law for the preservation of human life, the same principle to the transportation of passengers which has obtained in every system of legislation from the earliest age of the world to the transportation of merchandise. Common carriers, under the common law of civilized countries, are responsible for their exist now and as they have existed for unnumbered centuries, when they receive a bale of merchandise, which is inanimate, which cannot suffer pain, become absolutely responsible for its safe delivery. If it is lost or diminished in value while in their possession, all presumption is against them; and they cannot be relieved from their liability to the owner of the merchandise unless they show affirmatively that the loss or damage has been caused by the act of God or of the public enemy. The principle obtained in common law will become the principle of trade require that the most perfect security should be given to the merchant against the loss or deterioration of his merchandise whilst it is in the course of transportation. It is in the interest of trade alone that the presumption of law will stand against the merchant, or the owner of the common carrier. If such a presumption is created in the interest of trade to protect a merchant against the loss of his goods from the negligence of the person he intrusts them to for transportation, why, I would ask, is it that it should be in the interest of the society, for the preservation of its members when their persons are placed in his care for transportation? Well, sir, that is the precise purpose of this bill. The provisions of the bill have this effect, and no more. If one is in charge of a vessel when an accident occurs which is fatal to passengers, he is presumed to be in fault so far that he is excluded for the future from that species of employment, unless he shows himself to not have been in fault; and this is solemnly declared by the jury empowered to try the case, or the officer of a grand jury, in due course of law, upon inquiry into the facts of the case.

Now, for one, I am anxious that this evil shall be remedied; for one, I am persuaded that legislation of the character which we have heretofore been endeavoring to bring about, and which is contemplated by the bill which is now before the House, will be ineffectual. You may pile up provisions as long as you please in relation to the mode of building vessels, or in relation to the construction of machinery; these provisions will be wholly ineffectual, unless those who are employed as masters of vessels propelled by steam, as engineers, as pilots, will exercise the proper care. No law will be effectual to give security to passengers unless it is made the interest of many to

it is the design of this bill to make the whole body of underwriters, all connected with the business of insurance, active in enforcing the penalties for violations of our laws regulating the construction of steamers and of their machinery, and providing for their proper equipment; and to make the masters of such vessels, and the engineers and pilots employed on them exercise all possible care for the safe carriage of all who intrust themselves to their care. What it is the interest of men to do, that they are pretty sure to do. That is a principle of human nature.

If the provisions of the bill I have prepared are adopted, it becomes the interest of owners to comply with all the provisions of the law in relation to the construction of vessels and to their equipment. It becomes the interest of underwriters, those who take risks on steam vessels, to watch over the process of building and to inquire into every case of disobedience of the law. It becomes the interest of every individual who is connected with all the care within his power to prevent accident; for if unhappily an accident occurs while the engineer is in charge, or while the pilot is in charge, or while the master is in charge—any accident leading to the loss of human life—then the person who is in charge is afterwards excluded from the occupation he is engaged in, unless there is an investigation into the facts connected with the accident and there is a full declaration that he not only is not guilty, but that he is positively free from blame.

Now, sir, for one I am satisfied that the interest of society requires that we should depart from the beaten track; that we should attempt to invoke some new principle; that we should attempt to strike out some new line of legislation for the purpose of creating a new era in the history of the world, which common justice and the public interest require.

Mr. STEWART, of Maryland. Will the gentleman from Louisiana be good enough to state to the House what is the difference between his measure and the measure reported by the committee on Commerce? What is the gentleman's objection to the pending bill?

Mr. TAYLOR. I have not that acquaintance with the subject which would enable me to speak with any certainty in relation to the provisions of the bill relating to the construction of vessels or the arrangement of machinery. The amendment I propose is designed to enforce existing laws. It would as well operate, no matter what legislation was afterwards had in relation to the construction of vessels, to give a new view of securing additional safeguards providing new means to secure escape in the event of accident. I am perfectly indifferent whether it be adopted as an amendment, or whether it be adopted as a substitute. My own action is, that it will make our present law more perfect, and it will be a good substitute. Without its adoption, however, I do not believe that any additional legislation will give any increased security.

My only objection has been to call the attention of the House to the principle of this bill. I wish to present to them the importance of the subject, and to state my convictions in relation to the inefficiency of the existing laws, and my convictions that any amount of legislation in the same direction would still be ineffectual, unless we take a step in a new direction and invoke the principle of human interest in the protection of human life. And having done this, I will detain the House no longer.

Mr. CRAWFORD. There are, I think, Mr. Speaker, a good many objections to this bill, and I ask the gentleman to state to the House whether it would not be the better course, instead of considering it in the House, to refer it to the Committee of the Whole on the state of the Union, where it can be fully perfected.

Mr. WASHBURN, of Missouri. I will call the attention of the House to a vote taken on an amended rule, which I had lost sight of when I was upon the floor. If the gentleman will refer to the 50th rule of the House, as it was amended the other day, he will see that this bill can be considered and acted upon in the House with just as large facilities as it can be considered in the Committee of the Whole on the state of the Union; that it can be perfected as well here as it can be in the Committee of the Whole. Here is that rule as amended, and I call the gentleman's particular attention to it.

§ 50. The previous question shall be in this form: "Shall the main question be now put?" It shall only be adopted when demanded by a majority of the members present; and its effect shall be to put an end to all debate, and to bring the House to a direct vote upon a motion to commit, if such motion shall have been made; and if that motion does not prevail, then upon amendments reported by a committee, if any, then upon pending amendments, and then upon the main question. But its effect will be, if a motion to postpone is pending, that the House shall not be brought to a vote upon the main question. Whenever the House shall refuse to order the main question, the consideration of the bill shall be deemed as the case of the previous question had been made. The House may also, at any time, on motion seconded by a majority of the members present, close all

tained, but the fees are not. At present, the fees received into the Treasury are little over \$30,000, and the expenses are \$61,000. Now this bill increases the expenses some \$20,000, making the whole expense exceed \$100,000, while the fees received may be \$30,000 only.

Mr. WASHBURN, of Illinois. If this act will make the cost \$20,000 more, and will increase the fees received \$30,000, what difference does it make?

Mr. CRAWFORD. But the Treasury will not receive \$30,000 more in fees. The relative proportions, at least, must be the same. Taken under any circumstances, the amount of the amount of fees received in the Treasury; but it will also increase the amount of the expenses very greatly, as heretofore shown.

These are some of the objections which I have to the bill. The first section of the bill is objectionable, because it interferes with the rights of the States.

Mr. MILLSON. The gentleman from Illinois, the chairman of the Committee on Commerce, is aware that I concur with the gentleman from Georgia in the objection which he has just put forward; but the first section of the bill has a very little doubt that the gentleman from Illinois will be as ready now, as he declared he was two years ago, to consent to such an amendment of the twenty-eighth section of the bill as will remove the objection from the gentleman from Georgia and myself. I beg leave to call his attention to what occurred then.

Mr. WASHBURN, of Illinois. I recollect the objection which was urged to that section when the bill was last under consideration, and in consequence of the feeling which some gentlemen seemed to manifest, I consented to an amendment to this twenty-eighth section, by striking out certain words. I am entirely willing, if gentlemen insist on it now, and if it will satisfy their objection, that the amendment may be made when we reach the section.

Mr. MILLSON. Then the gentleman consents now, as he intimated his readiness to do in 1858, to strike out the words in the twenty-eighth section:

"Upon waters which are navigable from the ocean by a direct and unobstructed channel, and upon the coast, or upon a lake or river whose waters are navigable by vessels registered or enrolled and licensed, as aforesaid, and from the houses or wharves of the United States or Territories, or of one or more States or Territories, and a foreign country."

Mr. WASHBURN, of Illinois. I consented to that on the motion, I think, of the gentleman himself, when the bill was considered by the last Congress. I think I consented to the striking out of these words.

Mr. MILLSON. The gentleman did so. I am from the gentleman's remarks then:

"I propose to make the amendment suggested by the gentleman from Virginia; and I make the further remark, that this section was drawn up by my friend from Virginia, in consultation with the gentleman from the Buffalo district of New York, [Mr. Haven]. Last winter, and for the very purpose of avoiding that objection."

And, if made, I trust it will avoid all objection, and, if made, I trust it will avoid the objection of the gentleman from Georgia.

Mr. WASHBURN, of Illinois. I am entirely willing to make it.

Mr. CRAWFORD. The gentleman will allow me to say that I have amendments which I desire to offer to this bill. The gentleman from Louisiana [Mr. TAYLOR] has intimated his purpose to offer a substitute for the bill; and, therefore, for the purpose of testing the sense of the House on the question, I move to refer the bill to the Committee of the Whole on the state of the Union.

Mr. TAYLOR. The gentleman will allow me to ask one question. I wish to know if my bill is now in such a position as that it will be considered as offered as a substitute?

Mr. WASHBURN, of Illinois. I trust that, by the consent of the House, the bill of the gentleman from Louisiana will be considered as offered, and that he will have a vote upon it. I have no objection to that.

Mr. McKNIGHT. I prefer that the bill of the gentleman from Louisiana should be offered as an amendment. It strikes me that we should perfect the original bill. I have an amendment to offer when it shall be in order to do so.

Mr. WASHBURN, of Illinois. I appeal to the gentleman from Georgia to withdraw his motion to refer the bill to the Committee of the

Whole on the state of the Union, and let us proceed to the consideration of the bill by sections. Gentlemen can offer their amendments, and we can get rid of it.

Mr. CRAWFORD. I prefer to take it as it is. Mr. CLARK, of New York. I hope the gentleman from Georgia will permit further discussion at this stage of the bill.

Mr. BURNETT. I was going to second the appeal of the gentleman from Illinois. We can certainly, under the new rule, complete the bill as well in the House as in the Committee of the Whole on the state of the Union. This measure will be pending here for several years. It has been a special order time and again. The act of 1852 ought either to be repealed or amended. I am for amending the law. We have got an act now before us. The whole subject is before the House; and it does seem to me that we can consider it as well in the House as in the Committee of the Whole on the state of the Union; and so dispose of a question that has been pending here for the last four years—ever since my service in Congress began. I hope the bill will be acted on and disposed of now.

Mr. CRAWFORD. I will state very frankly to the gentleman from Kentucky, that I am not a friend of this bill; and I desire to make such a motion in relation to it as will be the strongest looking to its defeat. I apprehend that a question to lay the bill on the table would not be so strong as the motion which I have made, to refer the bill to the Committee of the Whole on the state of the Union. It is for that reason that I have submitted the motion.

In reply to the gentleman from New York, I would say that, unless the debate shall be limited upon this bill, he will be entitled to discuss and amend it in the Committee of the Whole on the state of the Union. We shall not be limited in the Committee of the Whole to five minutes' discussion until after the House shall first limit the debate to a certain length of time after the consideration of the subject is resumed.

Mr. CLARK, of New York. I propose to discuss some of the features of this bill; but I am indifferent when I do it.

Mr. BURNETT. I wish to say to gentlemen who desire to amend the act of 1852—and no one who has examined it will disagree with me in the proposition that that act ought to be amended—that the reference of this bill to the Committee of the Whole on the state of the Union would, in my judgment, be its death. I do not myself wish the bill as it is reported by the Committee on Commerce; but I am satisfied that there is legislation needed, in order to amend and perfect the act of 1852. If this House will not amend that act; if we will not give additional legislation for the protection, not only of commerce itself, but of the lives of passengers upon vessels; if we will not do that, then we ought to repeal the act of 1852.

I do not propose to discuss this measure at length. It has received the attention of two Committees of the Whole, and I do not agree to the

Mr. WASHBURN, of Illinois. Of three.

Mr. BURNETT. It has received the consideration of three committees of this House. It has been submitted, I believe, to two Secretaries of the Treasury. It has undergone the scrutiny of the board of superintendents. It comes before us with all the sanctions, at least, of a thorough investigation. Then let us take up the measure, section by section, in the House. If the bill is defective, as contended by the gentleman from Georgia, let us amend it section by section, and dispose of it in some way. The gentleman from Georgia is candid enough to tell us that he is the enemy of the bill, and desires to kill it. Do not, then, let us send it to the Committee of the Whole on the state of the Union, where it will never be heard of again. I hope the House will not agree to the motion of the gentleman from Georgia.

Mr. GARTRELL. Before the motion is put, I desire to ask the chairman of the Committee on Commerce whether this bill was unanimously reported to the Committee.

Mr. WASHBURN, of Illinois. It was, sir. Mr. GARTRELL. At the last Congress and at this?

Mr. WASHBURN, of Illinois. Yes, sir. Mr. GARTRELL. And it has been recommended by two Secretaries of the Treasury—has it not?

Mr. KEITT. Did any one ever read the bill except the chairman of the committee?

Mr. GARTRELL. I will send my friend from South Carolina, that being a little attentive to my business, I read it and the report too; and I am prepared to vote for it with the amendments indicated by the gentleman from Illinois; believing, as I do, that it is a salutary measure, and one demanded by the interests of the great masses of the people of the country, although opposed by monopolists, comprising the ship-owners of certain latitudes.

Mr. BURNETT. I am not sufficiently familiar with the rules of the House to understand whether a motion of this character would take precedence of the motion of the gentleman from Georgia; but, if it is in order, I desire to move that the bill be taken up, section by section, and considered in the House.

Mr. KEITT. Is not the motion of the gentleman from Georgia first in order?

The SPEAKER. The motion to refer the bill to the Committee of the Whole on the state of the Union must be first decided according to the rules.

Mr. MILES. Before this question is put upon the motion, I would like to see the chairman of the Committee on Commerce in what respects this bill differs from the one reported by the committee in the last Congress? I had the honor to be a member of the Committee on Commerce of the last Congress, and I am sure that the bill reported with some care, but I have had no opportunity of examining this bill.

Mr. WASHBURN, of Illinois. I will state to my honorable friend from South Carolina that there are no material alterations in the bill.

Mr. MILES. It is substantially the same as the bill which I proposed to offer as a substitute for the bill of last session.

Mr. CLARK, of New York. Did I understand the gentleman to say that the chairman of the Committee on Commerce in what respects this bill differs from the one reported by the committee in the last Congress?

Mr. WASHBURN, of Illinois. I do not know whether the gentleman understood me or not, but I said so.

Mr. CLARK, of New York. Did you say that Mr. WASHBURN, of Illinois. I said that as I understood it, it received the unanimous approval of the committee.

Mr. NIXON. My impression with reference to the bill is that the chairman of the committee was authorized to report it without any sort of commitment on the part of the other members of the committee, as to whether we would support it or oppose it in the House. I appeal to my friend from New York, [Mr. JOHN COCHRANE] if that was not his understanding?

Mr. WASHBURN, of Illinois. That is how I understand it. There was no dissent expressed by any member of the committee; but it was understood that if any gentleman saw anything in the bill on further reflection that he disapproved, he was at liberty to say so.

Mr. JOHN COCHRANE. I understood that the chairman had authority from the committee merely to report the bill.

Mr. SICKLES. When this bill was up before the last Congress, I intended to send it to the Committee of the Whole on the state of the Union, not because I was opposed to the principle of the bill, but because I thought that it introduced new regulations with regard to the commerce of the country, which ought to be carefully considered by this House. I think that this interest which has occurred has proved that the provisions of the bill are, in the main, salutary, and that its passage into a law would be accepted with gratitude by the country.

Upon this subject, Mr. Speaker, we must adopt one of two principles: either to leave commerce, with reference to the safety of human life, entirely to the vigilance of interested parties, either ship-owners or passengers; or we must make this the subject of wise and careful governmental regulations. We cannot do the latter, unless we begin by leaving every one to look out for himself; or, if we agree that that is not wise, in view of past experience, we must avail ourselves of the result of experience and experiment, and embody into a statute such legislation as experience has shown to be best calculated to prevent the disasters which have become so frequent upon the sea and rivers.

While, sir, I am one of those always reluctant to interfere by governmental regulation where it is possible for private vigilance or private interest to protect itself, I do believe that the experience of all commercial nations—our own among others—has demonstrated that the wisdom of Congress should avail itself of the experience of the commercial world, and do something more than has yet been done for the protection of human life upon the sea, and upon the waters generally of this country.

Sir, let me call the attention of the House to a general observation which is made with reference to the safety to steam vessels in this country and in European countries. It is that probably more accidents occur upon the rivers of this country and upon the sea in American vessels than in those of any other country. Something of this may be attributed to another truth: the proverbial recklessness of Americans with reference to their personal safety in traveling.

But, sir, I call the attention of the House to the very great difference which exists between the vigilance employed by the Government of this country and the vigilance employed by the Governments of the European commercial countries, in reference to the safety of passenger vessels. Let me call the attention of the House to a very recent proof of the extreme care with which other Governments look upon the safety of their vessels. Five million dollars and more was expended in the construction of the Great Eastern, that marvel of the world. Upon that vessel were brought to bear all the resources of naval architecture which modern times had developed; upon that vessel was developed every improvement which science had discovered in reference to engines and machinery—every improvement which had been suggested in reference to the safety of passengers, and their comfort and convenience. What next? When the vessel was subjected to the examination of the English board of trade, they would not allow her to be cleared; and the reason was not defective in the machinery, but that they could not give her a certificate, without which she could not effect an insurance, or be cleared from a British port; because, in their judgment, great as had been the skill expended upon her, and lavish as had been the expenditure, she was not deficient in the necessary equipment of a country no such restriction would have been imposed. Vessels may be constructed according to the caprice of any owner, and they may be sent to sea without any governmental supervision except the very imperfect one provided by the act of 1852, in reference to the machinery; and it is that this striking contrast is exhibited in the fostering care exercised by the two Governments over human life, safety, and comfort, in traveling by steam over the sea; hence it is that we are obliged to confess—republish as that by reason is to our country, and injurious as it is to the prosperity of our commerce—that our steam vessels are fast disappearing from the sea, and giving place to similar craft constructed in other countries. Passengers instinctively, with a due regard to their own safety, prefer foreign-built vessels to American-built vessels.

Now, sir, freight soon follows passengers, and the mail soon follows passengers and freight; and the commerce of the world soon follows in the same channel indicated by passengers, mail, and freight, in the preference of foreign transportation. I hope, therefore, that this subject will be entered upon seriously by this House; that it will not be consigned to oblivion, or subjected to the delay that would come on its being sent to the Committee on Commerce. While the bill is pending, I hope that the suggestion of the chairman of the Committee on Commerce, [Mr. WARREN, of Illinois], accompanied with as much force by the honorable gentleman from Kentucky, [Mr. BRANNETT], will be acted upon; that we shall take up the subject in the House, consider it, and pass it by action, and dispose of it within a reasonable time. I think by so doing we will only meet a just public expectation, and perform a high public duty.

Mr. CLARK, of New York, obtained the floor. Mr. BRANNETT. If the gentleman from New York is not particular in his opinion, in the consideration of the bill at which he makes his remarks, I ask him to allow the question now to be taken upon the proposition to refer the bill, and he will then be entitled to the floor.

Mr. CRAWFORD. I prefer that the gentleman

from New York shall submit his remarks now. I think perhaps the remarks he may submit will have some influence with the House in their decision of the question of reference.

Mr. MILES. If the gentleman from New York has no particular desire to submit his remarks at this point, I hope he will give way.

Mr. CLARK, of New York. On the whole, I think I had better go on and present my remarks. Mr. Speaker, the bill which is the subject of consideration to-day must be conceded to be one of unusual importance. It affects directly the great commercial interests of the country. It deals with every branch of our industry which is concerned in, or connected with, the navigation by steam of our lakes, rivers, and harbors. It reaches, sir, beyond these fields of inland commerce, and brings within its grasp the whole steam tonnage of the United States employed in the navigation of the ocean. The amount in value of the property which is sought to be subjected to its enactment is so large, and the number of our citizens whose interests are to be affected by it, should it become a law, is so considerable, that I am constrained to concur with gentlemen in the opinion that the bill and its several provisions are entitled to the most serious attention of the House.

The title of the bill must be regarded as a taking one; for surely no gentleman upon this floor can fail to sympathize with any well-directed effort towards increasing the security of human life. All the enterprises which are engaged in, in which life is exposed upon that peculiar element, which, while we have been enabled to subject it to our use, we have as yet been unable to reduce to our control.

If the honorable gentleman from Illinois shall have succeeded by the scheme of his bill in depriving the seas of their ancient terrors, he will have rendered a distinguished service to his race, and have securely laid the foundation of perennial fame.

I feel, sir, as the gentleman has doubtless felt, regret that the limitation of debate, which results from the hour rule, forbids the effort to bring before the House the field of examination and inquiry necessarily opened by the provisions of this bill. The most that I can attempt is to state the contents of the bill, to suggest the advantages of its proposed provisions, and to call the attention of the House to the alterations proposed, and to the practical effect of the proposed alterations upon the commerce which is the subject of our action.

All the acts of Congress regulating the carriage of passengers by vessels propelled by sails or steam extend back to about the year 1819, when, if I mistake not, the first act regulating passenger ships was passed. Congress seems to have then asserted full power over the whole subject of ocean transportation; and it may now be too late to question the existence of the power, or to attempt to place limits upon its exercise. I have not time to enter upon the discussion of that branch of the subject. From 1819 down to 1855, various enactments were passed having reference to the general subject of passenger transportation upon the ocean.

In the year 1855, an act was passed entitled "An act to regulate the carriage of passengers," &c., in which was contained a substantial repeal of all the existing laws relating to passenger transportation upon the ocean, except the statute of July 7, 1838, and August 30, 1852. These two acts have special reference to vessels propelled in whole or in part by steam, and, together with the act of 1855, to which I have referred, and which by one of its sections was made in some particulars, applicable to steam vessels, remain in force.

In these acts of 1838, 1852, and 1855, are to be found embodied the existing laws regulating passenger carriers on our inland waters and upon the sea.

The act of 1838 was passed before the problem of the practicability of the navigation of the ocean by steam was fully solved, and its provisions were chiefly confined to the establishment of a system of inspection of the hulls, boilers, and machinery of steam vessels on the lakes, bays, lakes, and rivers of the United States.

The inspectors, whose offices were created by that act, are appointed by the district judge of the United States within whose district any ports of entry or delivery may be, and their compensation

is derivable from fees allowed them for the annual inspection of hulls and the semi-annual inspection of the boilers and machinery provided for by the act. These fees are paid by the owner and master of the vessel, and were fixed by the act at five dollars for each inspection. This act entailed no expense upon the public Treasury. Its machinery was simple and its provisions clear and well defined. The persons appointed by the act as inspectors have been the means of securing the faithful execution of the law. So far as my knowledge extends, there is no substantial ground of complaint against it.

The act of 1852 was an amendment of that of 1838, to which I have referred, but of more drastic proportions. Founded upon the same policy which dictated that of 1838, and with the same professed objects, it brought into being a new set of inspectors, clothed with vast powers, and rendered capable, by reason of its peculiar provisions, of becoming the possessors of vast revenue. From the small beginnings of the act of 1838 has arisen the magnificent system of steamship and steamboat inspection which now prevails in these United States—a system gigantic as the commerce of the country, provided for by a body of men who, by means of the extraordinary extension of their governmental charter, exercise to-day a power over the maritime and commercial interests of our people, of the extent of which many of the members of this honorable body have no conception.

This act of 1852 has relation as well to steamers registered as enrolled, and the powers of the inspectors created by it now extend to every description of vessel propelled in whole or in part by steam, and owned by a citizen of the United States, to which is excepted the machinery of ferry-boats, tug-boats, tow-boats, and steamers, not exceeding one hundred and fifty tons burden, used in whole or in part for canal navigation. These descriptions of steamers are exempt from the operation of the act of 1852. They remain under the supervision of the inspectors created by the act of 1838. Public vessels of the United States and vessels of other countries are also exempt from the act of 1852. But, with these exceptions, not one single steamer's wheel can turn without the approbation of these gentlemen first had and obtained.

I do not purpose to examine in detail the provisions of the act of 1852, for it is not essential that I should do so for any purpose, and that is to satisfy the House, if I can, that no good reason exists why the act of 1852 should be extended over the humble craft which were expressly exempted from its reach by its forty-second section.

I am not apprised of any public grievance which can be remedied by this proposed extension of the act of 1852. I am not aware that any advantage can accrue to our people by reason of the transfer to the inspectors appointed under this act, of the powers and duties conferred by the act of 1838 upon the inspectors therein directed to be appointed by the district judges. The same considerations which impelled the Congress of 1852 to exempt this small craft from subjection to the cumbersome machinery of the act of that year, operate with increased force in favor of the continuance of such exemption. It is true that the powers of the inspectors existing under the act of 1852, have been greatly increased if this scheme shall be adopted; but I can conceive of no advantages to result therefrom, except to the inspectors themselves.

It may well be questioned whether Congress has the constitutional power to lay its hand upon the fees which in many of the States are run under licenses granted by municipalities—and subject them to the control and management of the inspectors appointed by the act of 1852. The city of New York holds ferry franchises under a charter older than the Constitution itself, and must be presumed to be competent to make such rules and regulations as are essential to the safe management of the tug-boats, tow-boats, and ferries, in which ply in the harbor of New York and upon her great river.

I can see no good reason justifying the delegation by Congress to this board of inspectors of

the power of making rules and regulations governing the small craft. The ostensible scheme of this bill is to provide for the safety of passengers on steam vessels. These tugs, tow-boats, and freight-boats do not carry passengers. Interference with them cannot, therefore, be conducive to the alleged purpose of this bill. By the proposed act, Congress will subject them to more and different inspection, and their owners to new expenditures; but I think to no useful purpose.

Under the provisions of the act of 1859, the inspectors appointed thereunder are authorized to examine and license all pilots of steamers carrying passengers, and by the tenth section of the act it is declared unlawful for any person to employ, or any person to serve, as pilot on any such steamer, who is not licensed by the inspectors.

By the thirty-first section of the act the pilot is required to pay to the inspectors, (for the use of the United States, as I understand the bill), for their license, the sum of five dollars upon the granting, and the further sum of one dollar for each renewal of the certificate of license.

This seems a trifling tax; but I am unable to discover any other reason why Congress should prohibit the owner of a steam-tug or freight-boat not carrying passengers, plying about our harbors, from selecting himself the pilot or engineer to whose care he sees fit to intrust the management of his business, and to whose prudence he subjects the safe-keeping of his property. I am quite unable to appreciate the wisdom of the policy which would impose such restrictions upon this petty commerce.

I have prepared and submit a statement of the increased expense of the execution of this proposed law, over and above that of the act of 1859:

Law of 1859.

New York	2 inspectors, \$2,000 each,	\$4,000
New Orleans	2 "	4,000
Boston	2 "	4,000
Pittsburg	2 "	4,000
Louisville	2 "	4,000
St. Louis	2 "	4,000
Philadelphia	2 "	4,000
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Mr. MORRIS, of Pennsylvania. Will the gentleman allow me to ask him whether there is no restriction as to the number of passengers carried by the Eastern mail steamers to New York?

Mr. CLARK, of New York. Not by tonnage. There may be by space.

Mr. MORRIS, of Pennsylvania. I notice that the Persia does not carry a greater number of passengers than the Vanderbilt.

Mr. CLARK, of New York. In that trade I think all the ships can carry all that apply. This thirteenth section of the bill does not operate oppressively on such ships as the Persia and the Vanderbilt. It would still permit such large ships as the Atlantic voyagers ordinarily offering. It is a smaller class of steamers that strikes those of from one thousand to eighteen hundred tons. When honorable gentlemen say that they are in favor of the people against the monopolists, I feel that I can assure them that such measures as this do not aid the people. They may discourage the capitalist; but it is very difficult even by a scheme as palpably unjust and oppressive as this, to strike down all the advantages of accumulated wealth.

Now, I will illustrate the practical effect of this proposed change in the law upon one particular passenger-carrying trade—one which has been at times remunerative, and may be still regarded as a compensating enterprise to the capital employed in it: a trade conducted exclusively by American coast steamers. I refer to the steamship trade between our Atlantic and Pacific States.

Mr. WASHBURN, of Illinois. I would ask the gentleman who has the control of that entire trade this side of Panama?

Mr. CLARK, of New York. I will answer the gentleman with pleasure. The control of that trade on the Atlantic side is in the hands of a corporation created by a law of the State of New York, and known as the Atlantic and Pacific Steamship Company. The control of that trade upon the Pacific side is in the hands of a corporation also created by a law of the State of New York, and known as the Pacific Mail Steamship Company; and the carrying trade across the Isthmus of Panama is in the hands of a corporation also created by the State of New York, and known as the Panama Railroad Company. The capital embarked in the entire enterprise exceeds ten million dollars.

Now, this trade is undoubtedly worth preserving. You may do what you please about the Atlantic trade; you cannot wound deeply in that quarter. You may make a law, if you see fit, providing that no American citizen shall cross the Atlantic ocean in an American steamer. I should, of course, vote against it; but, at the same time, it would not do much harm. But it would be unfortunate if your legislation should paralyze this branch of the coasting trade. That trade is carried on by steamships of about eighteen hundred tons; and those steamers, under the law as they now exist, (the tonnage allowance being reduced by the space requisition of the act of 1855,) can carry seven hundred and fifty passengers. The average price of passage from New York to California is \$110, including the Isthmus transit, the price of which is \$25.

Mr. WASHBURN, of Illinois. Will the gentleman be good enough to state what length of time this service has been running? The price was five or six hundred dollars a short time ago.

Mr. CLARK, of New York. I heard the gentleman make that statement in his opening speech in support of this bill, and designed to suggest to him to correct it. He has been advocating this measure, as I am informed, for four or five years; but if he had made inquiry upon the subject, he would have been informed that, for eight years at least, the price has not been as high as he has stated. It is true that, on the first opening of the California trade, the price was very high; but competition intervened, and the price fell at once to \$300. It has very frequently fluctuated, but always below \$300. Within a year past it has been down to fifty dollars. Yes, sir; these "wealthy monopolists," of whom gentlemen speak, have carried passengers from New York to San Francisco, and back, for twenty miles, for fifty dollars, and often for forty dollars; paying, therefrom, twenty-five dollars to the Panama railroad company; and receiving, of course, but the remaining fifteen or twenty dollars for the carrying and boarding the passenger on the voyage.

Mr. SCOTT. Will the gentleman yield to me for a moment?

Mr. CLARK, of New York. Certainly. Mr. SCOTT. It is well known during the last Congress, of which I had the honor to be a member, I delivered a speech in regard to the bill introduced by the gentleman from Illinois. Now, sir, I know full well that in the early history of my State, as the gentleman alleges, the price of the passage from New York to San Francisco was from five to seven hundred dollars. A certain company, known as the Pacific Mail Steamship Company, which has been recognized and acknowledged as a monopoly in that State, had the price put at \$750 or \$300.

Mr. CLARK, of New York. That was in the cabin, I suppose.

Mr. SCOTT. Yes, sir; \$300 first class, and \$150 in the steerage. Now, I am willing to concede, that when the Vanderbilt line was placed on, and came in competition with the Pacific Mail Steamship Company, no long as the competition existed, the price went down to fifty dollars in the steerage; in the first class to \$100; and in the second class to seventy-five dollars. But I wish to call attention to the fact that the Vanderbilt and Pacific Mail Steamship Companies have since been consolidated; and though it is true, as the gentleman says, that the prices are lower than they were under the Pacific Mail Steamship Company, I tell him that they have risen—in the steerage, from fifty dollars to \$100; and in the first class, from \$100 to \$300. Now, I do not know what guarantee he can give me that the present existing line will not feed upon and prostrate California interests, as former ones have done. I have no confidence in these monopolies.

So far as this matter in regard to carrying one passenger for every two tons is concerned, the gentleman confessed in a portion of his remarks, just now, that they carried as many as they could get.

Mr. CLARK, of New York. In the European steamers.

Mr. SCOTT. Well, they carry as many as they can get in the California steamers, too. I have crossed the Isthmus of Panama eight times, and I am willing to certify on my responsibility that an ordinary steamer of one thousand tons, carrying five hundred passengers, it carries from twelve to fifteen hundred, packing them as sheep and hogs are carried to market.

Mr. CLARK, of New York. Well, they must do so under the existing law.

Mr. SCOTT. They will violate the law.

Mr. CLARK, of New York. Then it is hardly worth while to legislate further on the subject.

Mr. SCOTT. I do not think it is, so far as the monopolists in New York are concerned. None but wealthy men can get to California by these steamers. We get our population—the population we want—from the Northwest; the men who bring their picks and their shovels, and their wives and families in wagons.

Mr. CLARK, of New York. Before gentlemen determine to strike at this trade, let them look at the statistics, and consider the practical operation of this proposed change of the law upon the earnings of the classes of steamers employed in it.

When it is suggested that any particular branch of industry should be protected, we always inquire as to the effect of the deprivation of the protection sought upon the particular industry. With equal justice, when it is proposed to enact a law to reduce the amount of the gross earnings of a ship in a particular trade, by reducing her capacity so that she will be unable to carry as many passengers as she is now capable of carrying, we are warranted in inquiring as to the effect of the injury we shall inflict upon the particular branch of industry which needs to be crippled.

Now, take a steamer of one thousand tons. Under the law, as it existed when she was built, and as the law exists to-day, she can carry five hundred passengers. She is fitted up and equipped to accommodate that number. If in the California trade, and a full complement of passengers offers, she can earn (at the present average price of \$110) for her round voyage, the sum of \$110,000. Deducting the railroad fare for five hundred passengers out, and for the same number home, at \$25, there would be left for the ship, as her gross receipts, the sum of \$65,000.

Under the restriction proposed by the thirteenth section of the bill, she can carry but two hundred and eighty-five passengers. She would then have

the capacity to earn, for her round voyage, the sum of \$62,700. Deducting the railroad fare for her two hundred and eighty-five passengers out and home, there would be left for the ship, as her gross earnings, the sum of \$48,450. The statement in gross receipts which would result to that steamship, from this change in the law, would therefore be \$36,550 for her round voyage.

Now take a steamer of eighteen hundred tons. Under existing laws, she can carry seven hundred and fifty passengers, but allowance for tonnage rule being reduced, as she has been advertised, by the space requisition of the act of 1855. If a full complement shall offer, she can earn, at present prices, for her round voyage, \$165,000. Deducting \$27,500, the amount of the railroad fares of her passengers out and home, there would be left for the ship, as her gross earnings, the sum of \$137,500.

Under the restriction of the thirteenth section of this bill, she can carry but five hundred and fourteen passengers, and by the same rule of computation her gross receipts would be reduced, after deducting railroad fare, to \$87,380; thus making a difference against her of \$40,120 for her round voyage.

The corporations associated in this trade, and forming a continuous line to San Francisco, and from the ports of New York and San Francisco three steamships per month. Upon each of these voyages, this proposed change of the law will work a similar diminution of the number of the steamships upon the two oceans would, therefore, under this law, be deprived of upwards of a million dollars per annum. The expenses of the voyages are not, of course, correspondingly reduced. The only diminution of expense would be that resulting from the provisioning of a less number of passengers on the voyage. The expenses of the ship, for coal, wages, &c., and the general expenses of the business, would remain undiminished.

Now, if this mischief is to be done, the inquiry naturally arises, what particular interest is to be benefited, and which is to suffer? The scheme is to help the poor against the rich, is it? Let us examine this suggestion. I know that it may be deemed by some the road to popular favor in these days to clamor against the wealthy; others may deem it the road to worldly success, and the rich as oppressing the poor. I have no doubt that there are masses of men who would be willing any Saturday night to divide up the wealth of the community. But I was surprised to hear in this place that the same persons who would be so ready to divide up the wealth of the community, as the gentleman shall have secured the passage of a law which must deeply injure a great branch of trade, somebody must suffer. Who is it that will sustain the loss? At the rates of passage now established, the steamers engaged in the California trade could not live. Under this law, they could not pay for the coal they burn, the wages and disbursements, and the provisions which the passengers consume. Who will finally feel this loss? It will fall upon the poor, who will be made more honorable and free, while he is engaged in this crusade in behalf of the people against the "wealthy monopolists," that the blow may recoil upon the people, for the plain, palpable effect must be, either to drive the American steamers out of the trade, or compel their owners to double their rate of passenger fare, and thus my friend from California [Mr. Scott] may lose a portion of his honored constituency.

Mr. SCOTT. Upon that subject I desire to call the gentleman's attention to a letter which I received from Mr. Augustus Schell, the collector of the port of New York, from which it appears that in two years there sailed from the port of New York for California, twenty thousand and ninety-five passengers; and arrived at that port from California in the same period of time, twenty thousand one hundred and sixty-one passengers—making a difference of about three thousand. But when you take into consideration the number lost by sickness on the Isthmus, and the number whose destination was South America and Central America, I believe that the aggregate gain of population to California, through this medium, was not five hundred persons in the two years.

Mr. CLARK, of New York. Well, sir, I was going on to say that if it proposed to strike still another blow at the carrying and boarding the carriage trade. It is proposed to take from them

the carrying of the mails, for which service a large sum has heretofore been paid by the Government, and to send them overland.

Mr. WASHBURN, of Illinois. The gentleman does not find that in this bill.

Mr. CLARK, of New York. No, sir; but I find it in another bill which is pending before the House, reported from the Committee on the Post Office and Post Roads. Well, I do not intend to say that. I think that it is well enough to try the experiment of sending the mails by land if the proposition shall be ascertained to be practicable and as economical as the present plan of transmission.

Now, let me say to my friend from California, that I presume, notwithstanding what he has said about the high rate of passenger carriage, he does not wish to see the ocean steamer communication between New York and California broken down, at least until one of the railroads to the Pacific coast shall have been constructed; certainly not until there has been established, by some means, a more frequent communication across the plains than now exists; and I take it for granted that he has no desire to see the price of passage by the ocean route cut off by the gentleman here referred to. I am informed of a cheaper rate of transportation than can be elsewhere found upon the face of the globe. The rates are now established at \$200 for first class, \$150 for second class, and \$100 for the third class. If your bill becomes a law, if Congress shall be so good as to reduce the capital employed in this trade as to reduce the carrying capacity of our ocean steamers nearly fifty per cent., then the rates will rise. Somebody must pay, and my friend from Illinois [Mr. WASHBURN] may yet be misled by some of his constituents that when he was hitting at the monopolists, he was really hitting his constituents. This sort of legislation is unjust to the ship-owners, whom you have encouraged by your laws, and who, by the whole course of your legislation from the foundation of the Government, have been led to believe that their capital might be safely invested in the carrying trade; and that if you would not protect, you would refuse to destroy. It is not right to make this law applicable to ships already built, and now running in accordance with existing law. If the House should fit to make this law applicable to steamers hereafter to be built, I do not know that there will be objection to it. Ships are built to carry passengers and to carry freight. I admit that the less the number of people who go to sea, the less will be the number liable to be drowned in shipwrecks. If you seek to save the lives of every one of our American people from that danger, you ought to prohibit them all from going to sea at all. That is the motto by which you would reach the root of this alleged evil, and make a substantial improvement in the bills of American mortality. I submit it to the intelligence of the House whether it is just, or even expedient, that a provision so radical, that a change so enormous, shall take effect upon steamers long used in accordance with and in behalf of which we contend that they have secured vested rights against this kind of legislative invasion?

Mr. Speaker, there are features of this bill not yet referred to in this debate, which certainly require careful attention. There is a series of provisions, designed for the security of life in case of shipwreck or other accident incident to the sea. The twelfth and fourteenth sections of the bill provide that every seagoing steamer shall have on board a sufficient quantity of lumber to make rafts adequate to carry one half of the maximum number of passengers and crew, specified in the certificate of the inspectors, and boats enough to carry the residue. This seems somewhat plausible at first impression; and I am not aware that ship-owners would object to an equitable precaution, having in view reasonable security for human life in case of accident. But the fact is not as disregarded, that passenger ships have not as yet been so constructed, in any part of the known world, as to enable boats and lumber to be in an indefinite extent to be carried in such manner as to be at all times instantly available. If Congress

shall see fit to insist on this novel requirement, it is difficult to understand upon what principle foreign steamers and sailing ships, carrying American citizens from our own ports, ought to be relieved from its application. The lives of Americans are as worthy of protection from casualties to foreign ships, as from accidents which may happen to ours. English steamers carry boats in accordance with the provisions of an act of Parliament. The law of England on this subject has some regard to the construction of a ship, and some reference to the interests of commerce. It requires that a ship shall carry boats in proportion to her tonnage; but that, under no circumstances, shall she be required to carry a greater number of boats than are necessary to preserve the lives of the passengers and crew on board. This would seem to be a sensible rule. The object of running a steamer is not to carry boats or lumber. You may fill her with lumber and boats, and if she has no passengers there will be no passengers to save. The object of carrying boats is to save life; and it would seem to be practical wisdom that we should regulate the number of boats a ship must carry by the actual number of passengers on board. The bill now before us requires that a number of boats a ship shall carry, not with reference to her actual passengers and crew, but with reference to the maximum number she is by law permitted to carry. Thus, if a ship can, under the law, carry one thousand passengers, and is in fact but fifty, this act would require her to carry boats enough to save five hundred, and rafts enough to save five hundred more. In there, Mr. Speaker, any practical navigator who would not smile upon reading the special provisions of the fourth section. But the law of 1852 does not provide that any of the inspectors shall be a seafaring man, or familiar with the incidents of marine disaster, when man must rely for his safety upon the providence of God, and the precautions of men become tantamount to unavailing.

[Here the speaker fell.]
Mr. CRAWFORD. I have been requested by gentlemen upon both sides of the House to withdraw the motion I submitted that this bill be referred to the Committee of the Whole on the state of the Union, and to ask the yeas and nays on the question on Commerce whether he will agree to a postponement of the further consideration of the bill for two weeks from this day?

The SPEAKER *pro tempore*. Mr. WATSON in the chair.) A motion to postpone is in order upon this bill.

Mr. WASHBURN, of Illinois. I hope that gentlemen will not postpone the consideration of this subject.

Mr. CRAWFORD. I have had a conference with more than a dozen gentlemen upon this bill, and they all admit that it has not been sufficiently well examined on their part to enable them to present to vote satisfactorily upon it. I can see no reason why the gentleman from Illinois should object, if, by consent of the House, the further consideration of the bill is postponed for two weeks, and made a special order.

Mr. WASHBURN, of Illinois. I do not see why we should not go on now under the new rule, and in the House take up and act upon the bill, section by section. Every member here will have the opportunity to know what is in the bill, and every provision of the bill. I hope the gentleman will not press his motion for a postponement.

Mr. CRAWFORD. If the gentleman from Illinois will consent to a two weeks' postponement, I will move upon a vote upon the yeas and nays to refer the Committee of the Whole on the state of the Union; otherwise, I will.

Mr. WASHBURN, of Illinois. I have no desire, Mr. Speaker, to press the consideration of this bill at this time against the manifest disposition of the House, or any large number of members. I had hoped that gentlemen would have examined the bill and come here prepared to act upon it, and to perfect it as it came before us, section by section. There are other matters which will interfere with the speedy consideration proposed. There is the codification of the existing revenue laws of the United States, which will come up upon the 3d of April next.

Mr. CRAWFORD. That will come up next Tuesday; and I propose that the further consideration of this bill be postponed for two weeks from to-day.

Mr. WASHBURN, of Illinois. If it be the general understanding of the House that this bill, if postponed, shall come up two weeks from to-day as a special order, and be then disposed of, I do not know that I will interpose further objection.

Mr. CRAWFORD. That is what I propose. Mr. VALLANDIGHAM. It is of little use to postpone this bill and then to discuss it two weeks from to-day, unless there is an understanding that it shall be taken up and read and discussed by sections.

Mr. WASHBURN, of Illinois. I take that to be the understanding of the House—that the bill shall be taken up by sections, and discussed and disposed of.

Mr. VALLANDIGHAM. Then I do not object.

Mr. MILLSON. I think, sir, that we are wasting a great deal of time in the discussion of preliminary questions. If the bill is to be postponed, let us take a vote on the question at once. Let us take a vote on the motion to refer to the Committee of the Whole on the state of the Union; and, if that is not carried, then let us go on and consider the bill.

Mr. WASHBURN, of Illinois. If the bill is postponed, it is the understanding, I trust, that there shall be no dilatory motions interposed to its consideration, section by section, and its disposition at the time to which it is postponed.

Mr. SHERMAN. I insist that I shall not interfere with the morning hour; that it shall not come up until after the morning hour.

Mr. WASHBURN, of Illinois. I do not object to that.

Mr. MILLSON. I claim the floor. I am about to make a motion, and I want to introduce with a remark or two in reply to the observation of the gentleman from Ohio [Mr. VALLANDIGHAM]; and because a number of members, as well as himself, seem to be under an erroneous impression in regard to the effect of the amended rules of the House.

This bill is now, without any agreement or consent, open for debate in the House, section by section, as if it were in the Committee of the Whole. Heretofore, I have always voted and urged that this bill should be referred to the Committee of the Whole on the state of the Union; but since the amendment of the rules—which amendments were made with the very object of avoiding the difficulties before existing—we can now go on and discuss this bill precisely as in the Committee of the Whole on the state of the Union; and the House may, at any time, suspend the debate upon every pending amendment, and then go on to the consideration of a subsequent amendment. For that reason, I should have voted against the motion to refer to the Committee of the Whole on the state of the Union. And now, with a view to terminate the debate, and bring the House to an immediate vote upon the motion to postpone—our new rule providing that the previous question, when a motion to postpone is pending, shall apply only to the motion to postpone—I call for the previous question upon the motion to postpone.

Mr. SHERMAN. I have objected to postponing this bill; but I desire to know whether the motion is to postpone to the specified day, to be taken up after the morning hour?

The SPEAKER. The Chair understands that it is to be made the special order after the morning hour.

Mr. WASHBURN, of Illinois. The understanding, I believe, is, that the bill shall come up then for the purpose of being considered section by section, without any motion to refer it, and without any dilatory motion. [Cries of "Yes," "Yes!"]

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the motion to postpone was agreed to.

Mr. SHERMAN. I move that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the Army appropriation bill.

PACIFIC RAILROAD.

Mr. HINDMAN. Will the gentleman allow me to introduce a bill for the purpose of referring it to the special committee upon the Pacific railroad?

Mr. SHERMAN. The gentleman will have an opportunity to do that on Monday.

Mr. HINDMAN. I would like to do it now, for the purpose of having it printed.

No objection being made.

Mr. HINDMAN introduced a bill to authorize contracts and make provisions for the safe, certain, and more speedy transportation, by railroads, of mails, troops, munitions of war, and military and naval stores, between the Atlantic States and California, and for other purposes; which was read a first and second time, referred to the select committee on the Pacific railroad, and ordered to be printed.

PUBLIC PRINTING.

Mr. CLOPTON. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the resolutions upon the matter of the public printing, heretofore referred by the Committee on Public Expenditures, and the report of the majority of the committee, submitted on the 26th of March, be recommitted to that committee, with power to send for papers and papers, and examine further witnesses.

Mr. GROW. I object to that. It has been disposed of once.

JAMES W. BREDLOVE.

Mr. TAYLOR. With the permission of the gentleman from Ohio, I desire to move that the papers in the case of James W. Bredlove be withdrawn from the Committee of Claims and the Committee on the Courts, and that the same be referred to the Court of Claims.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. ANDERSON, of Kentucky. I rise to a personal explanation. There was, I understand, a resolution offered in this House yesterday, by the gentleman from Ohio, [Mr. BLAKE], the purport of which I do not know, except by reading the Globe this morning. When the vote on it was taken, and when I was present, I was not in the House. I was in Baltimore with my wife, who was starting for Kentucky. There were, as I understand, though it is not reported in the Globe, some reflections upon me in consequence of my absence, which I very much regretted; and I desire to state so much as I can in my personal explanation, in order to set against that resolution, because I am opposed to it throughout—preamble and resolution.

I desire further to state, that in the first time I have ever known, so far as my limited observation extends, that gentleman's absence was called in question. I should not have deemed it important for me to make an explanation, except for the fact that I saw in the Globe that my absence was alluded to by certain gentlemen present in this House.

Mr. WASHBURN, of Maine. The presence of a couple of gentlemen was questioned yesterday.

Mr. ANDERSON, of Kentucky. I do not know how that was. I desire to say in addition, that in looking over the vote I see that a great number of members were absent. I suppose, I do not know; but I take it for granted they were absent for sufficient reasons. I was not in the city, but with my family at Baltimore.

I address those who thought proper to throw imputations upon me in consequence of my absence, and I say, if they think proper, cast imputations upon me, or to make imputations against me, for not voting upon that proposition, that I am not to be intimidated, not to be threatened, and not to be whipped into the Democratic ranks, if that is the object.

Mr. HINDMAN. I will state that I am one of those who remarked upon the gentleman's absence from the House. The circumstances, to my mind, did seem a little significant, especially when taken in connection with the fact that the gentleman had, upon a previous occasion, voted for a Black Republican candidate for Printer of this House. As to intimidating, threatening, or whipping the gentleman into the Democratic ranks, I am the last one who would desire any such result.

Mr. ANDERSON, of Kentucky. And that is the last place where I should desire to be. I have no apology to make for voting for a Black Republican for Printer. Under similar circumstances I would do so again.

Mr. BARR. Had we not better stop this right here?

Mr. ANDERSON, of Kentucky. Only one

word more. Had I been here, I should have voted against that resolution. My absence, as I stated before, was the consequence of the fact that I was called, with my family on the way home, to Baltimore to meet friends.

PUBLIC PRINTING—AGAIN.

Mr. HOUSTON. I desire to appeal to the gentleman who objected to the resolution of my colleague, [Mr. CLOPTON], that he will allow my colleague to make the motion to recommit the report of the Committee on Printing which was made yesterday. He deserves it upon the ground, I understand, that he has obtained information of a witness whom the committee, or a portion of the committee, desire to examine upon this same subject. I take it for granted that gentlemen will hardly vote against a recommitment of a report with a view to examination of a witness, under these circumstances, with the same power to send for persons and papers.

Mr. SHERMAN. The chairman of that committee is not here; nor is the gentleman who objected.

Mr. HOUSTON. I hope the report will be recommitted to the committee with the original powers over the subject. There can be no objection.

Mr. SHERMAN. There are objections. The gentleman from Pennsylvania [Mr. GROW] made one, and I make it again.

Mr. HOUSTON. Does the gentleman object?

Mr. SHERMAN. I object, because others do.

Mr. HOUSTON. That is no reason why you should object.

Mr. GROW. I object.

Mr. HOUSTON. If the gentleman objects to the examination of witnesses under these circumstances, of course I cannot insist upon it.

Mr. GROW. It is not necessary to give any reason for the objection that the gentleman has reported.

Mr. HOUSTON. I ask whether the matter of the further examination into a case before the Committee on Printing, and which has been partially reported on, is not a privileged question?

THE SPEAKER pro tempore. The subject is not within the House. The pending question is upon the motion of the gentleman from Ohio, that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken on Mr. SHERMAN's motion; and it was agreed to.

ARMY APPROPRIATION BILL.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union. [Mr. GROW in the chair,] and resumed the consideration of House bill No. 305, making appropriations for the support of the Army for the year ending 30th June, 1861.

Mr. SHERMAN moved to dispense with the first reading of the bill, and that it be taken up and read by sections, for amendment.

The motion was agreed to.

The first reading of the bill was dispensed with; and the Clerk proceeded to read the bill by sections, for amendment.

Mr. DELANO obtained the floor.

Mr. BOTELER addressed the Chair.

THE CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Virginia?

Mr. DELANO. I give way to the gentleman from Virginia, because I presume he intends to propose a similar amendment to that I desired to offer.

Mr. BOTELER. I move to amend the bill by striking out the words "two hundred and fifty," and inserting the words "four hundred and forty," in lieu thereof the words "four hundred," so that the clause will read:

For the manufacture of arms at the national armory, \$400,000.

I have no desire in the world, Mr. Chairman, to impede the progress of this bill through the House, but I have many unsuccessful attempts at my passage, as reported by the chairman of the Committee of Ways and Means. But I should be derelict in the duty I owe to my constituents and to the country if I did not offer this amendment, and urge its adoption on the House. I have very little to say, Mr. Chairman, in support of it, except to make a simple statement of

facts which have come to my knowledge, showing how it happens that the chairman of the Committee of Ways and Means has reported a sum of \$250,000 for the armories; instead of the usual amount of \$400,000. Being very much surprised when I saw the report, I asked the chairman of the Committee of Ways and Means how it was that this money was reported. He referred me to the estimates; and, to my great surprise, I found that the estimate for the manufacture of arms, which had been sent to the Committee of Ways and Means, was identical in amount with the sum which he reported. I then went to the Ordnance Bureau, and had a conversation with the chief of Ordnance upon the subject. I knew very well that the distinguished gentleman who presides over that bureau felt deeply interested in the prosperity of the national armories; and I was naturally solicitous to ascertain why the same appropriation that was made last year, and which I knew had proved disastrous to the interests of the armories, had been recommended this year. He assured me of the interest he felt in the armories; and told me that the report which he made for the manufacture of arms at the national armories recommended the sum of \$400,000—the sum which I propose in my amendment—but that this amount had been stricken out by his superior officer. Failing to have an interview with the Secretary of War, I saw his chief clerk, and learned from him that the War Department had reported that that reduction in consequence of the legislation of last year on that particular item of appropriation.

Now, Mr. Chairman, being well acquainted with the effect of last year's legislation on the armory in our distant States, I am fully satisfied that the amount granted us was utterly insufficient to carry on the armories for the fiscal year; and having seen that some of the best armors—men who had been educated there, who had been living there for years, and whose services were indispensable in the Government, had been discharged, and that they were deprived of employment, and driven from their homes to seek a livelihood in other parts of the country, on account of the inadequate appropriation, I was extremely solicitous that this year there should be not only a restoration of the usual appropriation, but also of the deficit of last year, so that the year should be made up by the present Congress. These armors have been looking hopefully and trustfully to this Congress for some relief, and they have applied to me to use my utmost efforts to get them their money. I have done my best to sustain them; but when intelligence reached Harper's Ferry a few days ago that the estimates for the armory for that district reached only \$125,000, it felt like a crushing blow upon the hearts and hopes of these people. Letters have been pouring in upon me ever since, and I am sure that I am sure that if the House could only see them, and could understand the circumstances which surround the writers, their sympathies would be excited in favor of my unfortunate constituents at Harper's Ferry, and it would vote for this amendment.

I send to the Clerk's table one of these letters. It comes from the master armorer at Harper's Ferry. I am sure that, if I were stand here until the sun shall rise to-morrow, appealing to the common sense and generally and liberally toward that branch of the public service, I could say nothing more calculated to arrest their attention, command their respect, and secure their sympathies, than is said in this letter. Before it is read, I desire to say that it was meant for no eye but mine. It was not intended to come before the House, but I take the liberty of calling the attention of the committee to the statements it contains.

The Clerk then read the letter, as follows:

UNITED STATES ARMY, HARPER'S FERRY,
VIRGINIA, March 17, 1860.

DEAR SIR: This day in my hands the printed Army bill, providing, by appropriation, money for the support of the Army for the year ending June 30, 1861, and, to my extreme regret, I find the item referring to the manufacture of arms at the national armories, proposed only \$250,000, one half of which, I suppose, will be paid for the manufacture of arms at Springfield, giving each \$125,000—a sum only sufficient to successfully operate this armory across the country, being at least one hundred and fifty per cent of the armory, and will so effectively cripple it as to render the whole system of armory manufacture of the future. It is the sum granted last year, which has most effectually compromised the work of starvation and acquiescence, which this bill, if passed, will not only continue, but drive from the employment, and consequently

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security and safety is found in the fact that we have no foreign possessions in which to quell rebellion; and too often, to conquer peace, England finds a necessity for expensive military preparations in her foreign possessions. I have seen it stated that it cost England \$450,000,000 to quell the Sepoy rebellion, to say nothing of the unparalleled butchery of human life. In the fact of our having no foreign possessions is but one reason of our safety from any just apprehension of war. Another ground of safety is that we have no powerful neighbors with whom to indulge those petty jealousies which have so long characterized the controlling Powers of Europe. If we look to the north or south, we find only Canada or Mexico, which are more loving in the hands of others. If we look to the east or west, we are greeted by the returning waves of the two great oceans of the world—those mighty guards of nature which separate us from the complications which so often convulse the whole of continental Europe.

Again another ground of our safety and exemption from the casualties of war is to be found in the good sense of our people—their enlightened judgment—which is worth more than all the standing armies of the world. But, sir, I do not wish to, in this late hour of the day, to prolong this discussion. I know that our Army is small. I know that our Navy is small. I trust the good sense of the people will ever keep them so in time of peace. So long as we cherish and net upon the arms of the Government, we are in danger, that "standing armies are dangerous to the liberties of free people," so long will we continue to be safe from the evils which will ever afflict a people who support and maintain them. I think the Secretary of War acted wisely in sending on this reduced estimate, and I believe the House will follow out his recommendation. Especially in these days of proposed reform should we apply this measure of retrenchment to this branch of the public service. It will not suffer if this reduced estimate is adopted; it will not be improved if the larger sum is allowed.

Mr. PHELPS. It is proposed in the next ensuing year to expend some four hundred and fifty thousand dollars in the manufacture and procurement of arms, to be distributed for the use of the militia of the several States, as they shall be returned to the Department, and to be deposited in the various arsenals of the country for the use of the standing Army, or for such purposes as may be designated by the Government.

The gentleman from Virginia [Mr. BOTTLER] proposed to restore the estimate as originally made to the Secretary of War by the chief of ordnance, for the support of the national armories. Now, I am unwilling to increase that estimate. I am unwilling to make any further appropriation beyond the sum of \$450,000, as contained in this bill, for the manufacture of arms by the national armories. The gentleman from Virginia has had a letter read, which shows the fact that perhaps some of the workmen employed in the armory at Harper's Ferry may be discharged unless the appropriation is increased. Well, sir, I have yet to learn that this Government is bound to furnish employment for the workmen and citizens of the country; I have yet to learn that we are to increase our appropriations in order that some laboring men may be employed and their wages paid them by the Government.

Mr. FOUKE. I will suggest to the gentleman from Missouri that the appropriation of \$250,000 is not a sufficient sum to carry on the national armories with economy to the Government. If I am correctly informed, the expense is precisely the same whether the arms thus manufactured are per month manufactured, or twenty-four hundred, so that when twenty-four hundred stand of arms are manufactured per month, the cost of a gun is only \$2 50, while, with the capacity of the armories reduced, as it must be with a reduced appropriation, the cost of a gun may be increased to twelve or sixteen dollars. It seems to me, therefore, that it would be a matter of economy

upon the part of the Government to make an appropriation sufficient to continue the armory up to its full capacity of manufacture, until we have a sufficient supply on hand, and then suspend the works.

Mr. PHELPS. I must ask the gentleman from Illinois not to take up more of my time. We are now acting, as I understand, under the five-minute rule.

Mr. FOUKE. One moment more. I wish merely to suggest, in addition, that there is a bill before us appropriating \$600,000 for the distribution of arms to the militia of the several States; which, if it passes, will require all the arms which we can manufacture at the national armories. But, however that may be, it seems to me that it would be the part of economy for this Government to make appropriations sufficient to keep the armories up to their working capacity, or else suspend the work in them.

The CHAIRMAN. The Chair will remark, in reply to a suggestion of the gentleman from Missouri, that we are acting under the five-minute rule, that such is not the fact. This bill was made a special order in the committee, and, under the rule adopted, debate must be confined to the subject-matter of the bill; the debate has not been limited in respect to time.

Mr. PHELPS. I do not concur in the suggestion of the gentleman, that it is cheaper to manufacture a large number of arms at this time. The manufacture of arms, too, depends upon the number of workmen you may employ. For many years before the commencement of the Mexican war, and even since its conclusion, up to within two or three years last past, the total annual appropriation made for the maintenance of the armories was \$250,000. At the last session of Congress, when the Secretary of War submitted a bill for \$400,000, for the maintenance of the armories; but Congress saw fit to withhold that amount, and to grant no larger appropriation than had been previously extended for that purpose. I am unwilling, sir, to increase that amount. Why? Every day we are making new improvements in our armaments. It is but a few years ago that we were engaged in the manufacture of muskets. Now we are employed in changing those muskets to rifles—rifling the barrels so as to make them a more effective arm. Since the manufacture of muskets, the Colt arm has been invented, and we have had Maynard's rifle, and Sharpe's rifle, and several other important improvements. They are great improvements upon the old arms, and they are improvements upon the arm now being manufactured at our national armories.

I am willing to maintain these armories. I am willing to appropriate a sufficient amount of money to keep them in operation, and to retain some of the valuable mechanics who have been educated and trained in them. I expect to see the time come when we will produce a different kind of arm than that now manufactured—when we shall be engaged in the manufacture of the improved arms lately invented by the people of this country. The Government, however, must wait until it has obtained the use of the armaments which have been granted for them. This matter was discussed to a considerable extent at the last session of Congress, and then gentlemen, members of the Committee on Military Affairs, referred to some of the recent improvements which had been made in firearms.

If there be a necessity to retain these workmen at the national armories, the Secretary of War has only to do this: to direct the \$200,000 of annual appropriation under the act of 1860 to be expended in the manufacture of arms at these two armories, and to distribute the arms thus manufactured to the several States, according to their militia returns. It is left discretionary with him either to go into the market and expend this \$200,000 annually in the purchase of arms, which shall be distributed to the States and Territories, or to expend it in the manufacture of arms at the national armories. If he does the latter, that will make nearly half a million dollars to be expended in the

manufacture of arms at the national armories. I have stated these few reasons why I cannot concur in the suggestion of the gentleman from Virginia [Mr. BOTTLER].

Mr. DELANO. Mr. Chairman, I shall be very unwilling to detain the House at any length at this late hour of the day. If I remained silent, however, I should feel that I had very much failed in discharging my duty to a very respectable and worthy class of mechanics who reside in my district and are attached to one of these national armories. It will be no difficult matter to show that the Government is under most signal obligation to this class of its employees. From the very foundation of these national establishments they have been within the respect, care and fostering protection of the Government. And it has been a part of this paternal policy to create a relation of mutual dependence between themselves and the Government. Many of them have grown gray in the service; and being thus connected and dependent upon the employment to be obtained at the armories, if their occupation is withheld or stifled, it must be seen that it is impossible for them to go elsewhere and obtain the same employment.

Now, sir, the operation of this bill will be, as I understand it, that the year has been, and this band that community of employees. It may not be known to gentlemen upon this floor, who have not given this subject their attention, how extremely complicated and delicate is this business of the manufacture of muskets. I am informed, that in the course of the year, there are made something like three hundred distinct processes involved; not in this community of some three or four hundred persons I have described, every man has his specialty. His functions and skill extend to that, and nothing else. Now, sir, here comes the crisis of the Government's employment from that community the usual appropriation except as it is reduced by some two hundred thousand dollars a year. What becomes of them? There they are, many of them, with their money invested in homesteads and without the power to find the same specialty employment elsewhere, and of course their subsistence gone. In brief, that, sir, is their condition.

But, sir, I will not dwell upon their exigencies. I come in once to what I consider a stronger and more emphatic appeal to this House than any claim of private individuals, and that is, that the honor of the nation is staked upon the adequacy of its armament. One honorable gentleman says that there is no occasion for the manufacture of more arms, and that he would rather disband the infantry armories than appropriate another dollar in addition to that suggested in the estimate. I ask that gentlemen whether he can tell me—and before he made a statement, such as I have quoted, he ought to have had the information—what is the effective armament for the infantry service of this nation at the present time? I am informed that there are very few upon this floor who have well considered that question. I say it, then, upon the highest authority, that such has been the radical character of the improvements in the infantry arm within the last half a dozen years, that by the mere operation of these improvements the nation has become practically defenseless. This, sir, if realized as a fact, would undoubtedly have its just weight with members when considering appropriations. We find, sir, upon the reports of Secretaries of War, that in the year 1855, that one million of small arms is considered the normal complement for infantry service.

Yet, sir, at this hour—as the reports fully show—we have but fifty thousand stand of arms that we should dare to put into the hands of our infantry for use in case of an emergency. That, sir, I think, ought to settle this controversy in favor of the allowance we ask.

To understand how this comes about, you have only to look into the reports of the Secretary of War, and you will see how the mode of life, which was an infantry arm up to 1855, has been superseded by the model of that year; the old arm was discarded, and we have not yet manufactured

make no objection to that reference. I wish it understood, however, that it is the bill of the Committee on Military Affairs, and not the bill of the Senator from Mississippi.

The PRESIDING OFFICER. The Chair understood that it came from the committee of which the Senator from Mississippi is chairman.

Mr. CLAY. Then the Committee on Pensions might be dispensed with if the Naval Committee should also take jurisdiction of pensions belonging to that branch of the service.

Mr. DAVIS. The Committee on Military Affairs do not take jurisdiction of pensions, but of pension laws—general provisions for the Army. However, I am perfectly willing that this bill should go to the Committee on Pensions.

The PRESIDING OFFICER. The bill will be read a second time, with a view to its reference. The bill was read a second time, and referred to the Committee on Pensions.

ASSISTANT DOORKEEPER.

Mr. DAVIS. I offer the following resolution: Resolved, That the Assistant Doorkeeper of the Senate be allowed the same rate of annual compensation as the permanent committee clerks of the Senate, commencing with the present fiscal year.

The subject is one that was before the Senate when the officers of the Senate had their compensation increased, and this seems to have been the only omission. I should like to have the resolution considered now.

Mr. JOHNSON, of Arkansas. A statement was made to me yesterday, that the pay which is proposed to be given is the same as that given in the House of Representatives, and will be more than the Sergeant-at-Arms of the Senate himself receives. Is that so?

Mr. DAVIS. I do not propose to give that pay. The pay which is proposed to give is that of the permanent committee clerks—\$1,850, I think.

The PRESIDING OFFICER. If no objection be interposed, the resolution will be considered at this time.

Mr. CLAY. I object to it. I want to know what he gets now.

The PRESIDING OFFICER. Then it will lie over.

ST. CLAIR PLATS.

Mr. CHANDLER. I move that the Senate now take up bill No. 37, making an appropriation to complete the claim to the St. Clair Plats. I do not desire to press this bill at this time, if the Senate will grant me a day when we can have a direct vote on the bill. The President, in his veto message of the St. Clair Plats bill of last session, has put forth some new and rather strange propositions. I should look upon a veto against this bill as a vote in favor of these new doctrines. If the Senate will assign a day when they will permit a vote to be taken on this bill, I shall not dissent it now. I call their attention to the fact that up to the date of this veto message I had not occupied thirty minutes of the Senate's time on this subject. Neither do I wish to press this matter pertinaciously. I simply ask, what I think any Senator will say I am entitled to, a direct vote on the proposition; and if the Senate will fix any day, near or distant, when they will take a vote on it, I shall have nothing further to say at this time. I move that the bill be taken up and made the special order for Monday next, at one o'clock.

Mr. SEWARD. There is a special order for Monday.

Mr. CHANDLER. Well, say Tuesday, or any other day that will suit the Senate.

The PRESIDING OFFICER. The first question is, on taking up the bill for consideration. The Senator from Michigan moves to take up the bill (S. No. 37) in relation to the St. Clair Plats. The motion was agreed to.

The PRESIDING OFFICER. The bill is now before the Senate as in Committee of the Whole.

Mr. CHANDLER. I move that it be made the special order for Tuesday next, at one o'clock.

Mr. CLINGMAN. I have no objection to the Senator being heard on his bill at any time he desires. I think it is his right to be heard upon it; but it seems to me that we had better not make it a special order. If we do, it may interrupt other business. We cannot assume that nobody else will want to debate it. I presume he is not an-

guine of its becoming a law. Still, I am perfectly willing that the Senator shall, either now or at any time when it is convenient to himself, speak upon it. I would rather not make it a special order, because it will probably give rise to a general debate; and it seems to me we had better attend to legislation that is more likely to be passed.

Mr. CHANDLER. Will not occupy ten minutes of the time of the Senate upon this bill, if Senators will permit a vote to be taken without extended debate. I simply ask for a vote, with or without debate; and it is perfectly immaterial to me which. The question is perfectly understood by the Senate and the country, and it need not occupy ten minutes of the time of the Senate.

Mr. SLIDELL. I suggest to the Senator from Michigan that we can vote now.

Mr. CHANDLER. I would prefer fixing a Monday day. The Senate is not full now. I would prefer to fix a day when the Senate will be full.

Mr. MALLORY. Will the Senator from Michigan permit me to suggest to him that the resolutions of the Senator from Mississippi (Mr. Davis) have been made the special order for Monday. They will run into Tuesday, and there are special orders that will consume all of that week. As he is willing to take a more distant day—and I recognize his right to be heard on the question—I would leave a week further off.

Mr. CHANDLER. Well, say Monday week. Mr. MALLORY. I will vote with the Senator to make it the special order for Monday week, or take it up now and vote on it, without debate.

Mr. CHANDLER. I move to make the bill the special order for Tuesday week, April 10. The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had this day ordered the printing of the following documents:

Letter of the Secretary of the Treasury, transmitting a statement of the condition of the banks throughout the United States—ordered at twelve o'clock and sixteen minutes, p. m.

Memorial of the Legislative Assembly of New Mexico for payment of certain militiamen called into service against the Apache Indians by the acting Governor of the Territory—ordered at twelve o'clock and sixteen minutes, p. m.

Memorial for the payment of volunteers under Major Ramon Luna—ordered at twelve o'clock and sixteen minutes, p. m.

Memorial for the payment of militiamen and volunteers—ordered at twelve o'clock and sixteen minutes, p. m.

The message further announced that the House had passed the bill of the Senate (No. 247) for the relief of Mary E. Castor.

PATENT LAWS.

Mr. MALLORY. I now move that the Senate proceed to the consideration of the bill which was introduced yesterday. It is not quite one o'clock, but we shall gain a little time by taking it up now. The business was unfinished. The gentleman from Pennsylvania, [Mr. BLOKE], I know, wishes to make a motion to take up another bill. He has another important bill.

The PRESIDING OFFICER. The unfinished business comes up regularly at one o'clock, but it is the right of the Senator to move to take it up at this time.

Mr. BIGLER. If the Senator from Florida will indulge me a moment, there is a bill of a very important character which I desire to bring before the Senate for consideration. It is a bill which I think the Senate can dispose of very readily; it has been fully considered by the Committee on Patents. It is the bill (S. No. 10) in addition to "An act to promote the progress of the useful arts." I know it is bad policy to interfere with a bill which has been so far progressed with as that of the Senator from Florida; but I almost despair of getting up this bill unless I can get it made a special order, and I ask the Senator from Florida to consider me in this respect, and make the special order for—say Wednesday next.

Mr. MALLORY. I yield for that purpose.

Mr. BIGLER. I move to take up the bill (S. No. 10) in addition to an act to promote the progress of the useful arts.

The motion was agreed to.

Mr. BIGLER. I move that the bill be postponed and made the special order for Wednesday next, at one o'clock.

The motion was agreed to.

BANK ISSUES IN THE DISTRICT OF COLUMBIA.

Mr. SLIDELL. I certainly do not approve of this system of making special orders, and accumulating them; but I find it is impossible to resist the habit, and that there is no other mode of getting along with business that one may have special orders made. The bill (S. No. 20) regulating the banks in the District of Columbia be taken up now, for the purpose of being made the special order of the day for Wednesday of the week after next—the day after the special order of the Senator from Michigan—and I shall then expect that the bill will be passed upon. It has already been debated very fully.

Mr. TRUMBULL. I wish the Senator from Louisiana would persist in what his judgment tells him ought to be the practice here, and that the Senate would agree to go on with business as it stands upon the Calendar. I am satisfied it would economize time, and every bill would then have its fair chance. This way of pressing in to get a special order made, and giving one bill a preference over another—and frequently preferring one bill to another in a particular bill—has always, I thought, since I have been in the Senate, embarrassed the business of the body, and gave the go-by to measures of importance which were in the hands of Senators, who perhaps were less important than others. I will unite with the Senator at any time in moving to the Calendar, and shall be glad to have a test of the feeling of the Senate on the subject, to see if we cannot go on with business as it is reported by the committees.

Mr. SLIDELL. I agree fully with the Senator from Illinois; but I think it is a little strange that this objection should now present itself to his mind for the first time.

Mr. TRUMBULL. I have stated it before. Mr. SLIDELL. He certainly did not object to the special movers already made to-day—some proposed by the Senator from Michigan, and the other by the Senator from Pennsylvania. I shall concur with him heartily hereafter; but I have yielded long enough, and I hope the Senate will indulge me now in taking up this bill for the purpose.

The motion was agreed to; and the bill was postponed to, and made the special order for, this day two weeks, at one o'clock.

MESSAGE FROM THE HOUSE.

As message was received from the House of Representatives by Mr. HAYES, Chief Clerk, announcing that the House had concurred in the first and second amendments of the Senate to the bill (H. R. No. 241) authorizing publishers to print on their papers the date when advertisements expire, and had concurred in the third amendment of the Senate, with an amendment, in which the concurrence of the Senate was requested; and had concurred in the amendment of the Senate to the title of the bill.

NAVY OF THE NAVY.

Mr. BRIGHT. I think this would be a very good time to take up the bill for the enlargement of the public grounds.

Mr. MALLORY. My motion is pending. I only withdrew it temporarily.

The PRESIDING OFFICER. The Senator from Michigan desires to take up the unfinished business of yesterday.

Mr. BRIGHT. Which is the naval pay bill. I should like very much to take up the bill for the enlargement of the public grounds. I doubt whether it will take much time.

Mr. MALLORY. I hope we shall be allowed to go on with the unfinished business.

The motion of Mr. MALLORY was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 229) to increase and regulate the pay of officers of the Navy.

The PRESIDING OFFICER. The pending question is on the amendment offered by the Senator from Maine, [Mr. FESSENDEN], which is to strike out all of the original bill after the enacting clause, and to insert what was read yesterday, which is in fact a new and separate bill. Both

done, and that is the principle the committee object to.

I will say in addition, that of the class of 1840 we speak of these officers in classes, who graduated in certain years—forty-one of them, averaged nineteen and half years in the Navy, average thirty-three and a quarter years of age; they served as midshipmen and passed midshipmen, from fourteen to fifteen years before they got any promotion. The grades were all filled, and they served then on a very low scale of pay, and they received then only a few hundred dollars. They were doing the duty of lieutenants about six years before they were promoted at all; for which, of course, they could get no pay, unless they were appointed occasionally especially in some expedition to do the duty of a lieutenant, because an officer does the duty of a higher grade, temporarily, gets no pay for that duty. The great majority of these officers are married, and have families; and under the amendment of the Senator from Maine, not one of them would receive a cent increase.

My objections to the amendment are principally based, as I say, on the provisions as to the grade of lieutenants; because, when you thus ignore one hundred and eighty of these men who are the backbone of our service—forty of those sixty-eight now, who graduated in 1841, and who will have twenty of them are married, and have large families—when you ignore this whole class of men, and at the same time put up pursers and surgeons, the country cannot recognize any justice in it. The committee reporting the bill have no such desire. The Senate is present in it. It is pretty accurately graded, according to the duties and responsibilities of each grade. If you preserve that scale, the pursers get, I think, what is precisely right. Their increase of pay is about twenty-five per cent, on their leave, and about twenty per cent on their pay, and on their other duty pay; and I think that both the Senator from Maine and myself have made a much better arrangement for the pay of the pursers and surgeons than was made before.

Another objection to the proposition of the Senator from Maine, though I would not make this a material one, is, that it provides a leave pay for professors of mathematics, who, under no circumstances, I think, can be ever placed on leave, except to attend to their own business, at their own request; and then there should be no pay allowed to them.

Mr. FESSENDEN. I made a mistake there, which I intend to correct. I have made an allowance for sea-service there; but they have no sea-service to perform at all. I mean to make that correction.

Mr. MALLORY. I point this out, because the bill of the committee has provided what is right on this point. Another important error to which I drew the attention of the Senator, and which I know he will correct, is in placing the pay of a trustee and a half per cent on their pay, and the pay of a commander. The importance of keeping the pay of the several grades as separate as the grades themselves; the importance of not paying an officer of junior grade precisely what you pay an officer of the higher grade. I know need not be argued by the Senator.

I may as well say that the bill of the Senator from Maine decreases the sea-pay of captains of ships at \$3,375. I understood his objection to be that \$375 was a fraction. He said that if the committee had reported \$320, he would have given for it perhaps; but he dislikes fractions. I will say to him that you cannot take your pay-roll now without seeing fractions. That is a matter for the accounting officers, not for us here. We pay surgeons now for the first five years after the date of their commission \$1,000 on leave, \$2,250 on other duty, and \$2,500 at sea, receives no such thing.

Another objection that I have to his amendment is a very important one. There is a class of commissioned officers in your Navy who receive what they know in their hearts to be a bogus pay; that is, a commander, who, according to the present pay list, should receive \$1,800 on leave, \$2,250 on other duty, and \$2,500 at sea, receives no such thing.

According to the reform act, as it was called, those officers receive only a modified pay, because that act provided that the aggregate pay of the Navy was not to be increased; and it has not been increased. Consequently, when a commander goes to sea in place of a captain, he does not get the pay of a captain; but the pay of a captain is divided between the two, and the commander gets the difference of pay which the captain loses by not going to sea; which decreases the commander's pay, as a matter of course, from what it should be. There are a few of these officers only. I thought I had on my table the precise number of officers drawing this bogus pay. The Register shows it. I perceive, however, that there are twenty-eight lieutenants drawing this bogus pay. This is the most important matter, and I submit that the Register, after the new pay bill shall be passed, should show precisely what every officer receives. But we shall be unable to tell what officers receive, if a portion of them receive this modified pay; and therefore the committee have provided for abolishing it altogether. That is one of the means of paying them; and they will not get the pay the committee propose, unless this measure of abolishing that feature of the reform act shall prevail.

Now, as to the general policy of increasing salaries. I would call the attention of the Senate very briefly, for I desire to get a vote on this bill to-day, if possible, to the fact, that since 1835, when the pay of the officers of the Navy was fixed, we have increased the pay of every man in this service. I would call the attention of the Senate to the fact that the money value of everything has vastly increased since 1835. Flour, the stuff of life, you may say, at that time was worth \$4 25 a barrel. Now it is a hundred per cent more. Of every article, all the essentials of life, except one, everything has increased. The price of wheat has risen from fifty to one hundred per cent. I state that as a general proposition. That was what induced the increase of the pay of the other branch of the military service. We have increased our own pay. We have increased the pay of the judges of the Supreme Court from \$4,500 to \$6,000. We have increased the salaries of the heads of Departments from \$6,000 to \$8,000—thirty-three per cent. We have increased the pay of chief clerks of bureaus, and all the clerks of the Executive Departments, from twenty to thirty per cent. The pay of the five per cent is the average increase that the committee have proposed for the lieutenants' grade here. A young clerk just appointed in a Department gets \$1,200, precisely the pay you give to a lieutenant who has been twenty years at sea in your Navy, who is fifty-five years of age, and has a family of perhaps a wife and eight children to sustain. We give our Auditors \$3,000. We have increased their pay. We have largely increased the pay of the Senate's officers. The pay of our Secretary amounts to \$1,680, and of our chief clerk \$2,500 to \$1,850. The very first day he enters on his duty, gets thirty dollars a year more than the oldest lieutenant who has seen twenty years' sea-service, and been in every quarter of the globe. Even our messengers get more pay than you give our lieutenants. David Porter, who would be an ornament to any navy; who has seen twenty years of sea-service, and is now over fifty years of age.

Sir, I will not protract these figures. I am quite familiar with the details of this bill, and I shall be very happy to afford Senators information, so far as I can do so, on any of its details. Upon this subject of the lieutenants, and giving them pay according to their sea-duty, we have only concurred in the uniform opinion of the Navy Department itself under all Administrations, and in the unanimous and unanimous sentiment of the point, and I should exceedingly regret, having the best interests of the Navy at heart, if the Senate should abandon that principle. I would not propose to reduce the pay provided by the bill, in any of the grades, as a matter of course. The amendment which I offered to the bill is, I think, principally introduced because of the fact that the pay register does not show accurately the pay of the surgeons. That is the only grade I think. The Senator from Maine was mistaken, I think, in saying that the new table was wrong in many particulars. I think he will find it is wrong in no particular but that of surgeons. The pay table alleges that they receive for the first five years

after the date of their commission \$1,333 33; but in 1848, by some very adroit management, a provision was put into an appropriation bill by which they were at liberty to date their commissions back to their first commission, which gave them fifteen years' priority instead of five years, but the corresponding provision never having been made on the face of the pay table, the error has been handed down to this day; and although they have received this increased pay, the Secretary of the Navy, through ignorance of the fact, the accounting officers were ignorant of the fact, and hence it was that the committee erred in the sum in calculating the surgeons' pay; and as an act of justice to the surgeons, yesterday I offered an amendment by which we increased that pay from \$1,366 66 to \$1,900, and in the manner shown through the different grades, according to their sea-service. With these explanations, though the subject is a fruitful one, and I have not presented the claims of these officers as my own convictions would induce me to do, I will, to save time, yield the floor, with the request that the Senator from Maine and myself at least may so accommodate this matter as to get a vote on the bill to-day.

Mr. FESSENDEN. I have no objection to a vote being taken to-day at any time. I offered the amendment which I submitted on the table, in pursuance of the policy of duty which I have in mind with regard to the subject-matter, having been the unfortunate author of a motion that the committee should change their first bill, and report one fixing a specific sum, in dollars and cents, for the pay of all the officers of the Navy. The purposes have been accomplished; but I wish to say to the Senator that, after all, I think he should have some clause in his bill, if it is to pass, that this pay now fixed by law is to be in full of all allowances, and repaying other acts. Otherwise, these some little extra percentage on the pay allowed by law will be in existence and operative, and we shall give them this pay in dollars and cents, and they will get percentage besides.

Mr. MALLORY. I ask the Senator if he does not think that is perfectly provided for in the first clause of the bill.

Mr. FESSENDEN. I do not.

Mr. MALLORY. That is the design.

Mr. FESSENDEN. Read it.

Mr. MALLORY. "That from and after the passage of this act, the amount of pay of the officers of the Navy, now on the active list, hereinafter named, shall be as follows."

Mr. FESSENDEN. Exactly. That is their annual pay, and the other acts read precisely in the same way; but then, acts were passed giving some of their percentages on the existing pay. There is a very serious question whether those percentages would not be calculated after the passage of this bill. I merely suggest to the Senator that, in order to accomplish the object, he ought to make it say distinctly that all allowances

Mr. MALLORY. I will do that.

Mr. FESSENDEN. Now, sir, allow me to say that the idea I have had from the beginning is to increase the pay of the Navy, and my desire has been to do so in a manner which would be least burdensome particularly, because I supposed that they most needed no increase. I did, however, commit one mistake, among others, in not adhering to the fact that a very large class, nearly half of them, if I understand right, were appointed lieutenants in 1835 in consequence of the change that was made by the retiring board. On looking at the Navy Register, I find that a very large number of that class dating back from 1855, perhaps about one half, and consequently, as the Senator says, they would not for about a year come within the provisions of my amendment. Well, sir, I think it is not unreasonable to provide for them, as the Senator proposes; but he will allow me to call attention to the fact that when the bill for the retiring board was passed, it was an argument in favor of that these young officers wanted an increase of rank, not an increase of pay. They all repudiated the idea that they were seeking money. The argument on this floor was, "these gentlemen want the honor of a higher grade; they have been in the service for a long time, and are long enough; they want to be used as lieutenants and commanders, and so on; but they do not want any money." Now, however, the argument to

day is that it would be very unfair that these gentlemen, although they did get some increase of pay, though not the increase they were entitled to according to their higher grade, should not receive a larger sum of money.

Mr. MALLORY. The Senator will allow me to say one word. I trust he will not embrace me in the category of those who admitted that the officers did not want any more money, because ever since I have been in Congress I have been endeavoring to get their pay increased. I have not ceased in that effort.

Mr. FESSENDEN. I am speaking of the argument used for the increase here, that so many were kept in their grade that they were anxious for the increased honor, and cared nothing about increased pay. I do not blame these gentlemen for wanting increased pay. They ought to have it, in my judgment.

Mr. HAMMOND. Will the Senator from Maine allow me to say one word just there? What he says is undoubtedly correct; and under the arrangement that was to be made after the return from the retiring board, it was understood that these gentlemen would be rapidly promoted. Congress, the year after, restored to them the whole of the retired officers to the active list, and broke the engagement. If they had stuck to their engagement, as I allowed the officers to retire who were retired, then they would not have claimed anything but promotion.

Mr. FESSENDEN. I know that the argument which I have stated was urged; and I have the comfort of reflecting that I opposed that whole action from the beginning to the end. We cannot legislate here with regard to the Army or the Navy on any fair principle. It is out of the question. Do anything in regard to either of these arms of service, and there is one universal howl, not only over the country, but in the Senate and in the House of Representatives. Why? Because every Senator and every Representative has somebody in the Navy or the Army that he represents here; and the moment you attempt to do anything for either service, you are surrounded and overwhelmed in every possible way, so that it is almost utterly out of the power of Congress to do anything on fair principles in regard to these matters at all. That is the truth of it. Now, sir, I understand that it is a fact that we have restored to the active-service list all the officers who were retired at that time; and I am told as a fact that seven tenths of those who have been thus restored have broken down and they have been put on the active service, showing the correctness of the decision at that time.

Mr. MALLORY. Allow me to say one word. The Senator from Maine and my friend from South Carolina are equally mistaken. Out of two hundred and one removed from the active list, but fifty-eight have been put back, and eighteen of those fifty-eight were not put back by the course of inquiry which tried them, and before which they had a fair trial, but by presidential and congressional action.

Mr. FESSENDEN. I understand that those since put back have proved the correctness of the first decision of the board. However, that has no great connection with this question. In regard to these officers, and particularly the lieutenants, I am not only willing to see the increase of pay, but to put their pay on a fair basis; and if I have made a mistake, as I did make in not advertising to the fact that so large a class of them were created so late as 1855, I wish to correct it, and I mean to correct it, in the future, by changing the principle upon which I based my amendment.

Allow me to say that I have not the slightest expectation that my amendment will pass; because, the committee being united, and the Senate always taking the report of a committee as gospel when they have taken the report of a committee, members of the Senate attending to the matter at all, but a very few, we know how it goes. I did not have any hope of it from the beginning, but I offered it simply because I made the movement in the first place to provide that the pay should be fixed on dollars and cents, and I felt myself bound to go through with it, and at any rate to express my own views about it. How it comes out I am not responsible for, and I do not care a great deal about it one way or the other; but mean to offer an amendment to reduce the time from the date of the commission when the lieutenants' increase shall take effect; that is, to fix it at three, six, and nine years, instead of five at all, and fifteen. That will place them all on a fair basis.

Mr. MALLORY. But ignoring sea-service. Mr. FESSENDEN. Yes; and I will tell you why I ignore the sea-service. I said something in the subject yesterday. Let me give you a few illustrations of how your rule will work, and how it does work. Take the case of the very officer that was advanced yesterday on account of his special services, and to whom we agreed to pay \$4,000 a year during life—Captain Dahlgren. Suppose we had not looked out for him in particular, by this special provision for his benefit. He might have been discovered, at an early time, to be a gentleman of fine attainments, and it might have been found out, as it was, that he would be very useful if employed on shore in experiments in gunnery. He stays on shore, under orders of the Department, at the navy-yard here, discharging and rendering great service to the country; while another man, who has no such capacity, goes to sea. Now, how does your bill work in such a case as that? Captain Dahlgren remains on shore, and the end of the matter. The first man who has not his capacity, and does not render his service, goes to the top of it.

Take another case. I understand that a commission has recently recommended that certain officers who have shown ability for doing particular things, and have fine abilities and scientific attainments, form a school for experimental practice and otherwise, under Captain Dahlgren, on shore, for the benefit of the Navy generally. When you look out for them, you pick out your finest officers; you put them on shore, they stay on shore, they perform their duties, for two, three, four, or five years. On account of their ability and superior attainments they are kept at the lower end of the list, while the ordinary men go to the top, in regard to pay. That is the necessary operation of the commission. In the year-end examination, the first scholar in the class is kept there as a teacher, or put on board a receiving ship to teach seamanship. The man at the bottom of the class, who is fit for nothing but to go to sea, goes into active foreign service, at sea, and he goes to the head of the list as to pay in a few years. The best scholar in the class stays at the bottom of it. A man meets with an accident, and is wounded, and stays on shore, and the result is the same in regard to him. Fine officers are selected to go on long expeditions, and are kept on shore, and they must be kept on shore necessarily for two or three years bringing up their work after they come back. Nobody else can bring it up. They are losing their sea-service, while those who go to sea get it. You can pay them by passing special acts, but you predicate the law upon sea-service.

Now let me tell you that in my belief the trouble is in the Department. If every Secretary of the Navy has said that he could not get men to sea because of the influence of Senators and Representatives, and if every Secretary of the Navy has been unfit for his place and ought to have been turned out of it. Cannot we get a man in the office of the Secretary of the Navy who has any manliness, who can resist the persuasive powers of the honorable Senator from Florida, or any other honorable Senator, when he wants to keep a friend on shore?

Mr. MALLORY. He might with me, but not with you.

Mr. FESSENDEN. Well, sir, if we have any one who cannot do his duty in that office, and who is inclined to favor an officer because he is solicited to do it by Senators and Representatives, I say again he is unfit for his place; and if that has been the case with all of them, we have had a pretty miserable set of officers in that place, and they ought to be laid aside as a general rule. The mistake is in the men that you have in the administrative places of your Government. Undoubtedly it may be true that some officers may want to stay on shore. If they come forward, as I said yesterday, with excuses which are not valid, they ought to be laid aside as a general rule. In my judgment, it takes place in but very few instances. The great majority of the instances of those who stay on shore, and those who have very good reasons for it, and the great majority of those who go to sea prefer to go. They seek the place.

Again, the committee's bill graduates all on sea-

service. A trip to the Mediterranean is a very nice thing. Everybody wants to go and say there three or five years on sea-service. You place it on the same ground that you do a trip to the coast of Africa. One year's sea-service on the coast of Africa or China is worth half a dozen and should count for half a dozen years in the Mediterranean and some other places, and yet it is all counted the same way, and you have a service on our home squadron, sickly as it is now, should count more than in other places. All these things show the entire irregularity in the system that you propose to have. It is intended, evidently, from the Senate bill, to give a special grade to that has taken place and for the men now in the Navy, and not to establish a system that will work for all time. I will state my object in proposing the amendment, and putting it upon a different service. Take it for granted that officers in your Departments will do their duty, take it for granted that men against whom no charges have been brought have done their duty; what is the true rule upon which to predicate the pay?

The true rule is to graduate it according to the time the officer has been in a grade, if you make my distinction, and they stay in a grade as long as my friend from Illinois has suggested, no distinction should be made if they stay in a particular grade only a reasonable time; but such is the nature of our system, such is the character of it at the present time, that they stay in a grade as long as twenty years more, and it is not fair that a man should go into a grade and stay in it until he is an old man, without an advance of pay. If promotion was rapid, the distinction should not exist; but promotion is very slow—necessarily so in our system. I would not be so ready to be willing to make distinctions which I should not be willing otherwise to make; and that is the answer to the objection that was suggested by the Senator from Illinois. At any rate, it is my view of the answer.

Let me state the actual date of the commission in all these cases, give these gentlemen at the present time as much as they ought to receive, and pay them liberally according to the time they have been in the service. I propose to pay them liberally by the amendment I have made in the bill. I will establish a system which will last, applying not only to those now in the service, but applying to all who come after them, graduating the pay according to length of time in the grade to which they belong, and not according to the number of years they have been in a service since they entered the service as boys. The bill of the committee makes inequalities. My amendment may perhaps suffer some man like the lieutenant from Florida who does not deserve much to escape; but by the system of the committee you will be punishing others who stay on shore, not from their own will and desire, but because they were compelled to do so by the orders of the Department, or for some other reason; for there are many such in the Navy, as I am informed, and have no doubt. I wish, as said before, to have a system which will be one of justice to the present time, and do justice to those who are at present in the service, but will apply to all time in future, graduating their pay according to the time they have held a commission in their grade. The bill of the committee is a system of going to grade without making a distinction; and if we could do justice to those who are there now, that would avoid the injustice which must necessarily be done to those who have not seen a particular amount of sea-service.

The honorable Senator says that the amendment that I propose is evidently a bill for the benefit of the pursers. I will say that his bill is not only for the benefit of lieutenants, but for the benefit of a portion of the expense of the war. That is the amount of it. It works so, as I showed yesterday. Men who have had a commission for a short time comparatively to others will draw according to their sea-service, not from the time they became lieutenants, but from the time they entered the Navy in the first place, without reference at all to the reasons that may have caused or prevented a service in different cases.

The honorable Senator has spoken of the sufferings and services of lieutenants more than once, with a view evidently, in his attack on my amendment, to encourage the idea that I have designedly put them down. It is not so.

Mr. MALLORY. I said you had made an error.

Mr. FESSENDEN. I admit the error in a certain case, but not to the extent the Senator supposes. I have desired from the beginning to put all classes of lieutenants, as well as others, up to the places where they belonged, and give them precisely the amount of money they ought to have to support themselves respectably in the position to their station. If I have made a mistake in reference to the amount in a certain case, I am perfectly willing to correct that mistake; but I do not propose to correct it in the way the Senator proposes, by doing injustice to the benefit of another party. If I could be supposed, in any event, to insinuate that it was possible for my friend from Florida to make a mistake in a matter relating to naval affairs, I might say that he had made a mistake in his calculations in regard to the merits of this particular class in making the distinction, and he has from the beginning.

But, sir, I want to show him the reason why my bill was drawn as it is. The only ground upon which he states that it is drawn for the benefit of the class of pursers is, that I have reduced the last ten years' service that is to say, I have reduced the highest pay after fifteen years', instead of after twenty years' service. Have I not done the same with regard to lieutenants; with regard to surgeon; with regard to everybody in the service? Has the Senator any objection to that? I stated so for it yesterday; that I thought after a man had been in a grade fifteen years, appointed a man at thirty years of age, he wanted as much money as he ever would, and was capable of performing as much service as ever; and therefore, I was disposed to reduce the time fixed by the committee for the payment of the highest compensation to pursers and surgeons. I applied it to both. The Senator well knows that in the British navy a purser is paid higher than a commander, although ranking with him; and surgeons almost but not quite so high. Why? For the same reason. It is because pursers and surgeons never can get beyond a certain grade; they come in as men; they stay in during the period of their maturity and ability for labor, and for life generally; they get on to a certain point, and then they retire. They never can come up to the pay of captains and commodores. Another thing: pursers are under heavy bonds; they are responsible for large amounts of property; if it is lost, they must pay for it; and that is another reason why their pay is so high. The Senator is for the lieutenants in the British navy pursers are paid higher than commanders.

Mr. MALLORY. A portion of them.

Mr. FESSENDEN. I think all of them; I have the Register here.

Mr. MALLORY. No.

Mr. FESSENDEN. There may be one class that is not; but three classes of them are certainly above the pay of commanders in England. However, sir, I want to show the Senator that the change I make is not what you are making the time at which they shall receive the highest pay; while his change has placed the amounts paid, even to pursers, higher than I did. In fact, in the first place, I followed his bill. Now, let me see. I provide that for the second five years after the date of their commission, pursers shall receive, on sea-duty, \$2,500; on other duty, \$2,000; or leave or awaiting orders, \$1,500.

The Senator's bill gives \$2,100 for these pursers on other duty. The leave pay in my bill for pursers is, \$1,250; in his, \$1,400. For pursers after the second five years, I have increased five years after the date of their commission—\$1,500 in my bill; in his, \$1,600. For pursers of the third grade, \$1,750 in my bill; in his, \$1,800. Here, in four different instances, he proposes to increase a higher pay than I do, whereas I have raised the pay of pursers in no instance at all; and the only difference I have made is to bring the pursers forward to the highest rate in the end of fifteen or twenty years. That is advancing some of them at a time which I thought to be fair; but in any case, whether or not, it is the same rule that I applied to every other class. Now, with what propriety can the Senator say that my bill is drawn for the benefit of pursers, when I have applied no rule to them which I have not to every other class, and when he himself has put their pay higher than I have?

Mr. MALLORY. It is very evident how I can do it. I am very much surprised that the question should be asked at all. The honorable Senator, who seems to be so desirous to avoid fractions, has put pursers' pay at \$1,450 and \$1,550, and I have put it at round numbers, increasing fifty dollars, because I have put surgeons and pursers on leave pay on a par. Pursers have no responsibility; they are not under bonds when on leave, and there is no reason why their leave pay should not be that of surgeon, according to the act of 1835; and when I say that the Senator has given them the highest pay of their grade in fifteen years and I at twenty, it is not any explanation of the matter, but the pay of pursers. More of the grade must get the highest pay under his bill than under mine.

Mr. FESSENDEN. I have increased it, and so has he; but he has made the general increase more than I have. I have only brought them forward in point of time five years, and he has made an increase pay to the several grades in point of time. But what I complain of is, not that the Senator should say that my bill did that, but that he should use the expression that my bill was drawn for the benefit of pursers, as if I did it intentionally.

Mr. MALLORY. I disclaim any such thing, and the Senator should not attribute it to me. I said that if it were drawn up for the benefit of pursers it would be drawn as it is.

Mr. FESSENDEN. I say the same thing.

Mr. MALLORY. I hope the Senator will not understand me as saying that.

Mr. FESSENDEN. If the Senator disclaims it, very well.

Mr. MALLORY. Certainly I disclaim it. I say it is a pursers' bill, because it reduces every line officer, and gives what I propose to pursers. Mr. FESSENDEN. Does the Senator say that the pursers wish to reduce the line officers?

Mr. MALLORY. If the Senator wants my candid opinion, I am sorry to believe that some of them do.

Mr. FESSENDEN. I can only say to the Senator that I did not know of it. So far as my experience has gone in reference to these naval gentlemen—I am very sorry to say it—they seem to be in a state of mind to trouble me with the increase of other grades, as they are that they themselves are not increased enough.

Mr. MALLORY. I assent to that entirely. There is no harmony of principle among them; and when I say that some of the pursers wish to reduce the line officers, I believe the statement is of some of the line officers themselves. I would not draw any invidious distinction; but I would say, that in this as in all military services in all countries, there is a pride of grade which induces a man, however much he may be contented with his own individual pay, to become discontented when he contrasts it with the pay of somebody else. That is the way in our own service, and I have never known harmony to exist between them, either in the Army or Navy on this point. Mr. FESSENDEN. All I want to say is, that I want to set that matter right in reference to the statement of the Senator, and to show that he, in his bill from the committee, has increased the pay of all these grades without exception, and that I have applied the same rule precisely to one that I have to others. I have made no distinction between them; but I have made fifteen years the period from which the highest pay is to date. I have not confined it to one more than another. I apply it to surgeons, lieutenants, and all.

Mr. MALLORY. But you cut down line officers.

Mr. FESSENDEN. Unquestionably I have cut down some, and I will give the reason. I cut down the officers in the highest grades, because I think the increase I propose to give them on their present pay is more than they need. It is the necessity for increasing the pay of the high grades of captains and commanders, that there is for increasing the pay of lieutenants, and the Senator says so himself. His argument is so. He has stated here, from his place, within half an hour, that the most meritorious class of officers, and the poorest paid, are lieutenants. I have cut down the highest officers from what? From their former pay? Not at all. I have increased it.

Mr. MALLORY. I did not say the lieutenants were the most meritorious. I said they were the poorest paid.

Mr. FESSENDEN. Then I misunderstood the Senator. I thought he was eloquent on the watches they kept, and the services they rendered, and the storms they buffeted, and I do not know how many other things they did—all, I take it, in the line of their duty, and for which they are entitled to no very particular credit. No man is entitled to particular credit for doing no more than his duty. I am not disposed to glorify anybody for doing service that he ought to do. The Senator is entitled to as much credit for the attention he gives to his duties, in his place here, as a lieutenant for his. This attempt to make distinctions that ground is entirely useless, in my judgment. But what I was saying was, that I have not reduced the pay of the leading officers of the Navy from what it was before. I have increased it, I think, in every instance. The only difference is that I have struck off two or three hundred dollars from the committee's estimate. That is the difference.

Mr. MALLORY. The Senator says he has increased the pay. I will remind the Senator, with his permission, if he is under the impression that he has not reduced the pay of the leading officers, that he has at least not increased it. He has not reduced the leave pay of commanders. It is now \$1,800; he keeps it at that. He has cut down from the proposition of the committee \$375 from the sea pay of the captain.

Mr. FESSENDEN. How much have I increased it over the present pay by law?

Mr. MALLORY. You have increased it slightly.

Mr. FESSENDEN. The complaint of the Senator is that I have not predicated my bill on his.

Mr. MALLORY. No; I understand the Senator to say, that in every instance he has increased the pay of the grade from what it is now.

Mr. FESSENDEN. I think I did not say in every instance, but in many instances, and I believe in all.

Mr. MALLORY. I will say that in captains, in commanders, and in lieutenants, I do not see this increase.

Mr. FESSENDEN. Will the Senator allow me to ask what a captain commanding a squadron gets now?

Mr. MALLORY. Four thousand dollars.

Mr. FESSENDEN. This bill of mine gives \$5,000. What does a captain get when commanding a single ship?

Mr. MALLORY. Three thousand five hundred dollars.

Mr. FESSENDEN. In my bill it is \$4,000. What does he get on other duty?

Mr. MALLORY. Three thousand five hundred dollars.

Mr. FESSENDEN. Three thousand five hundred dollars now?

Mr. MALLORY. Yes, sir; and there is where the Senator does not increase it.

Mr. FESSENDEN. Does a captain get the same as a lieutenant?

Mr. MALLORY. Precisely.

Mr. FESSENDEN. I do not think he ought, according to your own plan of paying more for sea-service.

Mr. MALLORY. Neither do I.

Mr. FESSENDEN. How much does he get when waiting orders?

Mr. MALLORY. Twenty-five hundred dollars.

Mr. FESSENDEN. I have left that.

Mr. MALLORY. Now as to commanders. They receive \$3,000 as is.

Mr. FESSENDEN. I propose to give \$250 increase. On other duty I give them \$2,350.

Mr. MALLORY. That is an increase.

Mr. FESSENDEN. On leave or waiting orders?

Mr. MALLORY. There the Senator has not increased it.

Mr. FESSENDEN. Commanders of five years' standing I give \$3,000 on sea-duty; and \$2,700 on other duty, and so on. In some particular instances I have not increased; but my statement was that I had increased the pay of all classes of officers.

Mr. MALLORY. You have in some cases, but not in others.

Mr. FESSENDEN. Of course.

Mr. MALLORY. You have not increased

captains, commanders, or lieutenants, in some instances.

Mr. FESSENDEN. That may be; but it does not follow, because an increase is necessary in some instances, that therefore it is necessary in all. I do not hold to any such logic. The question after all is, whether it is enough, not whether it is increased, but whether it is sufficient pay; whether it is honorable pay; whether it is all they ought to receive, and what they ought to be satisfied with. This is a matter that you must judge for me according to his rank so much beyond the amount that you pay to others who happen to be a little younger, and not so fortunate in relation to that matter, as all idle to my mind. The question simply is whether, when you pay a captain \$4,000 when in command of a vessel, \$2,500 when in command of a navy-yard, where he has a house and servant at his disposal, and \$2,500 when he is doing nothing, you do not pay him enough. If the Senate think otherwise, of course they will pay more. I am not particular about it; I am not quarreling about the dollars and cents. If I have made an error in reference to that, I shall be very glad to correct it; but the fact is, that it seems to be nearly impossible for any error to be made on our side. Nobody believes we can ever pay officers too much, under any circumstances. I believe we may in some grade. I do not say that we do; but if I have made a mistake about that, of course I am perfectly willing to have it set right.

The truth is, Mr. President, that in legislating on these matters we are pained altogether too much by the solicitations of those about us. If it was possible for the Senate and House of Representatives to be rid of the continual and the contradictory and diverse statements of those interested, we might legislate with some hope of success. For myself, I have been very far from the beginning of raising the pay of our naval officers, putting it up to a reasonable point, so that men could be well and even handsomely paid for their services in all the grades. I have been anxious, too, that in passing a bill we should get one that would accurately express the policy, and not only go through this body, but go through the other. My fear is that by grasping at too much you will lose the whole; that it will be found impossible to pass any bill. I hope it will not be so, but that is the fear I entertain.

With regard to the last section which was spoken of by the Senator, I have no sort of care about it; I merely put it in for the purpose of calling the attention of the Senate to the fact that there is what is called this bogus pay. If anybody moves to strike it out, I am perfectly willing that it should be struck out, if such is the sense of the Senate. Now, sir, before I sit down, I will, for the sake of setting this matter right—although, as I have said before, I have not the slightest expectation of my amendment passing; for as to contending against a committee, whose members are all members of the committee attend to the question, it is useless—make a few modifications in my amendment, to which, I presume, there will be no objection.

THE PRESIDING OFFICER. (Mr. Foor in the chair.) No action having been taken on the Senator's amendment, it is in his power to modify it as he pleases.

Mr. FESSENDEN. In line twenty-nine I move to strike out "\$750" and insert "\$500," so as to bring it back to its proper position in regard to lieutenants commanding at sea. That will allow them \$2,500 instead of \$2,750, as I at first proposed. The Senator from Florida says that I have got too much; that there should be a distinction between a lieutenant commanding and a commander, and he has moved to strike it out of his bill. In line thirty I propose to strike out "five" and insert "three," and the same alteration in line thirty-five and in line forty; and in line forty-five to strike out "fifteen" and insert "nine." That would place very nearly every lieutenant at once in a proper position, and he will certainly ought not to complain. That will give lieutenants the increased pay at the end of each three years instead of each five. I wish to make my bill conform to the Senator's in regard to pursers, by inserting the word "thousand," in line eighty-eight, "one hundred," so as to read "\$2,100 on other duty;" and by striking out, in line ninety-seven, "six," and inserting

"eight," so as to give them \$2,800 after fifteen years' service. In line one hundred I strike out the words "at sea \$2,000, or other duty," so that it will read, "professors of mathematics shall receive when on duty \$1,500, and on leave or waiting orders \$1,000."

Mr. MALLORY. Strike out your bogus pay. Mr. FESSENDEN. The Senator can move that. I want the Senate to understand it. The Senator proposes that every lieutenant raised in consequence of the action of the retiring board shall have full pay. If the Senate think that ought to be done, I have no objection. I propose also, in line three of section three, to strike out the words "Navy and," and insert "at;" so as to make the substitute conform to the original bill. It seems to be the general sense of those with whom I have conversed that the proviso to the first section of my substitute should be stricken out; so as to abolish the bogus pay, and put all the officers on full pay. I am willing to modify it in that way, to strike out the proviso, beginning at line one hundred and sixty-five, and that will tend to the necessity of striking out the word "further," in line one hundred and seventy-three. These are all the modifications I propose to make; and the Senate having the amendment before them can do with it as they may see fit. I care no more about it than any other individual.

Mr. SIMMONS. I desire to suggest an amendment or two before the question is taken. I prefer the amendment of the Senator from Maine to the original bill, because it is less complicated; out the age, my judgment, than the main grade in both; there are too many nice distinctions as to various terms of service. I want to suggest some modifications to the amendment, and to draw the attention of the chairman to them, to know if they would not make it better than even his amendment, agree with pretty nearly everything the Senator from Florida said about these naval officers; but I think his bill contains too many grades, and at the same time it conceals what I believe to be a fact, that these terms of service will place pretty nearly every man, when he reaches a lieutenant's pay, at the very highest pay. Most of them served in lower grades than that of lieutenant, for about the term which he has named as giving them the highest pay. I have heard him state how long he serves as midshipman and master and agree with me, and I have calculated it out that it would reach pretty near the time for the highest pay by the time he gets a lieutenant's commission. I think one fatal difficulty in making these grades is, that the committee do not consider that the expense of these officers of all classes is greatly owing to their social position, and in that respect they all enjoy the same social position. A midshipman enjoys the same social position as a commander or a captain—I mean in society; I mean in supporting his family at home; and therefore I think the lower grades will get more claims on regard, and will have their pay increased, than the higher ones.

The Senator from Florida has but two rates of pay for commanders; and I should like to know why there should be any more for other officers. He has in his bill, that commanders on shore, for the first five years shall receive \$2,800. They now have \$2,500. That is an increase of \$325. For the second five years they are to have \$3,150, which is an increase of \$650. Then every commander on other duty, for the first five years, is to have \$2,625. That is an increase of \$160 over what he now has. For the second five years he is to get \$2,825, which is an increase of \$925 on \$1,900—very nearly fifty per cent. I can see no propriety in making such a large increase in that class of officers. They are well paid now. I like to see the grade of lieutenant raised.

Mr. MALLORY. I ask the Senator to state his figures over again, as to commanders. I think he is mistaken.

Mr. SIMMONS. Commanders now receive \$2,500 when on duty, and when on shore for the first ten years in the service. The Senator has increased them in one instance \$325, and in the other \$650. When they are on other duty they get \$1,900.

Mr. MALLORY. Twenty-two hundred and

Mr. SIMMONS. The book says \$1,900.

Mr. MALLORY. That is the bogus pay you have got.

Mr. SIMMONS. I have got such pay as is printed in the Register. The amendment of the Senator from Maine gives them \$2,750, and after five years \$3,000. Now, I want to call the attention of the Senator to the first grade of lieutenants. The bill gives them the same pay when they are on sea-service and on other duty. The Senator from Florida says he wants to encourage lieutenants to active sea-service.

Mr. MALLORY. That pay is so low that you cannot encourage them to active sea-service.

Mr. SIMMONS. That is the very reason why it ought to be increased. I say the Senator's bill conflicts with his argument. He wants to make a distinction between lieutenants on sea-service and on shore-duty; and yet he puts them both alike in the first grade. That, I think, is wrong. I have drawn an amendment that I propose for these lieutenants, and I should like to ask his attention to it particularly. I propose that for the first seven years after the date of their commission as lieutenants they shall receive \$1,800 a year when on sea-service duty; that is \$500 more than he gives the first grade—and \$1,500 when they are on shore-duty—the same as he gives them. I think if lieutenants were paid that much difference for sea-duty, they would desire to go to sea-duty, and I think it would be impossible for the Secretary of the Navy to get them on shore; but if they have no more pay at sea than on shore, there is a great inducement for them to keep on shore. I think it is proper to raise the pay of these lieutenants immediately when they get their commission.

Mr. MALLORY. I will say to the Senator that there are but fifteen lieutenants of that grade.

Mr. SIMMONS. I do not go by numbers. I go on the principle.

Mr. MALLORY. The principle has no application. There are but fifteen who will be supplied this equalized pay of \$1,500 afloat and on shore.

Mr. SIMMONS. I ask the Senator if he can justify his bill according to his argument, when it gives them the same pay on shore as at sea? It is no matter whether there is one or twenty of them; the principle is wrong. I would put it, that after seven years from the date of their commission they should go to the highest pay, \$2,250 at sea, \$2,000 on other duty, and \$1,500 on leave or waiting orders. I should like to have his assent to that principle, but that is the fair rule. Make but two grades of it.

Mr. MALLORY. I will say to the Senator in reply to that, one word. No man is made a lieutenant before he has seen six years' sea-service; and the Senator proposes to give him the highest pay after he has seen seven years' service as a lieutenant. That makes thirteen years' sea-service altogether, which is precisely the point at which the committee have provided the maximum.

Mr. SIMMONS. But I do not want so many intermediate steps. I give them, when they receive a lieutenant's commission, \$1,800 if they are actually at sea, and \$1,500 on shore. You give them \$1,500 at sea and \$1,500 on shore. I think there is a propriety in raising them as soon as they get their commissions, and not making them depend on sea-service. I know the fact that midshipmen in the Navy fifty years ago were competent to navigate any ship. I happened to be at sea in a storm about fifty years ago, when we lost the navigator and lay to. We fell in with the frigate Constitution, and Captain Hull put a midshipman on board who carried us into a port and was as good a commander as the one we had and who was lost overboard. He managed the ship as well as any one could, and he was a mere midshipman—perhaps twenty-five years old. They are competent to do so now, before they are to be lieutenants, to sail a ship anywhere; and they have seen a good deal of service.

My opinion is, that when a lieutenant gets to be thirty years of age, which I understand is about an average age when they are appointed, that he has seen some of life, that his expenses are nearly as large as they ever will be; and, as I said before, the social position of even a midshipman and lieutenant is precisely the same in society as that of commanders. Their expenses are very nearly the same. I will put it this way, I think the time will come when they are when they begin life, and not to let them commence in debt and go wading through life under a load of debt.

I hope the Senator from Maine will accept my amendment in reference to the lieutenants, to have but two classes of them: the first class to receive for the first seven years \$1,500 at sea, \$1,500 on shore-duty, and \$1,500 when waiting orders; after seven years from the date of their commission, \$2,250 at sea; on other duty, \$2,000; on leave, \$1,500. It is much more simple.

Mr. FESSENDEN. I really think it stands better as it is.

Mr. SIMMONS. The first action in reference to commanders has only two classes.

Mr. FESSENDEN. I have no objection to it if it meets the views of the Senate.

Mr. SIMMONS. It will simplify the bill very much. To make those young officers wait three years on precisely the same pay they have now, is a hardship. I certainly think they are more entitled to the increase of pay than any class except midshipmen, and I am glad they have been increased.

Mr. FESSENDEN. Any amendment stands now, in regard to those lieutenants who receive the lowest pay, in the first three years of their service; that is, it is understood that it will apply to that grade of officers who are promoted in consequence of the action of the retiring board, and there are but few of them. I do not suppose there are a dozen on the Register who come under it.

Mr. SIMMONS. I do not go into the retiring board, and inquire how these men came into the Navy, but propose to fix a rule that shall last and be based on principle. Whether they come into the Navy by accident, design, or in some other way, I hold that every officer of the Navy is ready to do his duty, and that if he does not go to sea it is not his fault. I will give them more encouragement to go to sea than either of these bills does, by giving them larger sea pay for the first seven years. I think that is the way to encourage officers to go to sea, and not have this sea-service performed when they are acting men as midshipmen, and then pay them fifty per cent. advance after they get to be lieutenants, not because they have gone to sea and done duty as lieutenants, but because they did the service before they reached that point. If the Senator will accept my suggestion, his bill will be very much improved, and I should greatly prefer it to the bill of the committee in reference to the lieutenants.

Mr. FESSENDEN. I will state to the Senator that in November next there will be not four lieutenants on the list who will not have been there over three years.

Mr. SIMMONS. Why should you cut them down?

Mr. FESSENDEN. I do not cut them down; but they have just come into the Navy, and I think it is fair that they should serve three years before receiving an increase.

Mr. SIMMONS. I do not wish to make any distinction in this class of officers from the date of their commission to the time they have served seven years.

Mr. HAMMOND. I wish to offer an amendment to be inserted after the fourteenth line of the bill of the committee:

All other captains, one per centum per annum, on their present leave or waiting-orders pay, for and on account of every year of their sea-service, as shown by the records of the Navy Department.

The Senate will perceive that this is the same amendment which was offered yesterday by the Senator from Maryland, [Mr. PEABODY], with two important alterations. He moved to strike out the fourteenth and fourteenth lines, and insert the provision in lieu of them. The effect of his amendment would have been to give this one per cent. per annum to all captains on shore-duty; but the intention now is to give it only to those who are waiting orders, and those who are upon leave; and it is so stated in the amendment. I do not propose to make any speech or explanation further than this; and I think the less speaking and explanations we have at this stage of the bill, the better for the prospects of the bill.

Mr. HUNTEE. I should like to know how the amendment can be introduced.

Mr. HAMMOND. On the pay fixed in this bill.

Mr. SIMMONS. I think that the present purpose is to try to get the pay of these officers in dollars and cents, to be shown on the statute-book,

and these percentages and all sorts of *cetera* only confuse it. If the pay fixed for captains when waiting orders and on leave is not enough, raise the amount in round numbers; but do not put in a percentage, so that we shall never know what an officer has. That is the great objection to the present system.

Mr. DAVIS. I object to this whole system of accumulating pay by length of service. I favor the system of accumulating pay by length of service; but to vary it according to sea-service is a discrimination which I should consider injurious to the Navy and to many individuals of it. It is not the option of an officer whether he goes to sea or not. The number of our officers exceeds greatly the vessels we keep in commission. Thus it may happen that an officer spends a large portion of his life applying for orders to go to sea. This is a proposition, then, to reward him who has been the favorite of the Department to the injury of him who has not. That is with me a radical objection.

Mr. HAMMOND. I will say to the Senator from Mississippi, that I am very much of his opinion; and if the Senate would prefer to put it on the table, I have no objection; but I have followed what seemed to be the views of the Senate; and particularly of the chairman of the Naval Committee, in putting it on sea-service. About one-half of one per cent. for each year in commission would be about equal to this, and perhaps more so. If the Senate perceives that I shall propose one-half of one per cent. for each year in commission. Perhaps, however, it would be better first to test my amendment in its present form.

Mr. DAVIS. The necessity for the increase of pay depends very much on the length of service; more than upon grade. It is well known that the wants of an officer, particularly if he be an officer having a family, accumulate with years, and not with promotion. The reformation which I think it would be proper to add to the branches of military service would therefore be an accumulation of pay in periods of years, or an annual accumulation, so that there should be a constant increase, independent of that pay which attached to the grade.

Another objection. An officer, from his extraordinary merit in a particular branch of the naval service, may be required on shore. The Navy has no scientific corps. An officer peculiarly skilled in ordnance—a case which we were considering yesterday—may, for that very reason, have a short period of sea-service. He would have a right to claim, under such legislation as this, however necessary his service might be on shore, that he should be permitted to go to sea; and it would be rank injustice to keep him on shore for the public service, and cut down his pay because he has not been allowed to go to sea. This is another objection to the whole system of graduating the pay by length of service.

The amendment was rejected.

Mr. TEN EYCK. I move to strike out on the 24 page of the original bill lines twenty-two, twenty-eight, twenty-nine, and thirty, and insert in lieu thereof:

All other commanders, \$2,250.

The line to be stricken out provide for commanders on leave or waiting orders; the preceding lines provide for those on sea or other duty. I see, by an examination of this bill, that surgeons on leave, who have been in the service twenty years and upwards, are to be allowed \$2,250. So, in respect to surgeons, there is to be allowed the same amount after the same period of service. Now, sir, there is not a commander in the Navy who has not been commissioned more than twenty years. The most of them have been in the service for double that length of time. I see no propriety in proposing to pay a commander, who has charge of the flag and of the whole vessel, \$300 less per year than you propose to pay to the person who merely has charge of the ship's finances, and pays off the crew, or to the person who may have cured a fever or cut off a leg. It seems to me that there should be very different lines between the pay, so far as those officers are concerned, the commander should receive a higher pay than the surgeon or the purser; and I hope the chairman of the committee will find it agreeable to accept my amendment.

Mr. MALLORY. I suppose the object of the Senator from New Jersey is to equalize the leave pay of commanders in the Navy and pursers?

Mr. TEN EYCK. Yes, sir.

Mr. MALLORY. I have no objection to that. The amendment was agreed to.

Mr. GRIMES. I am not very familiar with the rules of the Senate. I understand that both these bills are in the Senate, and are considered; but if the amendment of the Senator from Maine be adopted, will the original bill be still open for amendment?

THE PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) No, sir. The motion is to strike it.

Mr. GRIMES. It is therefore necessary to perfect both of them before taking the vote. Well, sir, I propose an amendment to both bills:

And be it further enacted, That there be, and there be hereby created a bureau of registry and detail, which shall be presided over by an officer of the line of the naval service, in which shall be kept complete registers of all the officers and men attached to the service, and which, under the authority of the Navy, shall have the assignment of all officers and men to duty, and general charge of the personnel of the Navy. The duties of the bureau shall be to receive and detail shall be maintained, as far as practicable, to those of Adjutant General in the Army of the United States.

I do not know, Mr. President, that I have very fully clarified affairs required in this amendment, for I have not had much experience in that line; and I have not offered it with the most remote idea that it will be adopted; but for the sake of ventilating the subject, and drawing out from the chairmen of the committee the views on Naval Affairs, and other gentlemen who are more conversant with the subject than I am, their views. It has occurred to me, and I think it is the opinion of a great many friends of the Navy, that that branch of the public defense is altogether too much under the charge of the civil department. I have no argument under the control of naval officers.

I have no more to make in favor of its adoption, and merely submit it for the consideration of the Senate, acting upon the suggestion of the Senator from South Carolina, that the less that is said by Senators like myself on this subject the better.

Mr. MALLORY. I perceive that the Senator understands this part of the subject thoroughly; but I trust he will not offer the amendment to this bill. I concur with him entirely that our Department of naval affairs requires reorganization; and I hope to see it effected, and in far more numerous respects than the one he suggests. We want many things; that, perhaps, is as essential as any. The bill before us is confined entirely to the question of pay; it does not touch the organization. If there are errors anywhere in naval affairs, they are in the organization, and the fault is with Congress, and not with the Department. It is impossible that our naval affairs can ever be administered properly as they now stand. I admit that; and I admit that it is the duty of Congress to legislate. Perhaps the Senator may not know that a suggestion has been made, within a month past, that the committee should turn its attention to a thorough reorganization of the Department of naval affairs. This is only one of many important matters which are necessary; a bureau of detail, of personnel, in the Navy, similar to that in France and England. I suggest whether it is proper on a pay bill to seek to incur it with this. I will go heart and hand with the Senator in the measure he proposes, and other measures of reform, on a proper occasion.

The amendment was rejected.

Mr. HAMMOND. I am satisfied that the Senate was not aware of the character of my amendment which was voted down a few moments ago; and, in order to have the privilege of presenting it again, I leave a chance to the majority, which will obviate the only objection that was made to it. I now offer it in this form, to insert after line fourteenth:

All other captains, one-half of one per cent. per annum upon their present leave or waiting-orders pay, for and on account of every year from the date of their commission, as shown by the records of the Navy Department.

In every other grade of the service, except the grade of captain, the leave pay has been increased by this bill; but, strange to say, there has been no increase in the leave or waiting-orders pay of captains; whereas, after all, perhaps, the most meritorious class in the Navy. Much is said of lieutenants. Nothing can be said against them. Their

merits and their claims are all that have been asserted of them; but I may now be more meritorious than the captains. I have been brought up in the school in which old and faithful servants are tenderly provided for; and to cast captains off in their old age, when they have served their forty, fifty, or sixty years in the Navy, with large families around them, and to refuse to give them the same advantages of an increase of pay that you give to officers, seems to me unjust.

Now, sir, the ground upon which we profess to raise the pay of the Navy is, that the cost of living has increased from fifty to one hundred per cent, since 1835. If the increase of the cost of living renders it necessary to raise the pay of captains in the service, does it not render it equally necessary to raise the pay of captains on leave? Can they live cheaper comparatively than any other captains, or any other members of the service? I think it is highly unjust that every other grade should receive an increase of pay while waiting orders, and the captains none. It is particularly unjust; because, as the chairman of the Naval Committee has said, most of the seafaring life is in the early part of an officer's life; and, as he grows in years and in service, he has less opportunity to perform sea-duty. We may have five lieutenants in a ship, but only one captain; and it is, therefore, impossible for all the captains to go to sea; and the few that do go, are not receiving better pay, they are receiving worse. I think that it is not right; and I trust the Senate will allow this addition to their present pay.

Mr. MALLORY. If the Senate think proper to adopt this amendment, I shall be very glad of it; but it is done by the Senate, that is about to reject it, except the Committee on Naval Affairs have not proposed it. In the committee it was agreed not to recommend an increase of the leave pay of the captains; but the committee were governed in that determination rather by expediency than by what was due to the officers.

Mr. HAMMOND. I will say this to the chairman: as such a bill as this, it is very difficult for one not better acquainted with naval affairs than I am, to recollect particularly all the details; but I know that it would be highly anomalous in the committee that the pay of captains were raised from ten to twenty-five per cent, and I really do suppose, until after the bill came in here, that it went clear through the whole pay. It may be that the chairman stated at the time that it was not to apply to the captains on leave; but I made on such impression on my mind, and I really was of opinion that it went clear through.

Mr. MALLORY. The effect of the amendment, as I understand it, will be to give the captains on leave a half percent. upon their leave pay, which is \$2,500, for, during every year they have held a captain's commission. Perhaps the effect of it will be best shown by taking the oldest and the youngest captain. The oldest captain's commission bears date February, 1831, twenty-nine years ago. The oldest lieutenant is Captain Shulcrick, (for the senior captain is a flag officer)—has held his commission twenty-nine years, and therefore fourteen and a half per cent. on \$2,500, would be given to Captain Shulcrick on his leave pay. The youngest captain has held his commission since March, 1857. It would give him one and a half per cent. on his leave pay. These officers would get this increase only upon their leave pay. It is of course directed to this contingency. This bill does not touch a number of old officers who have had their commissions at an already advanced age, and whose commands on shore already; and going down the list of captains, before their time shall be reached again for a command, they will have retired from the world entirely. The bill does not in any wise increase their pay, because the leave pay of captains is not included in the bill, but only for that class of officers. They are an old and meritorious class of officers, who have served the country very faithfully. It is for the Senate to say whether it will take cognizance of their claims or not, or leave them to their own fate, as it is now. The committee did not bring forward the measure. I think the committee were unanimous on that. Perhaps my friend from South Carolina was not present when the committee came to that conclusion.

Mr. BENJAMIN. I do not rise particularly to discuss this amendment, but the pay as fixed by

the bill of the Naval Committee, so far as it regards captains, I believe I shall be found to agree as any gentleman on this floor to give perfectly liberal pay to every class of public officers. I desire the passage of this bill. I think the main necessity for the passage of the bill is in the inferior grades of the Navy; I should not agree upon that. I think there is danger that this will not pass, because the rate of increase in the higher officers, as reported by the committee, is too great—not that I should not be willing myself to allow that rate of pay; but I know that opinion is not shared very generally by the House, and certainly not in the other House. If we pass the bill as reported by the Committee on Naval Affairs, I am afraid it will fail, and being a friend of the bill, I desire to amend that portion of it which provides for the pay of the higher grades of the Navy.

The honorable Senator from Maine has presented a substitute for the bill of the Naval Committee, in the principles of which I do not concur. I agree with the committee in the principle of depending a rate of compensation in the Navy upon the rank of the officer, and the length of his service; and I should be for putting a clause in the bill providing for those cases of injustice to which the Senator from Mississippi has alluded, and the Senator from Maine also—making some provision for the case of officers who are determined by reason of peculiar qualifications for their service on shore, that service should be computed in their pay as sea-service. I would thus provide against doing injustice to that meritorious class of officers; but keep up, for the general benefit of the Navy, the short very generally the pay depend on the length of sea-service, and not on the length of time an officer has served in a particular grade. I do not go into that question, because I do not desire to delay to postpone the passage of the bill; but in looking at the pay of the officers of the higher grade in the first section of the bill, I desire to offer words of two amendments—not that I would be indisposed, as I said before, that the rate of pay should remain as they are in the bill reported by the Naval Committee, but rather to compromise differences of opinion both in this and in the other House. The Naval Committee has reported for captains under \$4,375. The bill of the Senator from Maine proposes \$4,000. The Senator from Maine says he did it principally because \$75 was a fraction. If Senators would put it at \$350 a month, which would be \$4,200 a year, it would be a fair compromise between the views of the Committee and the views of the Senator from Maine.

Mr. HAMMOND. I ask the Senator if he is proposing the amendment now?

Mr. BENJAMIN. I am going to offer an amendment.

Mr. HAMMOND. My amendment is pending.

Mr. BENJAMIN. I understand that; but I am speaking about that, and I was going on to propose to make the pay of a captain on duty at sea \$4,200, which is \$350 a month, a little more than the bill of the Senator from Maine proposes, and somewhat less than the committee proposed. Then give the captain on other duty (which the Senator from Maine proposes to put at \$3,500, and the committee at \$3,975) \$3,800 a month, making a difference of fifty dollars a month between the pay on other duty and the pay at sea; and then I would, instead of taking the leave which the Senator from South Carolina proposes for the captains on leave or waiting orders, increase the amount of their present pay from \$2,500, and make that \$2,750. Thus the pay of the three grades of captains would be \$2,750, \$3,600, and \$4,200. This would strike a middle course between the proposition of the Senator from Maine and the proposition of the Naval Committee; it would be a compromise between the two bills, and in that shape, in my judgment, the bill would have a much better chance of passing the other House.

So far as the remaining items in the bill are concerned, I have no objection to the report of the Senator from Maine, for the reason I have stated. I should like to preserve the feature of making the increase depend on sea-service; but I am afraid the rates of increase in the higher grades are too great to allow the passage of the bill in the shape in which it is now reported. I make this statement with a view that if we shall vote

down the amendment of the Senator from South Carolina, which has that objection: that it renews the old practice of percentages, and keeps us in the dark about what the officers are getting—if we vote that down, I shall then move to increase the leave pay of captains from \$2,500 to \$2,750.

Mr. HAMMOND. I desire to see my amendment put in its real shape, but I was not in position to propose that the percentage should begin from the first commission in the Navy.

The Secretary read the amendment, to insert after line fourteen:

All other captains one half of one per cent. per annum upon the leave pay or waiting orders, as increased on account of every year from the date of their first commissions in the Navy respectively, as shown by the records of the Navy Department.

Mr. HAMMOND. I differ from the Senator from Louisiana in taking his views as to the proper organization of a navy, and as to the proper mode of graduating the pay of a navy. In the Senate, and in the other House, there is nothing of which members are so utterly ignorant as they are of a navy and of naval affairs, and the proper organization and regulation of it, and its proper scale of pay for a navy. I doubt if there is a member in either House, unless it might be my friend from Florida, who could command a gunboat; and yet here we undertake to legislate on our own scale of things. I have seen a gross ignorance; that we have better imitate some State that has been successful in organizing a navy, and I think that the closer we imitate England the better it will be for us.

The English navy has been organized on a principle which the reverse of that proposed by the Senator from Louisiana. In the English navy the pay of the subordinate officers is inferior to our pay. When you reach the grade of captains in the English navy, they give them about the same that our captains get, \$3,500 a year. It seems to me that the English navy is not so much inferior to the British navy. If the British navy had been arrested at that point, England would never have ruled the seas for these two hundred years. There are eleven grades in the British navy above the rank of captain, and the grades command a higher price, and it is in the struggle for these high prices which has made the British navy what it is.

Sir, I do not know how it may be to those who are accustomed to the sea; but for myself, I would rather have a navy in which the pay of the officers was paid through the hardships of the naval service up to the rank of captain. No one would do it, I think, unless he was driven on by enthusiastic love for that profession, or by a great panting for renown, or by patriotism, or by the hope of some great pecuniary reward within his reach in the future.

In England, the moment a man steps into a grade beyond the rank of captain, his salary doubles instantly. As the captain of a squadron, he gets nearly as much as it is proposed to give to the captain of a ship. The pay of a captain is nearly \$500 more than we propose to give to the captain of a squadron. The moment he steps from that into the rank of a first-class commodore, or, what is nearly the same thing, a rear admiral, his pay is doubled, and he is increased to within fifty dollars of \$11,000. When an officer lands there, as he commonly does, after forty to fifty years of service, he is in smooth water; he is in port; he has a competence. He has at length reached the point, after his long career of hardships, where he is safe, and his family provided for. It is by this system that the British have built up their great and glorious navy.

In a few years he passes from grade to grade, and the next rank of vice admiral gives him a salary of about \$13,000. The rank of admiral gives him a salary of \$15,000, and the admiral of the fleet gets about \$16,500. In addition to all this, the British officers in command upon naval stations get a percentage upon all the gold and silver they carry, which sometimes amounts to a few hundred pounds from a single cruise of a thousand pounds in a cruise. Besides, whenever they carry a flag officer or ambassador, or any distinguished person, they are allowed by their Government, for table money, from half a guinea to a guinea per diem. All these perquisites pertain to subordinate officers, who, by command in addition to the prize money they get; and this, for

they are always at war, gives the subordinate officers, on the whole, perhaps greater pay than ours.

But the grand object in the organization of a navy is to secure a port and an independence in old age to the weather-beaten sailor. If we were to organize upon this same principle, we have a commodity who would remain in the length of his service, be admiral of the fleet, and entitled to the pay of one. I do not propose to give here so large a salary as is given in England; but my idea is, that we ought to assimilate to it, and encourage the young men of the Navy to undergo all the difficulties of their early years, that they may at length enter a harbor of safety. We have, besides, an officer in our Navy who would be a vice admiral; and we have seven who would be rear admirals, according to their date of service, and who would come in, on anything like the English system, for an immense increase of pay. Now, we have nothing higher than a flag officer, and only six of them; and the pay that flag officers get in our service, when at sea in command of a squadron, will even by this bill be less than the table mark that would be allowed to such an officer in the British service.

Sir, we boast of our Navy; we boast of our shipping; we speak of ruling the sea; but I assure you that on the miserable pittance you are now giving your officers your Navy would ultimately sink. I would sooner apprentice a son of mine to any trade than apprentice him in the Navy under the present system.

Mr. HUNTER. I suggest to the Senator that if he would offer his amendment so as to make it a specific sum, he could probably not increase of the shore pay. It seems to me it would be unjust that we should increase every other officer, and not increase the pay of the captain on shore. I think the Senator from Louisiana proposed a specific addition.

Mr. BENJAMIN. I move it as an amendment, then, to the proposition of the Senator from South Carolina, to insert after line fourteen a provision making the pay of captains on leave or waiting orders, \$2,750, instead of \$2,500, as it is now; and I would have no objection to \$3,000.

Mr. HAMMOND. I will take \$2,500.

Mr. BENJAMIN. I am willing to move that as an amendment. If that be adopted, I shall then move to make the other changes I have indicated, and the result would be, that captains on leave or waiting orders would get \$250 a month; captains on other duty than commanding at sea, \$300; and captains commanding at sea, \$350; making fifty dollars a month difference in the different grades of captains.

Mr. HAMMOND. I accept the amendment of the Senator from Louisiana in lieu of my proposition.

Mr. MALLORY. We have already adopted an amendment making the leave pay \$2,500. I suggest that the Senator propose to strike out \$2,500, and insert \$3,000.

Mr. BENJAMIN. I did not know that amendment had been adopted. I move to strike out " \$2,500," and insert " \$3,000," as the leave pay of a captain.

The amendment was agreed to.

Mr. BENJAMIN. I now move to amend the bill in the eleventh and twelfth lines, by striking out "\$4,375," and inserting "\$4,300." That will make the pay of captains on duty at sea \$350 a month, or \$125 a year less than the Naval Committee recommend, and it is about half way between their proposition and that of the Senator from Maine.

The amendment was agreed to.

Mr. BENJAMIN. I now move, in the thirteenth and fourteenth lines, to strike out "\$3,937," and insert "\$3,600." That will make the pay of captains on other than sea-duty, \$3,600, or \$300 a month.

The amendment was agreed to.

Mr. GRIMES. I move to amend the original bill in the seventy-fifth line, to make it correspond with the bill of the Senator from Maine, by striking out the words " \$850," and inserting " \$1,000," so that it shall read:

Every passed midshipman, when on duty as such at sea, \$1,000.

The bill of the Committee on Naval Affairs increases the pay of a passed midshipman only

\$100, raising it from \$700 to \$800. I believe the chairman of that committee admitted him to-day that those now at the Naval Academy will not pass through this grade and become lieutenants until they are in the neighborhood of thirty years of age. In the mean time, they will have discharged twenty ten or twenty years efficient service to the country acting as masters, or, at any rate, in the grade of passed midshipmen. I think it is unfair to require them to perform that duty at a pay of only \$850, when you are paying your other officers so much more, in proportion to the amount of time they have been receiving.

Mr. MALLORY. I have no objection to the amendment. I hope we shall have a vote.

The amendment was agreed to.

Mr. IVERSON. I offer an amendment as an additional section to the bill:

And be it further enacted, That the increased pay heretofore provided and allowed, shall apply to officers on the reserved list who entered into active service, and during the time of such service.

Mr. President, under the act "to promote the efficiency of the Navy," it was provided, in relation to the officers who should be retired by the retiring board, that:

" Shall relieve the leave of absence pay, or the forgoing pay to which they may be entitled when so placed, according to the report of the board and approval of the President, and shall be entitled to further increase of pay, subject to the orders of the Navy Department at all times for duty."

That law left the retired officers subject at all times to be called upon by the Secretary of the Navy to re-enter service. The act of 1857, which amended this law, provides that:

" So much of the act of February 28, 1855, entitled 'An act to promote the efficiency of the Navy,' as renders reserved officers ineligible to promotion, be, and the same is hereby repealed."

So that officers who have been placed on the reserved list are now eligible to promotion; but the act provides that:

" Reserved officers may be promoted on the reserved list, by and with the advice and consent of the Senate; but such promotion shall be subject to the condition that, should they be called upon to re-enter service, or should they, by such promotion, take any higher rank," &c.

So that, according to the present law, an officer on the reserved list, although he may be promoted, can never draw any pay higher and above that which was allowed to him at the time he was thus promoted. Therefore in the present condition of things a lieutenant may be promoted a commander, and he may be called upon by the Secretary of the Navy to perform the duties of commander, and yet have nothing but a lieutenant's pay. He may go even beyond that, and after a while be promoted to a captaincy, and he may be called by the Secretary of the Navy into active service, and he may command a ship, or, indeed, he may command a squadron, and yet, while performing all these high and responsible duties, he will be entitled to nothing more than the pay of a lieutenant. The Senate, I think, will see how unjust this may operate on the reserved officers. Several of those reserved officers, I understand, have been called into active service.

Mr. MALLORY. Let the amendment pass. It does not require argument.

Mr. IVERSON. If the Senator from Florida says there will be no objection, I have no desire to detain the Senate.

Mr. MALLORY. When these officers are called into active service, they should have the pay I do not see any objection to it.

Mr. IVERSON. The bill did not provide for it. The amendment was agreed to.

Mr. IVERSON. It is in order now to offer a substitute for the original bill, as well as for the substitute of the Senator from Maine.

THE PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) It is not in order, because there is an amendment to that effect already pending.

Mr. IVERSON. At what time would it be in order?

THE PRESIDING OFFICER. After acting on the amendment now pending.

Mr. IVERSON. Can I not propose to amend the substitute of the Senator from Maine by striking it out and offering a substitute for it?

THE PRESIDING OFFICER. That would be in order.

Mr. IVERSON. Then I propose as a substitute for that of the Senator from Maine, to strike out all of his amendment after the word "that," and insert:

"From and after the commencement of the present fiscal year, the pay of every officer in the Navy shall be that established by the act of 1855; and that the pay of every commissioned and warrant officer be increased (in addition to the pay of such officers) the commissioned officer be, and he is hereby, entitled to receive from the above date one additional ration for each and every five years of service in the Navy; and that the compensation pay of officers' subsistence be thirty cents per ration: Provided, That no officer commanding a squadron shall receive more than \$5,000 per annum; and no officer commanding a single ship or performing shore duties shall receive more than \$4,000 per annum; and that no officer on leave, furlough, or waiting orders shall receive more than \$3,000 per annum."

This is a simple proposition, I think, which everybody can understand. It is to add twenty dollars a month to the pay of all the officers of the Navy, and to give them what is called the service ration which prevails in the Army. The bill reported by the Committee on Naval Affairs, and the proposition of the Senator from Maine, to some extent, seem to me to be of such a complicated character that I cannot say I understand it. At least I have found them so, and I do not very much whether all the various propositions which are contained in these bills—the various gradations of pay and rank and service, together with the comparison between the pay which these bills provide and the pay which at present pertains in the Navy—can be or have been very well understood by Senators. I confess, at any rate, that I have not been altogether able to comprehend them, and I question very much whether any one but a Philadelphia lawyer could be able to understand them, unless a person who had made the subject his peculiar study as the Senator from Florida, the chairman of the Committee on Naval Affairs, has done. The bills are complicated, and it seems to me to be exceedingly difficult to understand them; and I will simply the whole matter by a proposition which everybody can understand, and which I think will operate fairly and justly on every arm of the service.

It has been complained that the pay of officers of the Navy has been too small, and I admit it. I think their pay ought to be increased. The pay established by the act of 1835 is too small for the present condition of things. The expense of living has increased since that act was passed, and I think that it is not unreasonable to well substat on the amount of pay which is allowed them by law. It ought to be improved; but one of the great complaints which the officers of the Navy have been constantly urging against their present pay is, that the officers of the Army have been better provided for in this respect than they have been. They say that you have increased the pay of the officers of the Army and you have not increased their pay. You have made them inferior in position to the officers of the Army so far as pay is concerned. They say that this injustice has been done to them in this way. When you increased the pay of the officers of the Army, you added twenty dollars a month to the pay of every person in it. I propose to do the same act of justice to the officers of the Navy by increasing the pay of each officer of the Navy by an amount of \$240 a year; and I propose to put them on an equality with the officers of the Army in another very important matter, and one which perhaps is more important to them than the other; and that is, to give them what is called the service ration; to provide that for every five years of service they shall be entitled to an additional ration to be computed at thirty cents a ration. In this way the object of the Senator from Mississippi can be accomplished, and I think there was great reason in his remark that as an officer advances in years he is entitled to more pay than he is entitled to receive by way of an advance in grade. As an officer advances in years, his responsibilities, cares, and expenses increase. I meet that by this proposition to give an increased ration for every five years of service; so that when an officer grows old, he has a large and expensive family around him, who will have an increased pay to meet that exigency on his resources. I think there is eminent justice in this; and it puts officers of the Navy, in both branches of my proposition, precisely on an equality with officers of the Army. We have no objection to the pay of the officers in that branch of the public

service twenty dollars a month, and they live according to law, a ration for every five years of service, which is commuted at thirty cents.

Mr. HUNTER. I ask the Senator from Georgia if he means to give twenty dollars a month additional to the young midshipmen of the Navy?

Mr. IVERRSON. No, sir; they are not commissioned or warrant officers of the Navy, as I understand. They have no warrant or commission until they pass out of the naval school and go into active service. I propose to put officers of the Navy and officers of the Army precisely on an equality. I have made a little calculation to see what would be the operation of this provision upon some of the terms of service. An officer of the Navy who has been forty years in the service would receive eight additional ratings, which, at thirty cents a rating, would be two dollars and forty cents a day, and would make, for a year, \$576 additional compensation. That, added to the twenty dollars a month, or \$240 a year, would make the total increased compensation for an officer who has been forty years in the service, \$1,116. According to that, if there were no limit to the proposition, if he was in command of a squadron, he would, his present pay being \$4,000, receive, with this addition, a compensation of \$5,116 per annum. An officer who has been thirty years in service would receive three extra ratings, which will be worth, for a year, \$176, and added to the monthly increase of twenty dollars, would make his increased pay \$576 a year; which, added to his present pay, if he commanded a ship, would give him \$4,116 a year. It goes on in the same proportion, through the lower grades, according to the term of service.

The objection might be urged that, without any limit to this proposition, the pay of these officers, some of them who have been in service for fifty years or more, would be much larger than what is proposed by any of the bills. That is not so now before us. I therefore propose to limit that by the provision I have attached, which provide that no officer in command of a squadron shall receive more than \$5,000 a year, which I believe is about the limit proposed both by the Senator from Florida and the Senator from Iowa, and that no officer in command of a single ship, or upon duty on shore, shall have more than \$4,000 a year, which I think is about the amount allowed by the other bills to captains who command single ships at sea. I also provide that those who are on shore, or on leave, or on furlough, as the case may be, shall never receive more than \$3,000. That is in accordance with the proposition of the Senator from Louisiana, which has just been adopted by the Senate.

I guard all these various points by the provision which I have inserted, and I put the officers on an equality. An old officer who has been fifty or sixty years in the service, without these restrictions, if he was waiting orders or on furlough, drawing the service ration and the \$240 a year additional pay, would receive \$4,500 or \$5,000 a year when he was on shore doing nothing. I guard against that by the provision. These provisions do not reach the case of the senior commanding officer of the Navy. I allude to Commander Stewart, or any other officer who may hereafter be in command of the Navy. He will receive, under the operation of my substitute, if it be passed, his present pay, with \$240 a year increase and one service-ration for each five years of the whole time he may have been in the service. If he has been, for example, forty years in the service, his pay will be \$5,116. If he has been sixty years in service, his pay will be larger than that. I do not propose to limit the pay so far as the senior officer of the Navy is concerned. Let him take whatever amount his age and services may entitle him to demand.

This seems to me, Mr. President, to be a simple proposition, which will operate justly on all grades; and it will accomplish one other result. The complaint is that the subordinate officers of the Navy, the lieutenants, are not as well paid in proportion as those of the higher grades. While I propose to give to the higher officers an increase of \$240 a year, I propose to give the same amount of increased pay to the lieutenants and all the inferior grades of commissioned and warrant officers. When you add \$240 to the present pay of a lieutenant and the same sum to the present pay of a captain, you perceive that you raise the pro-

portionate amount of the lieutenant more than you do that of the captain, and therefore you do in this way provide a larger proportionate compensation to the lieutenant than he now gets according to the present system.

The Senator from Alabama [Mr. CLAY] asks me how far under the provision of my substitute will compare with the pay of the same grades in the bill under consideration? I answer, that there will be very little difference, I think, because my limitation precludes the pay from going much beyond the amount contemplated by the bill. I only ask that the years and ratings shall be taken.

Mr. DOOLITTLE. As to the order in which the questions are taken, I understand that the amendment of the honorable Senator from Maine has been perfected in form, and the vote was about to be taken between that and the original bill. Now I understand the honorable Senator from Georgia to move to strike out all of the amendment of the Senator from Maine and substitute his proposition for the original bill. It seems to me that it is not in order to do this, because the result in the natural order. We should first take the action of the Senate between the amendment of the Senator from Maine as perfected and the original bill, and if that amendment is voted down then try the other.

Mr. HUNTER. As I understand it, this is an amendment to an amendment. It is the usual order in which we vote. We vote on the proposition of the Senator from Georgia as an amendment to the amendment of the Senator from Maine. If that is voted down, then the vote comes up on the proposition of the Senator from Maine, and last on the bill.

Mr. FESSENDEN. You cannot substitute one substitute for another.

Mr. HUNTER. A substitute is nothing but an amendment. There is no such thing as a substitute known to parliamentary law. It is an amendment, only it is a larger amendment than if it proposed to strike out a particular section.

Mr. FESSENDEN. I understand from those more experienced that it is not in order.

Mr. HUNTER. I am not in the audience or substitute in the present stage of the proceedings because I was informed by Senators around me that if I waited until the bill got into the Senate, without offering this amendment, I could not then propose it. I am not familiar with the rules of motion, and am, therefore, guided by other gentlemen.

The PRESIDING OFFICER. (Mr. FITZPATRICK.) The Chair will state to the Senate that it is strictly in order for the Senator from Georgia to move his amendment to the amendment of the Senator from Maine; and if it prevails, it takes the place of the amendment of the Senator from Maine, and then the question before the Senate will be as between that and the original bill.

Mr. DOOLITTLE. I understand the rule as stated by the Chair; but I wish to state the fact that a substitute was strictly an amendment. It is now proposed to substitute the entire amendment of the Senator from Maine by a new amendment.

Mr. GRIMES. I would inquire of the Senator from Florida if he has examined into the effect of his proposition upon the warrant officers? I understand that we have carpenters now in the service who are receiving \$1,242 a year. He proposes to increase their pay \$240, making it \$1,482, as much as you pay your lieutenants who have been in the service, some of them twenty-five years.

Mr. IVERRSON. I really am not very familiar with the various grades of the Navy, and I supposed that warrant officers were confined to those who had commissions; for instance, captains and lieutenants and midshipmen and passed midshipmen and masters. I did not suppose that warrant officers included various subordinate stations, such as carpenters and others; but I am willing to take them out and provide that they shall be excluded from the operation of the law. I do not know that their pay ought to be greater than it is.

Mr. MALLORY. I trust that this amendment has no chance of passing here. I do not see what benefit we can derive from passing it over either of the bills. Of course I prefer that from some consideration, but I think it is a waste of time. It will have in view in increasing the pay. I do

not know, nor can any man state, what pay this amendment of the Senator from Georgia gives. As to these service rations, I am opposed entirely to paying officers by stipends in this way, by rations or by any percentage, so that the Register does not show at a glance the precise pay each officer receives. That is the fact, I have ascertained with other tables, that they do not show the pay. I have instituted no comparison with the Army, and I wish to institute none. The Army receives a cent of pay too much. I will, therefore, for fear of saying anything on that subject in reply to the Senator from Georgia, but I am so sure, that the warrant officers now receive, as stated by the Senator from Iowa, some of them, \$1,240. They are boatwains, carpenters, gunners, and sail-makers. This is an increase that the Senator did not contemplate, I know. His amendment will affect various other points that he does not see now. If the sums, as he says, approximate to those in the bill of the committee, then I do not see any object to be gained. I think it will complicate matters very much.

So far as the Senator's remarks go that this bill is difficult to understand, I will say that nothing can be more perspicuous. It provides that every officer doing such a duty shall receive so much money. It follows out the pay table that has been in use since 1835. Nothing can be more plain. There is no concealment. The bill shows the precise pay which the officer will receive—and he can receive no more—in dollars and cents. Every grade is mentioned, and there is no ambiguity, no possibility, I think, of misunderstanding. But we would take a good deal of calculation to ascertain what any officer would get under this amendment. I think the Senator's object is the same as mine—to give the officers a fair rate of compensation; and I think he will attain it best by the committee's bill.

Mr. HUNTER. I propose to strike out the word "warrant" in my amendment, and confine the increase to the commissioned officers, so as to obviate the difficulty the Senator from Iowa has suggested. Now, the Senator from Florida says that it will be difficult to ascertain what will be a fair rate of compensation under this provision. I do not think there is the least difficulty on earth. The act of 1835 establishes the pay of each one of these grades. If a man has served five years in the service, is the Senator unequal to understanding that he has served five years? A child can understand that. The honorable Register will show you the date of his appointment, and the expiration of the five years will show that. Nobody can misunderstand that. Then, when he has served five years, he will get an additional rating of thirty cents a day. Cannot the accounting officers ascertain very easily how much pay he will get? If he has served ten years he will get two additional ratings, at thirty cents a day. There is not a page in the Senate who cannot tell you in five minutes, or in less time, how much additional pay he will receive. I do not think we will not be able to ascertain the pay these officers would get under my amendment. Surely the Senator cannot be in earnest. Any man, no matter how little sense he may have, can tell you in a moment how large will be the pay. I think that the Senator from Florida has no weight whatever.

Then, what I say about these bills is comparative. I know anybody can understand what is meant when it is said that a captain commanding an squadron is paid \$3,000 a year, and that you raise our grades, from captain down to midshipman, and you are increasing their pay, and who can understand what is the relative increase from the present pay of all these various officers? Here are comparisons made. Some say a lieutenant ought to be paid \$1,000 a year, and some say a captain ought to have more than a lieutenant; and there are comparisons between the various grades of officers, and the time of service in the Navy. You are regulating this by a general provision. I say it shows some confusion in the Senator's mind. I intend to proceed with the officers of the Treasury, I suppose, and the Senator from Florida may be able to work it out very well; but I confess that, at the first blush, I do not exactly understand the operation and effect of the provisions of this bill.

Mr. MALLORY. I think I have said all I have observed, I will say that Congress has never as-

terfered to fix the price of the service ration in the Navy; but it has done so in the Army. In the Navy it is left to the President of the United States. He changes the service ration according to the actual value of the ration. It stands now at twenty-five cents. I should be very sorry to see any interference with it. He also fixes the rates of wages to seamen, according to those paid at the mercantile ports. I should regret to see any change there. So far as any complication goes, I say the bill is good for every officer's pay appoints his grade, and, in opening the pay table, it is impossible to mistake it. I say the amendment requires a computation or estimate, and I think we ought to compute at as much as possible. We ought not to be required to make a computation, but when we open the Register we should have the pay distinctly set before us. I do not know anything that the amendment is aimed at which is not better attained by the bill, and it aims at some things which I think we had better let alone.

Mr. DAVIS. My friend from Georgia, in sustaining his amendment, thought proper to refer to the Army pay; and he has shown us very clearly that he does not know anything about it. He does not understand the difference between the Army and the Navy allowances; he does not understand the difference between elements and things which are not such; and hence he arrives at his conclusion. There cannot be a worse method of increasing the pay of a body of officers than giving the same sum to every one of them. I do not think a worse method could have been adopted of increasing the pay of the Army when it was done, than by giving twenty dollars to every commissioned officer. The wants of officers, the expenses of officers, the just claims of officers, vary with their service and their rank. That I think, is now to be found in the present arrangement of the Army; for, though a lieutenant does not get by some five hundred dollars as much as has been repeatedly stated here—I will correct that now once for all—I believe he gets too much when he first enters the service. A man's pay, compelling him to the most rigid economy, would improve the efficiency and future independence of the officer of the Army, as I doubt not it will in the Navy.

I think the Senator from Iowa very well asked whether this proposition did not raise midshipmen. Are they neither warrant nor commissioned officers when they are at the Academy? If not, then how do they get there? What is a commission? It is not a necessity that a commission should be conferred by the Senate. It is a letter of authority granted by the President, or one of the heads of the Departments acting for the President. I think you will find in strictness that these midshipmen are commissioned officers. I have the same opinion in relation to cadets. I think the question of the Senator from Iowa was well put.

Again, as to the matter of an increase in the ration: it was a method adopted, and by a large portion of the Army never approved. They decidedly preferred that a sum of money should be paid each man each term of service. There is a bill now pending before the Senate, introduced from the Committee on Military Affairs, which recommends that we shall change the system, and, instead of giving a ration every five years, give the value of a ration for every five years. But the chairman of the Committee on Naval Affairs, while he has properly, as I think, and certainly very politely, avoided making a comparison with the Army, still refers to the fact that by a reference to the Navy Register you can see exactly how much the officers get. I ask him, are there no allowances that do not appear in the Register? Mr. MALLORY. I know of none.

Mr. DAVIS. Do ratings at sea appear in the Register? Is that commuted and charged to the pay of the officer? Mr. MALLORY. I do not call the ration the officer receives at sea an allowance. His pork and beans and bread do not appear.

Mr. DAVIS. Do the lights appear? Mr. MALLORY. The lights are for the use of the ship. The officer gets none that I know of. Mr. DAVIS. Do boys to wait on the officer? Does that appear?

Mr. MALLORY. Certainly not. They are mustered among the crew.

Mr. DAVIS. Does the furniture of the officers occupy at navy-yards appear?

Mr. MALLORY. They are not allowed any. They furnish their own quarters.

Mr. DAVIS. Have they none in their quarters?

Mr. MALLORY. It was abolished some years ago. I think improperly; and I think it ought to be restored.

Mr. DAVIS. I agree it ought to be restored. It is right to be granted to the Army, too, but it never was; and all these allowances are charged in the return as the officer's pay, and announced here from year to year as so much received by the officer. He moves about from post to post; is compelled to sacrifice his furniture at one place, because it is the Government's interest to send him to another. There are frequently no quarters furnished him. Then we have an annual report, showing how much he got for commutation of quarters; how much he got for forage for his horses, when it is well known that the allowance for forage does not half cover the expense, if he keeps them in any of the principal cities of the United States. It does not cover a third of the expense, if he keeps them in this city, if you include the equipments of the animal. These, which are taxes on the officer, summe which he can get only by encountering expense, are to be added to the Army pay, and constantly paraded to show how much they get. On a proper occasion, I think I shall endeavor to show that the pay of the Army is low, falling far below what is constantly stated.

Mr. MALLORY. I think so, too, but I do not know.

Mr. DAVIS. With the admission of the Senator, then, I will stop.

Mr. MALLORY. I was not aware that the chairman of the Committee on Military Affairs was addressing his remarks to me, for I have not drawn any comparison between the pay of the Army and the Navy. I have abstained from using the word "Army." I have not alluded to it in the remotest possible degree.

Mr. DAVIS. I believe I did you that justice, sir.

Mr. IVERSON. The Senator from Mississippi was rather caustic in his remarks, when he said I did not understand the pay of an officer, or know anything about it. The remark was certainly gratuitous in my opinion, and very ill becoming the Senator or the place that he occupies. Sir, I think I understand what the pay of an officer is, and I understand what his commutations for his rations are. The law gives him so much pay per month, and then gives him rations, and gives him horses, gives him servants, and gives him rations for those servants.

Mr. DAVIS. How do you make out his pay? Mr. IVERSON. By adding to what he gets thirty cents for his rations commuted, and his allowance for traveling expenses. Anybody can understand that. I do not think it requires any great amount of brains to comprehend it. I certainly admit that I have not quite as much sense or as much brains as the Senator from Mississippi; but I think I can understand that much at least.

I can understand that when you add twenty dollars to the Senator's officer's pay, he gets \$40 a year in addition to what he formerly received; and if you give him three or four rations a day, and say he shall draw thirty cents for the ration, I can understand how much pay he gets in that way. I do not think it is difficult to understand that.

Mr. DAVIS. The Senator vaunts of himself as being able to understand. I want to know how much an officer gets who has three horses?

Mr. IVERSON. I do not know; but on looking at the bill, I can see it. Anybody can understand that by looking at the law.

Mr. DAVIS. It is eight dollars for the forage of a horse. How much does he get for keeping three horses a month?

Mr. IVERSON. Twenty-four dollars a month, of course.

Mr. DAVIS. That is exactly one of the things which I see the Senator does not understand, when he adds it to the officer's pay, because he keeps the horses, and takes the money, and it does not pay the actual cost of keeping them.

Mr. IVERSON. I know that, because there is a provision in the law which restricts him. If he keeps the horse, he is entitled to eight dollars a month for the horse's forage, or he can feed the

horse out of the rations. The commutation of forage is eight dollars a month. That is the law. I understand that as well as the Senator from Mississippi. But the object in introducing this proposition is to show that you have increased the pay of the Navy, and you have increased the commutation price of the ration from twenty to thirty cents. Now I want to put officers of the Navy on the same footing; give them the \$240 a year in addition to their present pay, provided it does not go beyond a certain amount in certain grades, and also give them the additional service ration for each additional five years' service, at thirty cents a ration. That is precisely the law in relation to officers of the Army; and I propose to put the naval officers on precisely the same footing. The PRESIDING OFFICER. The question is on the amendment of the Senator from Georgia to the amendment of the Senator from Maine.

Mr. IVERSON. I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

The amendment to the amendment was rejected.

Mr. DAVIS. Now I have some business to offer to the amendment of the Senator from Maine. I propose, after line ninety-eight, to insert:

Provided, That nothing in this act shall be construed to diminish the first pay of any person now on sea or shore duty, during his present term upon such duty.

I understand that there are a few cases in which, if the proposed pay be adopted, there will be a reduction. This is to prevent a reduction whilst they are on their present duty.

Mr. FESSENDEN. That is right.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I wish to modify the substitute which I proposed, to make it conform to the amendment which was made to the other bill in relation to the pay of commanders, on the motion of the Senator from New Jersey. In line twenty-three, after "eighteen hundred," and insert "twenty-two hundred and fifty;" and also in line "twenty-seven I strike out "two thousand," and insert "twenty-two hundred and fifty."

The PRESIDING OFFICER. The amendment will be so modified.

Mr. DAVIS. I have another amendment to the amendment of the Senator from Maine, to insert after line forty-nine:

That those retired or dropped officers of the Navy whose promotion to a higher rank was involved in their restoration to their original positions on the active list with that rank also dated back, shall receive the difference between the pay of said rank from the back date thereof to the date of the confirmation of the same by the Senate of the United States, and the pay of a former rank which they have actually received for that interval: Provided, The amount individually does not exceed that which any officer of like grade now holds in respect to his rank on the active list has received.

I understand the fact to be that some of the officers who were restored were restored with higher rank, their promotion having been delayed; and the consequence was that it gave them the pay of the grade which they were waiting when they were restored, instead of that to which they were entitled.

Mr. MALLORY. I hope that amendment will be withdrawn, or at all events will not be passed. The Committee on Naval Affairs have that subject under consideration now.

Mr. DAVIS. I did not understand the matter to be before the committee. I do not wish to interfere with it. I withdraw the amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine as amended to the original bill.

Mr. FESSENDEN called for the yeas and nays; and they were ordered.

Mr. HARLAN. I desire to offer this amendment, to come in after line fifty of the amendment:

Every chaplain shall be permitted to conduct public worship according to the manner and forms of the church of which he may be a member.

Mr. MALLORY. I will say to the Senator from Iowa that I do not think there is the slightest necessity for that. A regulation has been re-

cently made by the Secretary of the Navy, which covers the whole ground, upon a bare suggestion that they were interfered with. The regulation of the service is now, and I am mistaken if it is not printed in this year's Register, that the chaplain may offer divine service, and not read it; he offers it in any way that may be most consistent with his own views of propriety, and the same preferences may dictate. There is nothing whatever in any department of the Navy to interfere with the offices of a chaplain, if he be Presbyterian, Episcopalian, or Methodist. He pursues any service he chooses, and the slightest intimation that any interference is made brings forth a rebuke from the Department; and recently, to remove the complaint, that regulation has been established.

Mr. HAMLIN. There have been complaints made to this body—surely at the last session there were a very considerable number of memorials or petitions presented and referred to the Committee on Naval Affairs involving this very point. Serious charges at least were made by chaplains that they were coerced to a different service from that of the church to which they belonged. Now the Senator from Florida tells us that has been remedied by a regulation of the Department. I must confess my utter surprise at the opposition made by the Senator from Florida here. I am amazed at it. I cannot comprehend it. The matter, he says, is regulated by the rule of the Department. That rule may be changed to-morrow. Is it not better to regulate it by law? Is it not better that all these things should be regulated by law? The law will beat reach the object. It seems so to me. If it was thought to be remedied by regulation, it is better remedied by law.

Mr. MALLORY. The regulation to which I allude is this:

NAVY DEPARTMENT, January 17, 1868.
It is understood that the Navy commissioners' regulations of 1818, requiring chaplains "to read prayers at stated periods," have therefore been construed to require them to offer prayers; and such will be the construction.

ISAAC TOWNE,
Secretary of the Navy.

To offer them—not necessarily to read them. The Senator expresses his amazement. I have only to say to the Senator that I am very much amazed that a man of his judgment should attempt to imply that a state of things exists in the public service which does not exist; and although the complaints may have been made here, they have been before the Navy Department for investigation, and they have never yet found any single authenticated instance in which such interference has taken place. I know that one of these chaplains has complained to the Navy Department in language which would not be read in decent society, and I know it is there in the Department now with the Secretary's indorsement that it is unfit to go on file; but I have yet to learn for the first time that there is any interference or attempt to compel a chaplain to offer divine service in a particular manner. The only objection I hear is, that this is an implication of the Secretary of the Navy desire any particular form of prayer. It is possible they may desire the briefest.

Mr. FESSENDEN. I am of opinion that this had better be regulated by law, if it is liable to abuse at all; but I believe that within my own power, as the amendment is offered to my amendment, and I can accept it. I do so.

The PRESIDING OFFICER. It requires the action of the Senate to confirm it.

Mr. FESSENDEN. I accept it as a modification of my amendment.

The PRESIDING OFFICER. It still requires the action of the Senate, as the yeas and nays have been ordered.

The amendment to the amendment was agreed to.

Mr. HARLAN. I desire to offer the following amendment, to add after the previous amendment: Every chaplain retained in the service shall be required to report annually to the Secretary of the Navy the official services performed by him.

The amendment to the amendment was agreed to. The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine, as amended.

The question being taken by yeas and nays, resulted—yeas 20, nays 29; as follows:

YEAS—Messrs. Bingham, Chandler, Clark, Collamer, Davis, Doolittle, Duran, Frelinghuysen, Giddings, Harlan, Harlan, Iveson, King, Seward, Sumner, Sumner, Ten Eyck, Trumbull, and Wade—20.

NAYS—Messrs. Anthony, Bayard, Benjamin, Briggs, Bright, Brown, Claiborn, Clay, Clingman, Crittenden, Douglass, Fitch, Fitzpatrick, Greer, Gwin, Hunter, Kenney, Latham, Mallory, Mason, Nicholson, Paul, Powell, Salisbury, Sebastian, Wilson, Wigfall, and Yates—29.

So the amendment was rejected.

Mr. HARLAN. I now desire to offer the same amendments, which I have just proposed to the substitute, in regard to chaplains, to the original bill, to come in after line sixty-five.

The PRESIDING OFFICER. The Chair will state to the Senator that the bill has not been reported to the Senate; and it is not in order to offer amendments to the original bill.

The bill was reported to the Senate as amended. The PRESIDING OFFICER. (Mr. POOR in the chair.) The first question will be on concurring in the amendments made as in Committee of the Whole, and if no objection be made, the question will be on concurring in all the amendments made as in Committee of the Whole.

Mr. SIMMONS. I wish to object to one or two of those amendments. I want to call the attention of the Senate before the vote is taken—to the amendments from Louisiana to the increase made to the pay of captains on other duty than sea-service, and on leave. I heard him indicate that he would increase the leave of absence pay \$250; and I think that would be more in harmony with the general character of the bill, and I would not object to that. I think that he would add \$500 to those doing no service at all. I think that is too large an increase in proportion to that class.

Mr. BENJAMIN. We can reserve that amendment and take a vote on the others. The PRESIDING OFFICER. With the exception of the amendment indicated by the Senator from Rhode Island, the question is on concurring in the other amendments which were made as in Committee of the Whole. The amendments were concurred in.

The PRESIDING OFFICER. Now, the question is on the amendment indicated by the Senator from Rhode Island. Mr. SIMMONS. I suggest to the Senator from Louisiana whether it would not be better to put the \$4,600 class at \$3,750, and the \$3,000 one at \$2,750. That would be putting \$250 to the present \$4,600 grade.

Mr. BENJAMIN. I will merely remark to the Senator from Rhode Island that, in my opinion, and I believe in that of many others, the difference before was too great between the pay of a captain waiting orders and a captain at sea, which was \$1,000. The pay of a captain at sea was now put at \$3,600, or \$100 more than it was before; and the pay of a captain waiting orders on shore at \$3,000, leaving a difference of \$600 between captains on shore and at sea. It arranges the pay as the service is rendered, varying \$100 a month for each grade of service; those on leave on shore at \$250 a month; those on duty, \$360 a month; and those on duty at sea, \$350 a month; leaving the bill as reported in relation to commanders of squadrons. I think we had better let it remain as it is, as it has been fixed. It is hardly worth while to change it.

The amendment was concurred in. The PRESIDING OFFICER. The bill is now open to further amendment.

Mr. WIGFALL. I move to strike out the second section, in these words:

Sec. 2. And he shall be *ordered* that nothing in this act shall be so construed as to increase or modify the present pay of the chiefs of bureaus in the Navy by more than one per cent.

If the chairman of the committee accepts the amendment, I will say nothing.

Mr. MALLORY. The amendment is not to strike out the proviso adopted yesterday, but only the section down to the word "Observatory." I do so.

Mr. BENJAMIN. I should like some explanation of what this amendment means. I do not like to vote in the dark.

Mr. WIGFALL. I will explain it in a moment. I understand that this bill provides generally for the increased pay of the naval officers,

and that there is sea-service and land-service. There are distinctions made between sea-service and land-service, and here is the second section which makes a proviso that nothing in this act shall be so construed as to increase or modify the present pay of chiefs of bureaus in the Navy Department or the Superintendent of the Naval Observatory. I wish to understand very clearly what an officer's land should not be paid as much as one at sea, I do not understand that if one happens to be distinguished on account of his information and his science, and therefore should have been taken and put at the head of one of the bureaus, because he happens to have brains, there should be a tariff put upon his understanding, and that every one else should get the benefit of this bill except those who, in consequence of their scientific attainments, are put at the heads of bureaus; that every one else should be paid extra, and that the men who have the capacity to be put at the heads of the bureaus should be cut out of all the increased pay. That I do not comprehend; and for that reason I have moved to strike that out.

It is said by the Senator from Minnesota that if this whole clause is stricken out, his amendment goes with it, and Captain Dahlgren is, therefore, cut down of his extra pay. I surely did not mean that. I wish him to have his increased pay; but I only desire that those officers who are put at the heads of bureaus should get their pay as requisites, and also their increased pay. I do not see why a discrimination should be made against the heads of bureaus.

Mr. BENJAMIN. If the Senator will permit me, I have prepared a section in accordance with what I stated before. I do not understand his object; but I stated that I thought there ought to be a provision in the bill for the cases of those officers who, on account of their scientific attainments, are assigned to special service on shore. I propose that these be inserted instead of the second section.

That in all cases where officers have been or may be ordered to perform special services on shore, by reason of superior talents, or other qualifications, the service of such officers, whilst thus employed on shore, shall be compensated as sea service, and entitle such officers to the same increased pay as if they were performing sea service.

Mr. WIGFALL. I accept the amendment of the Senator from Louisiana, and offer that as mine.

Mr. BROWN. I can see in the phraseology of the Senator's amendment, that it would subject the Secretary, or whoever audits the account, to a determination of the propriety of the pay, and whether an officer on shore had been chosen to perform a particular duty on account of his superior scientific attainments. I do not see how that is to be determined. One Secretary orders an officer to perform extra shore duty, and probably does not put it on the record that he made the appointment on account of the officer's superior scientific attainments. He comes and asks for his pay, and he claims it because he was simply ordered to perform shore duties, and the reason for this is not apparent on the record. Then what is to be done?

In addition to that, I am opposed to the whole amendment. I do not believe in paying these land-lubbers any extra compensation. All this story about gentlemen coming close to the heads of bureaus on account of their scientific attainments contains in it a great deal of gammon. Whenever one of the bureaus belonging to the Navy Department is vacant, there is a universal scramble in the whole Navy for the occupancy of it. Let the bureau of yard and docks, or any other one, become vacant to-day, and there will be fifty applications for it. Why? Because it is a nice comfortable place to shore.

No one has a higher respect than I have for Lieutenant Maury; but how is he situated here? Pursuing his scientific studies, and encountering the hardships of the sea, never buffeting the waves, not exposed to the storms, not exposed to any danger whatever; and I really see no reason for increasing the compensation of that officer as an officer of the Navy. If as a scientific agent of the Government, he is not receiving enough compensation, then pay him as Superintendent of the Observatory, but not as an officer of the Navy, and for services never performed as a naval officer; and so with the rest of them.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 30, 1860.

NEW SERIES.....No. 89.

I am for increasing the wages of naval officers who perform naval service, who go to sea, who hold the waves, who encounter the perils, who keep watch at night, who expose themselves to the perils of the deep, to the beatings of the storms. They are the men who, on a naval bill, are entitled to an increase of compensation; but those gentlemen who live on shore, sleep comfortably every night, quietly in their closets pursue their scientific studies, are meritorious enough in their way, and if it be that the Government should have such officers, as possibly it ought, then I should pay them, pay them amply, reward them munificently, if you please, but reward them as scientific gentlemen, and not as officers of the Navy. Sir, it is not creditable to the Navy that you put men on an equal footing with naval officers, who perform no naval duty, and have performed none, some of them for nearly a quarter of a century. I want this to be a bill to pay naval officers, not men who have titles in the Navy, who are called lieutenants or called captains, but who shirk the sea and all its perils, who are glad to live on shore. I am not going to vote a dollar of increased compensation to any of that class of officers. To those who pursue the Navy as a profession, encounter its perils, and its responsibilities, I am ready and willing, and anxious, to vote increased compensation.

MR. GRIMES. I ask for the yeas and nays on the amendment. I want to vote and vote against it, because I believe it is calculated to create a species of favoritism.

The yeas and nays were ordered.

MR. MALLORY. I trust my friend from Louisiana will withdraw his amendment.

MR. BENJAMIN. I did not intend to amend myself; but when the Senator from Texas proposed to strike out the second section of the bill, I preferred that this should be inserted rather than to strike out the section entirely.

MR. MALLORY. I trust the Senator from Texas will withdraw the amendment; it will decrease the pay of the head of the Observatory, and I am opposed to striking out that.

MR. HAMLIN. Let us vote it down.

MR. BENJAMIN. I will vote against the amendment myself.

The question being taken by yeas and nays, resulted—Yeas 10, nays 36; as follows:

YEAS—Messrs. Chace, Cleggman, Collamer, Foot, Hammond, Humphill, Iveson, Kenney, Latham, and Welfall—10.

NAYS—Messrs. Anthony, Benjamin, Bigler, Bligh, Bingham, Briggs, Bright, Brown, Chandler, Clark, Clay, Crittenden, Doolittle, Douglas, Drake, Fessenden, Fish, Fitzpatrick, Graves, Grimes, Gwin, Hamlin, Harlan, Malory, Mason, Nelson, Packer, Polk, Powell, Rice, Salisbury, Schuchman, Sumner, Tuck, Treadwell, Wells, and Yates—36.

So the amendment was rejected.

MR. HARLAN. I desire to renew the amendment that was adopted in Committee of the Whole to the amendment offered by the Senator from Maine in reference to chaplains, to insert after line six of the bill.

Every chaplain shall be permitted to conduct public worship according to the manner and forms of the church of which he may be a member; and every chaplain retained in the service shall be required to report annually to the Secretary of the Navy the official services performed by him.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and read the third time, and passed.

MARKS ON NEWSPAPERS.

THE PRESIDING OFFICER. The Chair will report to the Senate a bill for the House of Representatives, with an amendment to an amendment of the Senate.

The Senate proceeded to consider the action of the House of Representatives upon the amendments of the Senate to the bill (H. R. No. 341) authorizing publishers to print on their papers the date when subscriptions expire. The House concurred in all the Senate amendments except the last one, for which they proposed to substitute:

And it is further enacted, That on all drop letters, delivered within the limits of any city or town by carriers under the authority of the Post Office Department, one cent

each shall be charged for the receipt and delivery of said letters, and no more.

MR. YULEE. I move that the Senate concur. I have examined it, and it accomplishes the purpose.

The amendment of the House to the amendment of the Senate was concurred in.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. Buchanan, Secretary of the Interior, announced that he had yesterday approved and signed a joint resolution for the relief of Commander H. J. Hartstone, of the United States Navy.

ADJOURNMENT.

MR. GREEN. I move now to take up the resolution, which lies on the table, providing for an adjournment on the 30th of April. ["Oh, no!"]

MR. CLAY. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES

WEDNESDAY, March 28, 1860

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON. The Journal of yesterday was read and approved.

UNITED STATES ART COMMISSION.

MR. PETTIT. I ask the unanimous consent of the House to take from the Speaker's table a letter from the Secretary of War, communicating the report of the United States Art Commission, that it may be referred to the Committee on the Library.

There being no objection, it was so ordered.

MARY E. CASTOR.

MR. WASHBURN, of Illinois. There is a Senator on the Speaker's table, granting a small pension to Mrs. Mary E. Castor. The first husband of this lady, Lieutenant Whitehorn, of the Army, died of disease contracted in the service of the United States Army, was sent to California, and was stationed for a year or more at Fort Tejon, where he and his family were obliged to live in a tent, and where he contracted disease, and died. His widow is now left entirely destitute. She is nearly blind, and is without any means of support whatever. I hope that, under these circumstances, the House will consent to have the bill taken up, and passed.

MR. FARNSWORTH. I call for the regular order of business.

MR. WASHBURN, of Illinois. I hope my colleague will not object to this case.

MR. FARNSWORTH. I know of many cases before the House that are just as meritorious as this one.

The bill (S. No. 247) for the relief of Mary E. Castor was taken up and read. It directs the Secretary of the Interior to place on the pension roll the name of Mary E. Castor, widow of First Lieutenant Thomas F. Castor, late of the United States Army, at the rate of \$36 66 per month, from the 9th day of December, 1859, for and during her life or widowhood.

MR. BURNETT. I do not see any reason why this bill should be taken up now, in preference to others.

MR. WASHBURN, of Illinois. I hope my friend from Kentucky will let this bill be passed. It is a small matter. This lady is nearly blind, and has no means of support.

MR. BURNETT. Very well; let it go.

The bill received its several readings, and was passed.

MR. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REGULAR ORDER OF BUSINESS.

MR. GROW. I call for the regular order of business.

MR. MAYNARD. I ask the gentleman from Pennsylvania to suspend the call for a moment, until I can report a couple of cases from the Court of Claims—cases which I was prevented from reporting the other day.

MR. GROW. I must insist on the regular order of business.

BANKS THROUGHOUT THE UNION.

The SPEAKER laid before the House the annual report of the Secretary of the Treasury on the condition of the banks throughout the Union; which was laid on the table, and ordered to be printed.

JOINT RESOLUTIONS OF NEW MEXICO.

The SPEAKER also laid before the House a communication from the Secretary of the Territory of New Mexico, transmitting copies of the following memorials and joint resolutions of the Legislative Assembly of that Territory, which was referred to the Committee on Territories, and ordered to be printed:

Memorial for payment of certain Indians called into service against the Apache Indians, by Acting Governor William S. Messervy, A. D. 1858-59; passed 1857-58.

Memorial for the payment of volunteers under Major Ramon Luna, organized under orders No. 22, of Colonel E. W. B. Newby—passed 1857-58; Preamble and joint resolutions asking for the payment of militiamen and volunteers aforesaid—passed 1858-59; and

Memorial asking for the payment of militiamen and volunteers aforesaid—passed 1859-60.

KENTUCKY CONTESTED ELECTION.

The SPEAKER also laid before the House a communication from the Secretary of State for the State of Kentucky, transmitting certificates in relation to a contested election case from that State; which was referred to the Committee on Elections, and ordered to be printed.

POLYGAMY IN UTAH.

The SPEAKER stated that the business regularly in order before the House was the consideration of House bill No. 7, reported by the Committee on the Judiciary, to punish and prevent the practice of polygamy in the Territory of the United States, and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah; the pending question being on Mr. NELSON's motion to recommit, on which the previous question had been demanded, but not seconded.

MR. NELSON. I desire to withdraw the motion to recommit, and ask that the bill be put upon its passage.

MR. MORRILL. I object to the withdrawal of the motion.

MR. BRANCH. I now ask permission to present an amendment to the bill. The amendment has been printed by order of the House.

MR. MORRILL repeated his objection.

MR. BRANCH. The question on Vermont cannot object to the withdrawal of the motion.

The SPEAKER. The gentleman from Tennessee has the right to withdraw his motion; and now the amendment offered by the gentleman from North Carolina is in order.

MR. BRANCH. Who is entitled to the floor, Mr. Speaker?

The SPEAKER. The gentleman from Tennessee is entitled to it.

MR. NELSON. I yield it to the gentleman from North Carolina, with the understanding that he will renew the previous question.

MR. MORRILL. I object to any arrangement of that kind.

MR. BRANCH. The gentleman from Tennessee having withdrawn his motion to recommit, I present my amendment to the bill.

MR. MORRILL. I object to the gentleman from Tennessee yielding the floor for any purpose whatever.

MR. BRANCH. I believe the gentleman has no right to object to a member yielding the floor, whenever a member pleases to do so.

Territory shall otherwise provide, the seat of government of the same shall be at Carson.

Mr. LOGAN. I merely want to get that amendment in. I do not wish to be understood as opposing the motion to postpone.

Mr. MILLSON. If there is any disposition to postpone the consideration of this bill until Monday, I will be very glad to do so.

Mr. NELSON. If the gentleman will yield the floor to me, I will state what I wish to do.

Mr. MILLSON. I trust that the bill will not be passed under the operation of the previous question, for I think that discussion can only be desired here for the purpose of improving the provisions of the bill, adjusting its details, &c. I can hardly persuade myself that there will be any gentleman, and if any, but very few, who will object to the great objects contemplated by the bill. I confess, Mr. Speaker, that I listened with some pain to the remarks of my friend from North Carolina, [Mr. BRANCH], and to the suggestions made by the gentleman from Louisiana, [Mr. TAYLOR], and I have sought the floor for the purpose of replying to them and to the positions they have assumed.

Mr. BRANCH. I would like to know from my friend from Virginia to what remarks of mine he alludes?

Mr. MILLSON. I always listen to the gentleman with pleasure, and state with diffidence any opinion I may have, but I am not sanctioned by his judgment and conviction.

Mr. BRANCH. I think that my friend must have misunderstood what I said.

Mr. MILLSON. Perhaps so.

Mr. BRANCH. I think that no one could condemn more strongly than I have in my remarks the practice of polygamy, and the laws of any State or Territory which went to sanction it and to sustain it. I discussed the question solely as one of political power, and I presented a mode of abolishing polygamy, which I conceive will be more efficient and successful than the measure of the Committee on the Judiciary.

Mr. REAGAN. Let me say a word.

Mr. BINGHAM. I object to all interruption.

Mr. REAGAN. I listened with respect to the gentleman from North Carolina.

Mr. BINGHAM. I object.

Mr. MILLSON. I have the floor.

Mr. BINGHAM. And I object to the gentleman yielding it.

Mr. REAGAN. I only want to say a word. I hope that I may be allowed to say it.

The SPEAKER. Objection being made, the gentleman from Virginia must proceed with his remarks without interruption, or yield the floor unconditionally.

Mr. REAGAN. I do not want to enter into any discussion.

Mr. BINGHAM. All this thing, if there is to be a postponement, interfere with the business of the morning hour and prevents committees getting in their reports.

Mr. REAGAN. I move, then, that the further consideration of this subject be postponed until next Monday, after the morning hour.

Mr. GROW. I hope that that will not be done.

Mr. MORRILL. This subject has been before the House for four years, and it ought to be acted on and disposed of.

Mr. MILLSON. I yield the floor only for the purpose of moving a postponement.

Mr. NELSON. My reason for desiring that the bill shall be postponed until Monday next, and made the special order for that day at one o'clock, is that there are members of the Committee on the Judiciary who desire to make reports before the expiration of the morning hour. There are, too, gentlemen who desire to discuss this bill, and I think that a reasonable amount of discussion will awaken the House, in all probability, to something like unanimity in its favor.

Mr. GROW. The morning hour is out; so that committees can make no further reports today. That reason of the gentleman, therefore, is not a good one.

Mr. HOUSTON. If the morning hour is out, then let us go on with the bill.

Mr. SHERMAN. I object to the further postponement of this bill. It has already been postponed once. Let it be voted on now.

Mr. LAMAR. Is this question of postponement debatable?

The SPEAKER. Only so far as the merits of the motion to postpone are concerned.

Mr. MILLSON. If the motion is to be debated, then I claim the floor, which I yielded only for a postponement of the question, if that could be accomplished by general agreement.

Mr. JOHN COCHRANE. Has the morning hour expired?

The SPEAKER. It has.

Mr. JOHN COCHRANE. Then, let the House proceed to the consideration of the business upon the Speaker's table.

Mr. SHERMAN. I will submit a motion to the House, which, if adopted, the morning hour has expired. If the House resolve itself into the Committee of the Whole on the state of the Union this bill will go to the Speaker's table, where it can be reached at any time by a majority, after the morning hour.

The SPEAKER. The bill will come up the first thing in the morning, as an unfinished report.

Mr. SHERMAN. I move that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the Army appropriation bill.

The WATROUS IMPRISONMENT CASE.

Mr. HICKMAN. Before the question be put, I ask the unanimous consent of the House to offer a resolution, which I suppose will not be objected to.

There being no objection, the following resolution was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary, in their examination of the matters referred to them on the memorial of Alacra Mendenhall, Eliza Spencer, and William Alexander, asking the imprisonment of John T. Watrous, United States district judge for the district of Texas, be authorized to receive for papers and papers, and to examine witnesses on oath or affirmation.

BILLS ON THE SPEAKER'S TABLE.

Mr. SHERMAN. There are several Senate bills on the Speaker's table for reference. I hope that before we go into the Committee of the Whole on the state of the Union they will be taken up and not lie on the table.

Mr. COLFAX. I will state that one of the first bills on the Speaker's table is a House bill, with Senate amendments, the consideration of which will take but a few moments. The Committee on the Post Office and Post Roads have already considered the amendments, and it will not take any time to dispose of them.

There being no objection, the House proceeded to consider and dispose of, in their regular order, the bills on the Speaker's table, as follows:

WASHINGTON MARKET-HOUSE STOCK.

An act (S. No. 192) authorizing the corporation of Washington city to make a loan and issue stock for \$200,000, for building a market-house; which was read a first and second time, and referred to the Committee for the District of Columbia.

PUBLISHERS' LABELS AND DROP LETTERS.

An act (H. R. No. 241) authorizing publishers to print on their papers the date when subscriptions expire, and in relation to the postage on drop letters; with amendments of the Senate.

Mr. COLFAX. I will state that, in order to amend the bill, the Committee on the Post Office and Post Roads have already considered these amendments in committee. There is but one of the amendments that is of any importance. I think that after they are explained there will be general concurrence in them.

First amendment of the Senate:

In line thirty-four, after the word "name," strike out the words "the ledger account showing."

Mr. COLFAX. I move that the amendment be concurred in.

The amendment was concurred in.

Second amendment:

In line thirty-four, after the word "expires," strike out the words "the wrapper number."

Mr. COLFAX. I move that the amendment be concurred in.

The amendment was concurred in.

Third amendment:

Add the following as a new section:

Section 1. That if further enacted, That all laws declaring this postage at the rate of one cent each shall be charged on all drop letters or letters placed in any post office not for transportation, but for delivery only, be and the same are hereby repealed, so far as they apply to drop letters delivered within the limits of any city or town by carriers, under the

authority of the Post Office Department, on which letters the rate of postage imposed for the support of the carrier system, in such city or town, shall be collected, and no more.

Mr. COLFAX. I will state that the phraseology of the Post Office section is somewhat involved, and the Committee on the Post Office and Post Roads have unanimously agreed to recommend the adoption of an amendment which will more clearly attain the object desired by the Post Office Department. The Senate amendment was proposed hastily and is reported in the Senate by the Post Office Committee. The object of it was stated by Mr. YULEE, the chairman of that committee, in the debate, of which I have the report in my hand; and to carry out that object more certainly, I move the following amendment to the amendment:

Strike out the Senate amendment, and insert in lieu thereof the following:

Sec. 2. And be it further enacted, That on all drop letters delivered within the limits of any city or town by carriers, under the authority of the Post Office Department, one cent each shall be charged for the receipt and delivery of said letters.

I will explain this in a moment. By the existing law, the Post Office Department is required to charge one cent for the drop letter, and one cent for its delivery by the carrier. The effect of this is to throw all the drop letters in large cities outside of the Post Office Department, and into the hands of the carriers, who are to deliver them more frequently, and generally more cheaply. The change proposed to be made—making the entire charge for the Post Office Department and the carrier one cent—will bring city correspondence into the post offices in the cities. The letters will be delivered by the city carriers, and the system, by the greatly increased number of letters, will be more profitable to them also. The Postmaster General hopes that, if the plan be carried out, he may in time be enabled in New York, Philadelphia, and other large cities, to reduce the charge for the carrier from one cent for all letters, mail as well as otherwise.

Mr. FLORENCE. I ask the gentleman from Indiana, the chairman of the Committee on the Post Office and Post Roads, whether the withdrawal of the penny which he proposes to take off the carrier will be a benefit to the carrier from the United States? Does he propose to pay the carrier one cent for carrying a letter, and relieve the United States Treasury from the burden of the other cent? or does he intend to divide it, giving half to the carrier and half to the United States? If the penny is to be given to the carrier for delivery, I have no objection to the amendment. I think that the penny is a quite small enough compensation; and I do not think that the carrier ought to be asked to divide it with the United States.

Mr. COLFAX. In answer to the gentleman from Pennsylvania, I will say this: the Post Office Department makes the arrangement now with the carrier, as follows: they allow two cents for the delivery of letters carried by mail, one cent for the delivery of letters carried by carrier, and one cent for delivering newspapers. The consequence is, that, as the total charge on drop letters is two cents in the large cities, there are comparatively but few drop letters for delivery by the carriers. Under this bill, the Post Office Department can make such arrangements as will be satisfactory to the carriers, and as will, no doubt, increase their receipts. The Committee on the Post Office and Post Roads have letters before them from private companies, offering to carry and deliver the entire letters—mail as well as drop—every two hours, at one cent each. In the Senate, Mr. YULEE, in response to a question by Mr. MAXWELL on this very proposition, stated what the effect would be: that it would not be to decrease the revenue of the Post Office Department, and that it would be a gain to it.

Mr. PHELPS. I desire to inquire of the gentleman from Indiana whether the whole amount now received from drop letters is not now paid out to the carriers? In other words, whether the receipts do not show that \$97,000 per annum is received for drop letters, and the same sum expended to pay the carriers?

Mr. COLFAX. The receipts from drop letters delivered by the carriers are now very small; because, under the present law, these letters are mostly delivered by city express companies.

Mr. JOHN COCHRANE. I wish to put a question to the gentleman from Indiana, so that I may be able to vote understandingly on the amendment which he proposes. If I understand rightly the amendment of the Senate, it has the approval of the Post Office Department, and the object of the amendment which the gentleman proposes is to make more explicit that which is involved by the language of the Senate amendment. Is that so?

Mr. COLFAX. That is it.
Mr. JOHN COCHRANE. Then, sir, the object of the amendment now offered by the gentleman from Indiana to the amendment of the Senate to accomplish the object of the Senate amendment, which has been recommended by the Post Office Department.

Mr. COLFAX. I will make this statement: finding that, under the language of the section adopted as an amendment by the Senate, an improper construction might possibly be put upon it, at some future time, by a hostile Postmaster General, so as to increase the rates on drop letters—to charge one cent for the post office and two cents for the carrier—after its passage by the Senate, I went and saw the Postmaster General. He told me that the language was vague, but that his intention was as stated by Mr. YULEE in explaining it to the Senate. I stated to him that I would propose an amendment to it which would carry out the object designed, and make it more definite.

Mr. FLORENCE. And afford protection, I presume, to the person who delivers the letters. I have no objection to it. I suppose it is all right.

The question was then taken on the amendment, as amended; and it was concurred in.

Fourth amendment of the Senate:
Amend the title by adding: "and in relation to the postage on drop letters."

The amendment was concurred in.

Mr. COLFAX moved to reconsider the votes by which the amendments of the Senate were severally concurred in; and also moved to lay the motion on the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.
A bill (H. R. No. 4) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1861, returned from the Senate with sundry amendments; which was referred to the Committee of Ways and Means.

COURT OF CLAIMS.
An act (S. No. 53) to amend "An act to establish a court for the investigation of claims against the United States," approved February 24, 1855; which was read a first and second time, and referred to the Committee on the Judiciary.

TAMPA BAY A PORT OF DELIVERY.
An act (S. No. 233) to constitute Tampa Bay, in the State of Florida, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

COMPENSATION OF UNITED STATES OFFICERS.
An act (S. No. 86) to amend existing laws relative to the compensation of the district attorneys, marshals, and clerks of the circuit and district courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

HEIRS OF THOMAS MADDEN.
An act (S. No. 49) to grant the right of preemption to a certain tract of land in the State of Missouri to the heirs and legal representatives of Thomas Madden, deceased; which was read a first and second time, and referred to the Committee on Private Land Claims.

JEREMIAH PENDEGAST.
An act (S. No. 52) for the relief of Jeremiah Pendegast; which was read a first and second time, and referred to the Committee on Patents.

BOARD OF FOREIGN MISSIONS.
An act (S. N. 71) for the relief of the American Board of Commissioners for Foreign Missions; which was read a first and second time, and referred to the Committee on Indian Affairs.

ABNER MERRILL.
An act (S. No. 96) for the relief of Abner Merrill; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HOSPITAL SQUARE, SAN FRANCISCO.
An act (S. No. 97) to authorize the institution of a suit against the United States to test the title to lots Nos. 5 and 6, in the hospital square, in San Francisco; which was read a first and second time.

Mr. BURCH. I ask that that bill be referred to the Committee on Private Land Claims.
Mr. PHELPS. I think that it ought to be referred to the Committee on the Judiciary; and I wish to give the reasons why I think it ought to be so referred. I understand that this bill relates to a part of the hospital property in San Francisco. Before we constructed the buildings there, the proper officers of the Government had certified that there was a good title to the property. We had either obtained it by purchase, or it was our own land. Now, some persons present a claim for a portion of the property, and it is proposed that Congress shall permit those individuals to commence a suit against the United States for the purpose of testing the title to property which our own law officers have said was good in the United States. I prefer, therefore, that the Judiciary Committee should investigate the question; and I move that the bill be referred to that committee.

The motion was agreed to.

MILES DEVINE
An act (S. No. 99) for the relief of Miles Devine; which was read a first and second time, and referred to the Committee of Claims.

SAMUEL H. TAYLOR.
An act (S. No. 100) for the relief of Samuel H. Taylor; which was read a first and second time, and referred to the Committee of Claims.

INDIAN LANDS IN OREGON.
An act (S. No. 142) to secure the right of preemption to certain settlers on lands temporarily occupied as the Indian reserve in Oregon; which was read a first and second time, and referred to the Committee on Public Lands.

PUBLIC PRINTING.
An act (S. No. 263) providing for a reduction in the prices allowed for the public printing, and providing for the binding of the public documents, reports, and Journals; which was read a first and second time, and referred to the Committee on Printing.

RETURN OF UNDELIVERED LETTERS.
An act (S. No. 202) in relation to the return of undelivered letters in the post office; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

GEORGE FISHER, DECEASED.
A joint resolution (S. No. 8) relative to the claim of George Fisher, late of Florida, deceased; which was read a first and second time.

Mr. SINGLETON. I move that that joint resolution be referred to a Committee of the Whole on the Private Calendar.
Mr. EDWARDS. I move that it be referred to the Committee on Indian Affairs. The same subject is now before that committee.

The question was taken on the motion of Mr. Edwards; and it was agreed to.

FRANCIS DAINES.
An act (S. No. 14) for the relief of Francis Daines; which was read a first and second time, and referred to the Committee on Foreign Affairs.

THERESA DARDENNE.
An act (S. No. 31) for the relief of Theresa Dardenne, widow of Abraham Dardenne, deceased, and their children; which was read a first and second time, and referred to the Committee on Public Lands.

ROSS WILKINS AND OTHERS.
An act (S. No. 84) to authorize and direct the settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley; which was read a first and second time, and referred to the Committee on the Judiciary.

SIEUR DE BONNE AND OTHERS.
An act (S. No. 92) authorizing the courts to adjudicate the claim of the legal representatives of the Sieur de Bonne and of the Chevalier de Repeigny to certain lands at the Sault Ste. Marie, in the State of Michigan; which was read a first and second time.

Mr. PHELPS. That is a bill which, I understand it, provides for instituting a suit against the United States. I suppose it should go to the Committee on the Judiciary.

Mr. JOHN COCHRANE. I think not.
Mr. PHELPS. I know nothing about the claim. It seems to me that upon its face it should go to the Committee on the Judiciary.

Mr. JOHN COCHRANE. This bill was referred to the Committee on Private Land Claims in the Senate. It is simply a question as to the propriety of instituting suits in the United States courts; and that is a very proper subject for the examination of the Committee on Private Land Claims.

Mr. OLIN. That is the very reason why the bill ought to go to the Committee on the Judiciary.

Mr. SICKLES. This is a question which properly belongs to the Committee on Private Land Claims. It is not a judicial question. It is merely a question of the propriety of allowing judicial proceedings to be instituted.

Mr. JOHN COCHRANE. This claim has been referred to the Committee on Private Land Claims for the last three successive Congresses. I call for tellers upon the motion to refer the bill to the Committee on the Judiciary.

Tellers were ordered; and Messrs. STOUT and McKIM were appointed.

The House divided; and the tellers reported—ayes eighty-seven; nays not counted.

The bill was referred to the Committee on the Judiciary.

EPISCOPAL MISSIONARY SOCIETY.
An act (S. No. 106) authorizing the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States to enter a certain tract of land in the State of Wisconsin; which was read a first and second time, and referred to the Committee on Private Land Claims.

MRS. A. E. CHILDS.
An act (S. No. 108) for the relief of Mrs. A. E. Childs; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JOHN HASTINGS.
An act (S. No. 109) for the relief of John Hastings, collector of the port of Pittsburgh; which was read a first and second time, and referred to the Committee of Claims.

GEORGIA AND FLORIDA BOUNDARY.
An act (S. No. 306) to settle the titles to lands along the boundary line between the States of Georgia and Florida; which was read a first and second time.

Mr. COBB. The Committee on Public Lands have had that question under consideration. Every member of the committee was in favor of this bill. It is an important question to the States of Georgia and Florida, and if the House is not disposed to pass the bill now, I ask that it may be permitted to remain on the Speaker's table.

There being no objection, the bill was passed over.

SALE OF PUBLIC ARMS.
An act (S. No. 45) to authorize the sale of public arms in the several States and Territories, and to regulate the appointment of superintendents of national armories; which was read a first and second time, and referred to the Committee on the Militia.

VALENTINE WEHRHIM.
An act (S. No. 228) for the relief of Valentine Wehrhim; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PACIFIC TELEGRAPH.
An act (S. No. 84) to facilitate communication between the Atlantic and Pacific States by electric telegraph; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. GURLEY. They will cost five dollars per volume.
 Mr. BARKSDALE. That will make \$50,000 for the whole.
 The SPEAKER. No debate is in order.
 The question was taken; and it was decided in the affirmative—yeas 89, nays 62; as follows:

YEAS—Messrs. Charles F. Adams, Adolph, Alcy, William C. Anderson, Barrett, Beale, Bingham, Blair, Blake, Boyce, Buffington, Burgh, Burroughs, Butterfield, Carey, Carter, Case, Colfax, Conkling, Cowde, Curtis, John D. Davis, Harter, Helms, Howell, Johnson, Kellogg, E. L. Key, Farnsworth, Florence, Frank, French, Goodrich, Gray, Gurley, Hale, Haskin, Hendrick, Howard, Hughes, Humphrey, Ketchum, Francis M. Kellogg, A. C. Ketchum, L. C. Key, Loring, E. S. Martin, McKim, Millard, Montgomery, Morrill, Edwin Jay Morris, Rice, Schuyler, Tilton, F. P. Pettit, Porter, Putnam, Rogers, C. Schuyler, Morrill, James C. Robinson, Ross, Schwartz, Sherman, Spaulding, Spencer, Stevens, William Stewart, Tamm, Taggart, Thayer, Thompson, Train, Trimble, Van Dusen, Verger, Waldron, Watson, Conradine C. Washburn, Ellis B. Washburn, Israel Washburn, Wells, Winslow, and Windom—59.

NAYS—Messrs. Allen, Thomas L. Anderson, Ashmore, Branch, Branch, Butler, Boutwell, Boyce, Brinsford, Branch, Branch, Burnett, Horton F. Clark, John H. Clark, Clifton, Cobb, James Craig, Burton Francis, Crawford, Deane, J. H. Giddens, Edwards, Edwards, E. C. Galt, Hamilton, Harnden, Hatten, Hutton, Logan, Jenkins, Jones, Keith, Lassar, James M. Leach, Logan, Leonard, Medsker, McKim, Miles, L. C. Moore, Spalding, Moore, Isaac N. Morris, Nelson, Niblack, North, Phelps, Pugh, Richards, Reagan, Rumsey, Sampson, Stoddard, Stevenson, Stock, Tamm, Thomas, Underwood, Vallandigham, Woodson, and Wright—62.

So the motion to reconsider was laid on the table.

During the vote,
 Mr. BARKSDALE asked the Chair to state the question.

The SPEAKER stated the question.
 Mr. FLORENCE. This is the last volume of the Pacific railroad explorations.

Mr. CURRY. And this is a test question as to whether any more books are to be published by the Government.

Mr. FLORENCE. The explorations of all the other parties have been published.

Mr. CURRY. It is not for the benefit of the Government, but for the benefit of the Printer.

Mr. FLORENCE. I call the gentleman to order, as members are to exercise their own judgment in giving their votes; and they are responsible to the people for them.

Mr. MORRIS, of Illinois. I am willing to take my responsibility, and vote against it.

Mr. MORRIS, of Pennsylvania. This is the last of the Pacific railroad survey reports, of which there have been ten preceding volumes.
 Mr. KEITT. I object to debate.

The SPEAKER. No debate is in order.
 Mr. MOORE, of Kentucky. I would like to know from the gentleman from Pennsylvania [Mr. MORRIS] whether there are to be any pictures in this book?

Several MEMBERS. Of course there are.

Mr. LAMAR stated that his colleague, Mr. Davis, was voted off with Mr. MOORE.

Mr. BRANCH stated that his colleague, Mr. REYN, was confined to his room by indisposition.

Mr. BOGOC stated that his colleague, Mr. HARRIS, was detained at home by indisposition.

Mr. QUARLES said: I desire to ask the gentleman from Pennsylvania [Mr. COVODE] whether he is not paired with my colleague, [Mr. VANCE]?

Mr. COVODE. Not on this question, sir.

Mr. QUARLES. I understood that the pair was general. I did not know how that was.

Mr. FLORENCE said: I am paired with my colleague [Mr. HICKMAN] on the political questions of different shades of color which divide us in the House. This question of printing I have voted on, because I reserved to myself that right, thinking it probable that I might be able to pair my colleague with some other gentleman on it. I have been unable to do so, however. That will account for my colleague's absence.

Mr. WELLS said: I wish to change my vote. If there was a resolution for the original publishing of the volumes, I should vote against it. As I understand, it is the last of the act. It embraces the survey of the northern route to the Pacific. For that reason, and in order that the whole question of the Pacific railroad may be presented before the people I change my vote, and vote "ay."

Mr. SHERMAN moved to dispense with the reading of the report.
 The question was made.
 The vote was announced, as above recorded.

GEOLOGICAL SURVEY.

Mr. DAVIS, of Indiana. I am compelled to leave this city for my home in the West either this evening or to-morrow; and I ask the unanimous consent of the House to permit me to report back a bill from the Committee on Public Lands, and have it referred to the Committee of Ways and Means.

There being no objection,
 Mr. DAVIS, of Indiana, from the Committee on Public Lands, reported back a bill (H. R. No. 183) making appropriations to supply a deficiency in the appropriations for the completion of the geological survey of Oregon and Washington Territories; which was referred to the Committee of Ways and Means.

APPROPRIATIONS FOR THE POST OFFICE.

Mr. SHERMAN, from the Committee of Ways and Means, reported a bill making further appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1860; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. COLFAX. If the Committee on the Post Office and Post Roads were to follow the precedent that was set by the House the other day, it would ask to have this bill referred to the Army appropriation bill was referred to the Committee on Military Affairs. But knowing that such a course would delay action on these appropriation bills—for if we were to make such a motion, other standing committees would make similar motions to have appropriation bills referred to the committee—we have therefore thought it far better that these bills should follow the ordinary course of legislation, and let the committees who have charge of the various branches of business consider the bills informally, as the Post Office Committee propose to do with this bill.

POLYGAM IN UTAH—POSTPONEMENT.

Mr. SHERMAN. With regard to the polygamy bill, I move that it be postponed till next Monday, after the morning hour, according to the understanding.

The motion was agreed to.

TARIFF BILL—SPECIAL ORDER.

Mr. SHERMAN. I ask leave to offer the following resolution: That House Bill No. 325, to provide for the payment of outstanding Treasury notes; to authorize a loan; to regulate and fix the duties on imports; and for other purposes, be made a special order in Committee of the Whole on the state of the Union for Wednesday, the 4th day of April next; and so continue until disposed of.

Resolved.

Mr. KEITT. I object.
 Mr. SHERMAN. I know that if the resolution be objected to, it cannot be introduced now; but I offer it in order to give notice that on Wednesday next I will move to lay aside the various bills that stand before it, in order to take up the tariff bill. I give this early notice so that gentlemen may understand that that motion will be made. I understand the rule is not to be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and that general debate on the Army appropriation bill shall cease within five minutes after its consideration shall have been resumed in committee.

Mr. FLORENCE. I have the floor in the Committee of the Whole on the state of the Union on the Army appropriation bill; but in order that we may hasten on with it and get the bill out of committee to-day, I will make no objection to my being deprived of the floor by the proposition to close debate in five minutes. I will seek some other opportunity to get the floor in committee.

ARMS FOR THE MILITIA—AGAIN.

Mr. VALLANDIGHAM. The gentleman from Ohio [Mr. SHERMAN] has yielded me the floor for a moment. I move to reconsider the vote by which the Senate bill relating to the purchase of arms was referred to the Committee on the Militia; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to

The question was then taken on Mr. SHERMAN's motion; and it was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Graw in the chair,) and resumed the consideration of the

ARMY APPROPRIATION BILL.

The CHAIRMAN stated the question to be on the motion of the gentleman from Virginia [Mr. BOTELER] to amend the bill by striking out the words "two hundred and fifty" in line one hundred and forty-one, and inserting in lieu thereof the words "four hundred"; so that the clause would read:

For the manufacture of arms at the national armories, \$400,000.

Upon this amendment the gentleman from Pennsylvania [Mr. FLORENCE] was entitled to the floor.

Mr. FLORENCE. I am in favor of the proposition to increase this appropriation to \$400,000, because I believe that the efficiency of the national armories cannot be kept up unless this appropriation is made. We all know that the Minie musket has superseded the old arm.

A MEMBER. It is the Minie rifle.
 Mr. FLORENCE. Well, it is rifle-bored, and it is called the Minie musket, and it has superseded the old arm. The different States are now asking that the Minie musket may be substituted for the old arm, and that increases the demand upon the War Department very largely. The volunteer companies of the States are asking for these new arms, and are willing to pay the difference in price between the new and the old arms. But I must hasten on, because I am restricted to five minutes.

Another reason why I think this increase ought to be made in the appropriation, although the gentleman from Missouri [Mr. PHILLIPS] did not seem to consider it as sufficient one yesterday, is the fact that the workmen in these armories have specialties, that they are adapted to a peculiar work, or to the performance of a peculiar duty, and unless these men are kept at work during the entire year, the letter submitted yesterday by the gentleman from Virginia [Mr. BOTELER] shows that to continue these national armories is a mere farce.

Now, I submit to gentlemen, when it is known that the States want arms; when there is a proposition before the Senate to increase the number of men given to the States; when this new arm is asked for all over the country, I submit whether, at this time, we should withhold the trifling sum of \$150,000, which will be returned to the Treasury of the United States in the difference between the old arms and the new ones? The increase in the appropriation is necessary to keep the men arming the volunteers of the States, independently of the fact that it will keep these men at work. And I submit that it is the duty of this Government not to give employment to the workmen, but by placing them in the national armories, which are necessary to the Government, to afford them the means of obtaining a subsistence for themselves and their families. And I conceive it to be the duty of this House, and that the House will honor and dignify itself if it will continue these men at work, not only in the summer months, but whenever they are employed by the United States. These are strong reasons, I apprehend, for increasing this appropriation, and I trust they will exercise the proper and salutary influence which they ought to exercise over the minds of intelligent gentlemen.

The CHAIRMAN. The general debate on this bill is now closed; and the gentleman from Ohio [Mr. SHERMAN] is entitled to the floor for one hour to discuss it.

Mr. SHERMAN. I do not desire to occupy the floor.

The CHAIRMAN. Then the question is on the amendment of the gentleman from Virginia, [Mr. BOTELER].

Mr. HUGHES. Is debate exhausted on that amendment?

The CHAIRMAN. Yes, sir; the debate is exhausted on that amendment.

Mr. QUARLES. I move to amend the amendment of the gentleman from Virginia, by striking out "\$400,000," and inserting "\$450,000." If we will reduce the clause I say anything which would seem to disfavor the amendment offered by

my friend from Virginia; but there are some facts in connection with these armories which I desire to have explained before I can vote for this appropriation.

It seems that as to the fiscal year ending June 30, 1859, the appropriation for the national armories was \$400,000; and it is strange that an amount equal to half that sum has been appropriated for repairs of machinery. I would call the attention of the House to this fact; that for the fiscal year ending June 30, 1859, the appropriation for the national armories was \$400,000, and the appropriation for repairs was \$156,000. For the fiscal year ending June 30, 1860, the appropriation for the armories was \$250,000, and the appropriation for repairs was \$108,000. Now, there must be something wrong here. How is it possible that the repairs of the machinery at the armories can cost half the gross amount appropriated for the manufacture of arms?

Mr. BOTELER. I will answer the honorable gentleman. There is a large amount of machinery, &c., made at these armories which is intended for other works elsewhere. There is a large amount of work done there independent of that upon guns, upon materials that are used at other Government works.

Mr. QUARLES. As I understand it, there are but two armories in the United States—one at Springfield and one at Harper's Ferry. Those are the only two national armories recognized by the Government, and for which appropriations are made by law. There are arsenals in other States; but there are no armories except those at Springfield and Harper's Ferry.

Now, I submit it to the House, if it is just and proper to maintain an institution, the expenses of which cost more than half as much as the gross amount appropriated for its support?

Now, this bill proposes an appropriation of \$250,000 for the manufacture of arms at the armories, and \$108,000 to keep the machinery in running order. I am in favor of the latter, and I would oppose the making of improvements in arms. I am in favor of that. But this excessive expenditure for repairs is not right. The outlay for repairs of machinery is entirely disproportioned to the amount of arms manufactured. I desire that some explanation should be given to the House, that we may see and know why it is that the repair of machinery here costs so much more than it does in other departments. If manufacturers generally had to make such expenditures for repairs, no manufacturing could be carried on with profit.

Mr. DELANO. I regret very much that we are confined within the narrow limits of a five minutes' debate for discussing this question. I can answer the gentleman from Tennessee, I think, to his entire satisfaction, and to the satisfaction of the House; and all that is necessary to this answer is to bear in mind what I stated yesterday, that in the year 1855 the model for the manufacture of infantry arms was wholly changed; that the cost, not only of buildings but of new machinery, was very increased by this change; and that the Government, in fact, then entered upon an enlarged preparation for the manufacture of arms upon this newly-established model, at the rate of \$400,000 a year, and were, in 1859-60, just in readiness for the manufacture of that amount when Congress cut down the appropriation. The state of things then, is the state of things now—thatis, with these preparations made and the machinery in part manufactured, but the manufacture not completed, the Committee of Ways and Means now propose to reduce the appropriation.

[Here the hammer fell.]
Mr. DELANO. I believe I am now entitled, in my own right, to five minutes in opposition to the amendment. I was proceeding to say, that in 1855, when the change in the model of arms took place, it necessarily involved the use of the old arms already manufactured. The Government then had on hand some seven hundred thousand stand of arms, distributed at the various arsenals of the country—some twenty-four in number, I believe. And have the authority of the Secretary of War to order that seven hundred thousand is the lowest admissible equipment, and that that number should be at all times maintained. It thus became necessary to procure much new machinery for the purpose of entering on the manufacture of arms under the

new model, to take the place of the seven hundred thousand which had been discarded. From 1855 to the present time, the Government, exercising a prudent economy, has been accomplishing this object, and it is out of that fact that the increased expenditure at the present time has become necessary.

Now, sir, if these facts are as stated; if, as appears from the report of the Secretary of War, this seven hundred thousand stand of arms of the old pattern must be replaced by those of the new pattern, and if there are only fifty thousand of the new model, which have already been manufactured, it will be seen at once that, instead of the emergency being less, instead of reducing the appropriations, the emergency is greater, and the manufacture ought to be increased tenfold. That is the point of view in which I ask the House to look upon this question; and which I desire to press upon the attention of gentlemen.

The old model discarded by the War Department in 1855 was a smooth-bore musket, effective only at two hundred yards, while the new regulation musket and infantry arm which superseded it was the rifle-musket, effective at seven hundred yards, and of thousands of pounds of force. The manufacture of that arm has comparatively but just commenced; and it is because we have discarded the old, and are as yet equipped with only fifty thousand of the new, that I yesterday declared to the House, and to-day again declare, that we are, in a nation, practically disarmed. And the appropriation, instead of being diminished, ought to be increased.

[Here the hammer fell.]

Mr. QUARLES, by unanimous consent, withdrew his motion for an amendment.

Mr. HUGHES. I move to amend the amendment, by striking out "\$400,000," and inserting "\$399,000."

Mr. Chairman, I sincerely hope that the amendment proposed by the gentleman from Virginia will be adopted, and that the Government, in the emergency of public affairs requires that the manufacture of arms by this Government should not be diminished.

Mr. DELANO. Will the gentleman allow me to refer the committee to the report of the Secretary of War of 1854?

Mr. HUGHES. I prefer to go on with what I have to say. I am satisfied, by some little experience in military matters, that it is absolutely necessary that we should increase the manufacture of arms by the Government, of a proper pattern, and of a proper form, for the service of the Army. I believe that even the sum now proposed would be inadequate to that purpose. It is certain that we have not arms enough now, nor shall we have enough from the appropriation in this bill to place a respectable force in the field, if it should be necessary to do so, armed with efficient weapons.

Sir, we are on the eve of great events. Any man who does not discover it must be blind to the signs of the times. The whole world is arming; and we are not excepting in Europe. Extraordinary progress has been made in the construction of improved arms within the last few years, the effects of which we have seen in the recent campaign in Europe. We do not know at what moment we may be involved in difficulties with other nations which may result in war. War is even now ready to break out in Europe, and no one can tell how soon we may be involved in it. Why, sir, I believe we have but forty thousand or fifty thousand stand of arms of an improved pattern.

I believe an objection has been raised to the amount expended upon repairs and machinery. Now, sir, it seems to me that we should either make our armories efficient, that we should give ample means for the construction of the best improved arms, or we should obtain them from Europe, and trust to purchasing them in the market; and every one who understands the requirements of the Army knows that that would be the worst possible system we could adopt. You would not be able to get proper arms for the military service; you would be obliged to get arms with inferior terms. The Government would have no control over the private establishments for the manufacture of them. The only mode by which our troops can be supplied with arms adequate for the service, is under the present system; and the question

now is, whether we are to reduce the amount of appropriation so as to make our armories of little value.

[Here the hammer fell.]

Mr. PHELPS. I rise to oppose the amendment submitted by the gentleman from Maryland, [Mr. HUGHES.] I desire merely to call the attention of the committee to the fact that many of the most efficient arms now used by the Army are those not manufactured at the national armories. We do not manufacture a single pistol that is used by our mounted troops.

Mr. DELANO. Will the gentleman allow me a very few words?

Mr. PHELPS. No, sir; I have but five minutes, and I cannot be interrupted. I say that this Government does not manufacture a single pistol now used by our mounted troops. I do not refer to those old long single-barrel pistols which were in use at one time; but I refer to Colt's repeaters, with which our entire cavalry force is now armed; and it is one of the most efficient arms that can be placed in the hands of these troops. And, sir, many of the arms used by the infantry are not those manufactured at our armories. There is the Sharps rifle, which is proved to be a very efficient arm for a long range; but I am not prepared to say that that is the best arm which is now manufactured. There is the Maynard breech-loading arm, which is efficient at a range of seven hundred yards, and which has been found of great use in cavalry service from the ease with which it can be loaded and discharged, even when in the hands of an inexperienced man; and you have many other improved patterns, not manufactured at the national armories, which are preferable to any manufactured by the Government. These patents are taken out every year for new improvements. Why, then, increase the appropriation for manufacturing these guns, which are not as good as those which have recently been invented? You only maintain your armories for the purpose of keeping up the reputation of the Government.

But the private armories of the country manufacture a much better arm than that manufactured at the national armories—far better than the smooth-bore musket. I ask whether it is not expedient for the Government, after having tested the arms of the United States, and after having seen the inventors of those that are best suited for the service of the United States to manufacture at the national armories the number which may be needed? I am informed that the patent granted to Colonel Smith for his improvement in fire-arms will soon expire, and that he has already applied for it; if it has, the Government may at once commence the manufacture of Colt's repeating pistols at the national armories. Those pistols are used not only in the Army of the United States, but in the Navy of the United States; and are purchased in open market, just precisely as any private citizen would purchase them.

Mr. Chairman, I have briefly stated the reason why I am opposed to making a large appropriation for the support and maintenance of the armories of the United States. I have shown that we have followed the estimates submitted to us by the Secretary of War, and the ruling of the House made at the last session of Congress. At the last session the question was presented whether \$250,000 or \$400,000 should be appropriated for new armories; and it was decided that no more than \$250,000 should be appropriated.

Now, sir, the gentleman from Massachusetts [Mr. DELANO] and the gentleman from Virginia [Mr. BOTELER] have told us that there are at the Harper's Ferry Armory, and at the Springfield Armory, experienced workmen in the employ of the Government, and that it is important that those men should be retained in the service of the Government. I have already suggested in the debate of yesterday, a plan by which that object might be accomplished. It is to expend \$300,000, appropriated for arming the militia, in the manufacture of arms at the national armories, instead of going into the market and purchasing them from the private armories for distribution among the several States and Territories. I can enforce this amendment in the name of the Harper's Ferry Armory, and in the name of the Springfield Armory, and equally opposed to the amendment of the gentleman from Virginia, [Mr. BOTELER.]

Mr. HUGHES, by unanimous consent, withdrew his amendment.

Mr. BOTELER. I have an amendment to propose.

Mr. PHELPS. Let some gentleman submit an amendment, and then the gentleman can speak in opposition to it. He can get in his remarks in this way.

Mr. SPINNER. I desire to submit an amendment.

The CHAIRMAN. The gentleman from Virginia has the floor.

Mr. BOTELER. I do not now claim it. Mr. SPINNER. I desire to strike out the whole paragraph, which is in these words:

For the manufacture of arms at the national armories, \$250,000.

Mr. Chairman, I know of my own knowledge that the Government is employing private armories in the manufacture of arms, and that those private armories at this time are inspectors. It is proved that arms are manufactured cheaper at private armories than they are at the national armories, where the Government has been at a heavy expense in constructing buildings, and erecting costly machinery. I hope that my amendment will be adopted.

Mr. BOTELER. The gentleman from Missouri [Mr. PHELPS] has laid great stress upon the official recommendation which comes to us from the Secretary of War. Let me read, sir, what his recommendation really is. After the appropriation is sent here under estimates, yet it will be perceived that this appropriation does not meet the real wishes of the Department. Here is what the Secretary says:

"I have ordered the estimates from the bureau of ordnance to be made mainly in conformity to the policy which the action of the last Congress seemed to indicate by its appropriations. I cannot forbear to express the opinion, however, that to shroud the manufacture of arms in, to say the least, a measure of very doubtful economy, and more prone in the end to be both dangerous and expensive. A large capital should be created to fund the demand for a large number of arms, probably enough, nearly to strip all our arsenals, and to require the purchase of further supplies from manufacturers, at whose expense the Government would be, in the emergency of war."

Besides the manufacture of arms, other supplies are needed, which are of the greatest importance to the service of the country. This constant pressure of the Government for arms and other appliances of war, which is so late characterized the military service of other nations, has been, up to this time, an ever active force.

If the recommendation of the Secretary of War is to control in this matter, then the ground I take is impragmatic. According to that recommendation, any reduction of the estimate or appropriations heretofore made will be "most dangerous and expensive" in the end.

Now, sir, I do know, from my own personal knowledge of the effects of the legislation of last year at the Harper's Ferry armory that, if the appropriation is passed as it came from the Committee of Ways and Means, it will be not only dangerous to the best interests of the country, but most disastrous to the armory itself. The recommendation of the gentleman from New York [Mr. SPINKER] might as well be at once adopted.

When my friend from Tennessee [Mr. EUBANKER] yesterday made a speech in opposition to the amendment, I really thought at the time that it was in earnest. I had forgotten, sir, that he was a gentleman of "infinitesimal" of most excellent fancy; that he was a joker of jokes, overflowing with "jests and youthful folly, with quips and cranks and wanton wit." It did not occur to me until I had read his remarks in the Globe of this morning, that he was only, as the children say, "playing pretty." He could not have been in earnest, sir, in opposing my amendment; and I owe him an apology, which I now tender, for not having recognized that fact. I am sorry that he was not in earnest in making the opposition he did, any more than my friend from New York [Mr. SPINKER] is now in earnest in his motion to strike out the entire paragraph.

Mr. SPINNER. I was never more in earnest in my life.

Mr. BOTELER. Then the gentleman has but a very few steps further to go in his direction. Raze your fortifications to the ground, dismantle your Navy, haul down your flag, and submit to the insults and aggressions of the most weak, meanest of all nations of the world.

Mr. SPINNER. The difference between the gentleman and myself is as to the relative cheap-

ness of day work and work by contract; I take the latter, and argue in favor of the purchase of arms, as we know they can now be and are purchased cheaper at the private armories than they can be manufactured at the national armories.

Mr. BOTELER. I agree with the gentleman from Missouri, that this Government is not bound to find employment for laborers; but, sir, I do contend that it is bound to protect those whom it has employed. The artisans at Harper's Ferry have been employed by the Government. They have been induced by the Government, for a certain purpose, to take up their residence there. They have made permanent investments there, under the auspices of the Government. After they have done all this, Mr. Chairman, after they have cast their fortunes there for life; a proposition is made to withhold the appropriation which affords them the poor privilege of earning their daily bread by the sweat of their brow in the service of the Government.

[Here the hammer fell.] Mr. MORRIS, of Illinois. I desire to offer an amendment, if it is in order.

The CHAIRMAN. The motion of the gentleman from New York [Mr. SPINKER] is to strike out the entire paragraph. The amendment of the gentleman from Virginia [Mr. BOTELER] is to strike out the first part of the paragraph and to insert, "The Chair holds that the question must first be taken upon the amendment of the gentleman from Virginia, for the perfection of the paragraph; and the Chair further holds that that amendment is in order."

Mr. MORRIS, of Illinois. I move to reduce the appropriation fifty dollars.

Mr. Chairman, I concur in the propriety of the motion of the gentleman from New York [Mr. SPINKER], to strike out the entire section. I have no objection to the fact that there was a motion on for the Government manufacturing arms for our soldiers; but there was for its erecting tailor establishments and making their coats and other clothes, or building shoemaker shops and manufacturing their own shoes and boots.

Mr. STUART, of Maryland. I rise to a point of order. I understand that the amendment offered by the gentleman from Illinois was to increase the appropriation. He is not speaking in support of that proposition.

Mr. MORRIS, of Illinois. No, sir; I moved to reduce it.

The CHAIRMAN. The Chair overrules the point of order.

Mr. MORRIS, of Illinois. I have heard, Mr. Chairman, no reason assigned which would induce me, even if these armories are continued, to vote for an increase of appropriation. This has been said that dangers threaten us; but no single fact has been adduced to show that we need an increase of arms anywhere, or at any point; and I do not think we should act on suppositions. I do not believe, either, that we do need them now, and when we do there will be no difficulty in obtaining a supply readily. In a case like the present, we should not inquire whether it is proper for the Government to furnish employment for individuals, but what our duty to the country is. About this I am sure that we are called upon to determine, is, whether there is a necessity for an increase of arms? Where is the evidence of it? I have heard no argument adduced, allow me to repeat, to satisfy my one of such necessity. But I will not persist in this point. I did not rise for that purpose, but to express my cordial concurrence in the proposition of the gentleman from New York [Mr. SPINKER]. If the appropriation is withheld, it will be an important point gained. The armories and mill-yards are centers on the whole political, and hence to be struck down on political views, and ought to be stricken from existence. When we want a vessel, we should buy it. When we want arms, we ought to buy them. Leave all, sir, to individual enterprise, and not allow the Government to come in competition with it. Experience has shown that the Government is not adapted to the business of carrying on the manufacture of arms, the construction of vessels, the building of railroads, or any work of that kind, and the sooner it rids itself of it the better. It is now hanging as a mill-stone about its neck, and will sink it.

Mr. DELANO. Will the gentleman from Illinois allow me to put him one question?

Mr. MORRIS, of Illinois. Yes, sir.

Mr. DELANO. The gentleman speaks of the advantages of the contract system. Now, I ask the gentleman if he does not know that this very matter was fully considered in 1853? It will be found, that in the Army appropriation bill of that year, the Secretary of War was instructed to decide whether the national armories should not be dispensed with and the contract system adopted; and the report of the Secretary and the subsequent votes of Congress were emphatically against the proposition.

[Here the hammer fell.] Mr. MORRIS, of Illinois. I ask leave to withdraw my amendment.

Mr. FAIRNSWORTH. I object.

Mr. SHERMAN. I am opposed to the amendment of the gentleman from Illinois; and I will state one or two facts. This bill appropriates about six hundred thousand dollars for these two armories. The amount is usually divided between them. One of them is located in Massachusetts; the other in Virginia. The amount included in this bill is the same as that appropriated last year; and is the sum estimated for by the Department. Four years ago the amount appropriated to the armories was \$400,000 instead of \$250,000. Before that \$350,000 had been given; but from 1855, and for some years, we appropriated \$300,000, and \$250,000 had been appropriated to these armories.

The amount now proposed is the same as that given last year, and no greater amount has ever been given, except for two years—1857 and 1858.

I think the course thus prepared for in this question. If the gentleman who has spoken in favor of an increased appropriation have made any impression on the committee; and if the committee think that a great necessity exists for this increased appropriation, it can adopt the amendment offered by the gentleman from Virginia. The committee is now prepared to vote. I hope the question will be now taken on the amendment offered by the gentleman from New York [Mr. SPINKER]; and if that is agreed to, the whole matter can be determined in the House.

Mr. MORRIS, of Illinois. I ask leave to withdraw my amendment.

Mr. CONKLING. I object.

The question was taken on Mr. MORRIS' amendment to the amendment, and it was rejected.

Mr. QUARLES. I move to amend the amendment of the gentleman from Virginia, by striking out "\$400,000," and inserting in lieu thereof "\$395,000." I desire to say to the committee that in the year 1859 there was an appropriation of \$400,000 made for those two armories. The gentleman from Massachusetts, who represents the Springfield district, states that the repairs, for which I find appropriations in this bill and running through all the other bills, were rendered necessary because of improvements in machinery which had been made. In the year 1859, the Springfield armory gets \$55,000 for repairs, and the Harper's Ferry armory \$101,000; and that for the year 1860 the Springfield armory gets \$53,000 for repairs, and the Harper's Ferry armory \$55,000; and this bill proposes to give \$52,000 to each of those armories, and \$45,000 to the Harper's Ferry armory, for repairs to the same machinery. Now, I do not understand this. When are we to get rid of this expense for repairs of machinery—for improvements which the gentleman from Massachusetts says were adopted in 1855?

Mr. SHERMAN. I rise to a point of order. The gentleman is now discussing a proposition which is not before the committee. It will be up in a few minutes, and he will then have an opportunity to discuss it.

Mr. QUARLES. I merely desire to answer the gentleman from Massachusetts.

The CHAIRMAN. That is not a point of order that the Chair can decide.

Mr. QUARLES. It is certainly germane to the question which is before the committee, the appropriations for the armories. I am not for abolishing our national armories. I think it is necessary that we should have men in the employment of the Government who are acquainted with the manufacture of arms; that we should have a large body of industry, and will sink it. I think we have men capable of making as good arms as can be made in any other nation. For that reason we should have this

nucleus in the national armories. I am not for abolishing them; but I am for regulating the appropriations so as to do justice to the Government, as well as to that branch of national industry.

I do not say that I am opposed to the proposition of the gentleman from Virginia, [Mr. BOTTLE.] It may be that appropriation of \$400,000 is necessary. But I desire that the usefulness of that appropriation shall be made known, that the matter shall be brought to our knowledge, and that the whole thing shall be explained and discussed, so that we may vote understandingly upon it. I am not desiring to keep branches of the service. I do not desire that it shall be abolished. I think it would be unwise for Congress to abolish it altogether. We should keep our manufacture of, and improvement in, arms within our own borders, and not trust such an important matter to alien and foreign countries. We should foster and protect and encourage improvements in arms, and their manufacture in our national armories; but we should do so with an eye to justice and economy.

[Here the honorable gentleman.]
Mr. HOWARD. I am in favor of the amendment offered by the gentleman from Virginia, and opposed to the amendment offered by the gentleman from Tennessee, reducing the amount from \$250,000 to \$398,000. It is true that the Secretary of War has recommended an appropriation of \$250,000 for the armories; but, at the same time, he said that he felt it would not be economy to reduce the appropriation to that amount. Now, sir, what do the facts in this case show? We are told by the gentleman from Virginia [Mr. BOTTLE] that this appropriation is kept for branches of the service in operation for but seven months of the year, and we are told by the gentleman from Massachusetts [Mr. DELANEY] that the mechanics employed at these armories have each their specialty, and are employed for special work only. Suppose we reduce the amount of service from once a year to seven months; these mechanics will be thrown out of work for five months, and must seek employment elsewhere; hence we shall lose the benefit of their experience in the manufacture of arms for the Government.

Again, it is necessary to keep the armories in operation in order that we may keep up with the improvements of the times. There are five hundred thousand stand of arms under the improvements of 1842, but only fifty thousand under the improvements of 1843. If we reduce the armories, so that if the militia should be called into the field, we have really but fifty thousand stand of arms. Gentlemen say that these arms should be manufactured by contract, and that when we need them, the contracts can be made. Now, we need one million stand of arms all the time for the use of the country. We should, therefore, keep up the armories; and if \$400,000 is necessary to keep them in operation for twelve months, then we should not appropriate that amount.

Mr. QUARLES. I move to amend the

Mr. WELLS. I move to amend the amendment of the gentleman from Virginia, by substituting "\$225,000" for "\$400,000."

I am not one of those who believe that the millennium is at hand; but I do believe that we ought to do what we can to bring it nearer. One of the best methods that we could adopt to bring about that most desirable result would be to reduce the expense of our Army and Navy. I would not reduce it at once. I believe that evil must be remedied by degrees, as well as it must increase by degrees.

Now, sir, it was the motto of the Washington Globe, in olden times, that "the world is governed too much." I appeal to our friends upon the other side to stand by that motto now, and to stop the intricate and complicated system in reducing the expenses of the Army and Navy.

I conceive that it would not be right to strike out this whole appropriation at once, and for this obvious reason: that the Government has encouraged in its armories a system of industry which it would be unjust to suddenly abandon. By a gradual and direct reduction, we can, however, enable the men employed in that branch of industry to seek other occupation; and if it is once understood that the policy of this Government is to reduce this branch of its expenditures, industry will find its proper level. I am, therefore, opposed to increasing the

appropriation in this case. I am anxious that it should be reduced, but in such a manner as not to injure those mechanics, particularly those represented by my friend from Massachusetts, [Mr. DELANEY].

Mr. BOTTLE. The gentleman from New York says that he does not desire to injure those mechanics, particularly those represented by the gentleman from Massachusetts.

A MEMBER. He confined his remarks to Springfield.

Mr. BOTTLE. Ah! Well, I do not desire to injure the mechanics at Springfield, but to benefit them. It occurs, however, that the gentleman from New York has no care for those at our armory. I happen to know, from my own personal observation, as I have already said, that the legislation of last year upon this subject was a serious injury to the mechanics at Harper's Ferry; and I tell the House again, that unless my amendment is adopted, it will be a fatal blow to the armory at Harper's Ferry. That place has attained an unhappy notoriety before the country during the last few months, which I am sure gentlemen will readily forgive me for saying, however, that the blows within the last year, sir, one by the reduction of the appropriation during the last session of Congress, and the other by the foray of John Brown. Now, I tell my friends upon both sides of the House that if this amendment is not adopted, the reputation of the Committee on Commerce and Means is added to it, it will be a harder blow at Harper's Ferry than even the foray of old John Brown.

Mr. WELLS. I did not hear the remark which was made by the gentleman from Virginia, but I understand from friends that he received the impression from me that I was speaking in behalf of the mechanics at Springfield.

Mr. BOTTLE. Yes, sir.

Mr. WELLS. And not in behalf of those at Harper's Ferry. I wish the gentleman to understand that I intended my remarks to apply to the armories in both places.

Mr. BOTTLE. I am very happy to hear it.

Mr. WELLS. I had no intention to be invidious.

Mr. BOTTLE. I am very glad that I did misunderstand the honorable gentleman. In supporting this amendment, it gives me great pleasure to advocate the interests of the armory at Springfield, as well as those of the one at Harper's Ferry. I trust a vote will now be taken on the proposition of the gentleman from Virginia, with the favorable action of this committee.

Mr. WASHINGTON, of Maine. If this debate is continued much longer, I shall move that the committee rise, for the purpose of going into the House and suspending all debate upon amendments.

The CHAIRMAN. Does the gentleman from Maine submit any motion?

Mr. WASHINGTON, of Maine. No, sir; I will not make the motion just now.

The question was taken on Mr. WELLS's amendment to the amendment; and it was disagreed to.

Mr. KILGORE. I move to amend the amendment, by reducing the appropriation \$1,000.

I have, Mr. Chairman, but a single remark to make on this question. For once I am disposed to give aid and comfort either to New England or to the South. I have heard a good many threats thrown out during the present session of the probable hostilities that may arise between the North and South. Yet now New England has her champion upon this floor in favor of the extensive manufacture of arms by the Government, and Virginia has hers for the same object. Each comes forward to-day as the advocate of an increased appropriation for the manufacture of arms by the General Government; and for the purpose of doing so, no threats or hostilities come abroad. No, sir, the only difficulties that we are threatened with are internal. Well, Mr. Chairman, if that is the danger to be apprehended, I am induced to believe that New England sagacity and mechanical skill is amply sufficient to prepare her for any emergency that may arise, growing out of any internal difficulty. And our southern friends are certainly quite able to take care of themselves. I hear that they are already arming their militia, and I am told that they are even teaching their boys of twelve years of age to handle

the rifle with skill and dexterity. So far as the manufacture of arms there is concerned, I do not see that there is any necessity for any increase upon the part of this Government. If any internal difficulty is to arise, I am in favor of allowing the South to manufacture their own arms, and I am decidedly in favor of relying upon the science and skill of the men of the North and Northwest for their protection.

The committee here informally rose; and the Speaker having resumed the chair, a message was received from the President of the United States, by James B. Egan, his Private Secretary, informing the House of his signature and approval of the joint resolution for the relief of the contractors of the Post Office Department. The committee then again resumed its session.

Mr. KILGORE. A great deal has been said in relation to arming the militia. Why, sir, we have thousands of arms distributed all over the country that are rusting and cankering for want of use; and so it will be if we expend millions of dollars in the manufacture of arms even embodying all the latest improvements. Next year some new improvement will be made of importance, and the arms that we have manufactured will be thrown aside, and we shall be asked to supply new ones in their place. But, sir, of what avail will it be to arm the militia? Gentlemen talk about drilling the militia. Sir, it is useless. Has not every one of us seen the militia march from the plow down here as efficient service as the oldest veterans? I refer gentlemen of the West to one of their own sons, sometimes designated as the Marion of the West—General Joseph Lane—who leaped from a flat-boat on the Mississippi, donned dragoon's dress, wore dismounted and fought in the battle of Buena Vista, and on other fields; and I should not be surprised if some day he might exchange the epaulettes for the robes of the Chief Magistrate of the country. [Laughter.]

Mr. BIRCH. That is precisely what we intend to do out here.

Mr. ASHMORE. I understand that the gentleman from Indiana comes from a Quaker district? Mr. KILGORE. No, sir; I do not. I have had the honor to hold the command of a brigade in my own army for the last twelve years, and have not had occasion to put on my epaulettes or buckle on my sword.

Mr. STEWART, of Maryland. I wish to ask the gentleman from Indiana whether it is his intention to support General Lane, whom he eulogizes so much, and who has taken fresh from the plow to put on his epaulettes and buckle on his sword.

Mr. KILGORE. I answer the gentleman from Maryland most unhesitatingly that I do not expect to do any such thing.

The CHAIRMAN. The Chair will suggest to the gentleman from Indiana that he is wandering from his amendment. [Laughter.]

Mr. KILGORE. Well, sir, I think my five minutes are out; and I will not trouble the committee longer.

The amendment to the amendment was not agreed to.

The question then recurred upon the amendment originally offered by Mr. BOTTLE, increasing the appropriation for the national armories to \$400,000.

Mr. FLORENCE called for tellers.
The tellers were ordered: and Messrs. McKnight and Crary were appointed.

The committee divided; and the tellers reported—ayes 47, noes 74.

So Mr. BOTTLE's amendment was rejected.

The question then recurred on Mr. SPINER's amendment, to strike out the whole paragraph.

Mr. SPINER. Would it be in order to move to strike out the next two paragraphs at the same time?

The CHAIRMAN. It would not. No motion can be made to strike a paragraph, until it has been reached in the reading of the bill.

Mr. SPINER. If this is stricken out, it will be necessary to strike out the others also, for the sake of consistency. I give notice that I will, at the proper time, move to strike them out, if my amendment is rejected.

The amendment was not agreed to.

Mr. WHITELEY. I propose to add a proviso to the two paragraphs commencing with the one hundred and forty-second line and ending with the one hundred and forty-sixth line; which I ask may be read

The Clerk read, as follows:

"For repairs and improvements and new machinery at Springfield armory, Massachusetts, of which \$15,000 may be applied to the purchase of land on the north side of the new water shops, \$65,000.

"For repairs and improvements and new machinery at Harper's Ferry armory, \$65,000.

Mr. WHITELEY. I move to amend by adding, as follows:

"Provided, That no part of the money in the last two appropriations shall be expended in the payment of any superintendent of either of the armories at Harper's Ferry or Springfield.

Mr. SHERMAN. I rise to a question of order. This amendment proposes to change existing laws, and therefore is not in order.

Mr. WHITELEY. You can provide in an appropriation bill that the money appropriated shall not be expended in a certain manner.

The CHAIRMAN. The question of order is not debatable. The Chair overrules the question of order. It is competent for the gentleman to move to limit the expenditure of the appropriation.

Mr. SHERMAN. The law fixes the salary of these superintendents.

The CHAIRMAN. That does not make the amendment out of order. The committee has the right to limit the expenditure of the appropriation in any manner it may think proper.

Mr. FLORENCE. I appeal from the decision of the Chair.

The CHAIRMAN. The Chair decides that it is too late to appeal.

Mr. COLFAX. I make another point of order. Neither of the two paragraphs of the bill to which the amendment of the gentleman refers makes any provision for the payment of salaries, and the amendment, therefore, is not germane. The appropriations to which he refers are for repairs, improvements, and new machinery.

Mr. WHITELEY. Then I will modify the amendment so as to make it apply to all the appropriations in the bill.

Mr. SHERMAN. Now, I rise to a question of order. With that modification, the amendment is clearly out of order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WHITELEY. Mr. Chairman, I will submit a remark or two upon the amendment. This subject of the comparative excellence of military or civil superintendency of the national armories has been mooted before the last two or three Congresses, in Congress and out of it, at the armories all over the country.

In 1853 Congress passed a law changing the superintendency from military to civil; and we now present the curious spectacle to the world of having an Army with a corps, the specialty, the peculiar duty of which is to superintend the manufacture and distribution of arms, and yet having at the two national armories heretofore or mongrel superintendencies, made up of one civil officer and one military officer. I ask the gentleman from Massachusetts, [Mr. DELAND,] who represents the district where the armory is located, and the gentleman from Virginia, [Mr. BOTLETER,] who represents the district where the Harper's Ferry armory is located, what earthly use there is at either of these national armories for a civil superintendent? Neither of these armories can get along with a civil superintendent unless there is installed to each an officer—a major or captain—of the ordnance corps of the Army. Yet, sir, these civil officers are so placed that they counteract and interfere with the operations of the ordnance corps, and tend to the confusion of which is devolved upon them. The law of 1853 was passed, if my recollection serves me, to provide for some hungry politicians in the sections of Harper's Ferry and Springfield. Ought we not, at this time, to strike down this civil superintendency?

I do not propose to detain the committee with any lengthy discussion; but there is another matter I want to refer to. I ask the gentleman from the Harper's Ferry district of Virginia [Mr. BOTLETER,] whether he believes, if there had been a military superintendent of the armory, John Brown's raid would have gone to the extent that it did? Under the civil superintendency there is no control, no discipline; the armories are, in fact, nothing more than mere workshops. I submit, then, as we have a special corps in the Army to

attend to arms, that it is our duty to do away with the longer existence of civil superintendents of the national armories.

Mr. FLORENCE. I am decidedly opposed to the proposition of the gentleman from Delaware.

Mr. BOTLETER. I ask the gentleman to yield to me, as I have been specially referred to by the gentleman from Delaware.

Mr. FLORENCE. I yield to the gentleman with pleasure.

Mr. BOTLETER. Thank you, sir. Mr. Chairman, this is one of the most important propositions that has been brought to the consideration of the House during the present session; and the House will not soon have the opportunity under which I naturally labor in attempting to argue it in the space of five minutes. It is a question of vital interest to my constituents, and I cannot propose to do justice to it in the very limited time allowed me. It is springing suddenly upon the House. I had no intimation of the gentleman's intention. But I have this to say of it: experience at the Harper's Ferry armory has proved that true economy would dictate the retention of the civil superintendency. The improvements in arms and machinery that have been made under the organization of that armory have been made under the civil superintendency. Such economy has been introduced in the manufacture of arms there, growing out of the improvements made by the mechanics of that place, that the Minie rifle, the most perfect in the world, costs now to manufacture it only twelve dollars for each one of them.

Why, sir, does the gentleman from Delaware [Mr. WHITELEY] know that there were two mechanics at that place who, under the civil system, made most of the present improvements in arms and machinery, and who never received more than their daily wages from the Government for all their valuable inventions?

Mr. WHITELEY. Would not those mechanics have been continued in employment as mechanics in the regular Army?

Mr. BOTLETER. That would depend upon circumstances. Those two mechanics made improvements which have saved the Government vast sums of money, amounting to not less than half a million dollars, and they received no such remuneration as they would have received had they worked in that armory. This is striking at such men as a class, as a body, and I think, sir, that some deference is due to their feelings, their wishes—yes, sir, to their prejudices. It is natural for your citizens not to desire to be placed under a military rule. They are free men, independent men, and they do not wish to be subjected to the orders of a military officer and to have the laws which govern the regular Army put in force upon them, as if they were a portion of its rank and file. [Here the hammer fell.]

Mr. FLORENCE. Mr. Chairman, the history of these armories under military superintendency, and the mass of information brought to the attention of this House when Congress changed from military superintendency to civil superintendency, are all before me to settle all question of this subject at this day. I cannot believe that the gentleman from Delaware [Mr. WHITELEY] is serious in moving his amendment; I do not believe that he intends that it shall pass—certainly he cannot expect for one moment, with all the lights before Congress on the matter, that it will meet with any approbation.

Mr. BARSDALE. Let me suggest that, even if the amendment of the gentleman from Delaware be adopted, it will not effect the purpose he has in view. It will not effect in the least the removal of the civil officer; but he could not be paid. The civil would not be remedied by the adoption of the amendment. If the gentleman really means what he proposes, let him move a repeal of the law under which civilians are appointed.

Mr. WASHBURN, of Maine. I take the same view—that even if the amendment of the gentleman from Delaware is adopted, it will accomplish nothing.

Mr. KEITT. I move *pro forma* to strike out the word "and" in this act.

Mr. Chairman, I rise for the purpose of saying a word in reply to the gentleman from Pennsylvania, [Mr. FLORENCE,] who remarked that the facts exposed to the House six years ago, and which induced a change from military to civil su-

perintendency, would be sufficient, if now before the House, to perpetuate this civil superintendency. A special committee was appointed during that session to consider the question. A great many complaints were made before that committee; but as one of the members of that committee, I feel authorized to say that those complaints were unfounded. The change was made not because of any inefficiency in the management of the armories, but because of any crudity in the rules of discipline and subordination, but simply with a view of increasing the patronage of the Government, and putting the armory within the grasp of politics. At that very time an English commission was sent to this country to examine our system, and so thoroughly satisfied was that commission with the efficacy of our system, that they recommended it to the British Government, and I believe it was adopted!

That commission thought that the most valuable feature in the management of our armories was the military superintendency; and yet, just at that moment, under the rush of political excitement, and with a view of augmenting the patronage of the Government, the Army itself was under military superintendency, and generally, and was grasped by the politicians. The gentleman from Virginia [Mr. BOTLETER] says that two mechanics at Harper's Ferry armory have made improvements. I ask at what time have any improvements been made by a military superintendent? Probably never. I ask, in return, what improvements have ever been made by a civil superintendent? Probably never. The question of superintendency is one which applies only to the subordination of the operatives. And I say here, that as the armories are but a portion of the management of our Army—as connected with warlike operations—they should be, just as the Army, under military rule. Those who go there, go there in connection with the Army, and are just as much bound by its rules and regulations as the soldiers in the regular Army. They go into one of your regiments. I would have crutony on neither side; but I would have subordination. I would not take men there as paupers; nor would I deal with them through mere charity. Men who work for the Government should be paid; and should be paid as they would be paid if they chose to go to the armories as operatives, can stay away. This Government is under no obligation to furnish employment to a single human being.

I was then opposed to this change of superintendency, and I am opposed to it now, because I want to withdraw the Army from the grasp of politicians. I know the difficulty: I know that you might just as well try to drag a ship that had got into the eddy of the Meslarum, and endeavor to save it from being swallowed up, as in this country, demoralized as public sentiment is, to try to draw anything from the grasp of politics, when once it gets its hand upon it. I know the change cannot be accomplished; but I have risen simply to protest against subjecting the Army to the rule of politicians.

Mr. PHILLIPS. The proposition of the gentleman from Delaware [Mr. WHITELEY] and the gentleman from South Carolina [Mr. KEITT] is this: that an officer of the ordnance corps is necessarily a better superintendent of manufacturing establishments than any civilian who could undertake it. If the amendment submitted by the gentleman from Delaware should be adopted, the Secretary of War would be required to return to the old method of superintendency, by placing at the head of the armory offices of the manufacturing establishments no officers. The manufacturing establishments are entirely under the superintendency of the ordnance department of the United States. Now I deny that because a man has received a military education he is therefore a better superintendent of manufacturing establishments than any civilian who could be obtained. I do not say that every civilian is the proper person to superintend great manufacturing establishments; and it is the same with the military men of the country. But I believe that the manufacturing establishments in which large numbers of men are employed are better conducted by those people who have not received a military education, or held commission in the Army of the United States, than by those who have. The superintendent does not devote the form of the arm, and would not, of himself,

adopt any improvement or invention. All these matters are to be decided by the corps to which he belongs, and by the Secretary of War. If, for instance, it be suggested that an important invention has been made, and if this invention may be used in the manufacture of arms, or any of the machinery appertaining to it, the recommendation of the superintendent is not necessarily adopted, whether he be a military man or a civilian.

Mr. WHITELEY. I would ask the gentleman from Massachusetts a question. Is the superintendent at Harper's Ferry or the superintendent at Springfield a mechanic?

Mr. PHELPS. I cannot answer that question.

Mr. WHITELEY. I am told that neither of them is a mechanic or not; nor do I believe it is necessary that the superintendent of a manufacturing establishment must be a mechanic. He may have genius for mechanics, and he may have paid attention to the subject; and such a man would be a better person to manage a manufacturing establishment than one who had not a genius for mechanical pursuits.

I am, therefore, opposed to this system of legislation. If there be a desire to change the law, let it be introduced by the House, and let it be discussed in the law, and let it come up regularly for discussion and consideration, instead of proposing it as a proviso to any appropriation bill.

The question being on Mr. KEITT's amendment to the amendment, Mr. KEITT withdrew it.

Mr. DELANO. I move to amend the amendment of the gentleman from Delaware by striking out the words "no part." I hardly need say, Mr. Chairman, that I propose this amendment in order to take advantage of my rights under the appropriation of a single fact of which, perhaps, it is not aware. I must confess, sir, my amazement that the gentleman from Delaware should have precipitated upon the committee an amendment of the grave character of that which he has proposed. He certainly cannot be aware of the history of the committee which have attended a similar proposition in years gone by. And yet, sir, the gentleman from South Carolina [Mr. KEITT] is perfectly well aware of this history, for, if I remember aright, he was himself a member of the Committee on Military Affairs, which sat long and deliberated thoroughly on this important question of changing the superintendency of the armories from the military to the civil service. The change was against his judgment then, as I have no doubt it is now. But, sir, I presume I am not doing him the injustice of saying, that there were gentlemen on that committee who, in all military qualifications, did not stand lower than himself, and who were utterly opposed to the military superintendency. Not only was that committee, of which he was a member, in favor of the change, but there was a commission appointed in 1854, the result of whose labors I hold in my hand, in the shape of a report consisting of two hundred and sixty-five pages. That commission was formed of the Hon. Andrew Stevenson, of Virginia; Governor Scott, of New Hampshire; and Charles F. Walcott, of New York; and it was their special business to inquire into the grievances of which the mechanics of these establishments complained, and to determine between the two systems. They visited the armories; heard the complaints of the operatives; engaged on a long and thorough investigation of all questions connected with a change of system, and came out of that investigation, after months given to it, fully satisfied that not only was it utterly against the genius of our institutions that there should be such a military superintendency of workshops, governing operatives who were employed in mere mechanical service with strict military rule, such as they found there enforced, but that there were grievances and complaints of the operatives themselves which well deserved the attention not merely of the commission, but of Congress.

It was in view of that report, and in view of the demands for a change of systems then urged upon Congress, that the military superintendency was abolished and the civil superintendency adopted. I will not undertake to say a word for or against the superintendency in the Harper's Ferry district; but I do say, that during the whole history of these armories, from 1794 to the present time,

there has been no branch of industry within the limits of these States that has attained to a higher degree of excellence than the branch of manufacture carried on at Springfield; or where, on the whole—the perfection of the manufacture considered—greater economy has been maintained. Now, sir, when such an investigation of the subject has resulted in the adoption of the civil superintendency, I submit to the House that it is as rash as it is unbecomingly presumptuous to attempt to overturn a well-established system by amendments and in a discussion under the five-minute rule.

Mr. WASHBURN, of Maine. I rise not to oppose the amendment, but to say that it seems to me that this whole discussion is entirely unnecessary. We have now a superintendent of one of the armories appointed under the existing law. This amendment does not contemplate a change in the superintendents. If it did, it would not be in order as an amendment to this bill. The superintendents of these armories are paid a salary which, I suppose, is provided for in another bill, so that, if this amendment prevails, the law will remain precisely as it is now, so far as the superintendents are concerned. If the amendment does not prevail, the result of this appropriation will be applied to the support of the superintendents. It seems to me, therefore, that nothing can be accomplished by this amendment; and I hope the gentleman from Delaware will withdraw it.

The amendment to the amendment was disagreed to. [He then hammered bell.]

The question recurred on Mr. WHITELEY's amendment.

Mr. BOTELER. I move to amend the amendment by striking out the word "provided."

Mr. Chairman, the gentleman from South Carolina [Mr. KEITT] spoke of the opinion of the English in regard to the different systems of superintendency. It is true, sir, that the English Government sent a commission to visit this country. But what did they do? The very first thing that English Government did on the return of that commission was to send to Harper's Ferry and engage one of the mechanics there to take charge of the Enfield works, near London.

Mr. KEITT. I wish to state, in reply to the gentleman from Virginia, that all I meant to say, and which I did say, was that the commission recommended the adoption, out and out, of our system, and, as understood distinctly at the time, mainly in consequence of the military superintendency. Whether or not it has been adopted by Great Britain is more than I can say.

Mr. BOTELER. I do not know myself all the details of the management.

Mr. CURTIS. I desire to know if the gentleman understands that the mechanic who was taken from Harper's Ferry was called to England for the purpose of having the supervision of the armory establishment?

Mr. BOTELER. I understand that he is at the head of the armory at Enfield, in England.

Mr. CURTIS. Not superintendent.

Mr. BOTELER. Of course he does not control the armory; but he is the head workman, superintending the mechanics at the Enfield works at that place. The mechanics at the Enfield works look directly to him for directions, which he receives from his superior officers, just as the civil superintendent at one of our armories gets his directions from the ordnance department here at Washington.

But gentlemen here desire that the communicating organ between the ordnance board and the mechanics shall be an officer of the Army. I ask gentlemen whether those officers have been brought up to be acquainted with the construction and operation of machinery? If, sir, they are expected to examine into all the details of machinery, to know when the machinery is out of order, or when the work is done in a workmanlike manner, is it not necessary that they should have some necessary education connected with the system? I admit that the estimable gentleman who now presides over the armory at Harper's Ferry is not a mechanic; but that is not the fault of the system; it is the fault of the present Administration. But if there are mechanics, the present Government is to operate they did place mechanics at the head of the works, and I believe that mechanics should always be at the head of these armories as superintendents.

The gentleman from Delaware asked me whether I believed the John Brown boys would have taken place if there had been a military man there as superintendents.

Mr. WHITELEY. No, sir; I asked if you thought it would have resulted as I did.

Mr. BOTELER. Why, sir, all the military men on this continent could not have changed that result, under the circumstances in which that forty-acre place at Harper's Ferry was managed. The men behaved more gallantly than did the armorer at Harper's Ferry on that occasion. Great injustice has been done to those armorer. There has been a studious attempt made by a portion of the press of the country to create the impression that there was treachery there; that there was treachery among the men at Harper's Ferry on the bloody day referred to.

Sir, the imputation is false; there was no panic among the armorer or citizens of Harper's Ferry. I myself was present upon that occasion, and I saw with what eagerness, as soon as it was ascertained what the nature of that invasion was, everybody, not only at Harper's Ferry, but also in the surrounding towns and neighborhoods, men—gray-headed men, who had served in the war of 1812, and even little boys with their bird guns—rushed up to Harper's Ferry to help their hands on, and rush to the place where the attack was made. Men, sir, under the influence of a panic fly from the danger that threatens them, and do not rush right into it, as our citizens did that day.

[He then hammered bell.]

Mr. FLORENCE obtained the floor, and said: The gentleman from Virginia appears to be impressed with the idea that his time is not out, and I am willing to yield to him.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. BOTELER. I believe I have the floor by the courtesy of the gentleman from Pennsylvania.

Mr. WHITELEY. I do not object to that; but I want to know if anybody will be allowed to reply.

The CHAIRMAN. Under the rules a gentleman has five minutes to advocate an amendment, and another gentleman has five minutes to oppose it, and that is all the discussion that is allowed.

Mr. FLORENCE. Well, I will yield the floor to the gentleman from Maryland [Mr. HENRY.]

Mr. HUGHES. I desire to draw the attention of the committee to this fact, that at the time of the organization of these armories they were placed under civil superintendency; but the abuses in the way of appointments, and the extraordinary character of many of the appointments made from civil life, and the abuses which grew out of them, became such a crying evil that the Government was under the necessity of detailing ordnance officers, for the purpose of bringing something like order out of the chaos that reigned everywhere.

Sir, the facts which were developed in the investigations relative to the armories in those days proved these allegations to be true. All experience, I believe, has shown that this superintendency in the hands of civilians has proved a mere political establishment, and is very important in this country that we should keep politics clear of the merely administrative offices, if possible. Apportionments, if you choose, for political places; but for places of this kind, I say no. Any establishment relating exclusively to military operations should be in the hands and under the control of military men. The investigations into the facts existing when their armories were under the control of civilians, showed that even eclecymen were appointed to the place of superintendent of the Springfield armory.

Mr. FLORENCE. If they were mechanics, there was no harm in that.

Mr. HUGHES. No, sir, not mechanics; they were eclecymen, and were appointed merely out of political considerations. Now, sir, the specialty of these special officers of ordnance is to attend to arms, to prove them, and to see that they are properly constructed. Of what avail is science or experience if an officer of the ordnance corps is not better qualified for such a service than a mere civilian? But if there are mechanics, the present military superintendency for the armories, why not place civilians over your navy yards? I rather think you would find very few gentlemen here who would be in favor of turning your navy yards

over to civilians and politicians. Yet there is no reason for depriving the civilians and politicians of the control of the navy yards that does not apply with equal force to the armories.

Now, Mr. Chairman, I shall make but one more observation in connection with this subject, and that is to call the attention of the committee to the fact that this bill ought to have gone to the Committee on Military Affairs, and not to the Committee of Ways and Means. The Military Committee have time to consider it, and there is the proper place for its investigation. It cannot be expected that the Committee of Ways and Means will investigate all these matters. It is the business of the Committee on Military Affairs.

Mr. MOORE, of Kentucky. I desire to ask the gentleman from Maryland the name of the clergyman to whom he refers.

Mr. HUGHES. His name is Robb.

Mr. MAYNARD. John Robb?

Mr. HUGHES. Yes, sir.

Mr. BOTTLER's amendment to the amendment was not agreed to.

The question then recurred on the amendment proposed by Mr. WHITELEY.

The amendment was disagreed to.

Mr. BOTTLER. I move to amend, in line one hundred and forty-eight, by striking out "£65,500," and inserting "£85,500," so as to make the paragraph read:

For repairs and improvements and new machinery at Harper's Ferry armory, £85,500.

After what has been done by the committee in striking down the appropriation for the support of the Harper's Ferry armory, and in refusing to read the amount to which I conscientiously believed to be proper, I earnestly beg that this modification will be accepted without objection. If it were not indubitably necessary, I assure the committee I would not ask for it.

Mr. SHERMAN. I am opposed to this amendment. This appropriation conforms to the estimates, which specify in detail the uses for which the money is to be required. Now, when the gentleman from Virginia moves to increase the appropriation, without specifying or giving any reason, asking the increase, I do not think the committee should be called upon to adopt the amendment.

The amendment was not agreed to.

Mr. OLIN. I move to strike out the following paragraph in the bill:

"For the Benicia arsenal, \$50,000."

Mr. BARKSDALE. I ask the gentleman from New York to yield for a motion that the committee rise. We shall evidently not be able to dispose of this bill to-night.

Mr. OLIN. I prefer to say what I have to say upon this amendment now. I wish to call the attention of the committee to this appropriation. As I understand the matter, the estimate was made in pursuance of a recommendation for building an arsenal at Benicia, for the purposes of construction and not for repairs or repairs. If that be true, any gentleman has but to turn his attention to one or two facts to see that it is the most prodigious and utterly worthless expenditure of money that ever was attempted under heaven.

Why, sir, there is no material to be used there for the purpose of making cannon or other arms, that has not to be transported from the Atlantic coast. Neither iron, nor timber, nor anything else to be used for that purpose is to be found upon the Pacific coast; and when the material is brought there in the raw, the labor of the mechanic who have to work it up is more than double what it would cost on the Atlantic coast, say the least.

Now, an arsenal for repairs may be necessary for the Pacific coast. Nobody disputes that fact; but, sir, the last Congress appropriated \$100,000 for the very purpose of last year's repairs. I know that was the estimate, and now \$50,000 more is required. Sir, there is not an officer of the Army who has any information on the subject who would not denounce the whole project. Not one. Every man would say that it was a waste for the purpose of construction is worse than useless. There is no point from the Atlantic coast to the Mississippi river where these arms could not be manufactured for one third the cost; and that is not the worst of it, for the cost of transportation of the manufactured article is less than that of the

raw material. I think, therefore, every gentleman will be able to see that this appropriation will be of no merely value.

Mr. SCOTT. I do not see, Mr. Chairman, how reasonable objection can be made to the pending provision of the bill for \$50,000 for the Benicia arsenal. That appropriation has been recommended by the Committee of Ways and Means upon estimates from the War Department. The gentleman states that the appropriation last year was \$100,000; and if that is so, then this appropriation is a reduction of fifty per cent. from the preceding appropriation.

Mr. PHELPS. It was only \$50,000 at the last session, and now \$50,000 is proposed to be appropriated at this session.

Mr. SCOTT. It ought to pass. It has the recommendation of the Secretary of War and the report of the Committee of Ways and Means in its favor.

Mr. Chairman, the gentleman from New York [Mr. OLIN] is very much mistaken when he says that there is neither coal, nor iron, nor wood to carry out the purpose for which this appropriation is asked. It is a well-known fact that there is an extensive iron foundry at the city of San Francisco, which is provided with iron ore from the northern part of the State. Coal is obtained in large quantities from Oregon. We have, sir, all the wood and iron and coal that are necessary for an arsenal, or the most extensive national workshop of any country. Why, Mr. Chairman, let me tell the gentleman that we have built for the Government upon the Pacific coast one of the largest class of naval ships. He will recollect, I am sure, the discussion which took place between him and myself at the last session in reference to the navy-yard at Mare Island, California, for which was allowed only \$20,000, when \$100,000 and \$150,000 were previously appropriated.

A war steamer was constructed at that navy-yard and launched. Her machinery was built by Laird, Donald & Co. That steamer, in every respect, is approved by naval officers to be equal to any constructed at the navy-yards upon the Atlantic coast. It is a paltry and insignificant sum that is appropriated for this Benicia arsenal; and I am surprised that objection is made to it. The gentleman from California is mistaken when he says from the other States of the Confederacy, and compelled in time of war to rely upon her own resources and the valor of her sons for her defense and the protection of the honor of the American flag, is granted in California to make arsenals, San Francisco only asks to be placed upon an equal footing with New York, Boston, and Philadelphia.

Mr. OLIN. From whence did you procure the timber of which the sloop-warrior you refer to was constructed at Mare Island?

Mr. SCOTT. Timber, I know, is not to be had everywhere. I believe that Maine is the great timber State, and that so is Florida; but every stick of timber used in building that vessel grew in California. The gentleman is mistaken when there is timber in Oregon and California. He has heard, I suppose, of the "big trees" out there, with which he has nothing in Maine or Florida to compare.

Mr. SCOTT. Wood and coal and iron in abundance, and the objection of the gentleman cannot stand. And then again, the transportation of those things to California would cost more every year than the \$50,000 now proposed to be appropriated. I hope the provision will be retained in the bill.

Mr. BARKSDALE. I move that the committee do now rise. It is late—long after four o'clock—and I do not believe we can finish the bill this evening.

Mr. SHERMAN. Withdraw the motion until five o'clock, and if the bill is not finished by that time, it can be renewed.

Mr. BARKSDALE. I insist on my motion. The House was divided; and there were—aye 39, none 54.

YEAS AND NAYS. No quorum has voted.

Mr. BARKSDALE. It will take hours to get through with the bill.

Mr. PHELPS. I demand tellers.

Tellers were ordered; and Messrs. BURNETT and FLORENCE were appointed.

Mr. BARKSDALE. I withdraw my motion.

Mr. GARNETT. I object to the committee going on with the bill without a quorum.

The CHAIRMAN. There has been no vote taken which would inform the Chair that no quorum was present.

Mr. GARNETT. I renew the motion, then that the committee rise.

Mr. FLORENCE demanded tellers.

The CHAIRMAN. There has been no vote taken which would inform the Chair that no quorum was present.

The question was taken, and the committee refused to rise; the tellers having reported—aye 26, none 95.

The Clerk proceeded with the reading of the bill.

Mr. MAYNARD. I move to strike out the words "for contingencies of arsenals, \$20,000;" and I do so for the purpose of receiving some explanation of it from the chairman of the Committee of Ways and Means.

Mr. SHERMAN. There is always something necessary for the arsenals in the United States in the way of contingencies, and the amount provided for by this bill is less than that usually allowed heretofore. The gentleman, by referring to the Committee, will draw my attention to the figures under this head fully set out. This \$20,000 is to pay for transportation of arms, for boxes, and so on.

Mr. MAYNARD. It seems that the appropriation is entirely satisfactory to the committee, and I therefore withdraw my motion to strike out.

Mr. CURTIS. I am instructed by the Committee on Military Affairs to move the following amendment to this bill:

For the manufacture or purchase of apparatus and equipment for field signals, \$2,000; and that there be added to the staff of the Army one signal officer, with the rank, pay, and allowance of a major of cavalry, who shall have charge, under the direction of the Secretary of War, of all signal deer, and all books, papers, and apparatus connected therewith.

Mr. BURNETT. I move the point of order that that amendment is not in order to this bill, for the reason that it does not carry out, but changes, existing law.

The CHAIRMAN. The 81st rule is as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

Under that rule, the Chair sustains the point of order raised by the gentleman from Kentucky.

Mr. CURTIS. Under the general provisions of law in reference to the Army, I think that the amendment is clearly in order. It is at the suggestion of the Secretary of War, and upon the unanimous report of the Committee on Military Affairs, that the amendment is proposed to this bill.

The CHAIRMAN. The amendment does not provide for carrying out any existing law; and the point of order being raised, the Chair must rule the amendment out of order.

Mr. BARKSDALE. The last clause of the bill appropriates, for continuing the survey of the northern and northwestern lakes, including Lake Superior, the sum of \$75,000. I move to increase that appropriation \$5,000, in order to ask the gentleman from Iowa what is the result of carrying out that purpose.

Mr. SHERMAN. I will answer the gentleman with great pleasure. Two or three years ago the Government commenced a system of surveying the upper lakes, and appropriations were made from time to time to carry it into operation. Last year's appropriation was \$75,000, for the purpose. This year \$100,000 was estimated and asked for, but the committee have reduced the appropriation to what it was last year. It is estimated for by the War Department.

Mr. BARKSDALE. These surveys are for military purposes.

Mr. SHERMAN. They are surveys of the upper lakes, under the charge of the War Department.

Mr. BARKSDALE, by unanimous consent, withdraws his amendment.

Mr. BURNETT. If there be no objection, I will withdraw my point of order to the amendment moved a moment ago by the gentleman from Iowa, [Mr. CURTIS].

Mr. WASHBURN, of Illinois. If the amendment is to lead to debate, I object.

Mr. BURNETT. It will not, I understand; all that is asked is the vote of the House on it.

Mr. CURTIS. The amendment is suggested by the Secretary of War, and is unanimously recommended by the Committee on Military Affairs.

The question was taken; and the amendment was agreed to.

Mr. SIERMAN. I move that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

The motion was agreed to.
Mr. SIERMAN. I move that the committee do now rise.

The motion was agreed to.
So the committee rose; and the Speaker having resumed the chair, Mr. Grew reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the bill (H. R. No. 345) making appropriations for the support of the Army for the year ending June 30, 1861, and had directed him to report the same back to the House with an amendment, and with a recommendation that the bill do pass.

Mr. SIERMAN. I read the previous question on the bill and amendment.

The previous question was seconded, and the main question ordered.

Mr. SIERMAN. I will not ask a vote on the bill to-night.

LAND DISTRICT IN CALIFORNIA.

Mr. BURCH, by unanimous consent, introduced a bill to create an additional land district in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

COURT-ROOMS IN PENNSYLVANIA.

Mr. HALL, by unanimous consent, introduced a bill making an appropriation of \$10,000 for court-rooms and marshal's office for the district court of the United States for the western district of Pennsylvania; which was read a first and second time, and referred to the Committee on the Judiciary.

And then, on motion of Mr. BURNETT, (at forty-eight minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, MARCH 29, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating in connection with a resolution of the Senate of the 22d instant, a copy of the memorial of Brevet Lieutenant Colonel B. S. Roberts, relating to the reorganization of the militia of the United States; which was ordered to lie on the table; and a motion by Mr. Foer to print the report, and that two thousand additional copies be printed, was referred to the Committee on Printing.

He also laid before the Senate a letter of the Secretary of the Interior, submitting additional estimates of appropriations that will be required for fulfilling the stipulations with the Indian tribes during the present fiscal year; which, on motion of Mr. HUNTER, was referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. HUNTER presented the memorial of Louiza T. Whiting, widow of Major Palms Whiting, of the Army, praying a pension; which was referred to the Committee on Pensions.

Mr. PEARCE presented the memorial of John F. Connelly, remonstrating against the petition of Rice, Baird & Heebner, and representing that this firm had acknowledged that it was impossible for them to execute their contract for the furnishing of one hundred and thirty marble columns shafts for the portico of the Capitol; and, also, that Captain Meigs had inspected their Lee quarry, and reported to the Secretary of War that fact, although six years had been allowed them to do so; and also showing that they had to chime to exact damages for their failure to execute their contract, their real and only object being to substitute Italian for American marble; and praying

that Congress will not interfere with the order of the Secretary of War to purchase the columns of which; which was referred to the Committee on Public Buildings and Grounds.

He also presented the memorial of Mary Townsend, widow of Joshua Townsend, a soldier in the war of 1812, at the battle of North Point, asking for bounty lands under the acts of 1855 and 1856, her application having been rejected by the Commissioner of Pensions on technical grounds; which was referred to the Committee on Public Lands.

Mr. EVERSON presented additional papers in relation to the claim of Henry R. Schoolcraft, for the reimbursement of expenditures in Michigan, Wisconsin, Iowa, and Minnesota; which was referred to the Committee on Claims.

Mr. PEARCE. Yesterday a memorial of the Great Falls Manufacturing Company was presented by the Senator from Delaware, (Mr. SALLAUM,) about the disposition of which there was some doubt in the Senate, and it was finally laid upon the table, with a view of considering what should be its proper reference. I move that it be taken up now, with a view to referring it to the Committee on the Judiciary, where it properly belongs.

The motion was agreed to; and the memorial was referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PEARCE, it was Ordered, That leave be granted to withdraw the memorial of Thomas Johnson, administrator of Anselmo Johnson, and Sarah A. North, administrators of Amy E. Johnson, praying compensation for laborers destroyed by the enemy in the war of 1812 from the files of the Senate.

On motion of Mr. EVERSON, it was Ordered, That Jane McVane have leave to withdraw her petition and papers.

On motion of Mr. BENJAMIN, it was Ordered, That the memorial of Joseph Menard, praying to be allowed to relocate certain warrants (and land granted to the late Menard de la Fayette, of which he is the assignee, on the files of the Senate, be referred to the Committee on Private Land Claims.

PETITION RECOMMENDED.

On motion of Mr. SIMMONS, it was Ordered, That the memorial of George G. Durban, praying compensation for services as a clerk in the Indian bureau, be recommended to the Committee on Claims.

BILL INTRODUCED.

Mr. LANE, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 322) to complete certain military roads in the Territory of New Mexico; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill (S. No. 312) giving the consent of Congress to the improvement of the Yazoo and the Mouth of the Mississippi river, and the levying of a tonnage duty to maintain the same, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of Henry J. Rogers, American editor of the Commercial Code of Signatures, and all Nations, praying that the same may be adopted by Congress, and distributed to all merchant vessels owned by citizens of the United States, reported a bill (S. No. 320) to provide for the general introduction of an international code of marine signals; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the memorial of citizens of Delaware, praying the substitution of steamers of light draught of water for the revenue service in place of the present class of sailing vessels, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the Common Council of Detroit, praying that steamers may be employed in the carrying of lumber to the ports of the revenue of the lakes, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial of citizens of Michigan, praying that steamers may be stationed on the lakes for the protection of the revenue and the relief of merchant vessels in distress, asked to be

discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a report of the Secretary of War, communicating in compliance with a resolution of the Senate, the report and estimate of Captain Newton in relation to the construction of a wharf at Lewes, Delaware, and the bill (S. No. 13) making an appropriation for the erection of a pier in Delaware Bay, for the protection of commerce, reported it without amendment, and adversely.

Mr. SALLAUM. I desire to say that I do not concur in the adverse report, which has just been made; but shall ask the Senate at an early day to consider that bill.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the bill (H. R. No. 343) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York, reported it without amendment.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Robert A. Matthews, for the confirmation of the entry of a tract of land in the Sioux City district, Iowa, by Charles W. Tash, or for the refunding of the purchase money to the said Matthews, as his attorney, reported a bill (S. No. 321) for the relief of Robert A. Matthews. The bill was read, and passed to a second reading.

Mr. EVERSON, from the Committee on Claims, to whom was referred a bill reported by the Court of Claims for the relief of Polly Booth, of the county of Madison, State of New York, with the opinion of the court in favor of Roberts, of the county of Madison, State of New York, for the relief of Polly Booth, of the county of Madison, State of New York, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Melinda Durkee, of the State of Georgia, with the opinion of the court in favor of the claim, reported the bill (S. No. 324) for the relief of Melinda Durkee, of the State of Georgia, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Lucretia Wilcox, of Wayne county, Michigan, with the opinion of the court in favor of the claim, reported a bill (S. No. 325) for the relief of Lucretia Wilcox, of Wayne county, Michigan, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Mary Robbins, of Westmoreland county, Pennsylvania, with the opinion of the court in favor of the claim, reported the bill (S. No. 326) for the relief of Mary Robbins, of Westmoreland county, Pennsylvania, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Margaret Taylor, of Putnam county, Tennessee, with the opinion of the court in favor of the claim, reported a bill (S. No. 327) for the relief of Margaret Taylor, of Putnam county, Tennessee, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Mary Bart, of Scioto county, Ohio, with the opinion of the court in favor of the claim, reported the bill (S. No. 328) for the relief of Mary Bart, of Scioto county, Ohio, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Ann Clark, of Madison county, Tennessee, with the opinion of the court in favor of the claim, reported the bill (S. No. 329) for the relief of Ann Clark, of Madison county, Tennessee, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Tempy Connelly, of Johnson county, Tennessee, with the opinion of the court in favor of the claim, reported the bill (S. No. 330) for the relief of Tempy Connelly, of Johnson

county, Tennessee, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Mercy Armstrong, of Gloucester county, Rhode Island, with the opinion of the court in favor of the claim, reported the bill (S. No. 331) for the relief of Mercy Armstrong, of Gloucester county, Rhode Island, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Esther Stevens, of Van Buren county, Michigan, with the opinion of the court in favor of the claim, reported the bill (S. No. 332) for the relief of Esther Stevens, of Van Buren county, Michigan, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Hannah Weaver, of Wayne county, Pennsylvania, with the opinion of the court in favor of the claim, reported the bill (S. No. 333) for the relief of Hannah Weaver, of Wayne county, Pennsylvania, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Anna Parrot, of Clinton county, Ohio, with the opinion of the court in favor of the claim, reported the bill (S. No. 334) for the relief of Anna Parrot, of Clinton county, Ohio, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Nancy Madison, of Fairfield county, Ohio, with the opinion of the court in favor of the claim, reported the bill (S. No. 335) for the relief of Nancy Madison, of Fairfield county, Ohio, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Rosamond Robinson, of Belknap county, New Hampshire, with the opinion of the court in favor of the claim, reported the bill (S. No. 336) for the relief of Rosamond Robinson, of Belknap county, New Hampshire, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Lavinia Tipton, of White county, Tennessee, with the opinion of the court in favor of the claim, reported the bill (S. No. 337) for the relief of Lavinia Tipton, of White county, Tennessee, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Mary Grant, of the State of South Carolina, with the opinion of the court in favor of the claim, reported the bill (S. No. 338) for the relief of Mary Grant, of the State of South Carolina, without amendment. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Mary Ann Hooper, of Virginia, with the opinion of the court in favor of the claim, reported the bill (S. No. 339) for the relief of Mary Ann Hooper, of Virginia, without amendment. The bill was read, and passed to a second reading.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the bill (S. No. 11) making an appropriation for the payment of expenses incurred by the people of the Territories of Oregon and Washington, in the suppression of Indian hostilities therein, in the years 1855, 1856, reported the bill without amendment, and submitted a report, which was ordered to be printed.

Mr. DURKEE, from the Committee on Pensions, to whom was referred the petition of Darby Glover, praying to be allowed a pension, submitted an adverse report; which was ordered to be printed.

NAVAL APPOINTMENTS.

Mr. GRIMES submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be in-

structed to inquire into the expediency of providing by law that there shall be no more appointments to the grade of purser in the Navy; that duties now performed by officers of this grade shall be performed by officers of the grade also, that they inquire into the expediency of providing by law that all appointments to the marine corps of the United States shall be made from graduates of the United States Naval Academy.

STEVEN'S REPORT.

Mr. LANE submitted the following resolution: Which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be directed to inquire into the expediency of printing two thousand extra copies of Stevens's railroad report.

PROPOSED ADJOURNMENT.

Mr. GREEN. I offered a resolution a few days ago, which is lying on the table, in reference to the recess in April and May. I move now that it be taken up.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved by the Senate, (the House of Representatives concurring), That the two Houses of Congress do adjourn on the 20th of April next, until the 20th of May next.

The VICE PRESIDENT. The Chair is informed that the 20th of May comes on Sunday.

Mr. GREEN. Make it the 21st.

The VICE PRESIDENT. That alteration will be made.

Mr. ANTHONY. I desire to offer an amendment to the resolution. If we adjourn on the 20th of April, to meet again on the 21st of May, we shall return to find the country suffering under three presidential nominations, and we shall have to remain here at least a month longer than would be necessary to carry on the business of Congress, in order to listen to gentlemen who wish to address the constituents through the Congressional Globe; but if we fix a time for the final adjournment, the effect of this resolution will not be to prolong the session. I have left the time in my amendment blank, and wish to have it fixed on the 15th of June.

I think, will leave ample time for the transaction of all the business necessary to carry on the Government, and for the consideration of the measures now before Congress.

The VICE PRESIDENT. I will accept the amendment.

The VICE PRESIDENT. Will the Senator wait until the amendment is read? It is to add to the resolution:

And that the President Officers of the two Houses adjourn on the 15th of June, and the Senate sine die at twelve o'clock on the 1st day of June next.

Mr. CLINGMAN. If it is in order, I intended to move, as a substitute for the resolution of my friend from Missouri, a similar proposition to that presented by the Senator from Rhode Island, but providing for the final adjournment on the 1st of Monday in June. I think we may adjourn at that time, and I prefer fixing that day. If we find it necessary to hold on a little longer, it will be easy to extend the time. It is better to name a day, and work up to it. I am opposed, however, to the proposition of the Senator from Missouri. It is a proposition to adjourn for a month in the middle of the session, to allow gentlemen to go off to the political conventions. It does seem to me that the principal business of the Congress of the United States is legislation, and not attending the political meetings. Take, for instance, the Charleston convention: it is so far off that I suppose there are few Senators who expect to go; I have not heard any Senator say that he intends to go. But of course, if you adjourn for a month, you will have to go. Why not let us go on with our business here?

As to the second convention, which is to occur at Baltimore, it is a ride of only an hour and a half. I doubt if any Senator intends to attend it; or, if there is any, doubtless he can be spared for a day or two. Perhaps the same will be true of Kentucky, Mr. CHITTENDEN, and one or two others who feel a deep interest, might go over. We might accommodate them by not acting on any bill in which they felt a special interest during their absence.

In reference to the Chicago convention, perhaps some gentlemen on the other side may wish to go there; but I think it doubtful. The Senator from Vermont [Mr. FORT] shakes his head. Why should we adjourn in the middle of the session for a month? We should come back here, and forgetting where we have left our business, and

we shall have to work on into July, and perhaps August, to get through with it, and also to make political speeches in favor of and against all the candidates. I think, therefore, it is better not to adopt the motion of the Senator from Missouri; and I propose so to amend it, as to provide for an adjournment sine die on the first Monday of June. If that motion were taken precedence of the motion of the Senator from Rhode Island, I will move it. I desire to strike out the original proposition altogether, and insert, in lieu of it, "that the two Houses do adjourn sine die on the first Monday of June next." I have not so much to say for me, as to be enabled to give the day of the adjournment.

Mr. FORT. The Senator from North Carolina will most directly reach his purpose by moving to fill the blank, in the amendment offered by the Senator from Rhode Island, with the words "the first Monday in June."

Mr. ANTHONY. I will accept that.

Mr. CLINGMAN. But he proposes to add that to the resolution, so that we shall have the proposition to take a recess for a month, as a part of it, and my object is to prevent that. Before adding his amendment, I think the Senator should be competent for me to move to amend it by striking out the words I have alluded to, and substituting a proposition for an adjournment sine die on the first Monday in June.

The VICE PRESIDENT. The Senator from Rhode Island proposes to strike out the motion of the Senator from North Carolina. The Senator from Rhode Island should propose his amendment to strike out all after the resolving clause, and insert; and if he then accepted the amendment of the Senator from North Carolina, the question would come up in the form the latter Senator desires.

Mr. ANTHONY. I intended my first proposition as an amendment to the resolution of the Senator from Missouri; that we should take a recess of one month, and adjourn sine die on the 11th of June. I understand the Senator from North Carolina to propose a substitute for the resolution.

The VICE PRESIDENT. The Senator from North Carolina can only propose an amendment to the amendment of the Senator from Rhode Island.

Mr. CLINGMAN. I am opposed to taking a recess for a month. I want to get at that; and if my amendment will take precedence of the one offered by the Senator from Rhode Island, I must wait until there is a vote on my amendment, and then I can move, as a substitute for the original proposition, what I have indicated. I am indifferent whether his amendment be adopted or not. My object is to strike at the original motion.

Mr. GREEN. I think the Senator from North Carolina takes an entirely mistaken view of this subject. Adjourning for one month does not cost the Government a single dollar. On the contrary, it is a saving of money to the Government, as I can demonstrate. The number of members present at the close of the session is fewer or not in session; while the pay of a number of employed depends upon the fact whether Congress is in session or not. It is well known to every member present, including the Senator from North Carolina, that at the close of the session, if it is adjourned for a month, the members are courteous to each other and to the different parties, come to an understanding, and any no business shall be transacted during the holding of these conventions; and we know that that will be the practical effect. No work will be done; but we shall adjourn three days at a time—from one third day to the second third day, and so on—until they all come back, and are ready to resume their labors. As this will be the case, and we know it, why not at once make an open, honest confession of the fact, and adjourn for one month? I know those who choose to attend the conventions, and many will anyhow—can do so; and those who choose to go home, as I desire to do, can do so, getting no mileage, no pay for it; it involving no expense to the Government. He says, however, we shall forgo the advantage of the session. If our memories are so short, I apprehend we are hardly fit to legislate. I do not expect to forget the stage of business. I expect to keep up with it, whether present or absent; and I really think that this is a measure of economy and a measure of wisdom.

Mr. CLINGMAN. I will leave it to the Senator to say that this would add to the expenses of

the Government. I do not know that it will affect the expenses any way; but I think it will be very inconvenient to Senators, to be kept here in the summer; and the result of this measure will be to restrict the session in the summer. Whatever may be the strength of my friend's memory, I doubt whether there are many Senators here who will not say that we can finish business in less time by going on regularly with it, than by having an irregular session of a month or two, in order to commence many things deo. But with reference to the amendment of the Senator from Rhode Island, I have nothing to say. When it is out of the way, I shall make the motion I have indicated.

Mr. GWIN. If the motion is to adjourn finally on the 15th of June, I am for it, and against the recess.

Mr. BROWN. I shall vote for the original resolution, unless it is amended in the way proposed by the Senator from Rhode Island. In that event I shall vote against it. I am not for fixing early days of adjournment. We are paid by the year to transact the public business; and it is our duty, I think, to stay here until we have done it; and when there is nothing else to do, then adjourn. That was the argument urged when the bill salary for Senators and Representatives was passed. The country was satisfied with it, because the people supposed that paying us by the year would induce us to transact the people's business; and we ought to stay here and do it. I shall not vote to fix early days of adjournment. I should be very glad to work every day through the summer, but business as early as possible, and go home; but there have been adjourning over one or two days every week during this session of Congress. We have done nothing. Now we propose to fix a day to adjourn, and go away and abandon the business of our country. In my humble opinion, we have no right to do it; and I shall not consent to do it.

Mr. IVERSON. The Senator from Missouri has stated correctly that if no recess is taken, according to the practice and custom which prevail in the body, the Senate will do no business during the time the respective conventions are held in session. I think that was the case four years ago, during the Cincinnati convention, and the convention of the Republican party in Philadelphia. It was again the same circumstance, that no business of any importance whatever should be transacted during the absence of Senators at those conventions. That will be the case again. The Senator from North Carolina says he is not aware of any Senators going to those conventions. I know three of my own friends on this side of the House who are delegates to the Charleston convention, and I know they are all going, for I have so understood from them; and I apprehend there are other Senators who desire to attend it. I do not myself wish to expect to attend, but, doubtless, there are many who would prefer to do so. And so with the other convention—a number of the gentlemen on the other side will desire to attend it.

Under these circumstances, if the Senate does not do any business while the bodies are sitting, I want to know what is the necessity of keeping Senators here simply to adjourn over from one term of three days to another. Senators will be compelled to do that, or else they will lose their pay. If a recess is taken, the pay goes on; but if the Senate is in session, every man who does not attend here at the time the Senate meets, loses his pay. Then what is the use of staying here for the purpose of getting our pay and doing no business, because we will be the result of it. We shall transact no business on account of Senators going to attend these conventions; and so many will go that the universal courtesy requires that we should attend to no business, of any consequence, at least, during their absence; so that it will amount to precisely the same thing, in point of fact, whether we take a recess or not. The Senate will transact no business while the conventions are sitting.

Members of the House of Representatives are very anxious also, I understand, to go, and they want to change the arrangement of their Hall. This will give them the opportunity of changing the internal arrangements of their Hall. It seems to me that, taking all things into consideration, it is better to take a recess; but I am, with the Senator from Mississippi, against fixing early days

for the final adjournment. I think it is our duty to stay as long as there is any public business which requires our attention; and we have no right to shut the public duty up and go off and attend to our private affairs.

Mr. CLINGMAN. I do not believe with the Senator that there is a necessity for our refusing to do business because three gentlemen on this side intend to go to Charleston. They may pay off their salaries, and we may not be able to get away to go home, and we can go on with business as usual. We have often three gentlemen absent on this side. If this had been a proposition for one week's adjournment, it would not have been so good; but to take up a month in this way is intolerable. It is a mere matter of personal convenience. It may be hard that three gentlemen, if they go, should lose their pay; but their business is here. If they think it more important to go there instead of letting their salaries go, I propose their participation will allow them to sacrifice eight dollars and a quarter a day.

Mr. GWIN. I am entirely opposed to taking a recess for any of the conventions. If members choose to go to the national conventions, it is no reason why the Senate of the United States should stop the country to carry on legislation. But, aside from that, the recess will stop the progress of business. We had better fix a day for an early adjournment, and work up to it and get through with the business, or as much of it as we intend to transact during this session.

I hope we shall have no more of this sort, that the Senator from Rhode Island did not move to strike out the whole resolution, and propose to appoint the first Monday of June for the final adjournment.

Mr. CLINGMAN. That is my motion, to continue up until the amendment is disagreed of.

Mr. GWIN. Very well; I shall vote for that. The VICE PRESIDENT. The question is on the amendment of the Senator from Rhode Island.

Mr. CLARK. Let it be read.

The Secretary read it; to add at the end of the resolution:

And that the President Officers respectively adjourn the two Houses of Congress state day at twelve o'clock on the following next.

Mr. BENJAMIN. I hope the Senate will vote down the amendment, and then vote down the original proposition. I believe the number of votes for the recess will be very few. Leaving that out of view, I think it is indiscreet at this time to fix a day for our final adjournment. The Senate is actually engaged through the action of the House of Representatives upon that subject. Our habit has been, the House being the larger body and having more difficulty in getting through with its legislation, to await the action of the House, and when it fixes a day for final adjournment, keep it on our table so that we can pass it at any moment when the business of the session will justify it.

Mr. CLINGMAN. Allow me to suggest to the Senator to move to postpone the resolution indefinitely. That will test the sense of the Senate. If it is right, I will cheerfully vote with him to postpone the original resolution, and that will carry the amendment with it.

Mr. BENJAMIN. Let us vote down the amendment and vote down the original. That puts an end to it.

Mr. CLINGMAN. I am in favor of that; but I supposed we should get it more quickly by the way I suggested.

Mr. BENJAMIN. I like to test both propositions. I desire to know whether we propose to adjourn finally before the House has expressed its opinion to its view. We cannot well tell the time it ought to be. We have always considered it proper to await the action of the House of Representatives on that subject. When we have determined that question, as I hope we shall, in the amended resolution to fix the day for final adjournment, I shall then vote against the original resolution.

Mr. GREEN. I request the Senator from Rhode Island to withdraw his proposition, and offer it as an independent one, after 2 minutes is voted upon. I think it better to test them on separate propositions. I beg leave to remind the Senator from Louisiana of this fact, that the House of Representatives desire this proposition passed.

Mr. BENJAMIN. I was going to observe, in relation to that remark of the Senator from Georgia, that if the House desires a recess of the two Houses for the purpose of adjourning, it will, in order, and should pass a resolution to that effect, courtesy to the House of Representatives would require us to yield to its wishes, and I would willingly vote for it; but I wish that expression from the House to come officially.

Mr. GREEN. They recited it to be moved here first. It is for all these purposes. It does not conflict with any public interest; for we know no public business will be neglected in consequence of it. I can see no propriety whatever in refusing this request made by the House of Representatives. However, the Senate may do as it places.

Mr. CLINGMAN. I ask the Senator in what form the House of Representatives has made the request? Is it some individual members?

Mr. GREEN. Individual members have spoken to Senators on the subject.

Mr. CLINGMAN. How do we know that they represent the view of a majority of the House? Gentlemen very often think they speak the sentiments of the House when they do not. I asked one of the members to put it in that sort, it can readily pass through a resolution. I have heard a great many gentlemen express views against it. I am not prepared to say what the majority think.

Mr. ANTHONY. If the amendment embarrasses the resolution of the Senator from Missouri, I withdraw it, and will submit it forward as an independent proposition if his resolution passes.

The VICE PRESIDENT. The question is on the following resolution of the Senator from Missouri:

Resolved by the Senate, (the House of Representatives concurring therein,) That the two Houses of Congress do adjourn on the 30th of April next, until the 21st day of May.

Mr. CLARK called for the yeas and nays; and being taken, resulted—yeas 19, nays 29; as follows:

YEAS—Messrs. Anthony, Brown, Fitch, Foot, Green, Hamplin, Iverson, Lane, Sebastian, Simmons, Trumbull, and Wilson.

NAYS—Messrs. Benjamin, Bristow, Ringham, Bangs, Bright, Cameron, Chandler, Chubbuck, Clark, Clay, Clingman,崔德威, Deatley, Durkee, Fessenden, Fitzpatrick, Graves, Green, Hamlin, Harlan, Hunter, Johnson of Tennessee, Latham, Mason, Nicholson, Pease, Rice, Sebastian, and Sherman.

So the resolution was rejected.

REGULATIONS FOR THE GUANO TRADE.

Mr. HAMLIN. I ask the Senate to take up, this morning, the bill in relation to regulating guano discoveries. I desire to make some amendments to the bill, and I hope to offer some amendments which will meet and obviate the objections which gentlemen have already suggested.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 308), supplementary to the act entitled "An act to authorize the Secretary to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856.

Mr. HAMLIN. I propose to amend the bill in sections 1, 2, 3, and 4, by adding, after the word "anxious," the words "at the pleasure of Congress." The object is to retain all power in Congress, ultimately, over this matter, precisely as it is retained in the original law. I do not think the bill would have changed it, but this meets all objections of State secretaries.

The amendment was agreed to.

Mr. HAMLIN. I propose further to amend the bill, in the same section, by adding, after the word "thereto," in the twenty-fourth line, what I will read. Before reading it, I will say that the proviso in the section as it now stands gives the Secretary of State authority to review his opinion in relation to conflicting rights; that is, if a certificate shall have been given to a wrong party, by mistake, fraud, or upon insufficient evidence, he may, at any time within a year, revise his opinion, and give a certificate to the party clearly entitled thereto. The amendment which I now propose to introduce, gives to the Secretary of State an unqualified power to abrogate entirely any certificate he may have given, provided it is his opinion

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chealed discoverer was not entitled to the same. The amendment is in these words:

And in case any controversy shall arise in relation to any of the said islands, keys, or rocks, in which any foreign Government shall be a party, and the Secretary shall be satisfied that a certificate has been improperly issued to a citizen of the United States, then the Secretary shall have power, and it shall be his duty, to annul all proceedings in relation thereto.

And I propose also to add another clause which limits the existing law:

And in no case shall the President of the United States be authorized to employ the land or naval forces for the protection of said islands, rocks, and keys, before reporting to Congress.

Mr. FESSENDEN. I would suggest to my colleague that he should cover, also, future cases.

Mr. HAMLIN. It covers past and future cases. The original act provides:

"That the President of the United States is hereby authorized to employ the land or naval forces for the protection of said islands, rocks, and keys, before reporting to Congress."

It is a very broad power. It is a power which I think was not very fully examined at the time the bill was passed. I propose to limit that power, and I propose to do it because I am informed that there are now controversies existing between this Government and foreign Governments, where they set up a claim. The original act clearly gives to the President that power; and I think it is a power over which we ought to exercise a restraining influence. For these reasons I have offered the amendment.

Mr. HUNTER. I hope the amendment will prevail. It is a very important amendment, as there are already some disputes under the law.

Mr. YULEE. I would suggest to the Senator from Maine, instead of leaving it in the discretion of the Secretary of State, to substitute the President. Let the President be authorized to withdraw the certificate.

Mr. HAMLIN. will insert the amendment, before the word "Congress," and be duly authorized thereto by."

The VICE PRESIDENT. The hour has arrived when the Chair must call up the special order.

Mr. MASON. I do not mean to delay this bill, but I would say to the honorable Senator from Maine, who has introduced it, and who now proposes to modify it by limiting the authority of the President to use the public force to protect these islands, that he is mistaken in his idea that the clause in the original law which gave that power to the President was not well considered. The law was drawn with great care to prevent the possibility, as far as it could be done, of the President annexing any of these islands to the United States, until he was satisfied, in the manner pointed out by the law, that they really were not the property of, or claimed by, any other nation, and were out of possession; and the right to use the public force for the protection of the islands was given only after they came into the possession of American citizens, under that law, so that it should not be permitted to any foreign Power to dispossess American citizens; because if it did dispossess them, it would dispossess them of land established as a part of the United States, by the policy and the law of the United States. And in that view, as a preventive measure, the President was authorized to expel any foreign Power that should intrude upon, or take possession of, American territory. It is the same power that he possesses now. I take no for granted, without the intervention of Congress, to whelplever I think therefore, that those reasons which would lead Senators to modify this, lest the President might bring us into a war by the undue exercise of the discretion vested in him, might have the very opposite effect, upon the old maxim that one ounce of prevention is worth a pound of cure. If the President had the power to prevent, by the use of the public force when necessary, the intrusion of any foreign Power upon any portion of the United States, it might be done with one twentieth, or one hundredth, part of the cost that it would

require to expel that Power after he got possession. But that is a matter pertaining more to commerce and to commercial interests than to those with which I am specially charged, and I shall not interfere if the Senate chooses to modify it.

The VICE PRESIDENT. What order will the Senate take upon the special order? It is the duty of the Chair to announce it at this hour.

Mr. HAMLIN. I ask the Senate to postpone the special order until we can dispose of this bill. We can get through with it in a few moments.

The motion to postpone was agreed to.

Mr. HUNTER. I am informed by the Secretary of State himself that the provision of the old law has already led to embarrassment, and there is correspondence going on between the British Government and our own now in relation to this matter. Men claim to have discovered islands in the sea, and there is no counter claim, perhaps yet, until after the certificate is issued, until somebody is interested to contest the right; and then it turns out that some foreign nation makes a claim. Under the existing law, on the certificate being issued, the President is authorized to use the land and naval forces to protect the right of the man who holds the certificate. This is too large a power to give, and it is embarrassing on all sides. Where there is a counter claim by a foreign nation, the question should be submitted to Congress before force is used, or before war is declared. There is a case where a claim is set up by an American citizen to have discovered an island which probably belonged to Hayti; and so it will be in many other cases. They present their claim, and a certificate is issued on the information before the Department, other than the showing of the claim, and not being present to contest it, and hence the embarrassments arise. I do not see any difficulty to result from the proviso of the Senator from Maine, and I think it would be most prudent to adopt it.

The VICE PRESIDENT. Some modifications have been made in the amendment. The Secretary will read it as it now stands.

The Secretary read the amendment as modified, as follows:

And in case any controversy shall arise in relation to any of the said islands, keys, or rocks, in which any foreign Government shall be a party, and the Secretary, under the direction of the President, shall be satisfied that a certificate has been improperly issued to a citizen of the United States, then the Secretary shall have the power, and it shall be his duty, to annul all proceedings in relation thereto. And in no case shall the President of the United States be authorized to employ the land or naval forces for the protection of said islands, rocks, and keys, without reporting to, and being first duly authorized by, Congress.

The amendment was agreed to.

Mr. HAMLIN. I now propose to amend the bill, in line eighteen of the same section, by inserting, after the words "Secretary of State," the words "under the direction of the President." That carries out the suggestion of the Senator from Florida a few minutes ago.

The amendment was agreed to.

Mr. HAMLIN. I now propose to amend the second section by striking out, in lines eight and nine, the words "at such ports as shall be designated," and insert "at the expense of the importer or owner, and such regulations as shall be prescribed by;" so that the clause shall read:

And that before the same shall be passed through the custom-house where entered, it shall be examined and subject to the regulations of the importers, and such regulations as shall be prescribed by the Secretary of the Treasury.

I think myself that it is the very best form in which this section, under all the circumstances, can be placed. I regard it as very desirable that this guano should be subject to an inspection and analysis. If you undertake to do it under the revenue laws at all ports, you must have a large force of men. This will save the Government the expense of the fact that in several of the States, not all, there are State inspectors. This amendment provides that the inspection shall be at the expense of the importer or owner, and it leaves the Secretary of the Treasury to prescribe the rules under which, the manner in which this in-

spection shall be had. Now what will be in all human probability the result of this action? In those States where there is a State inspection, there can be no doubt he will adopt that State inspection as part of his system. In those States where there are no State inspectors, he will designate persons as proper persons to inspect the guano; but it will be at the expense of the importer or owner. I think, under all the circumstances, gentlemen who represent States where there are State inspections, can have no objection to this, and in the States where we have no State inspection, we shall call on the Secretary of the Treasury to designate the men who shall make the inspection.

The amendment was agreed to.

Mr. HAMLIN. To perfect the bill, I move to add the same words, "and at the expense of the importer or owner," after the word "fraud" in the eighteenth line of the second section.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The VICE PRESIDENT. The question is, "Shall the bill be engrossed and read a third time?"

Mr. DAVIS. Mr. President, I think it would be well that we should pause in our progress in this species of legislation. In 1856, and upon the plea that it was in the interest of agriculture, we adopted a law which has been disastrous in its effects, and I think has been really disastrous in its effects. It has involved us already in more diplomatic questions, and looks more seriously to the disturbance of the peace of the country, than any other law or any other act which probably has occurred in the whole history of our nation. We have had, in the first place, a controversy with Venezuela, next with Peru, and more recently with Great Britain; and I believe, though I now recollect but three, that there are probably as many as six or seven cases of controversies which have arisen; and the last of these is now before the Senate, in regard to that high and commanding point in the group of the Bahamas, called Cayo Vero. It seems to have been assumed a discovery, though from its prominence and the length of time it has been upon the maps, I think it is a little in supposing it is among those which were laid down by Columbus; but on account of the extraordinary *ex parte* character of the proceedings under the act of 1856, it was only necessary for an American citizen to report that he had discovered it, and that the President was vested with power to use the Army and the Navy, in such however remote, to protect him in the possession of that which he declared to be his discovery, without notice being served upon any other Government to ascertain whether it was in fact discovered by people or not. I think it is a time when we have looked on the other side of the Chamber—there is scarcely a voice raised in favor of conferring on the President the power to protect the great Isthmus transits, essential to bind the two portions of the United States together, when it is proposed to be a proposition to confer on the President a power to make war, if we permit him, under the provisions of treaties, to protect American citizens, it is a little remarkable that we should find upon the statute-book, in the interest of the guano trade, a power far more extensive than any conferred in any provision which has been moved before in the Senate of the United States. But after we have proceeded but a very short period—from 1856 down to this day—under a law which was enacted, as a constant in the past, I will not say whether real or fictitious—that it was in the interest of agriculture, we now find that an alteration is proposed in the interest of commerce; and whereas this protection was to be given in order that fertilizers might be introduced into the United States, and for that reason we were involved in this extraordinary legislation, now it is proposed, in the interest of commerce, to give this protection to private adventurers, in such however remote.

The amendments which have just been adopted, so far as I comprehend their application to the

States could require for defense of that, as a discrepancy on the part of the United States, would attach, and there is no necessity for legislation for that.

But this legislation is directory; it calls on the discoverer to come and present his claim to the Government, and the Government is to accept the claim on his showing, that is, then to defend him and maintain it as a part of the United States. We are thus thrown broadcast on the state to establish little colonies wherever some deserted rock may be claimed, and it has happened in nearly every case where guano exists that the place is not susceptible of occupation; that it is not occupied either by an American citizen or by anybody else; that men cannot reside upon it. He may stay there for a time, he may raise a flag and go through symbolic occupation, but it is a mere symbol. When the vessel sails, everybody leaves with it. I think if we were to find some fertilizer in a tropical region, and some of the citizens of the United States were to take possession of it, and were to take his negroes there to cultivate a tropical product, we would take the same care of the same occupation of him and his property that we now find for a desert rock and some skipper in the pursuit of guano. I see no stronger reason for interposing the whole power of the Government to protect this traffic than any other. There is no stronger reason by the Government should be involved in controversy with foreign nations to secure the importation of guano, than the importation of spices, dyestuffs, ivory, or any thing else. It is but a matter of trade. It should be in the discretion of the Government, and it should be by the action of Congress, if we treat as an acquisition some barren rock or desert sand upon which guano deposits may be made, and not put it in the power of a mere adventurer, cooperating with the President, to reduce this Government to the condition of recognizing that as a part of the United States.

My objection, therefore, is a radical one. It goes to the whole theory of the act. It covers the entire system. Our Government was not formed for purposes of colonization. I have wisely come only to require extermination of war. We must have a Navy as numerous as our merchant marine is now, if we expect to defend every rock which may be found unoccupied, and to which some American citizen may lay claim as he may because he found it. I would not put it. There are islands very near to our own coast which any adventurer may find unoccupied, and with very heavy deposits on them—not as did those of Peru, but perhaps they may be found as good; and I suppose a foreign nation would have just about as good a right to take possession of them as we had to take possession of the Azores islands.

As to the fear which my friend from Virginia speaks of on the part of our Government, we are too strong, I suppose, to feel any fear when we are too strong. I trust we are too moral and magnanimous not to feel very great fear of doing wrong. The question which I present is one of right and wrong, not a question of timidity or courage. I hope my Government will always be afraid to do wrong. I hope it will never send forth roving commissions to gather up everything which may belong to somebody else, because the owner is not found on it. It is enough that they should inquire whether it belongs to us, and if it does not, we should stop all proceedings which connect the Government of the United States with it. I oppose the whole policy, not on account of the manner in which it is treated. I now move to strike out the third section of this bill, so as to confine it to the original purposes of the law in that respect.

The PRESIDING OFFICER. (Mr. Fessenden.) The section proposed to be stricken out will be read.

The Secretary read it, as follows:

Sec. 3. And he is further directed, that so much of the second section of the act to which this is a supplement, as requires the sale and delivery of said guano to the United States, and for use therein, shall be, and is hereby, repealed; and hereafter it shall be lawful for any citizen of the United States to deliver to any other citizen, who has delivered their bond, or bonds, and have received a certification of the acceptance thereof by the President of the United States, to deliver to any other citizen, to other than citizens of the United States, and for other use therein.

Mr. HAMLIN. I hope the Senate will not

strike out that section. It is certainly one of the main provisions of the bill. I do not want to discuss it. I will only say that the section as it stands received the united and unanimous approbation of the Committee on Commerce, and I hope it will be retained.

The amendment was rejected.

The bill was ordered to be engrossed and read a third time. It was read the third time.

Mr. DAVIS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and, being taken, resulted—yeas 29, nays 5, as follows:

YEAS.—Messrs. Anthony, Bingham, Butler, Cameron, Chandler, Clark, Clark, Crittenden, Doolittle, Durkee, Freese, Fitch, Foot, Gwin, Hamlin, Harris, Hempstead, Hunter, Irving, Johnson, of Tennessee, Mason, Nichols, Pearce, Sesselsburg, Seward, Simmons, Sumner, Treadwell, and Wade—29.

NAYS.—Messrs. Davis, Fitzpatrick, Rice, Slidell, and Vileas—5.

So the bill was passed.

PACIFIC RAILROAD.

Mr. GWIN. I give notice that I shall on this day week call up bill No. 1 on the general orders—the bill authorizing the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government property by rail, from the Mississippi river to San Francisco, in the State of California. This is the railroad bill that was under discussion in this body during the last Congress, as reported by a select committee, and amended by the Senate. I have deferred calling up the bill heretofore, because I have been in hopes that we should have a bill sent to us from the other House; but I have lost all hope of that, and I want the friends of the measure to send me on this day week in bringing it up in the Senate and disposing of it.

MARK ELISHA.

Mr. SLIDELL. I ask the consent of the Senate to take up Senate bill No. 42, for the relief of the heirs and legal representatives of Mark Elisha. It is a bill which has been prepared at the Land Office to authorize certain parties in Louisiana to enter land under an old grant, and I am sure there will be no objection to it.

The bill was considered as in Committee of the Whole. It proposes to confirm the claim of Mark Elisha for four hundred acres, entered under No. 365, (register's number, 126,) in the seventh class of the report dated December 30, 1815, of the register and receiver at Opelousas, Louisiana, the claim being justly surveyed, but reported as embracing parts of lots Nos. 3 and 4, and south half of section twenty, sections twenty-one and twenty-eight, lot No. 6, of section twenty-seven, and lot No. 1, of section twenty-nine, in township two north, of range four east, southwestern land division of the Louisiana Territory. The survey general of Louisiana is to survey the claim, and present it on the official plats. The act is only to be considered as a relinquishment of part of the United States, and not to interfere with any adverse valid rights to the same land.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ARMY DESERTIONS AND ENLISTMENTS.

On motion of Mr. DAVIS, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 46) to prevent desertion, and to facilitate enlistment of soldiers in the Army of the United States. It provides that every person, not subject to the rules and articles of war, who shall procure or entice a soldier in the service of the United States to desert; or who shall harbor, conceal, or give employment to a deserter, or carry him away, or aid in carrying him away, knowing him to be such; or who shall procure for any soldier his arms, equipments, uniform, clothing, or any part thereof; or any captain or commanding officer of any ship or vessel, carrying away any such soldier, as one of his crew or otherwise, knowing him to have deserted, or who shall aid to deliver him up to the custody of his commanding officer, shall, upon legal conviction, be fined, at the discretion of any court having cognizance of the offense, in any sum not exceeding \$500, and be imprisoned not exceeding two years. It also provides that any commissioned officer of the Army may administer the prescribed

oath of enlistment to recruits, if there be no civil magistrate authorized to administer it, within reach.

The bill was reported to the Senate without amendment.

Mr. DOOLITTLE. I suggest to the chairman of the Committee on Military Affairs, that in the ninth line, after the word "thereof," the words "knowing him to be such" should be inserted. As the bill now stands, it would subject a person to punishment who purchased from a soldier his arms, equipments, uniform, or clothing, without knowing that he was a soldier.

Mr. DAVIS. I have no objection to that amendment.

Mr. DOOLITTLE. I move to insert the words "knowing him to be such," after the word "thereof," in the ninth line.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

PUBLIC LANDS IN IOWA.

Mr. HARLAN. I move that the Senate now take up joint resolution No. 2, removing the restrictions upon a certain grant of five sections of land to the State of Iowa.

Mr. YULEE. The Senate is evidently very thin, and it is likely to be much fuller to-day. I think it better to make a motion to adjourn. I am unwilling to take up business in the present condition of the Senate, when there is certainly no quorum present, and there is not likely to be a quorum later to-day.

Mr. FOOT. What is the matter?

Mr. YULEE. Members are in the other House.

Mr. HARLAN. I have no doubt there is a quorum of the Senators within or near the Chamber, who can be counted as readily. This is a small matter. It merely concerns the State of Iowa a perfect title to five sections of land originally granted to aid in the construction of public buildings. The joint resolution was reported by the Committee on Public Lands unanimously. It passed the Senate at the last session of Congress, and failed in the House of Representatives merely for want of time.

Mr. YULEE. My motion was in order. I moved that the Senate adjourn.

Mr. GRIMES. I trust the Senator from Florida will withdraw his motion. This is a local bill.

Mr. YULEE. I shall not press my motion until this bill is disposed of.

Mr. GRIMES. This is a little local bill which passed the Senate at the last session of Congress. Some years ago five sections of land were donated to the State of Iowa for the purpose of erecting upon them the capitol of the State. The capitol was not finally erected upon that land, but the title became perfect in the State. The State has since seen fit to divert the grant to the purpose of establishing a new capitol, and now solicits the assent of Congress to that diversion. That is the whole proposition. I suppose there can be no objection to it.

The motion of Mr. HARLAN was agreed to; and the joint resolution (S. R. No. 2) removing the restrictions upon a certain grant of five sections of land to the State of Iowa, was considered as in Committee of the Whole.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. CLAY. Before the joint resolution is passed, I desire to ask the Senator from Iowa whether the State did not get a grant of other lands, in lieu of these sections, for the State capitol.

Mr. GRIMES. No, sir.

Mr. CLAY. That is satisfactory.

The joint resolution was read the third time, and passed.

ARMY APPROPRIATION BILL.

A message from the House of Representatives, by Mr. FOWLER, its Clerk, announced that the House had passed a bill (H. R. No. 305) making appropriations for the Army for the year ending the 30th of June, 1861, in which the concurrence of the Senate was requested.

On motion of Mr. HUNTER, the bill was read twice by its title, and referred to the Committee on Finance.

JOHN LORD'S REPRESENTATIVES.

Mr. FESSENDEN. I ask the Senate to take up a little private bill, which has already twice

passed the Senate, but at this session stands low on the Private Calendar. It is a matter of very small consequence except to the parties interested. I move to take up Senate bill No. 224, for the relief of the heirs-at-law of Abigail Nason, sister and devisee of John Lord, deceased.

Mr. IVERSON. That is a private bill, and we come up to it in regular order. I desire to have a public bill taken up to-day.

Mr. FESSENDEN. I hope the Senator will not interfere. One or two private bills have already been taken up and passed. This bill cannot be reached for weeks regularly on the Private Calendar. I hope it will be taken up now. I think it can be disposed of in five minutes.

Mr. IVERSON. I will not object to taking up private bills in the morning hour; but to break in upon the hours for public business in this way seems to me to be wrong.

Mr. FESSENDEN. I hope the Senator will be kind this time, because there is nobody here to attend to public business; and I trust he will interpose no objection, as I have the floor, and my motion is in order.

Mr. IVERSON. I will let it go.

The motion was agreed to; and the bill (S. No. 224) for the relief of the heirs-at-law of Abigail Nason, sister and devisee of John Lord, deceased, was read the second time, and considered as in Committee of the Whole. It provides for paying to the heirs-at-law of Abigail Nason, sister and devisee of John Lord, deceased, late of South Berwick, in the State of Maine, the sum of \$336, in full for the amount due John Lord for services performed by him as a seaman on board the United States ship Ranger during the revolutionary war.

Mr. CLAY. I should like to hear the report read.

The Secretary read the following report, made by Mr. NICHOLSON on the 27th of February:

The Committee on Revolutionary Claims, to whom was referred the petition of William Nason and others, legal representatives of John Lord, deceased, make the following report:

They have carefully examined the several papers on file in the case, and find them fully sustaining the report made to the Senate on the 15th of February, 1858. The committee, therefore, respectfully recommend, as follows:

IN THE SENATE, February 15, 1858.

The Committee on Claims, to whom was referred the petition of William Nason and others, legal representatives of John Lord, deceased, report:

This claim is founded upon the allegation that John Lord served his country, during the war of the Revolution, as a seaman on board the United States ship Ranger, from April or May, 1779, to May, 1780, when she was taken at the surrender of Charleston; and that she was detained on board a guard-ship some time afterwards, and finally returned about the last of July—making in all fifteen months. James Gooch deposes that he was purser and clerk of said vessel during the time mentioned; that Lord was aboard; that no pay-roll was made out, and no payments made to his men.

Joseph Wardwell, a shipmate of Mr. Lord, also testifies to the truth of the facts alleged.

In the original petition of Mr. Lord for the payment of this claim, which was presented to the Twentieth Congress, he assigns, as the reasons why his claim was not paid, that he was discharged from the service, and that he knew that any provision had been made by Government for paying off the seamen; or until 1798, when, on his return to a foreign voyage, he was discharged, and that he was paid (whose affidavit is in the case) that he and other Rangers had been paid. He then applied to an agent to assist him in procuring his pay, but without success; and that it still remains unpaid.

It appears from statements that there are no records of the Ranger in either the Treasury or Navy Departments.

The case has been twice favorably reported in the House of Representatives, and once a bill was introduced, but it being near the close of the Congress, the bill did not appear to have received any action in the Senate. No additional report upon it appears to have ever been made.

The committee are of opinion that the evidence before them sustains the claim, and they report a bill for the payment of the amount of wages and interest thereon from the time that proof of the service rendered was produced and the claim was made upon the Government for proof of what was due.

Mr. HUNTER. Is this a claim for interest on a revolutionary debt?

Mr. FESSENDEN. Interest only from the time he first made the proof.

Mr. HUNTER. How long ago was that?

Mr. FESSENDEN. The Revolution of 1776.

Mr. CLAY. I cannot vote for any bill that proposes to pay interest on any claim against the Government. I think it is time that some statute of limitations should be adopted, to run against the revolutionary claims. From a number of them that have been presented since I have been

a member of the Senate, I judge that they will never cease to be preferred. There is a claim for interest upon services said to have been rendered, from the time when the claim was first preferred. As I stated some time ago in the Senate, I have at this session offered a petition for the payment of money which was advanced by a citizen of the State of New York, for a certain tract of land, which the Government professed to hold the title to and sold to him; but it appeared afterwards that the Government had no title whatever; yet it held the money of my constituent for twenty or thirty years, and has refused to pay interest on it, as I see calculated the Commissioner of the Land Office, there is no case within his knowledge on record where the Government has paid it. That is a much stronger claim than this. Here, an individual, as he represents; through ignorance of his right, failed to prefer his claim against the Government for a series of years. When he did prefer it, it was not at once met. It does not appear that he produced at that time satisfactory evidence of the claim. The evidence may have been insufficient, and because of its insufficiency Congress has refused to pay interest on it.

Yet we are now asked, not only to pay the original claim, but to pay interest upon it from the time the demand was first made. I think it is a very mischievous precedent. The amount, it is true, is inconsiderable, but it involves a very important principle, and that is, that the Government is the source of a great deal of mischief. I trust, therefore, that the bill will not pass; and I must ask for the yeas and nays upon its passage.

Mr. FESSENDEN. The Senator from Tennessee reported this bill. I do not know whether he calculated the interest or not. The bill says nothing about interest; but the committee adopted a previous report which said that interest was allowed.

Mr. NICHOLSON. In the division of the late Committee on Revolutionary Claims, when this case was referred to me, and, on examination of the proof, my impression is that it is even stronger than stated in the report, as to the justice of the original claim, and as to its being made out satisfactorily and never having been paid. As to the interest, I think that the committee adopted the rule of allowing interest usually from the time when the application is made. The amount of the original claim is, I think, between one and two hundred dollars. Interest from the time it was first presented to Congress brings it up to nearly a thousand dollars. The committee adopted the rule of allowing interest usually from the time when the application is made.

The bill was reported to the Senate without amendment.

Mr. HUNTER. I think the Senator from Maine had better consent to strike out the allowance of interest, and then there will be no objection to the bill.

Mr. FESSENDEN. The Senator from Virginia does not understand it. The bill allows a sum in gross; it says nothing about interest; therefore the bill makes no precedent on that question. I understand that the case of the Senator who served in the revolutionary war, under Paul Jones, and was imprisoned fifteen months. He made his application at the earliest moment that he could, to the Twentieth Congress. Then he made out his proofs, and a bill to pay him passed the House and to the Senate, but as so far as the bill failed to be acted upon in the Senate; and this bill, as it stands now, for precisely the same amount now proposed to be paid, passed the Senate before. It has been reported upon favorably in its present shape twice by the Committee on Claims. At this session, the Committee on Claims sent it to the Committee on Revolutionary Claims, and that is the reason why it is so low down on the Calendar. The Committee on Revolutionary Claims have again reported the bill, and have adopted the principle, that the Government will not pay interest when they ought to have paid the original claim years before? Senators may see that the sum of money is a small one; and the bill itself says nothing about interest. The bill has been reported often. The money, justly due to this man, has been long withheld, after he made proof of his

service, when everybody else who performed the same service received pay on the application being made. Now, to refuse to pay him on the ground that a little interest is to be allowed, would seem to me to be making the point on a case in which it should not be made. As to the claim which the Senator from Alabama states, it may be a hard case, but it will come before the Senate; it will be heard upon its merits, if it is to come; and if interest ought to be paid there, I shall be as willing to pay it as in this instance; but it strikes me, that of all the cases which could be presented this is not one on which to make the point. Incurst, of course, is not allowed except from the Senate; the proof was made and he was entitled to his money. The whole sum is but a little over three hundred dollars.

Mr. CLAY. The sum itself is inconsiderable; and if it were not for the precedent that we are establishing I should not oppose it.

Mr. FESSENDEN. It is not a precedent.

Mr. CLAY. It is a precedent.

Mr. FESSENDEN. It is not the first precedent.

Mr. CLAY. By parity of reasoning, in regard to every claim which we are now considering, and every one which we may consider hereafter, where ultimately the justice of the claim is acknowledged and the amount is paid, the party will be entitled to interest from the time he first presented the claim, and the Government is the source of proof; and, therefore, if we pass this bill, we shall have to pay interest in every case.

Mr. NICHOLSON. The Senator will allow me to say that the Committee on Revolutionary Claims have adopted the rule of making interest commence from the time of the first report in favor of a claim.

Mr. CLAY. That is objectionable, for several reasons. In the first place, we know that oftentimes committees report in favor of bills which the Senate has rejected.

Mr. PEARCE. This seems to me to be a very weak case. It is a claim for seaman's wages, alleged to have been due just eighty years ago. The party, it seems, was a seaman on board the United States ship of war Ranger, from April or May, 1779, to May, 1780, when she was taken at the surrender of Charleston, and kept in confinement for some time afterwards. His claim was presented in 1820—forty-nine years afterwards—and the testimony upon which it is based is that of a person named Gooch, who was the purser and clerk of the vessel. Forty years afterwards, and the evidence alleged to have been rendered he deposes that "he thinks Lord was aboard; that no pay-roll was made out, and no payments made to the men." The explanation for the laches, in not presenting his claim, is, that he did not know of the provision had been made for the payment of such cases.

I think this simple statement is evidence enough that it is a claim that ought not to be passed. I find an endorsement on the bill that the claim was made out about twenty years ago, and twenty dollars; so that over two hundred dollars is for interest; and this is interest to a man who for fifty years did not present his claim, and whose heirs or representatives now ask for it at the lapse of eighty years. I really cannot see ought to be allowed in this sort of litigation. There should be some time at which we should prohibit the production of these very antique and stale claims before Congress. It is said we have no evidence at all on this subject in any of the Departments. So much the better reason for rejecting the claim. The testimony which is offered is exceedingly loose; and after the lapse of eighty years, and after all the fire we have had, and the removals of the seat of Government, and the confusion which attended all the affairs of the General Government, it is not surprising that no provision was established under the present Constitution, it seems to me that any evidence we might have had may well be supposed to have been lost. At all events, I think, after the lapse of eighty years, no claim not better supported than this ought to be allowed. I shall vote against it.

Mr. FESSENDEN. The Senator took the first part of the evidence, which I confess was rather weak, and left out entirely all the rest; and he based his remarks on the testimony of one witness. Another witness testified positively and swore that Lord was on board the Ranger, and that he was

taken prisoner, and kept a prisoner for fifteen months afterwards. That is proved positively; not by thinking one way or another. Then an explanation is given of the reason why he did not apply earlier; an explanation which was perfectly satisfactory to the committee; and after he applied a bill passed the House of Representatives while he was living. He has since died. The Senator understands as well as anybody else why it should not have been brought up until a later date, when it was looked up by the heirs of his devise, he having devised all the property he had.

The member of the committee who reported this bill, the Senator from Tennessee, has stated that the case was much stronger, in point of fact, than could seem from the statement in the report. The Committee on Revolutionary Claims was perfectly satisfied as to its justice. I ask whether there is not to be some respect paid to the reports of committees? As I stated, the claim was originally reported upon in the Twentieth Congress, and then a bill passed the House of Representatives on the report of a committee as to the facts; for of course they examined the facts. Since then it has been before two separate Committees on Claims of the Senate, who were satisfied of the facts; and how low have they come? The Committee on Revolutionary Claims, and they too are perfectly satisfied as to the facts. The objection now made to its passage by the Senator from Maryland is, that after all he does not think the proof is sufficient.

Well, Mr. President, I do not know how it is with other gentlemen; but with regard to myself on these matters of fact, unless it appears on the face of the paper that it could not have been—unless it appears that a mistake was made—I am disposed to trust accuracy in the reports, and reports of three or four committees, stating that they are perfectly satisfied of the existence of the facts. As to its being an old claim, that is not strange. Many claims of the same age have come before Congress and passed, to the perfect satisfaction of Congress. They expired, and ought to be paid; and, in my judgment, it is excessively hard that this Government, great as it is and rich as it is, should undertake to set up the statute of limitations against the reports of its own officers and the reports of Congress. I have known of neither this man nor his heirs have received this small amount; if they have not had the benefit of what his ought to have received, as the committee have reported, so much the more reason why it should be paid now, with an apology for not having paid it before.

We ought to exercise our power of passing upon these questions with some sort of discretion, and somewhat in the same manner that an honest man, if he happened to live long enough, would recognize his old debts. If he was satisfied that he was due the money, he would say, "To be sure, I owed you this money; but it is so long since the debt was first due, and its payment has been prevented for so long a period, by accident or various circumstances, that I will not pay you." Why not an application for a pension, or a claim for wages for services performed by this man; and surely no objection should be made to it on a ground of that description.

Now, as to the interest, I will say to the Senator from Alabama that I do not concur with him in his views. I told you the Court of Claims have held, that when a claim has been presented, proved, established—not an application for a gift or a gratuity, but a claim for an absolute debt—when the debt has been shown to exist and the Government has neglected to pay it; neglected to make the proper provision for it; failed of every reason in the world why interest should be paid. Why should not a claim against the Government stand precisely on the same ground, after it has been proved, that a claim against an individual stand? I see no justice or propriety in making a distinction. I know that it is the habit of the honorable Senator from Virginia, the chairman of the Committee on Finance, to object to the allowance of interest in nearly all cases, though I think he sometimes lets it pass. I do not quarrel with him in doing this; but I think it is wrong, as he does at the head of the Committee on Finance, it is his business to object to everything. He is a general objector to all sorts of claims against the Government; his position makes him so in a certain extent; but after all, I apprehend that he has the

same views in regard to the equity of things that other men have, and I ask him to tell me whether there is any good reason on the face of the earth why, on a claim for services, when it has once been presented to this Government, and proved to the satisfaction of the Government itself, before its regular officers for examining such claims, interest should not be allowed if payment is withheld. Nobody can give a good reason for it. Sir, there is more reason in the case of the Government than in that of individuals, for the Government is better able to pay than individuals. If a claim is neglected, not presented to them, no matter for what reason, so that the Government has no notice of it, interest unquestionably should not be paid on it for a time anterior to its presentation, and that is the position which has always been assumed; but when a claim has been presented and proved, especially for service of this description rendered in the Revolution, it strikes me that there is no justice or reason in objecting to the allowance of interest. This little bill will form no precedent. It is not the report, but the bill we pass, which makes the precedent. This bill gives a gross sum of money for services performed. There is nothing about it in the shape of a man paying interest, and in that case, it would not be out of the way.

Mr. FEARCE. Mr. President, I think any claim eighty years old is justly liable to suspicion where the proof is only parol; and still more so if the claimant has been dead for many years. I have obtained fifty years after the claim arose. It is not any particular suspicion that I have of this proof; but it is the general suspicion which attaches to all claims of this sort which affects my mind; because we all know, sir, how numerous are the frauds committed upon the Government by means of parol proof. Every day we are prosecuting in the courts, in some State or other, men for obtaining pensions on false and forged testimony. I heard an instance the other day that struck me as so remarkable, that perhaps I may be permitted to mention it. There were about eight thousand men, I have been told, engaged on our side in the battle of Plattsburg, when the forces of Sir George Prevost were repulsed. The survivors of these men, and the widows of those deceased, were entitled to money lands, and to receive from Congress. Less than a thousand survivors, and they on proof, received their bounty lands; but it seems that there were some persons who had hastily gone to the support of the army at the defense of Plattsburg who were not on the muster-rolls, whose service the necessary record evidence could not be obtained. It was thought a great hardship, because these men had hurried in the midst of danger to the very thick of the fight, that they should not have the benefit of that law which was intended for those who fought. So a special bill was passed, and parol proof was authorized to be received in such cases. I have been told, and I think truthfully, that the claims for the survivors of those eight thousand, who were not on the muster-roll, have been proved to the satisfaction of the committee, and the whole number that were engaged in the battle, and who have received their bounty lands. I am afraid to specify the exact number; but I think I have heard that twenty thousand men have proved their claims on account of that single action, when there were only twelve thousand men engaged in the campaign, and when, of course, if the number of those who were there without being on the muster-rolls bore anything like the ordinary natural proportion to those who were on the rolls, there must have been a hundred and twenty thousand men in the battle! I wish to know how this fraud upon the Government is perpetrated. And it is because I think we ought to guard against these things in all cases that I object to this bill. This parol proof was taken some fifty years after the occasion when the claim party's claim arose. The witnesses, if they were young men at the time of the battle, twenty-five years of age, were seventy-five years old at the time they gave this testimony; and on the testimony of old, worn-out men, physically decayed, and probably mentally decayed too, we are to establish a claim which is at least fifty or eighty years old, and was then about fifty. It is wrong, sir.

Mr. HUNTER. Mr. President, as I understand it, the precedent which the passage of this bill will establish will be found in the bill and the

report which accompanies it. That report goes on your archives; and when you come to look into the history of the bill, as undoubtedly persons who want to claim interest hereafter will do, they will bring up this report for the purpose of showing that interest was allowed. But it is not necessary to go to that sort of reasoning for the purpose of showing the nature of the precedent that will be established, for we are told that the Committee on Revolutionary Claims—I was not aware of it before—have established the principle that they will allow interest on every claim from the time the first report was made in its favor. That does not come within the enology of the decision of the Court of Claims allowing interest where the United States officers have liquidated a claim and acknowledged it, but failed to pay. Committees have no right to bind the United States Government. This is a mere report of a committee. It does not bind the Government until Congress has acted on it. How often do we find imprudent reports from committees? Sometimes the member who prelates the petition is allowed to make what report he pleases, the other members waiting until it is presented to the House, for the purpose of making a decision upon it. If we shall permit this bill to pass, it will be a claim, provided we pass this bill, from the time the first report was made in their favor, who can say how many millions it will take out of the Treasury? It is a new principle, so far as I have had any experience, in this House. I was not aware that this committee practiced upon it. If it be established, will not those who have heretofore recovered claims without interest—and that has been the practice for the greater portion of the history of this Government—be entitled, upon the establishment of this precedent, to come here and to demand interest, and say their claims were not paid in full by the amount they have already received? How many cases will it reopen, and what will it lead to hereafter? Why, sir, any man who chooses to present a claim, if he can pay the money, is at liberty to do so, whether it is acted upon by Congress or not, whether it is sanctioned by either House, establishes his right to interest from that day; and then, no matter how long it may run, if it runs on for half a century, or a hundred years, the Senator from Maine says that it is not right to protect the United States by the statute of limitations. I believe it to be more eminently proper in the case of the Government than of individuals. We have no such statute, and do not set upon it in regard to claims against the Government. I wish we had. I believe it would be just.

An individual, when he is afraid of interest, can go to the creditor and demand the account, and he can tender payment. The United States Government can do no such thing; it must wait until the claim is made, and then, when the claim is made, it seems we are to pay interest from the time it can obtain the first report in its favor, or, as the Senator from Maine says, from the time the party first makes his proof. On such principles there is no telling what mischief may be done. If we classify claims that have been heretofore allowed, on which no interest has been paid. It is for that reason that I object. I know this is small in amount; and if it had not been for the claim to interest, and the still more important enunciation of the principle, that this interest was proposed to be given, I should have made no opposition; but I believe it is necessary that the Senate should repudiate this principle in regard to the allowance of interest from the time any report is made; and further, I think it would be a valuable lesson to the public mind, if the House of Representatives passed to protect the Government of the United States. I know we have not got it, and I fear we shall not be able to pass such a law; but I believe it would be just, and I believe it would contribute to the peace of mind of our country, because it would force citizens to make their claims when they occurred, and it would protect the Government against the frauds to which it is liable when claims of long standing are presented. I trust that this bill will not pass, unless that portion of the bill which makes it from a mere report of Mr. IVERSON. In acting upon private claims of this sort, I have generally adopted for myself the rule of abiding by the report of the committee, because I cannot investigate every case. Now, in relation to this very case, it is impossible for me

to understand the merits of the original claim. There is contradictory evidence perhaps, and I am in doubt about it. I give to the committee the benefit of that doubt. That is the principle upon which I act in reference to private claims always. Unless I am satisfied that the claim is unjust, I take the report of the committee and pin my faith to the sleeve of the committee. I think that is the proper course for us to pursue, and not to vote blindfold against every claim that may be presented because it is going to take money out of the Treasury of the United States. I mean to vote on that principle for this claim, although I do not distinctly understand the merits of the original case. But I am in favor of the allowance of interest, and an altogether different reason for that which has been stated.

My friend from Alabama does not want to vote for this interest, because he considers that it will be a precedent. I want to vote for it to make it a precedent. Here is a case in which, if we pass this bill, the Senate must of course act on the presumption that the original claim was just and ought to have been paid long ago. If you admit that the claim was a just one and ought to have been paid when it was first presented, fifteen or twenty years ago—and you actually so declare when you vote for paying it now—then you are on what principle you ought not to allow interest?

I want to establish it as a precedent for this reason: if the principle is settled that upon every claim which is a just one the parties shall be entitled to interest from the time it is presented and made out to the Government, then the Government will be more active in paying private claims, and we shall not have these claims going over from session to session, and from Congress to Congress, and the parties kept out of their money for years. Congress is a slow body whenever a claim is taken by a private claimant; and I want to stick a rowel into her side, and make her go a little more rapidly. She is a slow jaded whenever there is a small rider put on; but when there is a large, heavy weight, she treads a little faster. If a claim is for \$100,000, or a million, or so, she can go rapidly enough to get rid of her burden; she very soon delivers it, and pays the claim; but whenever a small claim, a light rider, gets upon her, it is very difficult to make her go. Look at the cases from the Court of Claims. Five years ago you established the Court of Claims, and she has paid us go before them and get judgments. They have gone there at a considerable expense and waste of time, and they have got their judgments, and how many laws Congress paid? How many judgments of the Court of Claims has Congress ever paid? Not a half dozen. We have on our docket now between seventy and a hundred private claims, which have received the favorable judgments of the Court of Claims, and yet you refuse, session after session and Congress after Congress, to give them your attention, and to pay them. You give them the attention of the judges of the Court of Claims do not bear interest. One branch of Congress passes a bill; it goes to the other House, and they never consider it. Thus the claimant is kept between the two Houses of Congress like a shuttlecock, going from one to the other, and never getting his rights. Even when you have given him your judgment, and admitted that the claim is just and proper, you refuse to pay the money session after session, and finally you say you will not allow interest.

I think that is unjust, and I am for allowing them interest in every case where I believe the claim is a just one, from the time it is proved to the satisfaction of the accounting officers and presented to Congress. If I am satisfied that a claim is a just one, and that Congress, from sheer neglect or the influence of some party, has not often manifested to private claims, has not attended to it, I am for allowing interest; I am for sticking the rowel into Congress, and setting a precedent which will make them more active hereafter in allowing private claims.

Mr. CLAY. If the Senator from Georgia is sincere in his declaration of what he believes is the duty of Congress, I am bound to say that he has been very delinquent in his practice as chairman of the Committee on Claims; because, acting on his preface, every bill that he has reported to the Senate should have been accompanied with a clause allowing interest from the time the claim was first presented.

Mr. IVERSON. I am in favor of it.

Mr. CLAY. But you do not urge it.

Mr. IVERSON. The committee do not. I am not in fault. I am not responsible for all the action of the committee.

Mr. CLAY. According to the Senator's doctrine, Congress must go back and reopen every claim. If we legislate in future upon the principles of the Senator from Georgia, I say we must reopen every private claim that has come before the Government, and the effect of it would be to quadruple the amount of principal which has been paid, in liquidating the interest which has accrued.

But gentlemen say that this Government should not stand on any better footing than an individual—a private citizen. Admit it, and apply their own rule to the case which is now before us, and what is it? We have a claim preferred against the Government upon *ex parte* testimony; and what court in this country would respect a claim thus preferred against a private individual? What opportunity had the Government to cross-interrogate the witnesses to this claim? What opportunity had the Government to inquire into their character for veracity? None whatever. Therefore, I say that it is not putting the Government upon a better footing than a private citizen.

But, sir, the Senator is a lawyer, and so is the Senator from Maine; and I submit to both of them that interest is never due upon any claim except in virtue of agreement between parties or in virtue of legislation. Interest is always either conventional or is the result of the action of the law. That is my opinion, at least; and until we adopt some law binding the Government to pay interest, it should not be preferred.

Now, sir, the Senator from Georgia thinks he ought to pay interest on this claim; not that he has investigated it, not that he knows the character of the witnesses to it, not that he must not admit that it has the earmarks of suspicion and of doubt upon it, but because three committees of Congress have reported in favor of it. As was remarked by I think, the Senator from Virginia, we all know that that amounts to the testimony of three members of Congress in its favor, and nothing more; because it is utterly impossible for perhaps any one of the important committees of the Senate to investigate carefully every claim that is referred to it, or to refer it to their sub-committee, who reports to the committee his opinion, and the committee generally defers to his opinion. Therefore, I say, it is tantamount to the testimony of three members of Congress in its favor, and nothing more. Now here is a claim that is eighty years of age; that was not preferred against the Government until it was nearly fifty years old. It is sustained, from all I can learn, by the positive testimony of but one witness, and he a man who was then probably seventy-five years of age. Now, I should look with good deal of discredit upon any man who would undertake to swear positively to an event that had occurred fifty years ago. I say that, if you pass this bill as it is, you establish a precedent which constrains us, if we intend to deal out equal and exact justice to all claimants against the Government, to pay interest hereafter, whenever a claim is referred, from the time it is preferred, or at least from the time the proof is made out. That is the rule which the Senator from Georgia thinks ought to be adopted; and I concur with him that if you adopt it here you ought to do so everywhere, to all, and respect all the old cases. I shall ask for the yeas and nays on the passage of the bill.

Mr. SLIDELL. This bill appears to involve a very important question. I do not think it ought to be passed upon with the number of Senators now present, and I move that the Senate have a ["Executive session."] I will move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 29, 1860.

The House met at two o'clock, Mr. Prayer by the Chaplain, Rev. THOMAS H. BROCKTON. The Journal of yesterday was read and approved.

SELECT COMMITTEE.

The SPEAKER appointed Mr. BARR, Mr.

CONKLING, Mr. GANNETT, Mr. VERRILL, and Mr. HARMS of Maryland, the select committee, under the resolution of the House of the 26th instant, relative to the contract with McIntyre, Hixby & Co., for labor in the public store, No. 12 Broad street, New York.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKET, its Chief Clerk, notifying the House that the Senate had concurred in the amendment of the House to the third amendment of the Senate to the bill (H. R. No. 241) authorizing publishers to print on their papers the date when subscriptions expire, and in relation to the postage on drop letters.

Also, that the Senate had passed a bill (No. 299) to increase and regulate the pay of the Navy of the United States; in which he was directed to ask the concurrence of the House.

Also, that the Senate had ordered, on the 29th instant, at fifteen minutes after twelve o'clock, the printing of the letter of the Secretary of the Territory of New Mexico, communicating copies of memorials and resolutions of the Legislative Assembly of that Territory in relation to the payment of certain militiamen and volunteers, called into service against the Indians—the usual number.

CONDITION OF BANKS.

Mr. BRANCH. I have a resolution which goes, as a matter of course, to the Committee on Printing; and I should like to have an opportunity of offering it now.

There being no objection.

Mr. BRANCH offered the following resolution; which was read, considered, and referred to the Committee on Printing:

Resolved, That there be printed for the use of the Treasury Department, two thousand extra copies of the report of the Secretary of the Treasury on the condition of the banks of the United States.

REGULAR ORDER OF BUSINESS.

Mr. MAYNARD. I desire leave of the House to make a report from the Committee of Claims.

Mr. GROW. I object to everything but the regular order of business.

Mr. MAYNARD. I desire to make a statement, which will lead to no discussion at all. I was directed by the Committee of Claims to report a couple of bills; but being absent when that committee was called for reports, I lost the opportunity of reporting them. I ask leave to report them now.

The SPEAKER. Is there any objection to the proposition of the gentleman from Tennessee?

Mr. GROW. I want my objection to stand as a standing objection to everything not in order. I hope I will not have to repeat it.

ARMY APPROPRIATION BILL.

The SPEAKER. The business first in order is the bill (H. R. No. 305) making appropriations for the support of the Army for the year ending June 30, 1861; the question being on agreeing to the following amendment:

For the manufacture or purchase of apparatus and equipment for the Army, \$3,000,000; and there be added to the staff of the Army one signal officer, with the rank, pay, and allowances of a major of cavalry, who shall have charge, under the direction of the Secretary of War, of the duty, and all books, papers, and apparatus connected therewith.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was so engrossed, and was accordingly read the third time, and passed.

Mr. SIEMERMAN moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

OFFICERS AND SOLDIERS OF THE REVOLUTION.

The SPEAKER proceeded to call committees for reports, beginning with the Committee on Revolutionary Claims.

Mr. FENTON, from the Committee on Revolutionary Claims, reported back a bill (H. R. No. 13) to provide for the settlement of the claims of the officers and soldiers of the revolutionary army, and of the widows and children of those who died in the service; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. FENTON. In view of the large number

of letters which I have received for copies of this bill in view of the general interest which seems to be manifested throughout the country in regard to it, I ask that double the usual number of copies be printed. I trust that the House will give its consent to this.

The SPEAKER. The motion to print extra numbers must be referred to the Committee on Printing.

Mr. FENTON. I ask the unanimous consent of the House.

Mr. COBB. I object.

Mr. McKNIGHT. I hope there will be no objection; there is no part of the country that is not interested in this bill, and we are getting letters on the subject every day.

Mr. FENTON. An objection is made, I move that it be referred to the Committee on Printing. It was so referred.

CAPTAIN DAVID NOBLE'S REPRESENTATIVES.

Mr. FENTON, from the same committee, also reported a bill for the relief of the legal representatives of Captain David Noble deceased, which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

EPISCOPAL MISSIONARY SOCIETY.

Mr. WASHBURN, of Wisconsin, from the Committee on Private Land Claims, reported back a bill (S. No. 106) authorizing the Domestic and Foreign Mission Society of the Protestant Episcopal Church of the United States to enter a certain tract of land in the State of Wisconsin; which was referred to a Committee of the Whole House, and ordered to be printed.

DANIEL DAVIS.

Mr. WASHBURN, of Wisconsin, from the same committee, also reported a bill authorizing the Secretary of the Interior to issue a land warrant to Daniel Davis, which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

DANIEL WILSON.

Mr. WASHBURN, of Wisconsin, from the same committee, made an adverse report on the bill of Daniel Wilson, which was laid on the table, and ordered to be printed.

Mr. COBB. Did not I hear the Committee on Public Expenditures called?

The SPEAKER. It was called.

Mr. COBB. And was there no response from that committee, which is charged with the investigation of the public expenditures? What has become of the bill which I had referred to them to curtail some of the expenses of the Government?

Mr. GROW. No debate is in order; and I object to it.

The SPEAKER. Debate is not in order.

HOMESTEAD BILL.

Mr. GROW, from the Committee on Agriculture, reported back, with a recommendation that it do pass, a bill of the House to secure homesteads to actual settlers on the public domain; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. GROW moved that five hundred extra copies of the bill be printed.

The motion was referred, under the rules, to the Committee on Printing.

Mr. MAYNARD. I would like to know if that bill is not a homestead bill? We have already passed one, and it seems to me to be unnecessary to go to the expense of printing another.

Mr. GROW. The bill has been referred to the Committee of the Whole on the state of the Union. We wanted to get it out of our hands.

ADVERSE REPORT.

Mr. BRIGGS, from the Committee on Revolutionary Claims, made an adverse report on the bill of William Baiting, praying for redemption of certain continental money; which was laid on the table, and ordered to be printed.

PANAMAQUODDY INDIANS.

On motion of Mr. ETHERIDGE, the Committee on Indian Affairs was discharged from the further consideration of the petition of certain Panamaquoddy Indians, and the same was referred to the Committee on Revolutionary Claims.

HEIRS OF MARY JEMISON.

Mr. BURROUGHS, from the Committee on Indian Affairs, reported a bill for the relief of the heirs of Mary Jemison; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

SETTLERS UPON THE MIAMI RESERVE.

Mr. BURROUGHS, from the same committee, made an adverse report in relation to settlers upon the Miami Reserve, in Kansas; which was laid upon the table, and ordered to be printed.

PAY OF FURBERS IN THE NAVY.

Mr. MORSE, from the Committee on Naval Affairs, reported back, with amendments, a bill (H. R. No. 2) to regulate the sea-service pay of furbers in the Navy; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. MORSE. I give notice that two weeks from to-day I shall move to take up this bill.

Mr. WINSLOW. There is a bill upon the Speaker's table relating to the same subject. I ask that it be taken up, and referred to the Committee on Naval Affairs, and printed.

There being no objection, a bill (S. No. 299) to increase and regulate the pay of the Navy of the United States was taken from the Speaker's table, read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CELESTIA P. HART.

Mr. POTTLE, from the Committee on Naval Affairs, reported a bill for the relief of Celestia P. Hart, widow of Constructor Samuel P. Hart; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

FRENCH SPOILIATION BILL.

Mr. ROYCE, from the Committee on Foreign Affairs, reported a bill to provide for the ascertainment and satisfaction of the claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801; which was read a first and second time.

Mr. ROYCE. I am instructed by the Committee on Foreign Affairs to move that the further consideration of this bill be postponed until three weeks from to-day.

Mr. CRAWFORD. I should like to know whether that bill comes from a committee?

The SPEAKER. It is reported from the Committee on Foreign Affairs.

Mr. CRAWFORD. Well, Mr. Speaker, if the motion to postpone is made, I object to its being made a special order. I am willing that it shall be sent to the Committee of the Whole on the state of the Union; but I object to its being made a special order there for any day.

Mr. BRANCH. This bill, Mr. Speaker, is a copy precisely of the bill which was introduced into the House in the last Congress upon the same subject. At least it was so understood in the House, and the time lost was given to report it to the House. The point of order was made at last Congress that the bill contained an appropriation, and that it must, therefore, under the rule, receive its first consideration in the Committee of the Whole on the state of the Union.

After a full and careful consideration of the question of order, the Speaker, reserving his decision for a day and a night, decided that the bill did contain an appropriation and must necessarily go to the Committee of the Whole on the state of the Union; which was accordingly sent there. If I am not mistaken, the decision was made upon a careful consideration of the law of Congress. I think the House assented to the view taken by the Speaker, that the bill did contain an appropriation and was obliged to go to the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Maine. I desire to say to the gentleman from North Carolina that if, upon an examination of the bill at the time to which it is proposed to postpone it, it shall be found to contain an appropriation, it must, as a matter of course, go to the Committee of the Whole on the state of the Union. The gentleman from North Carolina will then have an opportunity to make a motion to commit the bill. I wish to say further, that last year when the French spoliation bill was before the House, the then

Speaker examined the bill with a good deal of care, and was, as he said, in a good deal of doubt as to the proper decision to be made. He finally decided, however, that the bill did make an appropriation; and although, as I believe, a majority of the House at the time differed with the Speaker in his decision, yet they acquiesced, and allowed the bill to be passed.

Mr. MAYNARD. Was not the decision of the Speaker submitted to and sustained by the House?

Mr. WASHBURN, of Maine. I think not; I think that no appeal was taken. But I wish to say further, that I have looked at the reasons given by the late Speaker, and I find that, if the quotation from the bill upon which he based his decision is correct, the bill then before him was not like this bill. This bill is certainly not liable to the objections which were then made, unless it be true that the Secretary of the Treasury is himself the Government of the United States. This bill does not provide for the payment of any money, unless in pursuance of appropriations which shall be in future made by the Congress of the United States. I think, therefore, that it is not liable to the objections which were made in the last Congress. At any rate, whether it is or not, the question can be raised when the bill again comes before the House for consideration. I hope it will not be referred to a Committee of the Whole, because I have no objection, and no one knows it better than the gentleman from North Carolina—it will be the defeat of the measure altogether. I call for the previous question on the motion to postpone.

Mr. BRANCH. I hope the gentleman will withdraw the call for the previous question for a moment.

Mr. WASHBURN, of Maine. I will, certainly, at the gentleman's request.

Mr. BRANCH. The gentleman from Maine says that some change has been made in this bill that will take it out of the scope of the rule under which the decision of the Speaker was made in the last session. Mr. Speaker, I state as a member of the Committee on Foreign Affairs, that the authority to report the bill was upon the express allegation that it was precisely the bill which was reported in the last Congress.

During the last Congress, as I said when I was up before, and as has been admitted by the gentleman himself, the point of order was distinctly raised on this bill that it made an appropriation, and must necessarily be referred to the Committee of the Whole on the state of the Union. The then Speaker, after twenty-four hours' consideration and careful examination of the statutes, comparing them with the bill, decided that it must go to the Committee of the Whole on the state of the Union. I have no recollection as to whether an appeal was taken from the decision of the Chair or not; but we know very well that if there was no appeal taken, it was because members were satisfied that the decision was correct and could not be properly set aside.

I raise the question now that this bill must have its first consideration in a Committee of the Whole House, and that even the motion to postpone cannot be entertained.

Mr. WASHBURN, of Maine. I will say to the gentleman from North Carolina, that even if the call does make an appropriation, it is still in order to make the motion to postpone the bill to a certain day; and then, when it comes up, the gentleman may move to refer the bill, if he sees fit. But, sir, I wish to say that the gentleman from North Carolina is wrong in saying that it is precisely the same bill as that reported last year, unless the late Speaker erred in the decision which he then made. He then quoted from that bill to prove that the scrip to be issued under it was payable out of the Treasury of the United States. The gentleman from North Carolina may be redeemed by the Government of the United States, at its discretion; and that discretion can only be exercised hereafter by an act of Congress; so that either the late Speaker erred in the decision which he made, or the present bill does differ from that which was reported last year. Let us examine the bill, and ascertain whether it really does make an appropriation or not. I therefore now call for the previous question; and I hope, if gentlemen do not intend to defeat the bill altogether, they will vote to postpone.

Mr. BRANCH. The gentleman, I think, must have misunderstood the statement I made. I did not say that the bill was precisely the bill which was reported last year. What I stated was, that the Committee on Foreign Affairs had not authorized the reporting of any bill upon this subject, except the bill which was reported last year; and if this bill is not the same in every respect, then it is not properly before the House, because no member of the committee was authorized to report it.

Mr. HOUSTON. Will the gentleman allow me to ask a question?

Mr. WASHBURN, of Maine. Let me say a word first, in reply to the gentleman from North Carolina. I did not say the bill was not the same as that reported last year; what I said was, that if it is the same then the Speaker of the last Congress was in error in regard to the contents of that bill, for his decision was based upon a statement of the provisions of that bill which this bill does not contain.

Mr. MAYNARD. If the gentleman will allow me, I will refer him to the record of what was done on the question of order raised in reference to this bill in the last Congress. I read from the Journal of the last House:

"The SPEAKER having announced as the regular order of business the bill of the House (H. B. No. 553) to provide for the ascertainment and satisfaction of claims of American citizens for damages sustained by them from the 31st day of July, 1861, heretofore postponed until this day; the pending question being on the motion of Mr. ROYCE that it be committed to the Committee on the Whole House on the state of the Union, and printed,

"Mr. LETCHER made the point of order that, under the terms of the bill, the certificate of stock authorized therein may be redeemed by the Secretary of the Treasury whenever he has funds with which to do so; and thus, commencing an appropriation, the motion must be deferred to the Committee of the Whole. Pending which, under debate,

"Mr. HOUSTON moved that the bill be laid on the table. And the question being put, it was decided in the affirmative—yeas 106.

"The question then recurring on the point of order made by Mr. LETCHER.

"The SPEAKER sustained the same, and decided that the bill be first committed to the Committee of the Whole."

"From this decision of the Chair Mr. FLORENCE appealed. Pending which,

"Mr. ROYCE moved that the appeal be laid on the table. And the question being put, it was decided in the affirmative—yeas 128, says the Globe.

"So the appeal was laid on the table."

So it will be seen that there was a very decided expression of opinion on the subject by the last House.

Mr. WASHBURN, of Maine. The gentleman is right in reference to the question of order. I did not remember precisely what was done, but I presume the friends of the bill acceded to the decision of the Speaker because the bill came in so late in the session that they had no hope of carrying it through the House. I recollect perfectly well that Mr. Stephens, of Georgia, who was very conversant with the rules, stated that the decision of the Speaker was not sustained by the facts as they appeared.

Mr. HOUSTON. The bill reported by the committee now is precisely, in every word and letter, the bill before the last House upon which the decision was made to which the gentleman from Tennessee refers. Here is the bill, as it was printed by the last House, and it contains precisely the provisions of the bill which the gentleman Or made his decision, which decision, I presume, will be repeated by the present Speaker.

Mr. WASHBURN, of Maine. I desire to say to the House that the then Speaker made his decision upon a bill which was not before the House. I will send for the Globe, and show the gentleman from Alabama, [Mr. HOUSTON], and others, what was the decision and what it was made upon.

Mr. HOUSTON. I am under the impression that the gentleman from Maine is mistaken. The decision which was then made by the Speaker was made in part upon the bill which was made in and in part upon existing laws which authorized the Secretary of the Treasury to redeem the outstanding obligations of the Government. This bill says that the stock to be issued under it shall be redeemable at the pleasure of the Secretary, and there is an existing law which authorizes the Secretary of the Treasury to redeem the outstanding stock of the Government out of appropriations made permanently for that purpose. Looking at the provisions of the bill and at the existing law, the Speaker came to the decision, and properly,

in my judgment, that the Government could redeem the stock to be issued whenever it saw fit. I will now state what the decision of the Chair was, and upon what language it was made. In the Congressional Globe, second session, Thirty-Fifth Congress, part one, page 729, I find the following:

"The Chair imagines there is very great difference, according to his recollection, between the bill now pending and the one to which the gentleman from Georgia [Mr. WASHBURN] refers."

Let me say, sir, that it was claimed by the friends of the bill that it made no appropriation of money, but simply declared a liability on the part of the Government. It was claimed that it only established a debt; which, however, could not be paid until Congress should make an appropriation for that purpose in the regular mode and with the regular forms. Congress may create an office and authorize the payment of a salary, but that salary will not be paid until an appropriation is made to that end. Mr. Stephens, of Georgia, took the ground that the French prohibition bill established only a debt, declared a liability, and that the money could only be drawn from the Treasury hereafter upon appropriation duly made. He likened it to a case decided by the Speaker a short time before in reference to a pension bill, which was introduced into the House, providing for an annual draft upon the Treasury of \$10,000. There the Speaker declared that that pension bill did not make an appropriation of money, and therefore that it was not necessary its first consideration should be had in the Committee of the Whole on the state of the Union.

Let me go on with the decision with which I commenced:

"There was certainly no portion of the tax or charge, if it was a charge, upon the people which could here be drawn from the Treasury under the pension bill. The difficulty in deciding this question grows, in the opinion of the Chair, out of the proper construction that is to be placed upon the last clause of the seventh section of the bill, taken in connection with a clause in the act of 1853. The words to which the Chair refers are these: and such certificate of stock to the \$5,000,000 of stock which is provided shall be issued—shall be attention at the Treasury."

I desire now to call the attention of the Chair and that of the House to the pending bill, and what is the difference. "And such certificates of stock shall be redeemable at the Treasury of the United States," was the language upon which the decision of the Speaker was made that has been referred to by the gentleman from the Committee of the Whole on the state of the Union. That is not the language of the bill now upon the Speaker's table, if my recollection serves me. The language there is, that the stock shall be redeemable at the pleasure of the Government, or something to that effect. Whether it is true or not that, under the former bill, upon which the decision of the Speaker was made, money could be paid out of the Treasury, it is certain that, under the present bill, no appropriation is made and no money can be paid out of the Treasury under an appropriation which is made for that purpose in due form. The decision of the Speaker heretofore made, therefore, will not apply to the present bill.

Mr. BARKSDALE. Let me propound an interrogatory to the gentleman from Maine.

Mr. WASHBURN, of Maine. I am now. I will yield to the gentleman in a moment. The gentleman from Alabama [Mr. HOUSTON] is correct in saying that the bill before the House is the same in its provisions as the bill of the last session; but it is equally true that the language upon which the former decision of the Speaker was made is not contained in the pending bill.

Mr. HOUSTON. Let me correct myself. When I received the bill at the hands of the Clerk, I understood him to say that it was the same as the bill which was before the House at that time. He has been right for the bill, and we can soon know whether it is the same. I presume that it is the same.

Mr. JOHN COCHRANE. If it be in order, I ask for the reading of the bill.

Mr. WASHBURN, of Maine. I will hear the gentleman from Mississippi.

Mr. BARKSDALE. I desire to say that, in response to an inquiry which I made of the chairman of the Committee on Foreign Affairs, [Mr.

CORWIS], he stated that this bill was precisely similar to the bill which was reported to Congress at its last session. That was the understanding, I am satisfied, of every member of the committee who was present.

Mr. ROYCE. I understand that this bill is the same as that which was reported at the last session of Congress, and agreed with the gentleman from Mississippi at that time. I have stated that the decision last year was predicated upon certain language which the Speaker thought was in the bill of last year. It is now ascertained that no such language is in that bill. Therefore, we hold that it is no authority upon this occasion and against this bill, which does not contain the language upon which the decision was based.

Mr. ROYCE. It is the same as the bill reported at the last session.

The SPEAKER. The motion pending is the motion that the further consideration of this matter be postponed until to-morrow.

Mr. WASHBURN, of Maine. I call the previous question on that motion.

The SPEAKER. It appears to the Chair that this controversy is premature at this time, and that it would be improper to permit when the time arrives to which it is postponed, if it is postponed. If it is to be postponed, there is no use in debating whether it contains an appropriation or not; that will be a proper subject for inquiry when it is again taken up.

Mr. BRANCH. I raise the question of order that this bill must have its first consideration in the Committee of the Whole on the state of the Union. I insist that it must, under the rules, instantly go to that committee.

The SPEAKER. If the bill be postponed for three weeks from to-day, the Chair decides that it will then stand, when it is next taken up, in precisely the same condition which it is now.

Mr. FLORENCE. The time to which it is proposed to make the postponement is the time fixed for the opening of one of the great party conventions, and there will not, of course, be a quorum present here.

Mr. BRANCH. If the motion to postpone be voted down, will not the question then arise upon the point of order that I make, that this bill, under the rules, must go to the Committee of the Whole on the state of the Union?

The SPEAKER. It will.

Mr. McQUEEN. It is improper to postpone the consideration of an important measure to the week when the Charleston convention will be in session.

Mr. MILLSON. I make the point of order that the demand for the previous question is not in order until there is a decision as to whether this bill does or does not, under the rules, go to the Committee of the Whole on the state of the Union. I make the point of order that the bill must go there.

The SPEAKER. Will the gentleman from Virginia allow the Chair to state that the demand for the previous question covers nothing but the postponement of the bill? I refer to the opinion of the Chair; it does not cover the question of reference.

Mr. MILLSON. I am aware of that.

The SPEAKER. When the bill comes up, if will be an open question whether it shall go to a committee or not.

Mr. MILLSON. I am aware of that. I wish the Clerk to read the 131st rule.

Mr. McQUEEN. I want to suggest to gentlemen on the other side, that the time proposed is an improper time to make a special order of so important a bill. This is the week in which it is customary to hold the committee of the whole; when, I suppose, many members will be absent from the House. This is one of the most important bills that can come before the House, and one that has been before it every Congress since 1861.

Mr. ROYCE. What day does the gentleman from South Carolina suggest for the consideration of the bill?

Mr. McQUEEN. I suggest no day to make it a special order; but I suggest to the gentleman who make this proposition, that the week pro-

posed is the week in which the Charleston convention is to be held.

Mr. FLORENCE. Well, I hope a week earlier will be fixed for this important bill.

Mr. ROYCE. Then I modify my motion by making the bill a special order for two weeks from to-day.

Mr. MILLSON. I ask for the reading of the 133d rule.

The 131st rule was read, as follows:

"No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered; and every such proposition shall receive its first discussion in a Committee of the Whole House."

Mr. MILLSON. I call now for the reading of the 133d rule.

The 133d rule was read, as follows:

"All proceedings involving appropriation of money shall be first discussed in a Committee of the Whole House."

Mr. MILLSON. Now, my point of order is, that not only must the bill—

Mr. WASHBURN, of Maine. The gentleman from Virginia will permit me to say here, that this very bill was last year reported and postponed precisely as it is proposed to postpone it now.

Mr. MILLSON. My point of order is, that not only must the bill be discussed in a Committee of the Whole House, but that all proceedings touching the bill must be discussed in a Committee of the Whole House, and that it is incompetent for the House to postpone the consideration of the bill, and to keep it before the House for a single day. It must be referred to a Committee of the Whole House, if it is to go there at all.

The SPEAKER. The Chair does not entertain that view of the case. It appears to the Chair that the mere matter of postponement to another day may well be disposed of now, and that it does not involve the settlement of the question.

Mr. MILLSON. The motion to postpone would admit of a discussion on the merits of this bill.

The SPEAKER. No discussion on the merits of the bill is lawful at this stage—nothing but a discussion as to the question of postponement. It is a mere delay that is asked. In the opinion of the Chair, the bill, when it comes up again, will come up in the condition it is in now. The question of postponement is postponed.

The previous question was seconded, and the main question ordered.

Mr. BARKSDALE. I move to lay the bill on the table. But if gentlemen will agree to let the bill go to the Committee of the Whole on the state of the Union, where it ought to be, I will withdraw that motion.

Mr. MORRIS, of Pennsylvania. I hope the gentleman from Mississippi will waive his motion for the present, considering that no chairman of the Committee on Foreign Affairs, who takes a lively interest in the question, and is thoroughly posted on the subject, is present.

Mr. BARKSDALE. Then I ask the gentleman from Vermont to agree that this bill shall be recommitted to the Committee on Foreign Affairs, and that it can be reported again by the chairman himself. I desire to say further, that it was the understanding in the committee that—

Mr. WASHBURN, of Maine. The gentleman from Mississippi knows very well that if the bill were recommitted it could not be reported again in two weeks' time.

Mr. FLORENCE. Well, we would gain nothing by recommending the bill to the Committee on Foreign Affairs.

Mr. BARKSDALE withdrew his motion.

The question was taken on Mr. Royce's motion to make the bill a special order for this day two weeks; and it was agreed to.

Mr. FLORENCE moved to reconsider the vote by which the bill was made a special order; and he moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN RANDOLPH CLAY.

Mr. ROYCE. I am instructed by the Committee on Foreign Affairs to report back the joint resolution (S. No. 5) authorizing the proper accounting officers of the Treasury to revise and adjust the accounts of John Randolph Clay, United States Minister to Peru. I move to put the joint resolution on its passage. I think there can be no

objection to the passage of the resolution; I hope the House will consent to take it up, and pass it at this hour.

Mr. BRANCH. I object to the passage of this resolution, and shall consequently object to its being put on its passage at this time. I move that it be referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed. The motion was agreed to.

SEIZURE OF THE BARK ADRIATIC.

Mr. BURLINGAME, from the Committee on Foreign Affairs, reported a joint resolution relative to the alleged seizure and condemnation of the American bark *Adriatic* by the French authorities; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FRANCIS DAINES.

Mr. BURLINGAME, from the same committee, also reported a bill for the relief of Francis Daines, which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 241) authorizing publishers to print on their papers the date when subscriptions expire, and in relation to the postage on drop letters; and an act for the relief of Mary E. Castor, when the Speaker signed the same.

THOMAS L. L. BRENT.

Mr. BRANCH, from the same committee, made an adverse report on the petition of Thomas L. L. Brent, for out-of-state charges d'affaires; which was laid on the table.

ADMISSION OF KANSAS.

Mr. GROW. I am instructed by the Committee on Territories to report back a bill (H. R. No. 23) for the admission of Kansas into the Union. I propose to submit a motion to recommit the bill to the Committee on Territories, so that the first will of the House, whether it will go into the discussion of the bill now, or fix a time for its consideration. The minority of the Committee on Territories desire to submit a report, and I suppose there will be no objection to its being ordered to be printed, and to be printed with the majority report. I will be governed entirely by the wish of the House whether to have a particular time fixed for the bill to come up for discussion, or whether discussion shall go on now, on the motion to recommit.

Mr. WASHBURN, of Illinois. I hope the discussion will go on now, and let us pass the bill.

Mr. CLARK, of Missouri. I propose to make a minority report. I have one in preparation, but it is not yet completed. It will be completed in a very short time, and I would prefer not to enter on the discussion till then.

Mr. GROW. The motion to recommit will bring up this subject on Tuesday. By that time all the papers, including the minority report, will be printed, and the bill will come up for its first business in order when the committees are called on Tuesday. If that course will meet the views of the House, I will now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLARK, of Missouri. I can have the minority report ready by Tuesday. That will be time enough for me.

Mr. GROW. Then I desire to give notice to the House that I shall ask for a vote upon the bill at as early a day as possible.

Mr. CRAWFORD. I desire to say that this bill will be one of the test questions in this House, and really I see no necessity for any very lengthy discussion upon it. I suppose that every member here has made up his mind whether he will vote for or against the admission of Kansas under this bill. I desire, therefore, so far as I am concerned, to allow gentlemen upon the Opposition side of the House an opportunity of recording their votes for the admission of Kansas, and to allow those of us on this side, who would vote that

way, an opportunity of recording our votes against it. This is a question that all will probably want to dispose of during the present session of Congress. I desire to make no motion which will not give an opportunity for a legitimate expression of opinion by every member upon the other side of the House, as well as upon this side. But with a view of getting at the sense of the House, and the sense of the Republican party and of the Democratic party—if the gentleman from Pennsylvania has no objection to it, I will move to lay the bill upon the table.

Mr. CLARK, of Missouri. I hope the gentleman will not do that.

Mr. GROW. Let me understand first if I am entitled to the floor.

Mr. CRAWFORD. I recognize the gentleman's right to the floor, and I hold it at his pleasure. I desire to say that, as the gentleman from Missouri is a member of the Territorial Committee, and has got his report nearly ready to be submitted to the House, and desires to have it printed, I will not make any motion which will be disagreeable to him, feeling that he has a right, upon this side of the House, to direct and control the discussion.

Mr. GROW. That is the very reason why I did not act action on the bill to-day, in order that the minority might have an opportunity to have their report made and printed. And now, if it is satisfactory to the House, I will give this notice: that on Tuesday, when the bill comes up, I shall ask a vote upon it, consulting the pleasure of the House as to the time when it shall be taken. I do not know of any reason why we should have a long discussion upon this question. It is one that is familiar to the House, and that we all understand. I think two or three hours will be a sufficient time to discuss it, and then we can have a vote upon it.

Mr. CLARK, of Missouri. I would suggest to the gentleman from Pennsylvania this, as a better course: to let the matter be postponed to some day, or some other day, and to let the reports of the majority and of the minority be printed; so that the House may understand the grounds upon which those who oppose the admission base that opposition, and the grounds upon which the majority of the House base their advocacy of it. I have my report prepared, but it needs some revision. Two or three hours will be as long as I want to prepare it for the press. If it is understood that the majority report is now made, with leave to the minority to submit their report, and have it printed, I do not care what day it is postponed to, so that we can be heard upon it. But I want to have the reports printed before any vote is taken on a motion to lay the bill upon the table.

Mr. CRAWFORD. I would ask the gentleman when his report can be submitted and printed?

Mr. CLARK, of Missouri. By Tuesday.

Mr. CRAWFORD. Then I would suggest to the gentleman from Pennsylvania that Tuesday will be too early a day to consider the bill, if the gentleman's report cannot be brought in until Wednesday.

Mr. GROW. I do not think that we should postpone this matter for any longer time than may be sufficient for the minority of the committee to make their report. The report of the committee was agreed upon the 1st of February, and the bill has been ready to be reported from that time to this; but we have had no opportunity of presenting it.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. JAMES BUCHANAN, his Secretary, informing the House that he had this day approved and signed a bill making appropriations for fulfilling treaty stipulations with the Ponca Indians, and certain bands of Indians in the State of Oregon and the Territory of Washington, for the year ending June 30, 1860. Also, communicating the House of Representatives a message in writing.

ADMISSION OF KANSAS—AGAIN.

Mr. CLARK, of Missouri. I would ask the chairman of the Committee on Territories not to press this matter; for, as he is aware, the minority report has been got up under some embarrassments, and needs revision. I supposed that I was ready to have offered it this morning; but I find that it needs some revision in regard to the dates

of certain events in Kansas. I hope, therefore, that he will not press this matter before the close of next week. By Monday evening or Tuesday I can have my report ready, but not before that.

Mr. VALLANDIGHAM. I am indifferent as to the disposition which shall now be made of this bill, provided the question is not so decided. A motion to recommit is pending.

Mr. GROW. Allow me to move that the majority and minority reports be printed.

Mr. VALLANDIGHAM. Well, the motion to print is debatable, and I desire to debate it for ten minutes. I have a thorough contempt for that equivocal position which sometimes adds so much factitious importance to a member of this House, because of any uncertainty which may exist as to the action he shall take upon important measures; and to relieve myself from any such doubt, I desire to say one word upon this subject now.

A candidate in 1858, before the people who have honored me with a seat here, I said that whenever Kansas should present a republican form of constitution, framed by a convention assembled and acting under any law of the territorial Legislature, and submitted to and approved by a fair and honest vote of her people, she should have my support for immediate admission, whether she had just ninety-three thousand inhabitants or not. And at the last session, when a bill for the admission of Oregon was pending, I said that whenever Kansas should come as Oregon had come, peaceably, orderly, and with a constitution expressing the will of a majority of her inhabitants, legally and honestly ascertained, I would vote for her admission. These pledges, sir, I propose now to make good. Kansas here, having complied, in my judgment, substantially with these several conditions; and upon all motions made in good faith, whether direct or incidental, I shall so vote as to secure her early admission into the Union of these States. As a gentleman, as a man of honor, independent of every other consideration, I am bound so to vote.

Having said thus much, and leaving her here to the motherly nurture and solicitude of the gentleman from Pennsylvania, [Mr. Gaow.] skilled as he is, too, in civil obstacles, I now bid farewell—

"A word that hath been and must be
A sound that makes us finger, yet farewell!"

forever to "bleeding Kansas." [A laugh.]

Mr. GROW. I have been appealed to by the gentleman on the other side of the House to fix a certain time, before which the floor for that time, up for consideration. Now, Mr. Speaker, I make this proposition, and ask the unanimous consent of the House for its adoption: that the majority and minority reports may be printed, and the bill be postponed until Wednesday next, with the understanding that it shall be taken up immediately after the reading of the Journal, and that after a reasonable time for debate, it shall be voted on directly, without any unnecessary delay.

Mr. CLARK, of Missouri. I am willing, so far as I am concerned, that that day shall be fixed for the consideration of the bill.

Mr. GARNETT. I wish to say simply, in reply to my honorable friend from Ohio, who has just addressed the House, [Mr. VALLANDIGHAM.]

Mr. GROW. Mr. Speaker, who has the floor?

The SPEAKER. The Chair supports the gentleman from Pennsylvania who yielded the floor.

Mr. GROW. Not at all. I am entitled to the floor for one hour upon this bill, having reported it, and having, therefore, the right to open the debate; and I propose to occupy the floor for that time, unless the House comes to some agreement upon the question of postponement.

Mr. GARNETT, and Mr. DAVIS of Indiana, address Mr. Gaow, requesting him to yield the floor.

Mr. GROW. Gentlemen appeal to me to yield the floor. I will yield first to the gentleman from Virginia for a minute, and then to the gentleman from Indiana.

Mr. GARNETT. I have no objection to this bill being made the order for any day which the gentleman from Pennsylvania desires. But I wish to say this—for I shall not address the House upon this bill: that the honorable gentleman from Ohio, [Mr. VALLANDIGHAM,] I believe, was not a member of this House when what is called the "English bill" passed this House; and therefore

he is not bound by any pledge to vote against the admission of Kansas in violation of that act. Now, sir, it is perfectly well known that the votes of members from the section of the Union from which I come were given for that bill only in consideration that, if Kansas did not come into the Union under that constitution, she was not to count. It has been ascertained that she contained a population of ninety-three thousand inhabitants. Now, sir, I have always held that legislative compromises are binding upon nobody except those who voted for them; but having voted for that bill, I hold myself—so use the language of the gentleman from Ohio—as a gentleman and as a man of honor, bound to vote against any bill which violates the provisions of the "English" bill.

Mr. GROW. I hope gentlemen will not, upon this question of postponement, undertake to enter into any arguments upon the merits of the bill. I now yield the floor, for a few minutes, to the gentleman from Indiana.

Mr. DAVIS, of Indiana. I will not occupy one minute. I shall vote for the admission of Kansas into the Union on the first favorable opportunity, and that vote will be perfectly consistent with my whole political life; but I will suggest to the gentleman from Pennsylvania whether it will not be better for all parties that this bill should be postponed until two weeks from today.

Mr. GROW. I will say to the gentleman from Indiana that this bill is the regular order of business; and I proposed, after a day or two for discussion, to have called the previous question upon it; but the gentleman from Missouri, who represents the majority of the Committee on Territories, asks for a little more time to prepare his minority report.

Mr. WINSLOW. Has the morning hour expired?

Mr. GROW. I will first make this proposition: that I then I will relieve the House from further colloquy upon the subject: I move that the bill be postponed until Tuesday next, and that the majority and minority reports be printed.

Mr. WINSLOW. I ask whether the morning has expired?

The SPEAKER. It has. Is there any objection to the proposition that the bill be postponed until Tuesday next, and with the majority and minority reports, be printed?

Mr. HINDMAN, Mr. DAVIDSON, Mr. MARYLAND, and others, object.

Mr. GROW. I then give notice that this bill will come up on Tuesday next as the regular order of business.

Mr. WASHBURN, of Illinois. I hope the discussion will go on now, and the bill be disposed of.

Mr. HOUSTON. I rise to a question of order.

Mr. HINDMAN. I am willing to withdraw my objection to the proposition of the gentleman from Pennsylvania.

Mr. CRAWFORD. I rise to a question of order. I desire to know how the gentleman from Pennsylvania [Mr. Gaow] was deprived of the floor?

Mr. FLORENCE. I call for the regular order of business.

Mr. CRAWFORD. I ask for a decision upon my point of order. The gentleman from Pennsylvania was upon the floor, and it is not competent for any gentleman to take the floor from him.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor, and if he does not yield, it is not competent for any gentleman to take the floor from him.

Mr. HOUSTON. I rise to a question of order. It is this: During the morning hour reports from committees are received under the rule and acted upon. At the expiration of the morning hour, no matter who is upon the floor in the transaction of the morning business, any gentleman may interrupt him and move to go to the business on the Speaker's table.

The SPEAKER. The Chair so decides. Mr. HOUSTON. I move now to proceed to the business on the Speaker's table.

Mr. BURNETT. Like the gentleman from Georgia, [Mr. CRAWFORD,] I am ready to meet this question; and I do not want any postponement. I want the matter settled. I am ready, so

far as I am concerned, to vote upon it now. I have as few of taking the responsibility for the vote I shall give in reference to Kansas.

Mr. HOUSTON. I have a little fear of voting upon the question as the gentleman from Kentucky whenever it comes up in order; but the morning hour has expired, the motion I have made is in order, and I will support it.

Mr. HINDMAN. I hope the gentleman from Alabama will waive his motion, and let this Kansas question be disposed of in some way. I do not want to shelter any presidential aspirant behind this motion.

Mr. HOUSTON. I am as far from wanting to shelter any presidential candidate as the gentleman.

Mr. HINDMAN. I know of no aspirant that it would shelter, except Judge Douglas; and he is the last man I should want to shelter.

Mr. SHERMAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

PROTEST OF THE PRESIDENT.

Mr. BOCOCK. I ask that, by the consent of the House, the message from the President, which was received this morning, and which now lies upon the Speaker's table, be taken up and considered.

Mr. GROW. Is there a motion pending to go to the business upon the Speaker's table?

The SPEAKER. There is.

Mr. GROW. I want to be satisfied of that fact; for if there is such a motion pending, I am not entitled to the floor; otherwise I am.

Mr. BOCOCK. I move that we take up the message of the President of the United States, which came to us this morning.

The SPEAKER. Is there objection?

Severely and earnestly none.

The SPEAKER. The message will be taken up and read.

Mr. MONTGOMERY. I object. [Cries of "It is too late!" from the Democratic benches.]

The SPEAKER. The Chair decides that the objection comes too late.

The Clerk then read the message, as follows:

To the House of Representatives:

After a delay which has afforded me ample time for reflection, and after much and careful deliberation, I find myself constrained by an imperious sense of duty, as a coordinate branch of the Federal Government, to protest against the first ten clauses of the first resolution adopted by the House of Representatives, on the 5th instant, and published in the Congressional Globe on the succeeding day. These clauses arc in the following words:

Resolved, That a committee of five members be appointed by the Speaker, for the purpose [first] of investigating whether the President of the United States, or any other officer of the Government, has, by money, patronage, or other influence, procured, or attempted to procure, or to induce any member of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory, or second, also to induce any member and to induce any other officer or officers of the Government have, by combination or otherwise, prevented or delayed, or attempted to prevent or delay, the execution of any law or laws now upon the statute-book, and whether the President has failed or refused to compel the execution of any law then in force.

I confine myself exclusively to these two branches of the resolution; because the portions of it which follow relate to alleged abuses in post offices, navy-yards, public buildings, and other public works of the United States. In such cases inquiries are highly proper in themselves, and belong equally to the Senate and the House, as incident to their legislative duties, and being necessary to enable them to discover and to provide the appropriate legislative remedies for any abuses which may be ascertained. Although the terms of the latter portion of the resolution are extremely vague and general, yet my sole purpose in adverting to them at present is to mark the broad line of distinction between the accusatory and remedial clauses of this resolution. The House of Representatives possesses no power under the Constitution over the first or accusatory portion of the resolution, except as an impeaching body; whilst over the last, in common with the Senate, their authority as a legislative body is fully and cheerfully admitted.

It is solely in reference to the first or impeach-

ing power that I propose to make a few observations. Except in this single case, the Constitution has invested the House of Representatives with no power, no jurisdiction, no supremacy whatever over the President. In all other respects he is quite as independent of them as they are of him. As a coordinate branch of the Government, he is their equal. Indeed, he is the only direct representative of the people, and, inasmuch as each of the sovereign States. To them, and to them alone, is he responsible whilst acting within the sphere of his constitutional duty; and not in any manner to the House of Representatives. The people have thought proper to invest him with the most honorable, responsible, and dignified office in the world; and the individual, however unworthy, now holding this exalted position, will take care, so far as in him lies, that their rights and prerogatives shall never be violated in his person; but shall pass to his successors unimpaired by the adoption of a dangerous precedent. He will defend them to the last extremity against any unconstitutional attempt, come from what quarter it may, to abridge the constitutional rights of the Executive, and render him subservient to any human will, or to the passions of a majority of two thirds of both Houses.

The people have not confined the President to the exercise of executive duties. They have also conferred upon him a large measure of legislative discretion. No bill can become a law without his approval as representing the people of the United States, under whose authority he acts, by a majority of two thirds of both Houses. In his legislative capacity, he might, in common with the Senate and the House, institute an inquiry to ascertain any facts which ought to influence his judgment in approving or vetoing any bill.

This participation in the performance of legislative duties between the coordinate branches of the Government ought to inspire the conduct of all of them, in their relations towards each other, with mutual forbearance and respect. At least, each has a right to demand justice from the other. The cause of complaint is, that the constitutional rights and immunities of the Executive have been violated in the person of the President.

The trial of an impeachment of the President before the House of Representatives, preferred and conducted against him by the House of Representatives, would be an imposing spectacle for the world. In the result not only his removal from the presidential office would be involved, but what is of infinitely greater importance to himself, his family, both in the eyes of the present and of future generations, might possibly be tarnished. The disgrace cast upon him would in some degree be reflected upon the character of the American people who elected him. Hence the precautions adopted by the Constitution to secure a fair trial. On such a trial it declares that "the chief justice shall preside." This was doubtless because the framers of the Constitution believed it to be possible that the Vice President might be biased by the fact that, "in case of the removal of the President from office, "the same shall devolve on the Vice President."

The preliminary proceedings in the House in the case of charges which may involve impeachment have been well and wisely settled by long practice upon principles of equal justice, both to the accused and to the people. The precedent established in the case of Judge Peck, of Missouri, in 1831, after a careful review of all former precedents, will, I venture to predict, stand the test of time. In that case, Luke Edward Lawrence, the accuser, presented a petition to the House, in which, both in the eyes of the present and of future generations, might possibly be tarnished. The disgrace cast upon him would in some degree be reflected upon the character of the American people who elected him. Hence the precautions adopted by the Constitution to secure a fair trial. On such a trial it declares that "the chief justice shall preside." This was doubtless because the framers of the Constitution believed it to be possible that the Vice President might be biased by the fact that, "in case of the removal of the President from office, "the same shall devolve on the Vice President."

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in the nature of things, be more impartial. In the case of Judge Peck, the witnesses were selected by the committee itself, with a view to ascertain the truth of the charge. They were cross-examined by him, and everything was conducted in such a manner as to afford him no reasonable cause of complaint.

In view of this precedent, and, what is of far greater importance, in view of the Constitution and the principle of eternal justice, in what manner has the President of the United States been treated by the House of Representatives? Mr. JOHN COVODE, a Representative from Pennsylvania, is the accuser of the President. Instead of the usual mode of proceedings of former times, and especially that in the case of Judge Peck, and referring the accusation to the Committee on the Judiciary, the House have made my accuser one of my judges. To make the accuser the judge is a violation of the principles of universal justice, and is condemned by the practice of all civilized nations. Every freeman must revolt at such a spectacle. I am to appear before Mr. COVODE, either personally or by a substitute, to cross-examine the witnesses which he may produce before him. I have no precedents of former times, and perhaps even this poor boon may be denied to the President.

And what is the nature of the investigation which his resolution proposes to institute? It is as vague and general as the English language affords, in which to make it. The committee is to inquire, not into any specific charge or charges, but whether the President has, by "money, patronage, or other improper means, sought to influence," not the action of any individual member or members of Congress, but "the action" of the entire body "of Congress" itself, "or any committee thereof." The President might have had some glimmering of the nature of the offense to be investigated, had his accuser pointed to the act or acts of Congress which he sought to influence, or to defile by his employment of "money, patronage, or other improper means." But the accusation is bounded by no such limits. It extends to the whole circle of legislation; to interference "for or against the passage of any law appertaining to the rights of any State or Territory, or for or against the employment of any right of some State or Territory." And what law or laws has the President failed to execute? These might easily have been pointed out had any such existed.

Had Mr. LAWSON asked an inquiry to be made by the House whether Judge Peck, in general terms, had not violated his judicial duties, without the specification of any particular act, I do not believe there would have been a single vote in that body in favor of the inquiry.

Since the time of the Star Chamber and of general warrants, there has been no such proceeding in England.

The House of Representatives, the high impeaching power of the country, without consenting to hear a word of explanation, have indorsed the accusation against the President, and committed it to their own act. They even refused to permit a member to inquire of the President's accuser what were the specific charges against him. Thus in this preliminary accusation of "high crimes and misdemeanors" against a coordinate branch of the Government, under the impeaching power, the House refused to hear a single suggestion even in regard to the correct mode of proceeding; but, without a moment's delay, passed the accusatory resolutions under the pressure of the previous question.

The institution of a prosecution for any offense against the most humble citizen—and I claim for myself no greater rights than he enjoys—the Constitutions of the United States and of the several States require that he shall be informed, in the very beginning, of the nature and cause of the accusation against him, in order to enable him to prepare for his defense. There are other principles which I might enumerate, not less sacred, presenting an impenetrable shield to protect every citizen falsely charged with a criminal offense. The Constitution has violated in the prosecution instituted by the House of Representatives against the executive branch of the Government. Shall the President alone be deprived of the protection of these great principles which prevail in every land where a ray of liberty penetrates the gloom

of despotism? Shall the Executive alone be deprived of rights which all his fellow-citizens enjoy? The whole proceeding against him justifies the fears of those wise and great men who, before the Constitution was adopted by the States, apprehended that the tendency of the Government was to the aggrandizement of the legislative at the expense of the executive and judicial departments. Again does the House of Representatives protest for no reason personal to myself; and I do it with perfect respect for the House of Representatives, in which I had the honor of serving as a member for five successive terms. I have lived long in this goodly land, and have enjoyed all the offices of honor which in the most remote bestow. Amid all the political storms through which I have passed, the present is the first attempt which has ever been made, to my knowledge, to assail my personal or official integrity; and this as the time is approaching when I shall voluntarily retire from the service of my country. I feel proudly conscious that there is no public act of my life which will not bear the strictest scrutiny. I defy all investigation. Nothing but the basest perjury can sully my good name. I do not fear even the most searching investigation, with confidence that the gracious Being who hitherto defended and protected me against the shafts of falsehood and malice, will not desert me now, when I have become "old and gray-headed." I can declare before God and my country, that no sum of money, or honor, or power, or position, or notice) has at any period of my life, dared to approach me with corrupt or dishonorable proposition; and, until recent developments, it had never entered into my imagination that any person, even in the storm of exasperated political excitement, would charge me with the most remote degree, with having made such a proposition to any human being. I may now, however, exclaim, in the language of complaint employed by my first and greatest predecessor, that I have been abused "in such exasperated and indecent terms as could scarcely be applied to a Venetian, a notorious defaulter, or even to a common pickpocket."

I do, therefore, for the reasons stated, and in the name of the people of the several States, solemnly protest against these proceedings of the House of Representatives. I declare that they are a violation of the rights of the coordinate executive branch of the Government, and subversive of its constitutional independence; because they are calculated to foster a band of interested parasites and informers, ever ready, for their own advantage, to swear before a mere committee to perjury, to pry into private conversations between the President and themselves, incapable, from their nature, of being disproved; thus furnishing material for harassing him, degrading him in the eyes of the country, and eventually, should he be a weak or a timid man, rendering him subservient to improper influences, in order to avoid such persecutions and annoyances; because they tend to destroy that harmonious action for the common good, which ought to be maintained, and which I sincerely desire to cherish between the coordinate branches of the Government; and finally, because, if unaided, they would establish a precedent dangerous and embarrassing to all my successors, to whatever political party they might be attached.

JAMES BUCHANAN.

WASHINGTON, March 28, 1860.

Mr. SHERMAN, Mr. Speaker, the President of the United States has made, for the first time, a protest against the exercise by the House of Representatives of the power of impeachment, a constitutional power. I am willing to give to his communication all the consideration which its gravity demands. I am willing that this House may now consider whether or not it has the power to investigate anything, and everything which may be wrongly done by the officers of the executive branch of the Government; because, if the privilege of exemption which the President now sets up for himself belongs to him, then it extends to and attaches to every subordinate under him.

The Constitution of the United States declares that the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, and other high crimes and misdemeanors. It further declares, in another clause,

that this House of Representatives shall have the sole power of impeachment. Under these clauses this House, sir, has the right to examine into anything which may affect the conduct of any public officer under this Government, from the Chief Executive down to the little page who runs your errands upon this floor. Every one of the officers of this Government is subjected to the power of this House. But the President says that we cannot make our inquiries but in one way, and that is by preferring articles of impeachment. How will you find an impeachment? How will you prepare articles of impeachment? How will you take preliminary proof necessary to ascertain whether an officer of this Government has violated his duty? Only one way, preliminary examination. There is no other way. It is only by taking testimony you can ascertain whether or not there is good ground to charge that an officer of the Government has violated his public duty. How else can we do it?

What does the President of the United States gravely ask us to do in the message which has just been read? That this high judicial body shall find an impeachment upon mere rumor. Shall we, upon the mere rumors which are circulating in the newspapers and upon the streets find an impeachment? The very necessity of the case implies that we have a right to investigate all charges made in the public prints and elsewhere. If it is alleged that the President has been seriously and improperly connected with certain transactions, we have a right to this House to inquire into the probable truth of these things. If we find that they are probably true, then it is our duty to prefer articles of impeachment against the President at the bar of the Senate.

Why, sir, we have examined into the conduct of our own members into the conduct of a Senator; we have the right to inquire into the conduct of any of the officers of this Government; and shall the President escape? At the last session of Congress, indeed at almost every session of Congress, the conduct of some executive officer has been investigated. Not a provision of the Constitution exempts the President from this inquiry? What distinction is there between him and the members of this House? Do not I stand upon the same constitutional right, as the Representative of one hundred and thirty people, as the President of the United States does as the representative of millions? I have the same constitutional right, and am subject to the same mode of trial for malfeasance or nonfeasance—no more, no less. So with every officer of this Government. There is no exception made in favor of the President.

Mr. Speaker, the doctrine set up by the President of the United States in this message is the same under which Europe was governed for a thousand years; that the King can do no wrong. That is the doctrine—that the King could not be tried and executed, because the King could do no wrong. Charles I. went to the block, because the people of England believed that the King was not above and beyond their power. So it was with Louis XVI. and it is the same doctrine set up by the President of the United States is, in my judgment, the very worst that has been enunciated since the foundation of this Republic. His conduct not to be inquired into!

Mr. CRAIGIE, of North Carolina. Will the gentleman allow me to interrupt him?

Mr. SHERMAN. I would prefer to go on without interruption.

Mr. CRAIGIE, of North Carolina. It strikes me that the gentleman is making a most extraordinary argument. The President does not deny the power of this House to inquire into his conduct, and therefore the gentleman's argument upon that point falls to the ground. The President only refers to the mode of investigation. He admits that the House has the right to impeach him, as the gentleman alleges. He only denies that his accusations are without charges, should also be the judges to inquire into and decide upon them. He insists that they are not the proper persons to inaugurate the necessary proceedings in order to put him upon his trial before the Senate. These are the arguments of the President and the gentleman from Ohio [Mr. SHERMAN] on the point to which the gentleman is now speaking—none, except in the gentleman's imagination. I have felt, as there are no charges

made against the President, that I could not remain silent and allow to pass uncontradicted from this side the allegations which have recently been made.

Mr. SHERMAN. I must have misunderstood the tenor of the President's communication, if he does not deny the power of this House to appoint a committee of investigation like that which was raised the other day upon motion of the gentleman from Ohio [Mr. CRAIGIE].

Mr. CRAIGIE, of North Carolina. That is true, sir; but he does not deny the right of the House to impeach. He does not deny that, but he says that the Committee on the Judiciary is the proper tribunal, and not Mr. COVENS's committee, with a view to an impeachment. He asks only that we shall treat him as we would treat any other citizen of this country, even the humblest in the land. Let me ask you, sir; let me ask the gentleman from Ohio; let me ask every fair and impartial man in this House, whether, in any State in this Union, or in any other civilized country, a criminal prosecution can be instituted against any man without the sworn declaration of somebody that there is reason to believe that he has been guilty? I ask if upon vague rumor you would allow a sweeping and general inquiry to be made against him? Would you prefer a general inquiry to a view to find an indictment against a man, to call up a witness and inquire: "Do you know whether this man has at any time been guilty of anything which may be set down in the catalogue of criminal acts against the Government? Do you know in Ohio? Do you do it in Pennsylvania? I ask gentlemen who have been engaged in prosecutions, whether even grand juries are allowed to pround to witnesses interrogatories as to whether they know anything wrong in the conduct or character of a man? Would you prefer to treat him as the humblest citizen in the community? I say no. In the name of law, in the name of justice, and in the name of common sense, I assert that you do not do so. What, then, do you do? You require specific allegations to be made. You require it to be asked whether the accused did it at certain time, or within certain times, do a certain specific thing which is criminal, or omit to do what is legally required of him?

Now, if the gentleman from Pennsylvania [Mr. COVENS] has any ground for that occasion, he should say that he had good reason to believe that the President of the United States had undertaken, by corrupt means, to secure the passage of a particular bill through the Congress of the United States, I should have been the last man on this floor to have stood against such investigation. This inquiry, on the contrary, was based on no sworn statement; and was vague and indefinite in its purpose, and sweeping in its range.

Mr. SHERMAN. Will the gentleman allow me to interrupt him for one moment?

Mr. SHERMAN. I want to refer the gentleman to a case in the Thirty-Fourth Congress, where this House expelled two of its members on charges very vague, and without being specified. Mr. BOCKOC. The charges there were specific. Mr. SHERMAN. Not when the original resolution of inquiry was adopted. I will send for the Journal, and examine the matter.

Mr. BOCKOC. According to my recollection, the accusations were specific and expressed. At all events, they were reduced to that form before the persons charged were required to answer them.

Mr. CAMPBELL. Will the gentleman from Virginia allow me to interrupt him, that I may propound a question in regard to the Pennsylvania case?

Mr. BOCKOC. Certainly.

Mr. CAMPBELL. As the gentleman has referred to the practice of grand juries in Pennsylvania, I desire to say that they are sworn on oath to try the matters given them in charge on specific bills of indictment. They have an unlimited power to make presentations to the court in regard to such matters and things as may come within their knowledge. They have a right to do that without any specific charge having been sent before them.

Mr. BOCKOC. I thought the gentleman from Pennsylvania wanted the floor to propound a question; is that a question to which he wants an answer?

When the gentleman from Pennsylvania [Mr. COVENS] submitted the resolution to the House which has given rise to this communication from the Executive, I found myself placed in a very awkward and embarrassing position. It is always difficult to make a case against a man, because the country desires purity, and does not always appreciate the apparently technical, or really constitutional, difficulties that stand in the way of such inquiries as this. I wished to sus-

tain all proper investigation; but I was unwilling to countenance an inquiry like this of the gentleman from Pennsylvania. As the previous question was moved, which cut off debate, I stated at the time that I would vote against the resolution of the gentleman from Pennsylvania, and would give my reasons at another time. I voted against that resolution, sir, for reasons which have been shadowed forth in the message of the President of the United States.

In my judgment, Mr. Speaker, the gentleman from Ohio [Mr. SHERMAN] has entirely mistaken the ground upon which the President bases his protest against the action of the House. He does not object to our instituting inquiries against him, with a view to an impeachment. He asks only that we shall treat him as we would treat any other citizen of this country, even the humblest in the land. Let me ask you, sir; let me ask the gentleman from Ohio; let me ask every fair and impartial man in this House, whether, in any State in this Union, or in any other civilized country, a criminal prosecution can be instituted against any man without the sworn declaration of somebody that there is reason to believe that he has been guilty? I ask if upon vague rumor you would allow a sweeping and general inquiry to be made against him? Would you prefer a general inquiry to a view to find an indictment against a man, to call up a witness and inquire: "Do you know whether this man has at any time been guilty of anything which may be set down in the catalogue of criminal acts against the Government? Do you know in Ohio? Do you do it in Pennsylvania? I ask gentlemen who have been engaged in prosecutions, whether even grand juries are allowed to pround to witnesses interrogatories as to whether they know anything wrong in the conduct or character of a man? Would you prefer to treat him as the humblest citizen in the community? I say no. In the name of law, in the name of justice, and in the name of common sense, I assert that you do not do so. What, then, do you do? You require specific allegations to be made. You require it to be asked whether the accused did it at certain time, or within certain times, do a certain specific thing which is criminal, or omit to do what is legally required of him?

Now, if the gentleman from Pennsylvania [Mr. COVENS] has any ground for that occasion, he should say that he had good reason to believe that the President of the United States had undertaken, by corrupt means, to secure the passage of a particular bill through the Congress of the United States, I should have been the last man on this floor to have stood against such investigation. This inquiry, on the contrary, was based on no sworn statement; and was vague and indefinite in its purpose, and sweeping in its range.

Mr. SHERMAN. Will the gentleman allow me to interrupt him for one moment?

Mr. SHERMAN. I want to refer the gentleman to a case in the Thirty-Fourth Congress, where this House expelled two of its members on charges very vague, and without being specified. Mr. BOCKOC. The charges there were specific. Mr. SHERMAN. Not when the original resolution of inquiry was adopted. I will send for the Journal, and examine the matter.

Mr. BOCKOC. According to my recollection, the accusations were specific and expressed. At all events, they were reduced to that form before the persons charged were required to answer them.

Mr. CAMPBELL. Will the gentleman from Virginia allow me to interrupt him, that I may propound a question in regard to the Pennsylvania case?

Mr. BOCKOC. Certainly.

Mr. CAMPBELL. As the gentleman has referred to the practice of grand juries in Pennsylvania, I desire to say that they are sworn on oath to try the matters given them in charge on specific bills of indictment. They have an unlimited power to make presentations to the court in regard to such matters and things as may come within their knowledge. They have a right to do that without any specific charge having been sent before them.

Mr. BOCKOC. I thought the gentleman from Pennsylvania wanted the floor to propound a question; is that a question to which he wants an answer?

Mr. COVODE. Well, without saying that we have it in evidence.

Mr. BRANCH. I rise to a question of order. I make the point of order that the chairman of the select committee has not a right to divulge upon this floor any *ex parte* statement of the testimony that has been taken before the committee.

Mr. COVODE. I am glad to hear that. I will say, inasmuch as a specific charge is asked for, that I have the best reason in the world to believe that the President himself was consulted with regard to the use of money in Pennsylvania; and that, after consultation with him that very evening, one of his friends went forth to Pennsylvania, and took money with him to use against us in the election.

Mr. BRANCH. I rise to a question of order. I desire to know if the gentleman from Pennsylvania is stating now testimony that has been taken before the committee? If he is, I object to it.

Mr. COVODE. Well, then, if the gentleman objects to my stating anything that I know, postpone this matter until we can have an opportunity of reporting the testimony. The President will have an opportunity of reading it, and of producing rebutting testimony.

Mr. WINSLOW. Will the gentleman allow me to say that I think he mistakes the character of the message of the President entirely? The President makes no objection to the later branch of the inquiry at all. He objects to the first branch of the first resolution, in which the gentleman did not bring against him any distinct or specific charge whatever; but constituting a committee to go abroad in the country, and inquire of anybody whether he knows anything against the conduct of the President in any respect whatever. To the latter clause of the resolution, in reference to which the gentleman is speaking, the President makes no objection whatever.

Mr. BOOCK. I hope the gentleman from Pennsylvania will now go and finish his explanation, without further interruption.

Mr. COVODE. I will state that two members of this House were expelled in the Thirty-Fourth Congress, upon charges more vague and indefinite than any of the charges in this resolution. Here is the preamble and resolution to which I refer:

"Whereas certain statements have been published, charging that members of this House have entered into corrupt combinations, for the purpose of securing the passage of certain measures now pending before Congress; Therefore,

"Resolved, That a committee, consisting of five members, be appointed by the Speaker, with power to send for persons and papers, to investigate said charges; and that said committee report the evidence taken, and their judgment, in necessary on the part of the House, without any unnecessary delay."

Now, Mr. Speaker, I have felt an interest, as well as the President, in investigating this matter, in respect to the use of money in carrying the Pennsylvania elections. I feel that Pennsylvania is the battle-ground, and that the morals of our people are being corrupted by the use that is and has been made of money in carrying our elections. I want to see an end put to it. I want to ferret out the guilty parties. If it fell upon my party, let it fall upon them. The President, in his charge, of course intended to intimate that it was the Republican party who were guilty. If so, let it be known. If, in the investigation of this matter, the President can make it appear that he is clear, then he will stand better before the country than he does now, and he will be indebted to me for placing him in a position where he could rest himself right.

Mr. CURTIS. I ask the gentleman from Virginia to allow me to say one word. I wish merely to present my protest against this document of the President of the United States. I contend that it is not a communication which is contemplated by the Constitution of the United States, which authorizes the President to give information of the state of the Union," and should not have been received. If I had been present when it was received, and had known its character, I should have respectfully declined its reception. Is it a communication in regard to "the state of the Union"? If it be, it is competent for the President of the United States to appear in this Hall and make known his views. Such, we know, is his privilege; but if it be, as it seems to be, an argument against a matter pending in this House, it is an interference in the duties of the legislative

branch of the Government of the United States; an interference in the prerogatives of this House of Representatives; and I enter my protest against any such exercise of executive influence in this branch of the Federal Congress. If he can speak in writing, he can orally; and upon this hypothesis he could come in and debate every question that we would care to discuss.

Mr. LAMAR. I call the gentleman from Iowa to order.

Mr. CURTIS. I say it is without precedent, without constitutional authority, and a violation of the constitutional rights and prerogatives of the President of the United States to attempt to interfere with the legislative powers of this independent branch of the Government.

Mr. LAMAR. I insist upon my point of order, and call the gentleman from Iowa to order.

Mr. BOOCK. I think the gentleman from Iowa has rather abused the courtesy I extended to him, in making a speech within mine.

Mr. CURTIS. If I have abused the gentleman's courtesy, I am sorry. It was not my intention to intrude further than it seemed necessary for me to do so, in order to maintain the whole subject, that the reason why I did not put the motion to the House was, that the gentleman had not the floor to make the motion. The gentleman from Virginia was entitled to the floor, and the gentleman could not, therefore, move to postpone this body for the moment without his consent. The Chair thinks it is but respectful to the gentleman from Tennessee to make this explanation.

THE SPEAKER. The Chair will say to the gentleman from Tennessee [Mr. BRANCH] who, at this point, is desiring to move to postpone the subject, that the reason why I did not put the motion to the House was, that the gentleman had not the floor to make the motion. The gentleman from Virginia was entitled to the floor, and the gentleman could not, therefore, move to postpone this body for the moment without his consent. The Chair thinks it is but respectful to the gentleman from Tennessee to make this explanation.

Mr. STEVENS, of Pennsylvania. If the gentleman from Virginia proposes to move to lay this message on the table before he takes his seat, I ask of him to allow me three or four minutes.

Mr. BOOCK. I will try; but I am afraid I shall not have time to answer the gentleman who have already interrupted me.

Mr. STEVENS, of Pennsylvania. I only want three or four minutes for the purpose of defending me from interruption. [Laughter.]

Mr. JOHN COCHRANE. I hope this matter will not be postponed. I think we are as well prepared now to go on with the discussion as we shall be at any future time.

Mr. CURTIS, of Maryland. I rise to a question of order. I object to the gentleman from Virginia coming up to the floor. I ask that he shall go on and make his speech, and then yield the floor.

Mr. BOOCK. I am very much obliged to the gentleman from Maryland for assisting me in the enforcement of my rights. I have been desirous of extending all possible courtesy to gentlemen on all sides; but I hope I shall now be permitted to go on and finish what I have to say, without further interruption.

Mr. CURTIS. I have a few remarks of the gentleman from Iowa, who, a few minutes ago, addressed the House upon this subject, [I mean Mr. CURTIS.] I have to say that he is mistaken in supposing that this message of the President is without effect.

If I remember correctly, President Jackson, the hero of the Hermitage, once sent a message to the Senate protesting against the action of that body in relation to himself.

Mr. SHERMAN. I wish simply to say—

Mr. BOOCK. Gentlemen object to my yielding the floor. I must decline. Why, sir, the gentleman from Iowa himself enters the protest here against the President's protest; and I will leave it with his constituents to decide whether he has violated his constitutional duty. "Protest is protest" is the issue made for their decision.

The gentleman from Iowa has just said [Mr. COVODE] who was last up, I do not see that he has, in the least degree, improved his position by his explanation. The President objects that the gentleman's resolution proposes vague and indefinite inquiries. Has the gentleman shown that this resolution is not vague and indefinite? Has he shown that the resolution does make specific charges, which will direct the committee in their inquiries, or enable the President to defend himself?

Mr. COVODE. I can make the charges definite.

Mr. BOOCK. The gentleman can make the charges definite. We have nothing to do with what the gentleman can do. The President is not protesting against what the gentleman can do. The President of the United States is protesting against what the gentleman has done; and I am now speaking about what the gentleman has done. I am speaking of the money which was offered by the gentleman and passed by this House.

The gentleman says, by way of apology, that the President has complained that moneys had been used to carry the elections in Pennsylvania; and that he had only made the charge or complaint of the President the basis of the resolution which he has instituted. Why, sir, does the gentleman undertake to say that his resolution was in response simply to the statement of the President of the United States? If I remember rightly, the President speaks of the use of money in the Pennsylvania elections. This resolution talks about corrupt means being used to influence committees, and procure the passage of laws through Congress; it talks about malfeasance in the Chicago post office, in regard to the public buildings; in the Post office, in regard to the yard; about failure to execute laws. Does the gentleman undertake to say that all this is in response to the statement of the President that money was used to carry the Pennsylvania elections? I do not see that the gentleman has mended his case at all by this explanation. He takes upon the ground upon which he has chosen to place himself for his justification—that money has been used to control the elections in Pennsylvania. Mr. Speaker, I should be the last man to justify the use of money corruptly to carry or control any election; but the gentleman from Pennsylvania has just said that he has used in reporting what has come to his ears, has not even indicated that the President of the United States ever advised or aided in the corrupt use of money. He merely says that the President was privy to and proposed to aid in the use of money. Well, then, the gentleman mean to say that all use of money in elections is *prima facie* a corrupt use of it? If he does, then he stands before this House as his own accuser, and the accuser of his party; because, singular as it may appear, and as it is singular since a circular appeared, with the signature of the gentleman amongst others, in behalf of the Republican general committee, inviting Republicans all over the North country to contribute money to aid his party in the next presidential election.

Mr. BOOCK. Money only for the circulation of documents.

Mr. KILGORE. I will send for the circular.

Mr. BOOCK. I have seen such a circular published in the newspapers. I will give way to the gentleman from Pennsylvania, [Mr. COVODE,] or the gentleman from Indiana, [Mr. KILGORE,] or any other gentleman upon the other side, who will rise and say that the circular published in the newspapers of the country is a forgery, and that they have not called upon their Republican friends in the country to come forward and contribute money to aid in the next election.

Mr. WASHBURN, of Illinois. I will answer the gentleman's question.

Mr. KILGORE. I have the floor. I will say to the gentleman from Virginia that the circular which he refers to is a forgery, and that I petition the Republican party to furnish means for the purpose of aiding in the dissemination of useful information to enlighten the benighted regions of Democracy. [Derisive laughter from the Democratic benches.] That circular proposes the same contribution of money that it proposes for missionaries of societies of Christian churches to send the Bible to the heathen. [Laughter.]

Mr. BOOCK. If the gentleman wishes to send information to his Republican friends, he is doing a good work, for they want it. I object to the Bible being sent to the heathen, to the ignorant people. It is a perverted Bible, a false Bible. It contains false doctrines; the teachings of false prophets is death to the political souls of those whom it reaches.

Mr. KILGORE. That is not the Bible we send our men to the Bible.

Mr. BOOCK. No; you do not send the Bible of the Lord, for that is true. Yours is a Bible made by men. The documents you send among your people are anything else than a political Bible, according to my conception.

This, Mr. Speaker, is the spectacle presented to the American public. The honorable gentleman from Pennsylvania [Mr. Covens] asserts it is sufficient ground for sweeping inquiry about mismanagement in relation to navy-yards, public buildings, post offices, the non-execution of laws, and almost everything else, that the President of the United States has been engaged in carrying elections in Pennsylvania. Now it comes out by the confession of the gentlemen themselves, while so indignant in reference to the letter of the President to which they make allusion, that they—the gentleman from Pennsylvania [Mr. Covens] the accuser here, and his political friends—have given a general and widespread invitation to the people of their section of the Union, who are connected with them politically, to come forward and pour out their money in order that they may carry the next presidential election.

The gentleman from Indiana, [Mr. Kilgore], the graceful and courteous gentleman from Indiana, the courtly gentleman from Indiana, comes forward and takes upon himself to defend that investigation. He shoulders the responsibility, and he should shoulder the responsibility, because of the possibility of that movement. The gentleman from Indiana is the man, I understand, who pledged that the candidate for Printer of this House of the Republican party would, if elected, devote one-half of the office of the printer to the purpose of carrying the next presidential election for the Republican party. [Applause and laughter from the Democratic, and cries of "Order!" from the Republican benches.]

Mr. KILGORE. There were no corrupt purposes sought to be accomplished. Mr. BOCKOCK. Oh no! If the President happens to have known of the use of money in elections, then everything is corrupt, and a committee of investigation must, forthwith, be forthwith raised, with power to inquire into everything. Not so with the gentleman of the other side. They may divide the profits of the public printing; they may call upon the people of their party everywhere to come forward and pour out their money to carry the next presidential election, and it is all right.

Mr. KILGORE. Let the circular be read.
Mr. HASKIN. Will the gentleman from Virginia yield to me for five minutes?

Mr. BOCKOCK. I cannot, now.
Mr. VALLANDIGHAM. I will read an extract from the circular.

Mr. KILGORE. Read it all.
Mr. VALLANDIGHAM. I will read the substantial part of it. [Cries from the Republican benches, "Read it all!"] Here it is:

"The number of documents that will be required will call for a large expenditure and justifies the request for assistance, even in the smallest amounts. Our opponents, by forced contributions upon their Federal office holders and public contractors, which they do not hesitate to levy, are able to raise a large fund for their party operations. The Republican party must rely upon the voluntary contributions of its friends, and it is therefore recommended that each club, or person, as far as may be convenient, send contributions in the form of money, or in the form of speeches or pamphlets of eight pages is fifty cents a hundred; of sixteen pages, one dollar a hundred; of twenty-four pages, one dollar and fifty cents a hundred."

Mr. DUNN. What is the price of the eight-page speeches?

Mr. WASHBURN, of Illinois. Fifty cents a hundred. [Laughter.]

Mr. VALLANDIGHAM. Here are the names that are named to it:

"We are very respectfully and truly,
PRESTON KING, JOHN B. ALLEY,
JAMES W. GRIMES, E. B. WASHBURN,
J. F. S. FOSTER, J. L. N. STRATTON,
JOHN COVENS, DAVID KILGORE,
E. G. SCHAUDING, J. L. N. STRATTON."

Mr. FLORENCE. I will read the heading, and the House will then know who are the officers. Here it is:

"PRESIDENTIAL CAMPAIGN OF 1860.
Republican Executive Congressional Committee.
Hon. PRESTON KING, N. Y., Hon. JOHN COVENS, Pa.,
Hon. J. W. GRIMES, Ill., E. B. WASHBURN, N. Y.,
" L. F. S. FOSTER, Conn., " John B. Alley, Mass.,
(Senate.) " E. G. SCHAUDING, Ill.,
" David Kilgore, Pa.,
" J. L. N. Stratton, N. J.,
(House of Representatives.)
PRESTON KING, Secretary,
GEORGE HASKIN, Secretary,
JOHN COVENS, Treasurer."

Mr. HASKIN. I rise to a point of order. I

insist, Mr. Speaker, that the manner in which the message of the President has been discussed is unworthy of the dignity of the House of Representatives and the occasion which has called it forth. A discussion has been started, out of order, in my judgment, upon the dirty party politics of the day, when the motion is one of reference to a question of public policy. Shall we, or shall we not, maintain the legislative power and the independence of the House of Representatives, which have been insulted this day by a Napoleonic decree, coming here as a message from the President of the United States? I insist that the debate shall be confined to the question before us, and that it shall not be allowed to wander off from it.

The SPEAKER. The Chair thinks that the whole question is open to debate on the motion to refer, and therefore overrules the point of order raised by the gentleman from New York.
Mr. BOCKOCK. The Chair overrules the point of order raised by the gentleman from New York, and very properly. That gentleman, who announced himself, a few days ago, to be an ally of the Republican party, and of this House, comes forward, in his character of ally, and lectures us upon dignity and what is the proper proceeding for us to pursue. I bow in humble acknowledgment of the deep debt of gratitude we owe to the gentleman from New York for his lecture on dignity. I bow, to all others, in the same respect, to deliver such lecture. Verily, it appears no more. I dismiss him summarily.

When I was interrupted, I was showing to the House that the gentleman from Pennsylvania [Mr. Covens] and the gentleman from Indiana [Mr. Kilgore] had not, in my judgment, particularly aided their cause by the explanations which they have volunteered. The ground upon which they put their defense for appealing for money to the people to use for the purposes of the Republican party in the next presidential campaign, was that the money is to be paid for the circulation of documents. The circular insinuates that small amounts will be thankfully received; but that gentleman from Indiana has made that not a particle of objection will be made. He was willing to do this, and he was willing to let the profits to be derived from the printing for this House should be contributed to the electioneering uses of the Republican party. It is all right and proper that they should have the command of money, and that they should use it in elections, and it is to be assumed by us, by every body, that it is only to be devoted to the publication and dissemination of documents; but, sir, if anybody else employs money for election purposes, it is, upon their course of argument, to be taken instantly for granted that some corrupt use will be made of it. I do not see how, by consistency, this unfairness, this double-dealing, I object to. Now, if they can use money and not be corrupt in it, why cannot other people use money without using it corruptly? Why is it assumed of them necessarily that if money be employed for others, it is corruptly employed? That is the thing I object to.

And now, it may be proper for me to say a word in relation to the position taken by the other gentleman from Pennsylvania, [Mr. Gsw.] If I understand him correctly, he claims that the House had the right to make these sweeping inquiries; and on what ground did he put it? As I understand it, he claims that the House of Representatives has jurisdiction of such matters in two capacities. The one is, as the body to frame legislation to be tried by the Senate; the other is, as one of the coordinate branches of the Legislature. I admit that the House occupies that position, and that it has a right to do anything that is necessary and proper to enable it to carry out its jurisdiction in these respects. The House of Representatives has the right to make such inquiries as they may think will conduce to wholesome legislation. It has also the right to institute specific charges, with a view to put official persons on their trial before the Senate. But if, under cover and pretense of intending to legislate,

or if, under pretense of intending to institute impeachment, the House of Representatives institutes these vague and sweeping inquiries against high official personages, which these official personages have no means of understanding, and no power to defend themselves against, then I say the House perverts a legitimate function into a means of oppression to be avoided. If a House had done it, I do not doubt, what that gentleman from Pennsylvania claims it has a right to do, it would be all right. But if, under the mere pretext of intending some wholesome legislation, or if, under the mere pretext of inquiring whether or not an impeachment ought to be brought, a House has made sweeping and vague inquiries against high official personages, with a view unjustly to injure them, then I say that the House has abused its powers, has invaded the rights of a coordinate branch of the Government, and has justly subjected itself to a protest from the injured.

Says the gentleman from Pennsylvania, "you instituted inquiry in the last House of Representatives, in relation to the conduct of members of a preceding Congress, while you could not act against them, and where no legislation has been introduced, and where no legislation has been introduced, as he states them, what right had the House to institute an inquiry in relation to the action of members of a preceding Congress, for which they could not be tried, and where no legislation in regard to this subject was introduced?" He says that in regard to the charges against the President of the United States, perhaps no punishment is intended. "No punishment intended!" Why, sir, to proclaim to the world, in effect, that there is good reason to believe that the President of the United States has been engaged in corrupt practices, which should be exposed; to open the door for men everywhere to come forward here and swear to private conversations and other mysterious circumstances in connection with the President, even although you do not intend to found any impeachment upon these proofs, and that no punishment? Will you say, after that, that no punishment has been inflicted on that officer? Is it no punishment to a man in high position, who cares for his character and his honor; who values the trust reposed in him by the people, as an evidence of his honor, to have it known that he is guilty of corrupt practices? I need not appeal to any gentleman to answer this question. The House to answer that question. It would be a severe infliction for any of these gentlemen themselves; and they know it.

Now, let not gentlemen undertake to mystify this subject. Let no gentleman of the House, on such a grave occasion, attempt to do injustice to the issue which the President of the United States has made. The President of the United States has not denied the right of this House to institute specific inquiries into his conduct with a view to impeachment. What he has denied is the propriety of the House of Representatives attempting to institute a general and sweeping inquiry against him without letting him know what specific charges he has to meet, and without any allegation being made by any one that there is good reason to believe that a particular wrong has been done—opening the door to witnesses to come from the North, the South, the East, and the West, to swear to vague and indefinite matters of suspicion against the President of the United States. In my opinion it is a great wrong.

gentlemen over the way, and some on this side, have intimated that they are not now precisely prepared to dispose of this matter. It was my purpose, Mr. Speaker, originally, to move that the message be laid on the table, and ordered to be printed. That would not preclude any action that the House might take hereafter with regard to it. It might be debated in the Committee of the Whole on the state of the Union. Gentlemen might base resolutions on it. But I feel some reluctance now to move to lay it on the table. I want, however, to have the message printed; and I am willing to move that the House be empowered to enable the House—to postpone it to a day certain, or to do anything else with it, except refer it to the Judiciary Committee. If the House think proper, I will move to postpone it to a day certain, and let the subject come up again.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

SATURDAY, MARCH 31, 1860.

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in of the question under the new rule; which says that, after the ordering of the main question, any member may ask a division of a question which involves two propositions.

THE SPEAKER. In what way does the gentleman desire to have the question divided?

MR. JOHN COCHRANE. I want a vote upon the reference to the committee, and one on the proposition to allow that committee to report at any time.

MR. SHERMAN. Oh, that is not divisible.
MR. JOHN COCHRANE. There are two separate propositions.

THE SPEAKER. The question will be divided. The Chair will first put the question on the motion to refer and print.

MR. HICKMAN. I will say, in reply to the gentleman from Kentucky, (Mr. BARNETT,) that, so far as I am individually concerned, I am perfectly willing to accede to the request that he makes, that when the report shall be made from the Committee on the Judiciary, it shall be postponed for two or three days and printed, in order that every gentleman shall have an opportunity to examine it.

MR. BURNETT. Very well, sir; with the understanding that we are to have an opportunity of discussing the matter, I withdraw the call for the yeas and nays on the motion of the gentleman from Ohio.

MR. JOHN COCHRANE. I insist on my call for a division of the question.

THE SPEAKER. As a division of the question is asked, with the Chair decides to be in order under the amended rules, the first question will be on referring the message to the Committee on the Judiciary, and ordering it to be printed.

The question was taken; and that branch of Mr. SHERMAN'S motion was agreed to.

The question recurred on the latter branch of the motion, to give the Committee on the Judiciary power to report at any time.

MR. BRANCH. I understood the chairman of the Committee on the Judiciary to intimate that he would report the message back at an early day, and put it in a position where it can be discussed.

MR. HICKMAN. We shall certainly not be disposed to delay a report. So far as I am concerned, I shall desire to report at as early a day as possible, and to give gentlemen an opportunity to be heard upon the subject.

MR. BRANCH. Then, I will make no point of order on the motion of the gentleman from Ohio, in the hope that the Committee on the Judiciary will report the message back at an early day, and that we shall have an opportunity to discuss it.

The question was taken on the latter branch of Mr. SHERMAN'S motion; and it was agreed to.

MR. SHERMAN moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MR. SHERMAN obtained the floor.

PRINTING OF THE KANSAS BILL.

MR. GROW. I beg the gentleman to yield to me for a moment that I may ask for an order of the House in which members on all sides are interested. It is that the bill for the admission of Kansas, with the majority and minority reports, and the Wyandotte constitution, may be printed; so that, when the bill comes up on Tuesday, gentlemen may have the whole matter before them. I will be glad to have the bill printed.

There being no objection, it was so ordered.

UNDELIVERED LETTERS.

MR. COLFAX. I desire, with the permission of the House, to enter a motion to reconsider the vote by which a bill (S. No. 302) in relation to the return of undelivered letters in the post office was referred to the Committee on the Post Office and Post Roads yesterday. The

committee have considered the bill, and will bring it before the House at an early moment.

The motion to reconsider was entered, and passed over for the present.

PRINTING FOR THE HOUSE.

MR. HINDMAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Superintendent of the Public Printing be, and is hereby, directed to furnish to this House an estimate of the cost of the printing ordered by the House of Representatives since the commencement of the present session, specifying the amount of each order and including any executive printing that may have been done by the House Printer.

CONSULAR AND DIPLOMATIC BILL.

MR. SHERMAN, by unanimous consent, reported back from the Committee of Ways and Means the bill of the House making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1861, with the Senate amendments thereto; which was referred to the Committee of the Whole on the state of the Union, and, with the amendments of the Senate, ordered to be printed.

WILLIAM H. HOOPER.

MR. SHERMAN also, by unanimous consent, reported back the joint resolution (H. R. No. 34) authorizing the refunding of certain moneys expended by William H. Hooper, while Secretary of the Territory of Utah, with the recommendation that it be referred to the Committee on Territories.

It was so referred.

SELECTION OF OREGON LANDS.

MR. VANDEVER. I rise to a privileged motion. I desire a motion to reconsider the vote by which the House the other day referred to the Committee on Public Lands a bill granting to the Governor of Oregon longer time within which to select certain lands donated to that State by the act by which she was admitted into the Union. I desire to reconsider the vote by which the motion was considered, and then, as it is a matter about which there is no controversy, I hope, after a short explanation by the gentleman from Oregon, the House will allow the bill to be put on its passage.

The title of the bill was read, as follows:

A bill (H. R. No. 177) to extend the time within which the Governor of the State of Oregon shall select lands, as provided in the act for the admission of Oregon.

The motion to reconsider was agreed to.

The question then recurred on the motion to reconsider the bill to the Committee on Public Lands.

MR. STOUT. I will state to the House that the object of this bill is merely to extend the time within which the Governor of Oregon may select certain lands, donated for a university and other public purposes, in the act for the admission of the State. That act provided that the lands should be selected within one year; but it did not provide for having the lands surveyed, and they have not been surveyed, nor has any appropriation yet been made for their survey. They cannot, of course, be selected until the Government has had them surveyed. I hope there will be no objection to putting the bill on its passage.

The motion to commit was disagreed to.

The bill was read. It provides that the time fixed by the fourth section of the act entitled "to act for the admission of Oregon into the Union," approved February 14, 1859, for selecting certain lands therein donated, shall be extended to three years from the date of the passage of said act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

MR. STOUT moved to reconsider the motion by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THE CHINESE COOLIE TRADE.

MR. ELIOT. I ask the consent of the House to report from the Committee on Commerce a bill to prohibit the Chinese coolie trade, by citizens of the United States, in American vessels.
MR. BARKSDALE. I object.

MR. ELIOT. I hope there will be no objection. My object is to ask that the bill be made a special order for this day four weeks.

MR. SHERMAN. I must object to that. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

PAY OF PURSERS.

MR. MORSE. I rise to a privileged question. I move to reconsider the vote by which the House this morning referred a bill regulating the service pay of pursers in the Navy to the Committee of the Whole on the state of the Union. My object is not to have the motion to reconsider disposed of now, but to have it entered, and after waiting a reasonable time, to enable every member to read the bill and report after they shall have been printed—say a week or ten days—to call up the motion and ask the House to pass the bill. It is a bill which will certainly be no possible objection.

MR. WASHBURN, of Illinois. I move to lay the motion to reconsider on the table.

MR. WASHBURN, of Maine. I rise to a question of order. The gentleman from Illinois did not have the floor to make the motion to lay the motion to reconsider on the table.

THE SPEAKER. The motion to reconsider has been entered, but cannot be acted upon at this time. The question is on the motion of the gentleman from Ohio to give to the Committee of the Whole on the state of the Union.

The motion was agreed to.

MR. BARKSDALE. The gentleman from Massachusetts appeals to me to withdraw my objection to the reporting of his bill relative to the Coolie trade. If no one else objects, I will withdraw my objection.

MR. BURNETT. I object. The House has already voted to go into the Committee of the Whole on the state of the Union, and nothing is in order in the House.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. EWEHARD in the chair.)

DEFICIENCY BILL.

MR. SHERMAN. I move that the committee now take up for consideration House bill No. 499, to supply deficiencies in the appropriations for the year ending June 30, 1860; and that the first reading of the bill be dispensed with.

The motion was agreed to.

The bill was accordingly taken up, and the first reading dispensed with.

MR. MONTGOMERY obtained the floor, and addressed the committee in reply to the speech made some days since by Mr. CRAW, relative to the doctrine of squatter sovereignty, and the claims of Senator DOLGAS as the candidate of the Democratic party in the ensuing presidential election. [His remarks will be published in the Appendix.] Just before the close of Mr. MONTGOMERY'S hour.

MR. HILL said: I desire to make a proposition to extend the time of the gentleman from Pennsylvania, as he has been so much interrupted. The same thing was done in the case of Mr. CRAW, the other day, and I think that it would be but fair.

MR. LOVEJOY. I believe the hour of the gentleman from Pennsylvania is out, and I claim the floor.

THE CHAIRMAN. The gentleman from Pennsylvania has one minute longer.

MR. HILL. Will not the gentleman from Illinois allow him a short time longer?

MR. MONTGOMERY. I trust the gentleman from Illinois will allow me to go on.

MR. LOVEJOY. If it can be understood that

I shall have the floor when the gentleman from Pennsylvania concludes, without my staying to claim it, the gentleman may go on as long as he pleases, so far as I am concerned. [Cries of "Agreed!" from the Democratic side of the House.]

THE CHAIRMAN. Is there any objection to the gentleman from Pennsylvania being allowed to proceed beyond his hour?

MR. CONKLING. I object.

THE CHAIRMAN. Then the gentleman from Pennsylvania must go on.

MR. MONTGOMERY continued his remarks for some moments longer, when the hammer fell, his hour having expired.

MR. LOVEJOY obtained the floor.

THE CHAIRMAN. I suspend to the gentleman from Illinois to allow the gentleman from Pennsylvania to proceed. He has been interrupted.

MR. CONKLING. It was his own fault.

MR. UNDERWOOD. Do let us allow him further time. It is but justice. Give him twenty minutes longer. I do not agree with him; but I do want him to go on, because it is only fair play that he should be allowed to do so.

MR. LOVEJOY. I have no objection to that in the world. I do not desire to address the committee this evening, but only to have the floor when next we go into Committee of the Whole.

MR. VANDEVER. I have no disposition to intrude myself upon the attention of the House or the committee at any time, but there is one thing in reference to this matter that should be guarded against, and that is this previous arrangement in regard to turning out the floor. If a gentleman fairly gets the floor first, by addressing the Chair, he ought to be recognized.

THE CHAIRMAN. Is objection made to the gentleman from Pennsylvania proceeding?

MR. CONKLING. Mr. Chairman—

THE CHAIRMAN. The gentleman from New York objects.

MR. CONKLING. No, sir. I want to make a remark. If the gentleman from Illinois is to have the floor the next time the House resolves itself into the Committee of the Whole; and if all of these complications, these indirect, silent, invisible schemes, by which the floor is mortgaged and farmed out—

THE CHAIRMAN. The gentleman from New York is out of order. [Lovejoy.]

MR. CONKLING. Well, I will take my seat, if I am called to order, or will be in order.

THE CHAIRMAN. Does the gentleman object to the gentleman from Pennsylvania proceeding?

MR. CONKLING. I was about to stand up, if what I have alluded to is to take place, I do not know that it makes it much more objectionable.

THE CHAIRMAN. Does the gentleman object to the gentleman from Pennsylvania proceeding?

MR. CONKLING. Well, I mean about to say to the Chair—which I believe is in order—that, if the arrangement which the gentleman from Illinois proposed to the Chair is to be carried out—and of that I want to be informed by the Chair—

THE CHAIRMAN. That is a matter for the committee, and not for the Chair.

MR. CONKLING. Then I want, before I withdraw my objection, to understand what direction the matter is to take.

MR. BURNETT. There is no objection to the gentleman from Illinois [Mr. Lovejoy] having the floor when the gentleman from Pennsylvania concludes.

THE CHAIRMAN. Is there any objection to the gentleman from Pennsylvania proceeding for a few minutes, without the gentleman from Illinois shall have the floor when he concludes?

MR. VANDEVER. I object. I have no objection to the gentleman from Pennsylvania proceeding, if the gentleman from Illinois resigns his pretensions to the floor.

After some private conversation among members, the objection was withdrawn, and

MR. MONTGOMERY resumed the floor and closed his speech, occupying a little more than half an hour.

MR. McRAE moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and **MR. DAVIS**, of Indiana, having taken the chair as Speaker *pro tempore*, **MR. ETHELIDGE** reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly a bill (H. R. No. 499) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1860, and had come to no conclusion thereon.

K. GEORGE SQUIER.

MR. HILL, by unanimous consent, from the Committee on Foreign Affairs, reported a bill for the relief of E. George Squier, of New York; which was read a first and second time, referred to a Committee of the Whole, and when the accompanying report, ordered to be printed. And then, on motion of **MR. UNDERWOOD**, (in fifteen minutes after five o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, March 30, 1860.

Prayer by the Chaplain, Rev. Dr. GERLEY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, in answer to the resolution of the Senate of the 21st of March, requesting the President to inform the Senate whether any instructions have been given to any of the officers of the Navy of the United States, by which, in any event, the naval forces of the United States, or any part thereof, were to take part in the civil war now existing in Mexico; and whether the recent capture of two war steamers of Mexico by the naval force of the United States was done in pursuance of orders issued by this Government; and also by what authority those steamers have been taken in possession by the naval force of the United States, and the men on board made prisoners, transmitting a report from the Secretary of the Navy on the subject.

MR. MASON. I move that the communication be laid on the table, and printed.

MR. SLIDELL. I suggest its reference to the Committee on Foreign Relations.

MR. MASON. Very well.

MR. FESSENDEN. Why refer it?

MR. SLIDELL. I think it proper to refer it, because it involves a grave question of international law.

MR. FESSENDEN. Let it be printed first, and let us see what it is.

MR. SLIDELL. Very well.

MR. MASON. I understand the order to print it will go to the Committee on Printing.

THE VICE PRESIDENT. It will go to the Committee on Printing, and the message will lie on the table.

CLAIMS AGAINST PARAGUAY.

MR. MASON. The Committee on Foreign Relations, to whom was referred a message of the President of the United States, inviting the attention of Congress to the expediency of such legislation as may be deemed necessary to carry into effect the stipulations of the convention between the United States and the Republic of Paraguay, and in relation to the organization of the commission therein provided for, have had the same under consideration, and instructed me to report a bill. I ask for the present consideration of the bill.

The bill (S. No. 340) to carry into effect the convention between the United States and the Republic of Paraguay, was read the first time, and ordered to a second reading.

MR. PEARCE. I hope the Senator will allow us to present petitions first.

THE VICE PRESIDENT. That amounts to an objection.

MR. MASON. I hope the Senate will allow me to state that the bill provides only for the organization of a commission to adjudicate the claims of the Rhode Island Company against Paraguay, which the treaty provides shall sit in the city of Washington. The treaty provides further, that they shall sit but three months, and the expiration of the treaty by the delay by a passenger railway in Washington city; and as it is long, and will require to be printed, and as that bill will come up

is here, and it would be desirable, for courtesy as well as for other reasons, that it should take place at once. The whole benefit of the commission is to inure to this country, and the bill provides that the expenses incurred by the United States shall be defrayed out of the claims. I should think, therefore, it would be very safe legislation. If the Senator objects, though, I cannot ask for its consideration.

MR. PEARCE. I shall be perfectly willing to take up the bill after we get through the presentation of papers. Most of us have our hands full of such papers, and it is very inconvenient to keep them.

THE VICE PRESIDENT. The Chair understands the Senator to object for the present.

MR. MASON renewed his request when the morning business was disposed of, but **MR. TRUMBULL** objected to the consideration of the bill to-day.

PETITIONS AND MEMORIALS.

MR. PEARCE presented a petition of assistant examiners and others in the Patent Office, praying to be paid, for the services which they have performed in the higher grade of Camden county, New Jersey, representing themselves to be members of the national organization of Brotherhood of the Union, Witherspoon Circle, No. 3, of New Jersey, and one hundred and twenty-two of the Continent, and others, irrespectively praying the passage of a homestead bill granting to every citizen able and willing to cultivate it a farm of one hundred and sixty acres. As a bill on that subject is now pending before the Senate, I ask that the petition lie on the table. I will state I know nothing of the order referred to, but I know many of the signers of the petition to be highly respectable and intelligent gentlemen.

The petition was ordered to lie on the table.

MR. TIGEN EYCK. I present the petition of H. L. Mason, of other citizens of Camden county, New Jersey, representing themselves to be members of the national organization of Brotherhood of the Union, Witherspoon Circle, No. 3, of New Jersey, and one hundred and twenty-two of the Continent, and others, irrespectively praying the passage of a homestead bill granting to every citizen able and willing to cultivate it a farm of one hundred and sixty acres. As a bill on that subject is now pending before the Senate, I ask that the petition lie on the table. I will state I know nothing of the order referred to, but I know many of the signers of the petition to be highly respectable and intelligent gentlemen.

The petition was ordered to lie on the table.

MR. TRUMBULL presented papers in relation to the claim of John Dixon to bounty land; which were referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of **MR. JOHNSON**, of Arkansas, it was

Ordered, That the petition of Henry and G. K. Chesnam, of Arkansas, praying compensation for removing the salt in the Red river, on the files of the Senate, be referred to the Committee on Claims.

On motion of **MR. JOHNSON**, of Arkansas, it was

Ordered, That the petition of John B. and Thomas Johnson, praying the reimbursement of expenses incurred in defending a defective title to land from the United States, on the files of the Senate, be referred to the Committee on Claims.

MR. SAULSBURY. I understand this morning that the memorial of the Great Falls Manufacturing Company, which I presented on Wednesday, has been referred to the Committee on the Judiciary. I ask, at the solicitation of the company, that they have leave to withdraw their memorial from the files of the Senate. It may be due to the company to allow them to do so. I present the memorial to the House of Representatives. They have no objection to a reference to the Committee on Claims of this body. I make this statement at their request.

THE VICE PRESIDENT. The Chair will state to the Senator from Delaware that it was referred to the Committee on the Judiciary, and is now in the custody of that committee. He can move to discharge the committee.

MR. SAULSBURY. I move that the vote referring the memorial to the Judiciary Committee be reconsidered.

The motion was agreed to.

MR. SAULSBURY. Now I move that the memorialists have leave to withdraw their memorial from the Senate.

There being no objection, leave was granted.

WASHINGTON CITY RAILWAY.

MR. PEARCE. I desire to give notice of an amendment which I propose to move to Senate bill No. 10, providing for a passenger railway in Washington city; and as it is long, and will require to be printed, and as that bill will come up

to-morrow, with other District business, I ask to be allowed to lay the amendment on the table, and have it printed.

The motion was agreed to.

BILL INTRODUCED.

Mr. LANE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 291) for the relief of John Anderson, of the State of Georgia, who was arrested by his title, and referred to the Committee on Claims.

NOTICE OF A BILL.

Mr. YULEE gave notice of his intention to ask leave to introduce a bill to refund to the State of Florida, certain moneys advanced by the said State for military purposes.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred a bill (S. No. 289) to create a separate district upon the Pacific coast for the inspection of hulls, boilers, and machinery of vessels propelled in whole or in part by steam, reported it with an amendment.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the memorial of Joseph K. Boyd, praying remuneration for aiding in the capture of the frigate Philadelphia and the report of the Court of Claims in the case of Susan Decatur, submitted a report, accompanied by a bill (S. No. 341) for the relief of the captors of the frigate Philadelphia. The bill was read, and passed to a second reading; and the report was ordered to be printed.

FURNISHING NORTH WING OF THE CAPITOL.

Mr. JOHNSON, of Tennessee. Some days ago, it will be remembered, I offered a resolution, by instruction of the Committee to Audit and Control the Contingent Expenses of the Senate, for the purpose of authorizing that committee to have the committee-rooms of the Senate furnished, and such lights provided as should be deemed advisable and expedient. I hope the Senate will take up the resolution and pass it. I think it will save many thousands of dollars to the Government.

The motion was agreed to; and the following resolution, submitted by Mr. JOHNSON, of Tennessee, on the 21st of March, was read:

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate be, and they are hereby, authorized to have the north wing of the Capitol filled up with the necessary fixtures for gas (in conformity with the grant of the Senate on the south wing) in the parlors, corridors, committee-rooms, office and other rooms, and also to provide the committee and other rooms with such other furniture as, in their judgment, is necessary, and the cost thereof be paid out of the contingent fund of the Senate.

THE VICE PRESIDENT. This is the second reading of the resolution. It must go through the same form as a bill. It is now before the Senate as in Committee of the Whole, and open to amendment.

Mr. MASON. I would ask the honorable chairman of the committee, whether there has been any estimate of the cost of the furniture and fixtures which it is proposed to purchase. There is no statement in the resolution of the amount required.

Mr. JOHNSON, of Tennessee. I will say to the Senator that the Secretary has been going on and purchasing furniture and furnishing the rooms, as required by the members of committees. The Secretary is now indisposed, and cannot attend to such business, and the accounts have all to be submitted to the Committee on Contingent Expenses. The resolution authorizes it does not direct—that committee to have it done. Of course they will examine the prices, and know what everything is to cost the Government before allowing the expenditure. It is not directory, but simply to authorize them to do so if, in their judgment, it is required.

Mr. CHANDLER. I should like to offer an amendment to the resolution, to add:

Provided, That the contract for gas fixtures be let to the lowest bidder.

Mr. JOHNSON, of Tennessee. I think I may assure the Senator from Michigan that it will be let to the lowest and best bidder, considering all things.

Mr. CHANDLER. I do not know anything about this matter; but I understand that extravagant bills have been presented and paid in the other House, and I merely propose to put in this

proviso, which cannot, I think, be deemed objectionable.

Mr. JOHNSON, of Tennessee. I have no objection to its going in. The committee will make the best contract they can.

Mr. POWELL. I will state to the Senator from Michigan, that the committee have universally acted on that principle during the session, and authorized no contract to be made except to the lowest bidder.

Mr. CLINGMAN. Does the Senator from Michigan press his amendment?

Mr. CHANDLER. No; not if it is understood that that course is to be pursued.

Mr. CLINGMAN. I hope it will not be pressed; because I am willing to trust to the discretion of the committee.

Mr. CHANDLER. I withdraw the amendment.

The resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. SEXTON, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 243) for the relief of the legal representatives of Charles Porterfield, deceased;

A bill (No. 246) for the relief of the heirs of Mary John Rivers, deceased;

A bill (No. 247) for the relief of the legal representatives of Francis Chaudont.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills, which thereupon received the signature of the Vice President:

A bill (S. No. 247) for the relief of Mary E. Cason;

A bill (H. R. No. 941) authorizing publishers to print on their papers the date when subscriptions expire, and in relation to the postage on drop letters.

WITHDRAWAL OF PAPERS.

Mr. POWELL. I move that the Committee on Pensions be discharged from the consideration of certain claims against the Government, to-wit: the petition of Elizabeth Rowan, the petition of James Hudgins, administrator and heir of Ruth Murphy; the petition of Ann Patterson, the petition of William White; and the petition of Jane McClure.

Mr. CLAY stated that I understand a motion was made yesterday and carried, to withdraw these papers from the files, which cannot be done until the committee be discharged from their consideration; and I make this motion at the request of the parties, or their agent who presented the petitions.

Mr. CLAY. I trust that the motion of the Senator from Kentucky will not prevail. It happens that my memory serves me in this instance, inasmuch as to show the great impropriety of voting inconsiderately, without any discussion or explanation, in relation to withdrawing papers from the files. I know that the Senator from Kentucky did not understand the object of this motion properly, or he would have refrained from making it. I am sure that, like myself, he has been imposed upon, as we all are habitually in regard to such motions. Here was a motion made the other day by the Senator from Georgia, [Mr. IVANSON], who doubt in like ignorance of the motive, to withdraw from the files of the Senate certain papers. It escaped my observation at that time; but the Senator from Kentucky has renewed it, and the records recall to my memory that the names of several of these petitions have been referred to me, as a sub-committee-man of the Committee on Pensions, and that they involve a principle which I made an elaborate report against during the last Congress, and which the Senate, by a very large vote, sustained. Now, these vigilante claim agents have observed the progress of this thing; they see that these claims are in my hands; they look for an adverse report, and then they come, through some Senator who is ignorant of the facts of the case, and ask that they be withdrawn from the files in order to take them out of my hands, and transfer them to the other end of the Capitol. I will not enter into an examination of the merits of these claims. I say they are without the

slightest color of law or justice, and involve a principle which, if it is sustained by the Senate, as it is sought to be sustained by these petitioners, will involve the Government in not less than ten million dollars. Therefore I trust the motion will not prevail.

Mr. FESSENDEN. What are the claims?

Mr. CLAY. They are claims for the amount of pensions which might have been drawn by the creators of these individuals, if they had preferred their claim to a pension during their lives, which at least two Attorneys General of the United States have reported against, and which, I think, have not the slightest color of law, either in the spirit or the letter of the acts under which they are claimed. I trust the motion will not prevail.

Mr. POWELL. I will not press the motion. I was not in the Senate yesterday when the motion was made to withdraw these papers from the files. The agent of the parties requested me this morning to make a motion to have the committee discharged, in order that he might have them withdrawn from the files; but if any injury is to result, directly or indirectly, to the Government, I do not press the motion.

Mr. CLAY. I hope there will be a vote on it.

Mr. IVANSON. I word it justification of myself. Yesterday, or some time ago, a gentleman, who is a claim agent of this city, and who has been an acquaintance and friend of mine for a number of years, and I believe an honorable man—at least he has been so—has called on me to have these papers withdrawn from the files, in order that he might present them in the other House. That was his object, as he stated. I inquired of him if any adverse reports had been made in the cases. He informed me that there had not been an adverse report. I understood the rule of the Senate was, that when an adverse report had been made, the paper could not be withdrawn. I therefore acted on the supposition that no adverse report had been made. I do not know whether any adverse report has been made, or not. The Senator from Alabama has asked me to be certain of the fact whether adverse reports have been heretofore made in the cases or not. The objection which he now urges to discharging the committee, or to the withdrawal of the papers, is that the papers are under the consideration of a committee, and are in his hands, and that he intends to make an adverse report. Now, I do not know that the parties are not entitled to withdraw their papers at any time, if there be no adverse report actually made. They are not obliged to wait until the committee report, and then to withdraw their papers, if they desire, and not press their cases any further. Certainly, because a man has put in his papers here, and they have been referred to a committee, the Senator would not shut the door on him, and any he shall not withdraw them, if he chooses to withdraw them. A man can discontinue his claim when he thinks proper; and I do not think that the Senate has a right to shut the door on him, and say he shall not withdraw his papers, unless there has been an adverse report made. If there has been an adverse report, then, under the rule of the Senate, they cannot be withdrawn. I do not understand the reason of that rule; but I understand that it is the rule of the Senate.

I do not think the Senator from Alabama should insist that these papers should remain in his hands, with a view to make an adverse report, when the parties desire to withdraw them from the consideration of Congress. I do not think we ought to act thus partially towards claimants, but should let them withdraw their papers when they choose. They have the right at any time before there is an adverse report.

I do not see any difficulty in the motion of the Senator from Kentucky. The order was taken yesterday that these papers be withdrawn from the files. Now, this is the operation of that order? Is it that the papers be referred by the Senate to a committee? The possession of the committee is the possession of the Secretary; it is the possession of the Senate; and, as a matter of course, although the papers may be nominally in, and in fact, in possession of the committee, they are in possession of the Senate, and may be considered so, and may be withdrawn, so that the order made yesterday seems to me to apply. I should think

so, according to my construction of its legal effect; but I do not know that I may not be wrong in this. I do not think we ought to preclude the parties from withdrawing papers, from the files of the Senate, when no adverse report has been made, simply on the presumption that the cases shall be acted upon, and, perhaps, adverse reports made.

Mr. CLAY. I am not prepared to assert that these particular cases have been reported upon adversely heretofore; but I am prepared to assert that they involve the same principle with other cases which have been reported upon adversely heretofore, and those reports have received the approval of the Senate. I will now suggest that this motion be postponed, for I wish to examine and see whether those very cases themselves have not been reported against heretofore, and I will, at the same time, move to reconsider the vote of yesterday, by which the order was made to withdraw them from the files of the Senate. I can make that motion, because I was present in the Senate when the order was made yesterday.

Mr. POWELL. When I was requested to make this motion this morning, I asked the gentleman who made the request, what was the condition of these cases. I was informed by him that a part of them were in the hands of the clerk of the Committee on Pensions, and perhaps some of them in the hands of the Secretary from Alabama. I really know nothing about the reports that have been made upon them; and I made the motion in order that it might be brought before the Senate and disposed of as they saw fit.

The VICE PRESIDENT. The Senator from Alabama moves to reconsider the vote of yesterday by which leave was given to withdraw these papers from the files of the Senate. There is a question pending.

Mr. IVERSON. I hope the motion to reconsider will be over until we can investigate the facts.

The VICE PRESIDENT. The question is on the motion of the Senator from Kentucky that the committee be discharged.

Mr. CLAY. I move to postpone the consideration of that motion.

Mr. POWELL. I withdraw it for the present, if the Senator desires.

HOUSE BILLS REFERRED.

The following bills of the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 243) for the relief of the legal representatives of Charles Porter Portland, deceased—to the Committee on Public Lands.

A bill (No. 246) for the relief of the heirs of Major John Ripley—to the Committee on Revolutionary Claims.

A bill (No. 247) for the relief of the legal representatives of Francis Chudnowski—to the Committee on Revolutionary Claims.

CLAIMS AGAINST MEXICO.

Mr. IVERSON. The morning hour has not yet expired; and although I am in favor of taking up the Private Calendar, I will respectfully ask the Senate to take up the bill (S. No. 112) to further carry out the provisions of the fifth section of the treaty between the United States and Mexico, concluded on the 21 day of February, 1848. It will not occupy time. Of course if it does, I will let it go over. I do not wish to trench on the private bill by its consideration. I move to take it up.

The motion was agreed to and the bill was read a second time, and considered as a Committee of the Whole. It provides for the appointment of a board of commissioners to receive and examine claims of citizens of the United States against Mexico, which were provided for in the treaty of 1848, and which were not presented to, or adjudicated upon by the former board.

Mr. HUNTER. I should like to be informed by the Senator from Georgia whether there is any fund. Before we establish this board, and create these offices, we ought to know whether there is anything to be distributed.

Mr. IVERSON. I introduced a resolution at the last session of Congress, and another at this session, calling on the Secretary of the Treasury to let us know whether there was any amount of the Mexican fund unexpended; and the letter of the Secretary of the Treasury, sent to the House at this session, and which has been printed and put

on the desks of Senators, says there are \$211,000. I ask that the letter be read.

Mr. HAMLIN. I move to amend this bill by striking out "three," in the fourth line of the first section, and inserting "one;" so as to have but one commissioner. I recollect very well that the board of which we have now composed ourselves had knowledge was the one to settle the claim between this Government and Brazil, and it consisted of one commissioner.

Mr. HUNTER. I hope the Senator will let us hear the letter of the Secretary of the Treasury, before going on with this amendment.

Mr. HAMLIN. I recollect the letter very well. It said the balance in the Treasury was about two hundred thousand dollars. I hold it in my hand, and, with the permission of the Senate, I will read it.

THE TREASURY DEPARTMENT, January 11, 1869.
SIR: In obedience to the resolution "that the Secretary of the Treasury be requested to inform the Senate what the balance in the Treasury was on the 1st of January, and not paid by the treaty of Guadalupe Hidalgo, between the United States and Mexico, for the payment of the claims of Mexican citizens," adopted by the Senate of the United States on the 9th day of January, 1865, I have the honor to transmit herewith a report on the subject from the Register of Claims, in which the amount in question is stated to be \$211,120.25.

I am, very respectfully,
HOWELL COBB,
Secretary of the Treasury.

Hon. JOHN C. BRANCH, President, and President of the Senate of the United States.

The sum is small; and to appoint three commissioners at a compensation of \$3,000 a year each, and a solicitor at \$3,000, and a secretary at \$2,000, will be eating up a very considerable portion, to say the least, of this small sum in salaries. I remarked a moment since that the last commissioner of which I have any recollection was a commission to settle claims between our Government and Brazil, and that was confined to a single commissioner and a single secretary. The amount of this fund is so small that I think we had better restrict the commission to one, and I think we had better only give him a secretary.

Mr. IVERSON. I have no objection to restricting the number of commissioners to one. I have only followed the example which was set heretofore in the establishment of similar boards.

Mr. HAMLIN. The amounts were larger there.

Mr. IVERSON. That is true. I have no objection to that amendment. This amount is unexpended in the Treasury Department, a part of that fund which Mexico set apart by the treaty of Guadalupe Hidalgo for the payment of claims of American citizens. I will state that since I have been chairman of the Committee on Claims, a number of such claims have been presented to the Senate. One is the claim of Asch, amounting to a large sum. Another is the claim of Commodore Porter, and that is a very large claim. Another is that of General Robinson, who has a claim of some fifteen or twenty thousand dollars, and there are other claims. I understand, but I do not know how many, and to what extent they go; but they involve a large amount of documentary and other testimony, and it would be utterly impracticable for any committee of the Senate or House of Representatives to investigate them and decide properly whether they ought to be paid or not. If we appoint a commissioner, he can hear all the claims and adjudicate them upon principles of law and equity; and then, if they amount to more than the fund which is in the Treasury, he can report upon the sum to the various claimants.

This bill only opens the case to the extent of allowing the presentation of those claims that were not presented to the original board which was established under the treaty with Mexico, or which were not decided by that board upon their merits. I understand that the same claims which were presented to that board, and rested on some technical ground. We propose to let these cases, if there be any, come in and be adjudicated by this new commission. There are some claims which I understand were not presented to that board, and some commissioners, on account of the death of the parties or other unavoidable causes. This money is in the Treasury. It belongs to the claimants, if they can establish their claims to be just and good against the Government of Mexico. There is no reason why it should be retained in the Treasury. It cannot be applied to any other object; it has to lie there dead altogether;

and it may create a difficulty with Mexico, because we do not apply it to the payment of the claims. Mexico has already claimed it, and will probably come again and demand that this money shall be paid over to her. If any of our citizens had just claims upon the Government of Mexico, which were not allowed by the board set up under the provisions of the treaty of Guadalupe Hidalgo, I think they ought to be entitled to this money, as far as they can establish their claims. These are the principles on which the committee acted.

The amendment was agreed to.

Mr. HAMLIN. To make the bill harmonious, I propose further to amend by striking out of the second and third lines of section two the words, "and a solicitor on the part of the United States both." That will have a commissioner and secretary. It will then read "the said board of commissioners shall have a secretary versed in the English and Spanish languages."

Mr. BRAGG. That matter was fully considered in the committee which reported this bill; and we came to the conclusion, from the past experience of the Government in relation to this very class of claims against Mexico, that the Government council was necessary. I think the history of claims of this kind which have heretofore been presented shows the necessity of such an officer. By evidence of *ex parte* character fraud and imposture are so prevalent in the claims, that the amendment will not prevail. The sum paid to the solicitor will be small; and I think such an officer is absolutely indispensable, in order that the Government may have justice done to it, and to guard against fraudulent and fabricated claims of the character which have heretofore gone on. At least, there will be some protection to the Government if there is an officer to examine them and the testimony is not entirely of an *ex parte* character. It is impossible for a commissioner to do this. We had three commissioners before, and yet we know very well that improper claims, to a very large amount, there being no one to sift the evidence, got in, and were allowed; and the Government was put to infinite trouble afterwards in getting a part of the money back.

Mr. HAMLIN. I do not believe in the necessity of a solicitor. I do not believe there is one particle of necessity for him. Whoever shall constitute this commission will beyond all doubt be a lawyer. He should be such. He will be such. About that there can be no doubt. It is his duty to investigate these claims; it is his duty to investigate every claim that is presented to him, and to give a place for some individual, nothing else. I think I may say that in all commissions of this character involving less than half a million dollars, the Senator cannot point to a single instance where there has been a solicitor. I know of none. I know of several where there were none. It is true, where the amounts are large, where they are millions, and the means of depredation are large, and the inducements large, we have appointed solicitors, and not often in those cases. The solicitor in the case of the Senator has referred did not afford any check to the wrong that was perpetrated under that commission.

Mr. BRAGG. The former commission had no solicitor, as I understand, and it was for that reason that I understood frauds were committed.

Mr. HAMLIN. I supposed that you had had one, because I understood the Senator from Georgia to say he copied that bill. No matter whether they had one or not, I repeat again this is a simple proposition to give a man a place, where he will be as useless as the fifth wheel to a coach. I hope it will stick out.

The VICE PRESIDENT. The Chair must call up the orders of the day.

Mr. IVERSON. I suppose we shall get through with this bill in a few minutes.

Mr. SLIDELL. I think not. It will lead to some discussion, and it will better go over.

The VICE PRESIDENT. The bill will go over, and the Chair will take up the Private Calendar.

JOHN LOB'S REPRESENTATIVES.

The Senate resumed the consideration of the bill (S. No. 224) for the relief of the heirs at law of the late Abigail Nason, sister and devisee of the Secretary of the Treasury, and the House at this session, and which has been printed and put

Mr. CLAY. This bill was under discussion when the Senate adjourned last evening. I then stated my objections to the bill, mainly on the score of the interest proposed to be allowed. Since that time I have examined the papers upon which the claim rests, and I concern fully in what was said by the Senator from Maryland [Mr. PEARCE] last evening, that there is no evidence whatever to sustain the claim, either for principal or interest. In the first place, there is no evidence at all to show that there is any claim which is due to the claimant. Here is a claim which is supported by the affidavits of two witnesses, swearing to a fact forty years after it is said to have transpired—one of whom asserts positively the existence of the fact, and the other that it did not occur. These two witnesses purport to have sworn before a justice of the peace; but the character of that officer is not established in any way. Their testimony is not authenticated according to the laws of the United States. We have no sort of evidence, upon the face of the papers, that this man was a justice of the peace. We have no evidence whatever that he had the legal right to administer an oath. We have no evidence whatever that these men did take a legal oath; that they incurred any legal penalty in perjury. I take it that the whole testimony, as presented upon these papers, was not fabricated by the claimant himself. Therefore I say that there is no evidence whatever. But admitting that the testimony was properly administered, and that the witnesses were authorized to administer oaths; and that these men did make these statements under the sanction of an oath duly administered, they do not establish the claim at all. Here is one witness who testifies that this man was a justice of the peace, and that he rendered the service. He does not know that he was not paid for it. The other thinks he was there. He, in like manner, does not know that he did not receive any pay. Now, I assert that it is a very incredible thing that this claimant should have sworn on this record that he should have served during the time of fifteen months; that at the expiration of this time others should have been paid, and that he should not; and that he should have been wholly ignorant of his right to payment. I say that this is an incredible story.

There are other marks upon the papers in the case. He sleeps upon his rights for near forty years, before he prefers any claim against the Government. Then there is one report in his favor; and after the lapse of about thirty years more there is another report in his favor. Why this claim slept during these thirty intermediate years, is wholly unexplained. I think, without multiplying words about it, (for it is a very small amount that is asked,) that the claim is wholly unsupported by testimony; and that, if well supported by testimony, the payment of interest would be a precedent which would return constantly to annoy us, and would involve an immense amount of money, such as the Treasury could not discharge.

Mr. NICHOLSON. Since the adjournment yesterday, I have looked at these papers. I was induced to do so by the doubt expressed by the Senator from Maryland yesterday. The Senator from Alabama has stated correctly that there is no witness who proves distinctly and directly the fact upon which the claim is presented. The other who proves indirectly. I have been under the impression that, in the action we take here, we are not in the habit of requiring the strictness that is required in courts of justice. Papers are presented here by gentlemen holding seats in the two Houses, purporting to be facts. Why before a justice of the peace in their States; and I think the presumption is a fair one, that everything is to be inferred in favor of the proper character of the officers who administer oaths. I take it that the Senator from Maryland, who reports on the case at one time, in substance, that the character of the officers who administered the oath. If that be an objection to this case, I suppose that very few claims can be made out in the Senate.

The case was first presented in 1828, forty years after the service was rendered. I do not see the proof made in the case as genuine. I doubt not the circumstances will justify any one in accounting for the delay. Then it establishes this fact: that the ancestor of the applicant performed fifteen months' service for the United States as a seaman

Forty years afterwards two witnesses come forward and prove the claim. Now, the kind of service that was performed here is a kind which would hardly ever be forgotten by anybody who was present. One of these witnesses says he was on the same vessel, performing the same service, and was taken prisoner at the same time; and he states positively that the ancestor of this applicant was with him. Now, it is possible that such facts as these ever could be forgotten, and that they are not to be taken as proved, because the witness who testifies to them may have arrived at the age of seventy-five? My understanding of the law that governs memory is, that old transactions are best forgotten by old persons. I take it that, granted, therefore, that there can be no real doubt as to the genuineness of this evidence, and as to the service having been rendered; and a committee of the other House, in 1830, so regarded it, when these transactions were much more fresh than they are now, and reported in favor of it, and the House of Representatives then passed a bill granting to this claimant \$120—eight dollars a month.

The claim has lain for thirty years. The party died some time afterwards. Then his widow died, and he brought forward his claim. That is the reason why it has slept so long; but if the claim was just when presented, the proof was then made out, for it is the same proof which was made out in 1829 and 1830, and acted upon then, and the claimant has never made a new one. Two or three reports have been made, all carrying, except on the question of interest. The last committee, regarding the claim as having been established in 1830, proved then, and *prima facie* recognized as such by the action of one branch of Congress, considered it a debt then existing, and hence allowed interest. I do not contend by any means that the law carries interest with it; that it is a case that would necessarily carry interest. It is a question for the Senate to decide, whether it is a matter of justice that an established claim should be carried over by the committee, and that it ought to do so, and have reported the bill at \$336, \$120 of which is the principal, and the balance the interest. That is the whole question. It is now for the Senate to decide whether they will allow it, if they take on the claim just, the additional \$200 interest, or whether they will pay the principal. On principles of justice, I think the interest ought to be allowed. I do not understand that there is any established practice—certainly no law—that governs the case. In the courts of justice, a claim of this kind would be considered as a matter of law, carry interest; but in such cases, as far as my observation goes, the jury is allowed to give interest or not; and I have never known them to fail to do so. On the same principle of justice governing this case, the committee have reported interest here.

Mr. HUNTER. I should like to try this question of interest, and to do that I move to strike out \$336, and insert \$120. I think that is the principal sum.

Mr. NICHOLSON. Yes, sir.

Mr. HUNTER. I move that amendment, and I ask for the yeas and nays on it. It is an important principle.

The yeas and nays were ordered.

Mr. SIMMONS. I think this claim, which is now reported by the Committee on Revolutionary Claims, was before the Committee on Claims last year or the year before, and I then examined the case. So far as any doubt may have been thrown by the debate on the propriety of making the allowance for the wages, I think that any one who would take the trouble to examine the papers would see that it is as distinctly proved as it is possible for an event of that length of time to be proved. The circumstances of the service are such as any man would remember; and the claim is made out as well as, and better than, three-fourths of the claims we are considering the time that it is made out. I think that when a claim has been proved before the proper Departments of this Government, and omitted to be paid by the neglect of Congress, interest is fairly due to the applicant from that time when we got out of the hands of the Government, and reported to the Committee on Claims at different times; once, I am sure, I hope the interest will be paid.

Mr. HUNTER. As the Senator is familiar with the history of the case, I ask why the man

did not present his evidence at the Department, and get the money there?

Mr. SIMMONS. It is all stated in the report. It was reported, and passed the Senate last year, I believe, without a dissenting voice.

Mr. CLAY. I dislike to multiply so many words on so small a claim; and yet, as I said, it involves an important principle, and one which, if it is adopted by the Senate, will carry out, hereafter, what we require the condition of more than hundreds of millions of dollars, in my opinion, because it is an assertion of a right to interest upon a claim from the time it was preferred to Congress. If it is established by the vote of the Senate that there is a proper principle, and that interest ought to be counted from the time a claim is first preferred to Congress, I say you will repeat all the claims that have ever been preferred; because there is not probably one that has ever been prosecuted here where interest was paid from the time of presentation. Hence it is, in my opinion, an important principle, and I repeat, that no lawyer—I mean no man who has been accustomed to the practice of law in any court of this country—can say that this claim is well sustained by testimony. That is my opinion.

My friend Mr. John A. Bland says he thinks it is well made out; and yet I venture the assertion that it is sustained by the unsupported testimony of but one witness, conceding that he made oath to it before a person authorized to administer oaths, which does not appear. I have no witness to support what he has heard from the claimant himself. Even what he thinks he was there, and explains the reason, because he catechized him as to what had occurred there; and because the claimant evinced some knowledge of what did occur there, which he might have learned from another person, he thinks he was there. That is the sum and substance of his testimony. But, sir, there is not a particle of evidence to sustain the claim in any of the Departments. They have ransacked the Navy, War, and Treasury Departments, and nothing appears on file in any of them to support this claim.

Well, now, I submit to the Senate whether it is a credible story, that this man alone, of all this ship's crew, should have been unpaid for forty years; that he should not have had his rights, when the rest were paid immediately; that he should not have found out until 1792; and then, after finding out that others had been paid, and that he was entitled to payment, that he should have slept on his rights until 1828 or 1829; and then again, that he or his heirs, after one favorable report in Congress, should have failed to prosecute the claim for more than thirty years longer? I think it is very clear that the claim is wholly unsustained by such evidence as could carry it through the Senate.

Mr. SIMMONS. The Senator says that this service is proved by but a single witness. I think there are two; but suppose there was but one forty years after the service was rendered; suppose they had all died but one; I should like to know if there is any law that would say that the claim was proved, if one substantial credible witness swore to the fact that he was on board the ship with this man during fifteen months? I should like to know if any court would not take that as satisfactory proof, provided the man told the truth? If he did not tell the truth, no number of witnesses that might swear falsely would strengthen the testimony at all. If the witness is truthful—

Mr. CLAY. If the Senator will permit me to answer him just here, I say that under the circumstances, I do not think his testimony is satisfactory, and I will give the Senator the reason; first because—

Mr. SIMMONS. I think the Senator need not give me a reason. If he would not take the testimony of one man, he would not take two.

Mr. CLAY. I think the Senator is contradictory negatively, by the fact that there is no evidence on file in any Department of the Government of the actions of this vessel even, much less of the service of the individual; and in the next breath he says that the claimant is entitled to the money is said to have transpired, and in the next place we have no evidence of the credibility of the witnesses.

Mr. SIMMONS. I know that when a man makes a motion to resist a claim of a sailor, and

lected and collated, and which the large commercial intercourse he himself had with those nations in early life enabled him to collect better than any other man in the United States, has been of very great benefit to the country. I cannot judge of it myself, and do not pretend to express an opinion on any information which I have collected personally; but we have the testimony of Mr. Clayton, who was certainly one of the most intelligent and honorable men in the country; a man largely connected with the operations of this Government, and a member of the Senate for many years, and Secretary of State for some time; a man who understood perhaps the commercial relations of this Government as well as any other man of his day—he bears testimony to the importance of the information which was collected and furnished by Mr. Palmer to the Government.

Now, the honorable Senator from North Carolina says this was all voluntary on the part of Mr. Palmer. Admit it for the sake of the argument; does it follow, because he collected a large amount of valuable information, and tendered it to the use of the Government, that he is not to be paid for it, if that information is valuable to the Government? Any man who makes an invention of a machine or anything of that sort, does it voluntarily; but he comes to the Government and asks for compensation. He does not get compensation, to be sure, in the shape of money paid by the Government, but he gets compensation under the law which gives to him a patent right for many years. He obtains the patent right, and is thereby remunerated for his invention. But he comes voluntarily before the Government to present his invention, and to enlighten the country in regard to it. It is not because a man voluntarily presents information of this sort to the Government that he is to be deprived of any compensation for it. If you were to say that if you will, you would never give a patent to an inventor, because he voluntarily comes to you for the purpose of enlightening and adding to the encouragement of commerce or manufactures.

Mr. CLINGMAN. I should like to ask for information, if I may, to understand the case. Has Mr. Palmer been deprived in any way, by our action, of a copyright to his book, if he chose to publish it?

Mr. IVERSON. I will speak of that point in a few minutes, and show the Senate the history of the case. I think that, although the information may have been, in the first place, voluntarily communicated by Mr. Palmer to various Presidents and Secretaries of State, yet still, if it be an admitted fact that the information has been of service to the Government, in a spirit of liberality, as well as justice, we ought to compensate him.

But, sir, Mr. Palmer was actually employed by the Government. All his services were not of a voluntary character. It has been stated by the Senator from Vermont—and it is true, and I think the resolutions of the Senate under which he was employed—that Mr. Palmer was here at the instance of the Secretary of State, superintending the printing of a document which was ordered by the Senate to be printed. The Senator from North Carolina (Mr. Bates) says that he was here a longer time than was necessary. I do not know how that was. It may or may not have been so. At any rate, the fact is established that he was here at the request and instance of the Secretary of State, superintending the printing of documents containing information which the Secretary of State and the Administration thought to be of vast importance to the Government; and being here employed at the request of the Secretary, it was no fault, probably, of his that he was detained here eight or nine months. He was detained here, at the request of the Government, if he was brought here and kept here at his request to superintend the printing of an important document, it appears to me that he ought to be remunerated for those services for the time thus spent.

Mr. FOOT. Quite a large outline map of those countries was also prepared by him during that time.

Mr. GRIMES. Allow me to ask whether there

is any evidence of his being kept here to superintend the printing of a document at the request of the Government, except his own statement?

Mr. BRAGG. There is nothing but his own statement as to the time he was here.

Mr. IVERSON. I am not so familiar with the facts; but my impression is that he was requested to stay here by the Secretary of State.

Mr. GRIMES. I do not see it so stated in the report.

Mr. FOOT. It will be observed in the report that Mr. Clayton himself stated, on presenting Mr. Palmer's memorial, that he remained here in the employment and service of the Government, at the request of three Secretaries. It was well understood that Mr. Clayton himself was one of these three. In relation to his invitation to come from New York to Washington to promote the action of the Government, in reference to the subjects contained in the documents which he had communicated to them, I have before me a certificate from Mr. Walker himself, testifying the fact that Mr. Palmer did come here from New York at his invitation.

Mr. GRIMES. I think the Senator from Vermont will observe, if he will read the statement of Mr. Clayton critically, that he does not state that he knew, of his own knowledge, that Mr. Palmer was here on business, or that his action revoked the approbation of three Secretaries of State; but he merely says:

"I present the petition of Aaron Haight Palmer, praying compensation."

That is, the petition prays for

"Compensation for services rendered by him, in communicating and making a direct and indirect appeal, and with the approbation, of three Secretaries of State."

That is to say, Mr. Palmer alleges in his petition, which Mr. Clayton presented, that he had performed this duty under the direction and with the approbation of three Secretaries of State; but I do not understand that Mr. Clayton says he had done this.

Mr. FOOT. Mr. Clayton was one of the three Secretaries referred to; clearly known to be so to each and every member of the Senate; and, if it had not been true, Mr. Clayton would probably have said so.

Mr. IVERSON. I leave that question to be replied to by those members of the committee who sit on the other side, who are more familiar with the facts of the case than I am; but now I want to refer to the history of the proposition to print Mr. Palmer's book. The documents, which the Senator from North Carolina has characterized, in the language of Mr. Benton, as "the battle of the books," The Senator is misled in relation to some of the points which he has stated. On the 16th day of January, 1850, I find by the Journal:

"Mr. HAYS submitted the following resolutions for consideration:

"Resolved, That the Secretary of State be requested to communicate to the Senate such information or particulars as may have come to his knowledge, respecting the detention, imprisonment, and barbarous treatment, by the Japanese imperial and provincial authorities, of American vessels and crews, and the capture of American whaling fleets, on the coasts of Japan and its dependencies, which are now frequented by a large American whaling fleet in the peaceful pursuit of their lawful enterprise."

"Resolved, That the Secretary of State be also requested to communicate to the Senate such information or particulars as may have come to his knowledge, respecting the detention, imprisonment, and barbarous treatment, by the Japanese imperial and provincial authorities, of American vessels and crews, and the capture of American whaling fleets, on the coasts of Japan and its dependencies, which are now frequented by a large American whaling fleet in the peaceful pursuit of their lawful enterprise."

These resolutions were offered on the 16th of January, 1850, and laid on the table. The second resolution calls upon the Secretary of State to communicate to the Senate all valuable recent information which he might have in relation to the oriental nations which would have a bearing on the future commerce of the United States with those countries. It may be that it had reference to the statements or documents or memoirs which had been drawn up by Mr. Palmer, at the request of the Secretary of State, in the Department of Mr. Walker, and then in the Department of State.

Mr. BRAGG. Allow me one word, just here. Mr. Clayton says, in his report, that that memoir, containing eight hundred pages, as it appears, was a résumé merely of the various papers which this Mr. Palmer had submitted to the De-

partment from time to time; in other words, it was his book which he wanted to publish in 1845, and of which a prospectus is given here. He says he was preparing them for about three months—from some time in January up to the end of April—on that subject. I am not so familiar with the facts; but my impression is that he was requested to stay here by the Secretary of State. It was the book written in 1845, and which he wanted to have published when he was before the Senate before, with the memoir addressed to Mr. Polk. It is the same book, and that resolution was so framed as to bring in the book, and it came in with the report of the Secretary of State; and then it was that there was a proposition here to have the book printed. It had been before Congress during Mr. Walker's secretaryship, and there was a proposition to appropriate \$40,000 to publish the book. It has been here in various ways. I did not state them all.

Mr. IVERSON. The Senator's statement does not differ from my own. All this information, all this documentary evidence in relation to the trade of the oriental nations, that had been filed by Mr. Palmer in the State and Treasury Departments for several years previous was called for. It may have been made up of detached particulars. This resolution calls on the Secretary of State to report to the Senate all the "recent" information in his possession of the Department of State, with respect to the independent oriental nations, and their capabilities for a profitable American commerce." On the 21st day of February, of the same year,

"The Senate proceeded to consider the resolutions submitted by Mr. HAYS, relating to the conduct of the authorities of Japan; which were amended and agreed to, as follows:

"Resolved, That the Secretary of State be requested to communicate to the Senate such information or particulars as may have come to his knowledge, respecting the detention, imprisonment, and barbarous treatment, by the Japanese imperial and provincial authorities, of American vessels and crews, and the capture of American whaling fleets, on the coasts of Japan and its dependencies, which are now frequented by a large American whaling fleet, in the peaceful pursuit of their lawful enterprise."

"Resolved, That the Secretary of State be also requested to communicate to the Senate such recent and reliable information as may have come to his knowledge, respecting the independent oriental nations, and their capabilities for a profitable American commerce."

The resolution passed the Senate on the 21st of February, calling on the Secretary of State to communicate all this information. On the 22nd of February, 1850, on the 13th day of June, three days after, a resolution was submitted to these words:

"Resolved, That Mr. Palmer have leave to withdraw, take out a copyright for, and print on his own account, the documents entitled 'A Comprehensive View of the Principal Independent Maritime Countries of the East,' which accompanied the report of the Secretary of State to the Senate, under date of the 23d of April last, and referred to the Committee on Foreign Relations; and that the Secretary of the Senate be, and he is hereby, authorized to subscribe for—copies of the work under the above title, for the use of the Senate. The same shall be delivered by Mr. Palmer at a price not exceeding, per copy, the cost of the work, including the cost of the public sale of the documents of the Senate in 1849, with twenty per cent. discount."

This report had been submitted in April by Mr. Clayton, and it is stated amongst the papers, and I think conclusively proved, that Mr. Palmer was employed by Mr. Clayton to prepare this book. This report to go to the Senate, in accordance with the resolution of February 21, 1850, calling for all recent reliable information which he had in his Department in relation to the oriental nations.

That statement was made, comprising eight hundred pages. It took Mr. Palmer, it seems, three or four months—from February, at any rate, until April—to prepare the report which was sent in by Mr. Clayton. Then in June a resolution was introduced, doubtless at the instance of Mr. Palmer, to submit to the Senate a report which he had prepared at his own expense, and that the Secretary of the Senate should be authorized to subscribe for a number of copies, provided Mr. Palmer should furnish them at a certain price. What was done at that resolution? It certainly would seem that Mr. Palmer should have been authorized to print this work at his own expense. The resolution was to authorize him to withdraw the report, and to withdraw the documents he had prepared and sent in with Mr. Clayton's report, and to print them at his own expense; but it authorized the Secretary to subscribe for a num-

ber of copies. On the same day that the resolution which I last read was submitted,

"The Senate proceeded to consider the resolution by unanimous consent; and,

"The high having been filled with a three hundred, and another amount being proposed,

"On motion of Mr. CLAY,

"Resolved, That it be on the table."

That was the end of the whole proceeding.

Mr. BRAGG. The Senator is entirely mistaken; it was not the end of the proceeding at all. It was not satisfactory to Mr. Palmer's friends that the matter should take that direction; and it was brought up at a subsequent day, so the Senator will find on further examination, and then there was a proposition to authorize the Secretary to subscribe for five thousand copies, at two dollars a copy. Subsequently the amount was reduced to three thousand copies. That failed; and the Senate made an order, as I have already stated, to return the book to the State Department. That was the end of it. I know what I say.

Mr. IVERSON. I admit that a subsequent proceeding was had; but the Senator does not dispute the fact that this memoir prepared by Mr. Palmer was given to the Government, and that in the body with the report of Mr. Clayton, never has been given back to Mr. Palmer. It has been retained by the Government from that day to this; he never has been permitted to print it at his own expense, or given to his friends. That is the fact. Here was a proposition made in 1850 to authorize him to withdraw the paper and print it at his own expense; and when it was proposed to authorize the Secretary of the Senate to subscribe for fifteen hundred copies, the Senate refused to pass the resolution, and it was laid on the table, on motion of Mr. Clay.

Mr. BRAGG. I diallo to interrupt my friend; but I hope he will make me to ask him a question. He states that Mr. Palmer has never had an opportunity to print this book. I ask whether Mr. Palmer has ever had an opportunity to do so. In the debate from which I read, his friends refused to let him take the book. They considered it in the possession of the Government, having been communicated by the Secretary of State. They were anxious to get it printed. He wanted to lay it upon Congress, and have the book published at the public expense. Finally, to get rid of it, a resolution was passed to have it returned to the State Department. Now, I want to know if Mr. Palmer has applied to the State Department for the book, and whether it has been refused to him?

Mr. IVERSON. I again say that Mr. Palmer applied by this resolution, in 1850, to have the paper returned to him; and Congress refused to return it. Here was a resolution offered, in express terms authorizing him to withdraw the paper for his own benefit; and, on motion of Mr. Clay, of Kentucky, the resolution was laid on the table; and the Senate refused to permit him to withdraw the paper. The paper then did not belong to Mr. Palmer. The property of the Government was in the country. The property of the Secretary of State, it became the property of the United States; and when it was returned here by Mr. Clayton, it became the property of the Government; and he had then no more right to withdraw it, or use it for his own benefit, than I had, or any other man in the country. Now, I want to know to show me that Mr. Palmer has ever been permitted by the Government to use this paper for his own benefit.

When, at a subsequent day, a proposition was made to authorize him to print it and to subscribe for so many copies, the Senate refused to pass the resolution authorizing him to print it and to subscribe for copies; and instead of allowing Mr. Palmer to withdraw the paper and to print it for his own benefit, the Senate refused to do that, and it lay on the table. The property of the Government was kept there by the Government. Whose property is it? Will the Senator from North Carolina declare that these papers now belong to Mr. Palmer? No, sir, they belong to the Government of the United States; he can no more withdraw them from the treasury than I can. He can withdraw them, and he never has been permitted to avail himself of the benefit of the intellect and trouble and labor which he has expended on the work. The Government has deprived him of the work. It is refused to permit him to get back the papers he prepared with so much labor, and so much care—papers which have conferred

benefits on the country—and have been considered important by its most exalted officials.

It appears to me that, under these circumstances, as he was undoubtedly kept here at his own expense to work for the Government, giving to the Government the benefit of his previous labors, and forming part of his mind, and his intellect, and his labor, it is hard to say that the Government should avail itself of the services, of the information, and intellect of a citizen, conferring important benefits upon the country, and then turn him loose and say we are not responsible to him for a book which he has prepared with his own mind, and for my own part, I shall vote for this bill to pay him \$3,000. We could not very well arrive really at the correct amount, and we followed the example of former committees, that reported in favor of \$3,000. It is an arbitrary sum, I admit; but, taking into consideration the fact that he was here for many months—more than a year—and leaving out of view the time, labor, and mental power which he expended upon this work prior to the time he was kept here in Washington city at the instance of the Government—that was here, and that he employed for the benefit of the Government, and I understand at the instance of the Government, at least for a portion of the time, in obedience to a resolution of the Senate—it seems to me that he is justly entitled to some compensation, and I cannot say that \$3,000 is an unreasonable amount.

Mr. CLAY. I have only a word to say on this subject. The Senator from Georgia repeats what was said by the Senator from Vermont: that the information given the Government by this claimant was valuable.

Mr. IVERSON. I did not express that opinion myself. I say that I rely on the opinion expressed by Mr. Clayton and other distinguished persons, with better information and a better chance to judge than myself.

Mr. CLAY. Well, sir, I challenged both Senators, and I do it again, to show what advantage his communications have been to this Government. I deny that the Government has derived the slightest profit from them, and I defy them to show that the Government has enjoyed any advantage whatever. They talk of the Government's commercial advantages that have resulted, the profitable trade that has been opened with Japan; and yet they cannot show wherein we have imported anything from Japan. I have yet to learn that the Government has opened with Japan a new vessel, I say told, came into San Francisco. What it was freighted with, whether it promised to open any profitable trade, no one can tell.

Now, sir, I have traced the history of this claim some time since it has been under discussion, and I find that, like a pauper wandering from parish to parish for a settlement, Mr. Palmer has been before four committees before he found one to whom he would recognize his claim. First, he was before the Library Committee; they refused to print his book. Then he was before the Committee on the Committee on Foreign Relations, and they asked to be discharged from his consideration. Then it was referred to the Committee on Commerce; they, in like manner, asked to be discharged from his consideration. Lastly, it went to the Committee on Claims, and they recommended, and now, it seems, that we shall pay him \$3,000; and for what? All that we can get in response to that question is, "for valuable information;" but wherein valuable, or how valuable, no one is able to claim. I have the great credit of Mr. Clayton that it is valuable, and that is the whole of it.

Now, sir, the Senator from North Carolina has suggested reasons for the opinion which he has formed, and which I think must be entertained by a majority of the Senate, that all these calls upon the Government for information have been given in haste and without request. He suggested the various resolutions calling for information. He came here, apparently called by Mr. Walker at one time, but doubtless it was at his own suggestion. He has been here, I believe, almost ever since. I am sure I have seen him, and heard from him during the last seven winters I have been at this Capital.

Mr. IVERSON. He lives here.

Mr. CLAY. I am told he now lives here. I dare say he was attending to his own business, and making money, and not that of the Government. At all events, I think the Government

has compensated him amply for whatever information he has furnished. It is very clear that the Government has derived no valuable consideration from this party—none whatever. On the other hand it appears that the Government published his memorial, and along with that has published a prospectus of the work which he proposed to print. Thus he has been paid for the Government expense, and in addition to that it appears that they gave him two hundred and fifty copies of his memorial. If we vote this, in my opinion, we vote a pure gratuity.

Mr. SIMMONS. Mr. President, this bill seems to have met with opposition from a peculiar quarter. It seems that Senators cannot understand that a merchant can give valuable information to the Departments of this Government when they contemplate fitting out an expedition to ascertain what commercial relations we have with distant nations, and that the information cannot be worth anything unless Congress see fit to publish it for the benefit of the world; and from the fact that this information was not published, and large numbers of copies published for the benefit of the Government, it follows that the information they consider the information worthless. I do not consider that that necessarily follows at all. The Government of the United States was about to fit out an expedition to Japan, it seems, and sought for such information as would be of service to it. It do it most economically, and to ascertain what its probable results would be. The Senator from Iowa [Mr. GATZERT] asks me what is the evidence that the Government sought it. The evidence is a certificate from the Secretary of the Treasury that he invited Mr. Walker to give him the information—Mr. Walker in the early part of Mr. Polk's administration; and the further evidence is, that the Secretary of State under General Taylor reported this to Congress, and stated that he had given it to three Secretaries, of whom he was one. Certainly, it was a matter of which he was proud. At any rate, this information was published by the Senate, and we know the fact.

This man was requested to confer with Commodore Perry when the Government fitted out the Japan expedition, and he was here to help us give him all the information that the Department wanted, to enable them to understand whether they were justified in fitting out the expedition. Now the Senator from Alabama wants to know what the commercial statistics prove that we get in dollars and cents for this information. It is worth anything unless there is a return in your Treasury books? We have made this expedition; we have found out this distant country; we have made treaties with it, and we have not yet realized the results. The returns of this labor are far distant. When an expedition is fitted out to find an open polar sea, which is said to exist, we contribute money, we do anything to get the information; but when do you expect to have any commerce with the north pole? There is nothing gross here. But there is valuable geographical information got by these expeditions, and we pay for them.

So with the expedition to Japan. Have not the commercial nations sent their exploring parties around the world from season to season, and from period to period in order to ascertain what they ever bring any return in money? There never was any expected in that way; but this is the way the geography of the world is found out, and this is the way the commerce of the world is ascertained; and any nation ought to be willing to contribute something towards this information as well as other nations. Nations derive some honor, some credit from these expeditions; and if this man has imparted valuable information, as there is abundant evidence that he has, he may as well have received a hundred thousand dollars. We must not expect, it is not reasonable that we should expect, that every expedition we fit out to open new sources of commercial resources, will give us a return in dollars and cents the moment the ships that go to explore a country come back. They will have gathered information, tribute information, and they do contribute it, I agree that a great deal is done for the mere vanity—if you please to call it so—the mere fame of displaying knowledge and communicating information; but when afterwards such a man disdains himself in circumstances that would be paid for, as for pay, it is but liberal and just that we should

allow him a reasonable compensation. The committee have arrived at this sum, which is not a very liberal one, as I think. This man has been here a great while. I know books are stated to have been written by him, and that he has a hundred pages. I have not seen any of them, but I am sure. But we have thought \$3,000 would be reasonable. Information has been obtained, an expedition has been fitted out, and we have spent a great deal of money. I think the result has been the result of that expedition, thus the allowance now proposed. It would be just as reasonable for us to require, if we had fitted out Dr. Kane's expedition, to allow the result to be paid to him three or four hundred dollars above the result he would import, just as much as in the case of the Japan expedition. We are going now, it has been said, to entertain some Japanese noblemen; and I think it would be reasonable to have the result of the scrutiny of a man like the Senator from North Carolina. If he comes here and undertakes to drive everything down to the hard pan for the money, he will find that there are many things that will not pay for themselves in money returns. Why should we pay money to entertain Japanese noblemen? We must do something a little different from this scale of dollars and cents, and must pay people for information, and for their services, although we have it in profit the first year after it is given.

Mr. CLARK. Mr. President, I desire to say a word or two on this bill, as I had occasion to examine the claim a year or two ago, and originally made the report which you have read to the Senate. I have been very glad to find that he was employed by Mr. Walker, then Secretary of the Treasury, in 1848, for a certain purpose to furnish information. Now, I understand that objectionable information was furnished, and communicated voluntarily on the part of the man, and that he is, therefore, not to be paid. Well, Mr. President, let us look at that position for a moment, and see whether that meets the case. Suppose that the man had furnished information from 1842 to 1849—supposing he came from New York to Washington and laid that information voluntarily before the Secretary of State—he would then be entitled to no compensation for coming here, and for the information he gave. He gets here, if the Secretary of State uses that information, and it becomes valuable to the Government, should he not be paid for it? I hold in my hand the certificate of that Secretary—Mr. Walker—that this information was valuable to him. He says:

"The facts stated in the body of the letter are correct, and the information and statistics furnished by Mr. Palmer, in connection with our commercial intercourse with Asia, were most valuable and important."

If we meet upon that point, that he came voluntarily to Washington from New York, and yet communicated valuable information to the Secretary of State, which was for the benefit of the Government, should we not pay him? Is it allowed that we should pay a man for his services here, before we pay him anything? We have had the benefit; we have had the product of his labor; now, why should he not be paid? If I go a little further in this memorial, if I come to the time when he was in the service of the Government, he says, in his memorial, that he completed a series of papers containing geographical descriptions of many oriental nations, enumerating, among them, the Empire of Japan. Now, what says Mr. Clayton? He says, "Mr. May, I have no objection."

"I only wish to say, as an act of justice to this gentleman, that, from all the information which I have had an opportunity of receiving heretofore in another position"—

That was when he was Secretary of State. That was the other position which Mr. Clayton held. Now, from all the information which he acquired in another position, that is, when he was Secretary of State, Mr. Clayton said:

"I believe he is entitled to more credit for getting up the Japan expedition than any other man I have heard of."

Mr. Palmer sets forth that he furnished information to Mr. Clayton. Years afterwards, in 1855, Mr. Clayton takes his memorial and thus substantiates it: he says "as an act of justice;" and he wants to say that Mr. Palmer had done more than any other man he ever heard of in regard to that expedition.

Now what shall we pay this man for these ser-

ties? He has done more than any other man that has been heard of, in regard to this matter. What shall we pay him? It does not appear by the Treasury books to have been worth anything at all. He has been paid \$20,000 for carrying out that expedition. Palm furnished more information than anybody else for it, and when it was successfully carried out, you paid \$20,000 for it. Then what shall we pay for the information that he furnished? It is not worth anything; we have got no good from it. Why not be as liberal to the man who furnished the information, or in part so; why not do something more generous for him than what you did for Commodore Perry? And we would like to pay for Commodore Perry; you gave him a large number of copies of his own work—two hundred and fifty copies. I am informed—as a compliment to him—that you gave him a copy of the report he pleased with them, I think he bestowed them among his friends. Why then should we not reward this man for his services and labor? But I do not rest there. I want to call the attention of the President to the fact that he has done the report and to the memorial. The report says:

"Mr. Palmer further represents that, in pursuance of certain resolutions, presented by Mr. Hastings, chairman of the Senate Committee on Commerce, and adopted by the Senate, on the 21st of February, 1850, calling on the Secretary of State for information respecting the barbarous treatment of shipwrecked American seamen in Japan; also, in regard to the independent oriental nations, and their emancipation from the present American commerce, he, as a member of the Senate, has been actively engaged, and employed by Mr. Clayton, Secretary of State, in preparing his answer to said resolutions, and that he was diligently employed for about three months in that business."²

He was employed by Mr. Clayton. Now, the objection is, that he was not employed. Gentlemen say it rests on the statement of Palmer alone that he was employed. I want to call attention to this point. Was he employed, or not, by Mr. Clayton in assist in preparing his answer to the resolutions? Here is Mr. Clayton's report, copied into this. Here is what Mr. Clayton himself said in regard to that. If you turn to the last page of the report, you will find, in Mr. Clayton's own language:

¹⁰ He claims compensation for nine months' services, in which he was necessarily detained during that year (1848) in the preparation of the map, and correcting the proofs of the usual, as well as extra, numbers of copies of said memoir ordered by the Senate; and also for four months' services in preparing a report, illustrated by a special chart, for the Secretary of State, under a resolution of the Senate of the 16th January, 1850.¹¹

Was that in the book that was to be published? A special chart was prepared by him for that report. Mr. Clayton concludes:

"In view of the highly meritorious and valuable services thus rendered by Mr. Palmer, and their important results in preparing the way for opening new markets in the East to our commerce, your committee have come to the conclusion that he is justly entitled to ——— thousand dollars, in compensation for such services and expenses; and they accordingly report a bill allowing the same, and recommend its passage."

"That is the report of Mr. Clayton himself, after Mr. Palmer had said he was employed. Is it not confirmation strong from Mr. Clayton's own mouth, that he was employed? And yet it is said we do not owe him anything. You had his services for a long time, and he was the confidential Secretary of State in this instance, and you have not paid him a dollar. But you say you have given him certain books. What was that in payment of this service? Now, why not pay the man what we owe him? Why delay it, and say that he is not entitled to it? He has been until he has grown old and tottering, before you acknowledge and pay him for his services, and then refuse to pay interest in the end? Mr. President, I have only to say that I think this claim eminently just, and the services here named are eminently deserving of reward for at a small sum. I hope the bill will pass.

Mr. PEARCE. Mr. President, I did not intend to say anything on the subject of this bill, and I have purposely forbore. I know Mr. Palmer. He is a very civil, obliging gentleman, and has seraped together a good deal of information on the subject of commerce, possible as well as actual commerce, with these oriental countries. But I have known something of these manuscripts which lie prepared many years ago, and I recollect very well that they were written in a very loose way, allow what comes to me to be misconceptions to pass unnoticed. I have before me the paper on the sun on this subject, and I do not know that I ought to

thority of which it is assumed that this gentleman came here to Washington by invitation of a high officer of the Government, in order to prepare information valuable and important to the Government. I had seen various little pamphlets of Mr. Palmer's, and I had seen a letter of his, in relation to the affair at Washington. It seems from this letter, which he has addressed to Mr. Walker, that in 1847, Mr. Walker being in New York, there was an interview between him and Mr. Palmer. Whether that interview was sought by Mr. Walker or whether it was allowed to him, I do not know; that it was, as hundreds of other interviews have been, sought by Mr. Palmer; and that after stating to Mr. Walker that he was preparing certain manuscripts on this subject, with a view to presenting them to the Government, Mr. Walker expressed a desire to examine them, and the Mr. Walker expressed an opinion that perhaps Mr. Palmer had better come on to Washington, and present the papers to the Government. This he did; and I am on the ground of the claim of Mr. Palmer that the Government had no right to the preparation of these papers for the Government.

The truth, and it is very well known by those who were in Congress at that time, that in 1850 Mr. Palmer, who supposed himself to possess peculiar information in regard to these subjects, was sent by the Government to make a diplomatic mission to these oriental islands and countries, I do not know which one, but somewhere; and that he was recommended to the Government for some such place. Doubtless, these islands were then in the hands of the United States, and he was sent to them, and he was intended to be presented to the Government, were intended to enforce his claims to such a mission, and to justify, as I dare say they very amply would have done, the Government in giving him such an appointment. But he never, however, gave him the appointment. Probably if they had we should never have heard of this claim.

All that Mr. Walker certifies to is that the information is valuable. It is interesting and valuable, I dare say, to some people. I have read some of it with a good deal of interest. Well, the Librarian of Congress is a member of the Senate from Maine [Mr. HAMLEN] were here, I should be very glad to know from him how it was that he happened to call for this information from the State Department? Doubtless he was solicited by Mr. Palmer himself, or if not, by some other member of the Senate. A number of members of the Senate who have been here a number of years, know very well how these things are got before the public, and how, afterwards, they become the foundation of a claim. I have seen several cases where papers have been prepared first for the Senate, and then afterwards, for reports, not made by an officer of the Government, but by a private individual, of which, finally, there is, by some contrivance or other, a deposit made in some of the Departments. Then a member of Congress is importuned to make a call on the Librarian of Congress. The Librarian then informs come here—and formerly it was, of course, printed by the Senate—and the next thing we hear is, that there is a claim for compensation. One case of that sort passed in the last Congress. I can find nothing about it, but I always thought it was exceedingly extraordinary. The Librarian, in the service of the Government ought not to be allowed to press their work upon us, and then obtain compensation for it. Possibly Mr. Palmer's manuscript or report, which came here first in the shape of a memorial, was once deposited before the Librarian of Congress, when I stated that, some years ago, were rather glad to get rid of it. The Library Committee of that day were very much averse to publishing books, or publishing anything, in short, but what might properly be called documents—such as the offer of the Government of the papers or another thing was going on. The committee on the subject; and finally, in 1850, Mr. Foote, of Mississippi, introduced his celebrated resolution upon which the great "battle of the books" took place between Mr. Benton and himself. The Librarian from North Carolina has correctly stated what took place upon that occasion and subsequently.

this claim will be urged in *exceles scelerum*; at all events, as long as Mr. Palmer here, I have no doubt; and if the gentleman who reported this bill would accept an amendment to pay \$1,000, I believe I should vote for it, as an economical disposition of the subject; but if it is claimed as a matter of right, I know too much about it to be able to vote for it.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BRAGG. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 16, as follows: YEAS—Messrs. Anthony, Benjamin, Bingham, Bright, Brown, Chandler, Clark, Colman, Crittenden, Durbin, Fessenden, Ford, Hattan, Prentiss, Rice, Seward, Sumner, Ten Eyck, Wade, and Wilkinson—20. NAYS—Messrs. Bangs, Clay, Fitch, Fitzpatrick, Grimes, Hammond, Hunter, Johnson of Tennessee, Nicholas, Pearce, Polk, Powell, Saulsbury, Sebastian, Sidel, and Tuley—16.

So the bill was passed.

ELI W. GOFF.

The next bill on the Calendar was the bill (S. No. 113) for the relief of Eli W. Goff. Mr. FOOT. I have a charge of that bill, and there are certain important papers that I omitted to bring with me; and I desire that it may lie over for the present.

There being no objection, the bill was passed over.

BLOCKER, DAVIS, AND GURLEY.

The bill (S. No. 114), for the relief of R. F. Blocker, E. J. Gurley, and J. F. Davis, was read a second time, and considered as in Committee of the Whole. It proposes to require the Secretary of War to pay to R. F. Blocker, E. J. Gurley, and J. F. Davis, the sum of \$1,000 in full for their claims against the United States for the professional services in defending Lieutenant Anderson and his detachment, who were arrested and tried for a criminal offense, alleged to have been committed while acting under orders of their commanding officer at Texas in 1854.

Mr. FESSENDEN. Let us hear the report read.

The Secretary read the report of the Committee on Military Affairs; from which it appears that on the 16th of April, 1854, Captain Richard H. Anderson, United States Army, received written instructions from Brexet Brainerd, General Harney, to proceed to Fort Gibson with a detachment of four non-commissioned officers and twelve privates and arrest Assistant Surgeon Josephus H. Steiner, of the medical corps, United States Army, and convey him to Austin for trial by court-martial, for mutiny and insubordination in killing Major R. A. Arnold, his superior officer. These written instructions stated "that H. P. Brewster, Esq., a gentleman of legal learning, would accompany him, and give such advice as the exigencies of the mission might require." But the report of Mr. Brewster's family so detained him that Captain Anderson went upon his mission without any legal adviser, and arrested Dr. Steiner, while he was chained by the sheriff of the county as his prisoner, under an indictment for the murder of Major Arnold. In returning to Austin with the prisoner in his custody, Captain Anderson yielded to the request of Dr. Steiner to pass Waco on his way, which is not on the most direct road from Fort Gibson to Austin; and while at Waco, Captain Anderson and his detachment were arrested by legal process under a charge of receiving the prisoner (Dr. Steiner) from the custody of the sheriff of Hill county. Captain Anderson was taken before a court of inquiry upon a charge the punishment of which was "hard labor in the penitentiary not less than one year and not more than two years." Under these circumstances, he employed the petitioners to defend him and his men, and advised his superior officer of what had been done. Captain Anderson was held to answer the charges; the men were discharged. The petitioners also defended Captain Anderson in the district court of Hill county, and the trial resulted in his acquittal. The claim for those services is regarded as reasonable and fair by several practicing attorneys, whose letter accompanies the petition.

Mr. FITZPATRICK. The facts are all fully set forth in the report which has been read. It is a case that occurred in Texas, and one of some notoriety. This man Steiner committed a homi-

cide on one of his superiors. The only difficulty in the allowance of the claim at the Department was, that the officer in charge diverged somewhat from the usual route directed by the Secretary of War, and therefore he did not consider himself bound to pay the account. It underwent the supervision of the committee on two occasions. The service was performed, and the difficulty was in ascertaining the compensation. The committee thought \$1,000 was sufficient, and were unanimous in recommending the payment of that sum.

The bill was reported to the Senate without amendment.

Mr. SIMMONS. I do not understand why so many law firms were employed in this matter.

Mr. FITZPATRICK. There were three counsel employed. There was a great deal of litigation, as the Senator would be by reading the testimony. Two of them we understand to be a firm, and there was one other gentleman employed. They claimed a much larger amount—\$5,000. We scaled it down to what we thought a reasonable rate.

Mr. SIMMONS. Has the committee allowed them the usual charges for such services?

Mr. FITZPATRICK. The usual charges customarily allowed by the Department in such cases.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

SHELDON McKNIGHT.

The Senate, as in Committee of the Whole, next proceeded to consider the bill (S. No. 30), for the relief of Sheldon McKnight. The bill was reported by the Postmaster General to pay to Sheldon McKnight, for carrying the United States mail from Cleveland, Ohio, and Detroit, Michigan, to Mackinaw, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan, the sum of \$100 per trip, for the year ending in 1854, and for the year ending in 1855, in all cases where it is shown to the satisfaction of the Postmaster General that the mail was carried by authority of the postmasters or agents of the Department, and without a contract with the Department, at an amount equal per trip to that now allowed by the Department for the same service, deducting therefrom the amount heretofore paid.

Mr. CRITTENDEN. I think bills ought to be passed with great caution which mention no other persons than the Senator who is advocating.

I should like to know of the chairman of the committee who reported the bill what is the amount. I think in all such bills the amount ought to be stated in order that Congress may know what they're doing. To say he shall be paid as much as has been allowed to anybody else for doing such a thing, without mentioning any amount at all, is not the way to legislate; and I am a little surprised that a bill in such an unsatisfactory form should be reported by so able a committee as that presided over by my friend from Florida, [Mr. Yulee]. We know the bill is not worth anything.

Mr. YULEE. I am sorry not to deserve in this case the compliment of having given any particular attention to the case. It was reported directly by my friend from Florida. I am not informed sufficiently of the facts to be able to answer the inquiries, as to the relation to it, beyond what the report may show. The Senator from New Hampshire, [Mr. Hale], who is a member of the committee, and who is not now in his seat, examined the case and made the report, as I was informed, accompanied by the bill which has just now been read. The report, I presume, contains a statement of the facts. Beyond that, I can say nothing, as I have not particularly given my attention to the case.

Mr. SIMMONS. Perhaps the bill had better be laid by until the Senator from New Hampshire is present.

Mr. RICE. I gave, at the last session, a good deal of attention to this claim. At the present session it was referred to another member of the committee. Mr. McKnight has carried the mail from Detroit through to the head of Lake Superior. I do not know for how long he has carried the distance for the round trip is two thousand miles. He carried the mail at the request and by authority of the postmasters upon the route. I am not enabled to explain to the Senate why a contract was not made by the Department with him for the service; but I know the papers show that he performed the service and that he did it in accordance with the request of the postmasters, and of the

special agents of the Department. I know the testimony shows that he received no compensation for that service. I know, furthermore, that when the present Postmaster General came into power, he at once promptly entered into a contract with Mr. McKnight, making it a permanent contract, and allowing him \$100 for the round trip.

Now, let me state to the Senate that the round trip embraces two thousand miles for \$100—the cheapest service performed on this earth, and the most dangerous service. Not only has he carried the mails there since the completion of the canal at the Sault Ste. Marie, but prior to that he constructed a railroad connecting the lower lakes with Lake Superior, at his own private expense, over which he transported the mails. He and two other gentlemen carried all these mails in his boat and two others, and accommodated a population of fifty thousand people; and no other fifty thousand upon this continent have contributed so much to the resources of the country as the fifty thousand supplied by the mails in the basin of Lake Superior; and no other fifty thousand people have received so small a benefit from the Government as they.

I admit I cannot understand why it was that the powers that were did not make a contract directly with Mr. McKnight; but the evidence before the committee was positive that this gentleman had carried the mails. He carried them upon contracts made with the postmasters upon the route, and upon contracts with the several agents of the Department; but why the contracts were never perfected here, I do not understand. When the present Postmaster General came into office he very promptly stepped forward and said it was a cheap service, and entered into a contract for the future. Now all that Mr. McKnight asks is, that he should be paid the same for carrying the mails under contract with the postmasters that he is allowed by the Postmaster General; and when you take into consideration that these boats, the most magnificent boats that float on our waters, make only twelve or thirteen round trips in the year, and that each round trip is two thousand miles, and the service is done for \$100 a trip, let us give the amount now allowed by the Department. They ask no more than the Department admits they are entitled to.

Mr. WADSWORTH. This claim is of a similar character to one that was passed at the last Congress. That was the claim of Captain Turner, who I believe carried the mails at the same time and to the same extent.

Mr. RICE. There were three boats engaged. Mr. WADSWORTH. Captain Turner's claim was lowered. I investigated that claim at the time very fairly. It came before the Senate, and the bill then passed. Although I did not investigate this particular claim, I could not fail to see that McKnight stood on precisely the same ground, that it was a cheap service, and that the Government would recognize what they had done, and pay them for it. I believe the Department in that case supposed that the services were rendered at a low and cheap rate, in comparison to what they had contracted for in other cases; and the claim was adjusted and paid. I think, to the amount of some twenty thousand dollars. This, standing on the same ground, it seems to me, ought to fare the same way. That is all I have to say about it. I do not wish to go into particulars, but I think the bill is a fair one.

Mr. YULEE. I find, on looking at the bill, that it contains such a limitation as the Senator from Kentucky requires. Although the amount is not named to which the claim shall be limited, the Postmaster General is limited to the amount which he is now paying for the same service on proof that the service was performed.

Mr. CHANDLER. That is it.

Mr. BINGHAM. I want to say one word. This bill passed the Senate, under the supervision of my friend from Florida, [Mr. Sumner, twice]; and it also passed the House of Representatives last year, but did not get the approval of the President. The next bill to it is similar.

Mr. CRITTENDEN. I hope it is the last bill of the sort that will be passed. It is an exceedingly inequitable sort of legislation, and one that I think does very little credit to our prudence or our proceedings in the work of legislation. You do not know, from the face of the bill, what you are voting for; you are voting for an indefinite number of trips, an indefinite service supposed to be performed by a man, and voting that he shall be paid for it according to a certain criterion. You know nothing you do not know the sum of money you are voting away; you do not know what the service performed; you do not know the criterion according to which it is to be calculated. I think the committee ought to take the bill back, and report one which shall enable us to know what we are paying. No excuses, I do not intend to be scrupulous about it.

Mr. RICE. I will state to my honorable friend from Kentucky that there were but three claims of this kind. One has already been paid; the other has passed this body twice and the House once; the third one is now pending. The parties carried these mails in accordance with contracts made by the postmasters upon the routes, and by the special agents of the Department, and the Department has of itself approved of them by stipulating and agreeing upon the rate of service. \$100 a trip; but the Department has not the power to make the contract apply to the past, but only to the future. They merely ask to be paid for the past the amount that the Department says it is right should be paid for the future. This claim and one other are all that are for that service. I believe I scrutinize these matters about as closely as almost any one, and I am opposed to claims that are vague and indefinite; but I do think that these are just. I think I may say I know they are just; and when I say to the Senate that the commerce that has passed the South Sea, Marie canal for the last year, by official statements from the State of Michigan, amounted to \$100,000,000, and that this is every dollar that has been paid or is to be paid for mail service there, the Senate must be satisfied that it is a very small amount.

Mr. POLK. I should like to know if the chairman of the Post Office Committee or any member of the Senate can state how much this will amount to. I should like to know, as well as the Senator from Kentucky, what it will be.

Mr. CHANDLER. I do not know the precise amount, but the boat makes about twelve trips a year. It amounts to \$1,200 a year.

Mr. POLK. How many years is the claim for?

Mr. CHANDLER. I think four or five years, but I am not sure.

Mr. CRITTENDEN. Seven or eight.

Mr. CHANDLER. It may be six or seven or eight years. It is a very small sum.

Mr. BRIGHT. I have not heard this bill read, but I know all about the service. If the bill is framed in such a way as to pay to this claimant the same amount that was paid to the owners of the North Star, by Mr. Turner's bill that passed two years ago, it is right that it should be paid.

Mr. RICE and Mr. BINGHAM. It is just the same.

Mr. BRIGHT. That case was very carefully examined. I was a member of the Post Office Committee myself, and examined it, as I have examined this case. The only difficulty with these parties was, that they had no contract for the service; but they performed the service with the assurance that they should be paid a reasonable compensation. Congress, the session before last, declared what that compensation was in Mr. Turner's case. This bill, I suppose, is framed on the principle of allowing them the same amount. ["Exactly."] It is right, and ought to be paid.

Mr. BINGHAM. The objection which the Senator from Kentucky makes to this bill struck me upon reading it, and I have sent an amendment to the Secretary of the Department, asking him to have reported. The objection I have to the bill as it reads is, that it makes it the duty of the Department to give this party a fixed sum, equal to that now paid for carrying the same mail. We do not know whether the mail, during the time that this person claims to have carried without contract, was carried in the same way as often under the same responsibilities as it is now carried; and I propose to amend the bill so as to leave

the discretion to the Postmaster General for the payment of the service that was rendered not under contract, not to exceed in any case the sum now paid, to be diminished if he thinks the service formerly done was not equal to the service now done, and ask the Secretary to read the amendment; and with that amendment I can vote for the bill.

The Secretary read the amendment, which is, from line fifteen to strike out to the end of the bill, in the following words:

"An amount equal per trip to that now allowed by the Department for the same service, deducting therefrom the amount heretofore paid."

And to insert in lieu thereof:

"Such compensation as the said Postmaster General may find to be just and equitable; in no event to exceed that now allowed for the same service, deducting therefrom the amount heretofore paid."

Mr. RICE. I do not understand the amendment. The Postmaster General has stated that \$100 a trip was just and equitable.

Mr. BINGHAM. For the former service?

Mr. RICE. Yes, sir; and for the present service it is precisely the same. I will ask my honorable friend from Louisiana, suppose the Postmaster General should take, as a criterion, the amount paid in his State, or the amount paid for ocean service; could he not run up to two or three thousand dollars a trip?

Mr. BINGHAM. The Senator certainly does not understand the amendment. The bill, as reported, makes it imperative on the Postmaster General to pay as much as he now pays—makes that the criterion.

Mr. RICE. Yes; \$100 for two thousand miles of service.

Mr. BINGHAM. Very well. Now, it may happen that the Postmaster General may know very good reasons, which we do not know, why there should not be as much allowed. He has got that party now bound down. He is obliged to take the bill at the particular times and periods pointed out, and under the regulations of the Department. Formerly, it was a voluntary service; one at the request of agents, as they might happen to be—

Mr. RICE. Not voluntary, I will say to the Senator from Louisiana.

Mr. BINGHAM. I leave that consideration out. Now, the proposition I have made is this: the Postmaster General shall have some discretion as to how much he shall pay; but he shall not go beyond the present price. That is what my amendment does, and I think the present price is too much, if he does not think it ought to be \$100 a trip, he ought to diminish the amount.

Mr. RICE. The past service was the same as the present service precisely. The Postmaster General made a contract to commence the last season at \$100 a trip for two thousand miles of the most dangerous service that is performed in the United States, and the cheapest service upon the face of the earth. Why leave this discretionary with him? I do not understand the object of it. Suppose you pay twenty-five dollars a round trip, or fifty dollars, why put these men, after having laid out their pay for so long a time, at the discretion of any one, when they come here and ask Congress to settle the matter? I do not know of any other case in which it is done.

Mr. BINGHAM. It is the commonest thing in the world.

Mr. RICE. Well, I will accept the amendment of the Senator of Louisiana, provided he will leave it at the discretion of the Postmaster General to pay whatever he deems proper, not limiting it at all.

Mr. BINGHAM. Not exceeding the present contract.

Mr. RICE. Why put that in? Let it be with him to decide, and let these gentlemen bring before him evidence of the expense they have incurred. They have been brave men, and have been the very lowest grade, because we, in that country, have been unfortunate in this regard. There is no service in the Senator's country for one fourth the distance where double the amount has not been paid.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RETURN OF BILLS TO THE HOUSE.

A message was received from the House of

Representatives, by Mr. FORNEY, its Clerk, requesting the Senate to return to the House the bill (No. 246) entitled "An act for the relief of the heirs of Major John Ripley;" and the bill (No. 247) entitled "An act for the relief of the legal representatives of Francis Chaudon."

On motion of Mr. BROWN, the Secretary was directed to return these bills to the House of Representatives.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 27th instant, an act (H. R. No. 235) to establish mail routes in the Territory of Kansas; on the 28th instant, a joint resolution (H. R. No. 21) for the relief of the contractors of the Post Office Department; and on the 29th instant, an act (H. R. No. 216) making appropriations for fulfilling treaty stipulations with the Ponies in the State of Oregon and Territory of Washington, for the year ending June 30, 1860.

ARTHUR EDWARDS.

Mr. TRUMBULL. The bill No. 221 upon the Calendar is precisely the same as the bill we have just passed for Mr. McKnight, except in the names of the parties and that the mail was carried from Chicago, instead of Cleveland and Detroit. It is a bill of the same character, and the Senate have had a discussion on this, I move that we act on that bill at this time.

Mr. CRITTENDEN. I object to taking up anything out of its order.

The PRESIDENT OFFICER. (Mr. BAERW in the chair.) The question is on the motion of the Senator from Illinois to take up the bill No. 221.

Mr. CRITTENDEN. I object to taking up anything out of its order.

Mr. TRUMBULL. The two cases are the same in principle; the report is the same; we have just discussed one, and it will take but a moment to dispose of it.

Mr. FITCH. So is the very next bill on the Calendar.

Mr. TRUMBULL. I do not care which of them you take first.

Mr. FITCH. There are three.

Mr. TRUMBULL. Well, I will consent to taking up the next bill.

The PRESIDENT OFFICER. In Committee of the Whole, proceeded to consider the bill (S. No. 59) for the relief of Arthur Edwards and his associates. It proposes to direct the Postmaster General to audit and settle the account of Arthur Edwards and his associates, for transporting the United States through mail, from the years 1849 and 1853, and intervening years, to and from Cleveland and Detroit, to and from Sandusky and Detroit, and to and from Toledo and Detroit, and to allow and pay them not less than \$25 60 for each and every passage of their steamers between those places, during that time, when the mails were on board.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

A. S. SPENCER AND G. S. HUBBARD.

Mr. TRUMBULL. I trust now the Senate will suffer that other bill, which is for precisely the same service, supplying the same office, carried by a different route, taken up and acted upon. It is the Senate bill No. 221. I move to take it up.

The motion was agreed to; and the bill (S. No. 221) for the relief of A. T. Spencer and Gurdon S. Hubbard was read a second time, and considered as in Committee of the Whole. It proposes to direct the Postmaster General to pay to A. T. Spencer and Gurdon S. Hubbard, for carrying the United States mail from Chicago, Illinois, to Mackinack, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan, and La Pointe and Superior, Wisconsin, during the years from 1854 to 1859, inclusive, in all cases where it is shown to the satisfaction of the Postmaster General that the mail was carried by authority of the postmaster in agency of the Post Office Department, and without a contract with the Department, an amount equal per trip to that allowed by the Department, under contract last season, to the owners of the

steamers North Star and Illinois, performing similar trips between Detroit, Michigan, and the same ports upon Lake Superior.

Mr. SIMMONS. I should like to inquire what amount is now paid for the service of these steamers.

Mr. CHANDLER. It is the same as in the other cases.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BRIGHT. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Friday, March 30, 1860.

The House met at twelve o'clock, Mr. Fryer by the Chaplain, Rev. THOMAS H. STOCKTON.
The Journal of yesterday was read and approved.

NEW YORK LETTER CARRIERS.

The SPEAKER, by unanimous consent, laid before the House a communication from Acting Postmaster General King, transmitting, in compliance with a resolution of the House, a statement prepared in the Auditor's office, showing the number of persons employed in delivering and collecting letters in the city of New York in connection with the post office in that city, and the amount paid to each, for the year ending June 30, 1859; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

REPRESENTATIVES OF CHARLES PORTERFIELD.

The SPEAKER stated the first business in order to be the question on the passage of a bill (H. R. No. 245) for the relief of the legal representatives of Charles Porterfield, deceased, reported from the Committee of the Whole House on Friday last.

Mr. HARRIS, of Virginia. That bill was before the House on Friday last, and was then discussed in a hasty manner; as I have, however, as I think necessary, as it is a matter of some rather than of substance that we are asking at the hands of the House. The bill did not pass then for the want of a quorum. Believing that no further discussion is necessary, I move the previous question.

Mr. NOELL. The previous question was ordered on this bill last Friday.

The SPEAKER. Yes, sir; and the question is now on the passage of the bill.

The bill was passed.
Mr. HARRIS, of Virginia, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HEIRS OF MAJOR JOHN RIPLEY.

The SPEAKER announced as the next business in order, the question on ordering a bill (H. R. No. 246) for the relief of the heirs of Major John Ripley, reported from the Committee of the Whole House on Friday last, to be engrossed and read a third time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

REPRESENTATIVES OF FRANCIS CHAUDONET.

The SPEAKER stated as the next business in order, the question on ordering a bill (H. R. No. 247) for the relief of the legal representatives of Francis Chaudonet, reported on Friday last from the Committee of the Whole House, to be engrossed and read a third time.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

JANE B. EVANS.

The next business in order was the question on ordering to be engrossed and read a third time a bill (H. R. No. 471) for the relief of Jane B. Evans, reported on Friday last from the Committee on Patents and the Patent Office.

Mr. WHITELEY. That bill was reported from the Committee on Patents unanimously. It was in charge of the gentleman from Connecticut, [Mr. BURNHAM], who is not now in his seat.

Mr. WASHBURN, of Illinois. What bill is that?

Mr. WHITELEY. The bill for the relief of Jane B. Evans.

Mr. WASHBURN, of Illinois. Has it been reported to the House?

The SPEAKER. It was reported to the House last Friday.

Mr. WASHBURN, of Illinois. I shall object to the passage of that bill.

The SPEAKER. The pending question is upon the engrossment of the bill.

Mr. WASHBURN, of Illinois. The previous question, I believe, has not been demanded.

The SPEAKER. The gentleman from Delaware is entitled to the floor.

Mr. WHITELEY. I then call the previous question.

Mr. WASHBURN, of Illinois. I hope the previous question will not be acceded. I am sure, if the House understood the bill, they would not pass it.

Mr. WHITELEY. I think they would pass it. No debate, however, is in order.

Mr. PHELPS. I desire to know how this bill came before the House.

Mr. WHITELEY. It was reported from the Committee on Patents.

Mr. PHELPS. Then it has never been before the Committee of the Whole House?

The SPEAKER. It has not.

Mr. PHELPS. Unless it can be sent to a Committee of the Whole House, I shall move to lay the bill on the table.

Mr. WASHBURN, of Illinois. I call for the reading of the bill.

The bill was read.

Mr. WHITELEY. I call for the reading of the report.

A MEMBER. No debate is in order. I object.

Mr. PHELPS. I certainly think this bill ought to be considered in Committee of the Whole House. If it is allowed to go there, I will not make any motion to lay it on the table.

Mr. WASHBURN, of Illinois. I think the gentleman who has charge of the bill ought to send it there.

Mr. TAPPAN. I hope not. This is a bill which ought to pass. I ask that the previous question may be acceded, and the bill be passed.

Mr. PHELPS. I move to lay the bill on the table.

Mr. FLORENCE called for tellers.

Tellers were ordered; and Messrs. THOMAS, and KELLOGG of Illinois, appointed.

Mr. PHELPS. If the gentleman who has charge of this bill is willing that it be referred to a Committee of the Whole House, I will withdraw my motion to lay on the table.

Mr. WHITELEY. Very well; let it go there.

Mr. PHELPS. I withdraw the motion.

The bill was then referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REVOLUTIONARY CLAIMS.

Mr. FENTON. I wish to enter a motion to reconsider the vote by which the bill (H. R. No. 13) to provide for the settlement of the claims of the officers and soldiers of the revolutionary army, and of the widows and children of those who died in the service, was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

The motion was entered.

HOMESTEAD BILL.

Mr. GROW. I wish to enter a motion to reconsider the vote by which House bill No. 23, to secure homesteads to actual settlers on the public domain, was referred to the Committee of the Whole on the state of the Union.

The motion was entered.

JOHN V. DOBNEY.

Mr. WASHBURN, of Maine, from the Committee of Ways and Means, reported back a bill (H. R. No. 286) for the relief of John V. Dobney, and moved that it be referred to the Committee on Naval Affairs.

The motion was agreed to.

HALL NELSON.

Mr. MAYNARD, from the Committee of Claims, reported a bill for the relief of Hall Nelson; which was read a first and second time, re-

ferred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSEPH C. G. KENNEDY.

Mr. MAYNARD, from the same committee, also reported a bill for the relief of Joseph C. G. Kennedy; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HENRY MILLER & CO.

Mr. TAPPAN, from the same committee, made an adverse report in the case of Henry Miller & Co.; which was laid on the table, and ordered to be printed.

HIRAM HUMPHREYS.

Mr. TAPPAN, from the same committee, also made an adverse report in the case of Hiram Humphreys; which was laid on the table, and ordered to be printed.

OUADALUPE ESTUDILLO DE ARGUELLO.

Mr. HUTCHINS, from the Committee on the Post Office and Post Roads, reported back Senate bill (No. 117) for the relief of Guadalupe Estudillo de Arguello, widow of Santiago E. Arguello, with the recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. COBB. Mr. Speaker, I have a small bill here, which I am directed by the Committee on Public Lands to report to the House; but I am afraid there will be some who will object that it is not strictly in order upon this day. It is a public measure.

Objection was made.

HOCKADAY & LEGGETT.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported a bill for the relief of Hockaday & Leggett; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAMUEL S. GREEN.

Mr. ALLEY, from the same committee, also reported a bill for the relief of Samuel S. Green; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SPENCER AND HERBARD.

Mr. HELMICK, from the same committee, reported a bill for the relief of A. T. Spencer and Gordon S. Hubbard; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ROBERT DOUGLASS.

Mr. HELMICK, from the same committee, also reported a bill for the relief of Robert Douglass, survivor of Douglass & Beman; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

GEORGE F. MEANS.

Mr. HELMICK, from the same committee, also reported a bill for the relief of George F. Means; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAMUEL H. WOODSON.

Mr. CRAIG, of Missouri. I am directed by the Committee on the Post Office and Post Roads to report a bill for the relief of Samuel H. Woodson.

The bill was read a first and second time.

Mr. CRAIG, of Missouri. I ask that the bill be read through. It occupies but three lines. If I get the consent of the House, I will move that it be put on its passage.

The bill was read through. It authorizes the Postmaster General to reopen and readjust the accounts of Samuel H. Woodson, late mail contractor on route No. 4965.

Mr. CRAIG, of Missouri. The bill makes no appropriation. Colonel Woodson's accounts were settled under a late Postmaster General, and the present Postmaster General holds that under the

law he has no right to look into the accounts. Mr. Woodson is charged with losing two sacks of public documents, and he is able at this time to explain their loss satisfactorily.

Mr. CRAWFORD. Is there any report accompanying the bill?

The SPEAKER. There is not.

Mr. CRAIG, of Missouri. I have a written report, but I left it upon my table at my room.

Mr. CRAWFORD. Does not the bill provide for the payment of some money to Colonel Woodson?

Mr. CRAIG, of Missouri. If the gentleman will listen for a moment, I will explain the whole matter. Colonel Woodson was a mail contractor under the late Postmaster General. He was reported by some postmaster out West for having lost two sacks of public documents belonging to the Delegate from Utah. Before he had an opportunity to explain the loss, his accounts were settled. The late Postmaster General having gone out of office, the present Postmaster General says that, under the law, he cannot reopen Colonel Woodson's accounts. Colonel Woodson is now prepared to make an explanation of the loss of these books.

The bill does not make an appropriation, but merely authorizes the Postmaster General to hear the explanation that Colonel Woodson has to make.

Mr. CRAWFORD. Does it not authorize the payment of money?

Mr. CRAIG, of Missouri. Two thousand dollars of Colonel Woodson's pay was withheld as a stoppage, as it is called, for the loss of these two sacks of public documents. He neglected, during the time of the late Postmaster General, to make his excuse; but he is ready to make it at this time. But the present Postmaster General tells us that the law requires him to leave untouched the accounts adjusted and settled under his predecessors. He is willing to hear what excuse Colonel Woodson has to make, but he cannot do so under the law.

Mr. CRAWFORD. The bill be again read.

The bill was again read.

Mr. CRAWFORD. Was not this claim rejected by the last House of Representatives?

Mr. CRAIG, of Missouri. No, sir.

Mr. CRAWFORD. I am under the impression that this bill was defeated at the last session.

Mr. CRAIG, of Missouri. The Committee on the Post Office and Post Roads, at the last session, unanimously authorized me to report a bill for the relief of Samuel H. Woodson. I presented the bill to the House; but it was not passed, because, being taken up on objection day, the single objection of a gentleman from Pennsylvania prevented its passage. I did not get the floor afterwards during that session.

Mr. BURNETT. I desire the gentleman from Missouri to tell the House whether he has any statement from the Post Office Department showing that this House ought to consider and pass this bill?

Mr. CRAIG, of Missouri. I have a verbal statement from the clerk who acted upon the accounts of Colonel Woodson.

Mr. TAPPAN. As this bill is likely to lead to discussion, I call for the regular order of business.

Mr. CRAIG, of Missouri. I will not lead to discussion. I will only say one word in reply to the gentleman from Kentucky. The officer who informed upon Colonel Woodson's account has informed me, in conversation, that if he had understood the case at the time as he now understands it, he would not have acted as he did. It is a manifestly just bill, and ought to pass. I believe I could get a letter from that officer in five minutes.

Mr. HATTON. The statement of the gentleman from Missouri is amply sufficient and satisfactory.

Mr. HOUSTON. If the gentleman from Missouri will get a report from the Post Office Department on the subject, withdrawing the bill for the time for that purpose, I will make no objection to the bill. It seems to me that a bill directing the Post Office Department to reopen and readjust accounts like this one of Colonel Woodson, carries with it an implied direction to the Department that the account shall be readjusted, upon the principles set up by the party himself. There is no report, and no communication from the Department on the subject. I am not familiar enough

with the laws regulating the Post Office Department, and the conduct of mail carriers, to say upon what law or laws the Postmaster General directs \$2,000 for the loss of two bags of public documents. I cannot inform the House why he deducts \$1,000 a bag.

Mr. TAPPAN. I call for the regular order of business.

The SPEAKER. This is the regular order of business, and the question is upon ordering the bill to be engrossed and read a third time.

Mr. BURNETT. I move to refer the bill to a Committee of the Whole House on the Private Calendar.

The motion was agreed to.

HARVEY ALLEN.

Mr. ADAMS, of Kentucky, from the Committee on the Post Office and Post Roads, reported a bill for the relief of Harvey Allen, of Wisconsin; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

METROPOLITAN GAS LIGHT COMPANY.

Mr. CARTER, from the Committee for the District of Columbia, reported a bill for the incorporation of the Metropolitan Gas Light Company.

Mr. BARR. That is not a private bill, and I object.

GROUCH FOR PUBLIC SCHOOLS.

Mr. CARTER, from the same committee, also reported a bill directing the conveyance of a lot of ground for the use of public schools in the city of Washington; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

EAST WASHINGTON LIBRARY ASSOCIATION.

Mr. CARTER, from the same committee, also reported a bill to incorporate the East Washington Library Association.

Mr. ASHMORE. These are not private bills, and I object to them.

Mr. CARTER. Does the Speaker decide that this is not a private bill?

The SPEAKER. He does not. If it refers to a private corporation, it is a private bill.

The bill was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

METROPOLITAN GAS LIGHT COMPANY—AGAIN.

Mr. CARTER. I now report the bill for incorporating the Metropolitan Gas Light Company in the District of Columbia.

Mr. FLORENCE. That is a public bill, though the corporation may, in the estimation of the Speaker, be private; and I have no doubt it is, judging from the price they charge for gas.

The SPEAKER. The Chair decides that it is a private bill.

The bill was then read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

GERMAN BENEVOLENT SOCIETY.

Mr. EDGERTON. I am instructed, by the Committee for the District of Columbia to report a bill extending the charter incorporating the German Benevolent Society of the city of Washington, in the District of Columbia, approved July 27, 1842; and to ask that the same be put upon the calendar.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EDGERTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN RIPLEY'S HEIRS.

Mr. BURNETT. I desire to have entered a motion to reconsider the vote by which the several bills for the relief of the heirs of Major John Ripley, and of the legal representatives of Francis Chaudon, were passed this morning.

The motion was entered.

SHREVE & CARTER.

Mr. BARRETT. I move that the Commit-

tee of the Whole House be discharged from the further consideration of the adverse report of the Committee on the Claims, upon the petition of Lydia R. Shreve and Walker R. Carter, administrators of Henry M. Shreve, and that the same be referred to the Committee of Claims.

The motion was agreed to.

Mr. HOUSTON. In reference to these adverse reports of the Court of Claims, I would like to know what the House will do upon the decision of the Court of Claims accompanies the case.

The SPEAKER. All the papers in the case go with the reference.

Mr. HOUSTON. I find occasionally upon the Calendar claims reported favorably by the committee, which have been adversely reported upon by the Court of Claims, while only the action of the committee is cited on the Calendar; so that those of us who do not act specially upon the case in the committee, are not advised of all the facts.

Therefore, I desire that the rendition of the court shall follow the case, so that the whole action upon it may go with it to the committee.

Mr. FLORENCE. There are often errors in the Calendar. It often happens that there is equity in a claim, and the court so report, and their report comes before an adverse report, while it is in no way an adverse report. Therefore, it is proper that all the papers coming from the court should follow the case.

The SPEAKER. The Chair would state to the gentleman from Alabama that he supposes that all the papers in the case should be printed.

ROSS WILKINS AND OTHERS.

Mr. HICKMAN, from the Committee on the Judiciary, reported back, with a recommendation that it do not pass, an act (S. No. 66) to authorize and direct the settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley; which was laid on the table.

SIEUR DE BONNE AND OTHERS.

Mr. HICKMAN, from the same committee, also reported back, with a recommendation that it do pass, an act (S. No. 92) authorizing the court to adjudicate the claim of the legal representatives of James de Bonne and Sieur de Chavaler de Repentigny to certain lands at Sault Ste. Marie, in the State of Michigan; which was referred to a Committee of the Whole House, and ordered to be printed.

ELIZABETH M. COCKE.

Mr. KELLOGG, of Illinois, from the same committee, reported back, with an amendment, an act (S. No. 81) for the relief of Elizabeth M. Cocke, widow of James H. Cocke, late marshal of the district of Texas.

The bill which was read, after reciting that the United States, on the 29th of April, 1857, recovered judgment against Elizabeth M. Cocke, late marshal, of James H. Cocke, late marshal, and his surties, before the district court for the eastern district of Texas, for the sum of \$2,041 93, and it being made to appear that it would be just and equitable that the collection of the judgment should not at this time be enforced, directs that no execution be issued for the amount of the principal and interest due on said judgment shall be issued, and that the same be suspended until sufficient time be allowed under the laws and according to the usual form of legal proceedings in Texas for the administratrix to prosecute to a final judgment a suit against James H. Cocke, deputy marshal of James H. Cocke, who received and embezzled the money for which said judgment in favor of the United States vs. Elizabeth M. Cocke, administratrix, was rendered.

The following is the amendment reported by the Committee on the Judiciary:

Strike out all after the enacting clause, and insert as follows:

That the Secretary of the Treasury be, and hereby is, authorized to stay the issuance of execution on said judgment for such time as in his opinion will enable said administratrix to prosecute to final judgment a suit against James H. Cocke, deputy marshal of James H. Cocke, who received and embezzled the money for which said judgment in favor of the United States vs. Elizabeth M. Cocke, administratrix, was rendered; provided, however, That before such stay of execution shall be granted, the Secretary of the Treasury shall cause to be shown thereon the records of the court in which said judgment was rendered.

The amendment was agreed to.

The bill was read the third time, and passed.

Mr. KELLOGG, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHANGE OF REFERENCE.

Mr. PARROTTE. I see that the bill (H. R. No. 260) to enable the trustees of the Blue Mound College to preempt a certain quarter section of land, and for other purposes, which was reported from the Committee on Public Lands, is entered on the Calendar as having been referred to the Committee of the Whole on the state of the Union. I ask that it be referred to a Committee of the Whole House.

It was so ordered.

UNITED STATES AGRICULTURAL SOCIETY.

Mr. BURNETT. I call up the bill (H. R. No. 213) to incorporate the United States Agricultural Society. It was reported from the Committee for the District of Columbia, and has been read three times.

The bill was taken up.

Mr. BURNETT. I desire to say to the House that this bill is a simple act of incorporation. When I reported it back from the Committee for the District of Columbia, some gentlemen desired time to examine it. It was reported back on the 7th of this month, and has been printed. I merely confer on this agricultural society the ordinary powers of a corporation within and for the District of Columbia. It gives to Congress the power to alter, amend, or change the act of incorporation at any time. It accedes to me that there can be no objection to the passage of the bill. I therefore move the previous question on its passage.

Mr. FLORENCE. Has the morning hour expired?

The SPEAKER. It has not.

Mr. FLORENCE. Then how did the gentleman from Kentucky get the floor?

The SPEAKER. He calls up a bill which he reported.

Mr. FLORENCE. Is it a private bill?

Mr. BURNETT. No, sir.

Mr. FLORENCE. Then I would like to know how the gentleman gets an opportunity to call it up? I do not know that I will object if it does not lead to debate. I have examined the act, and am ready to vote for it.

Mr. BURNETT. I ask the previous question on the passage of the bill.

Mr. MORRIS, of Illinois. I would like to ask the gentleman from Kentucky a question.

Mr. BURNETT. I will answer any question the gentleman may desire to propound.

Mr. MORRIS, of Illinois. I ask the gentleman what reason there is for the organization of a society of this character in the District of Columbia? Will it carry on the business of agriculture here?

Mr. BURNETT. It would require some time to answer that question, if I were to cover the whole ground. It does seem to me that the necessity for agricultural societies in every portion of the country will be apparent to every sensible man who thinks of it for a moment.

Mr. MORRIS, of Illinois. I move to lay the bill on the table.

The motion was not agreed to.

The previous question was seconded, and the main question ordered; and under the operation thereof, the bill was passed.

Mr. BURNETT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

J. R. CRUMP.

Mr. HUTCHINS, from the Committee of Claims, reported a bill for the relief of J. R. Crump; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

LIEUTENANT JAMES TAYLOR'S HEIRS.

Mr. DUELL, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Lieutenant James Taylor, of the Virginia State line; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

GEORGE G. DUNHAM.

Mr. ALDRICH, from the Committee on Indian Affairs, reported a bill for the relief of George G. Dunham; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

JULIUS MARTIN.

Mr. BUFFINTON, from the Committee on Military Affairs, reported a bill for the relief of Julius Martin; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

MRS. AGATHA O'BRIEN.

Mr. BUFFINTON, from the same committee, also reported a bill, with a recommendation that it do pass, a bill (S. No. 269) for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. P. J. O'Brien, late of the United States Army; which was referred to a Committee of the Whole House, and ordered to be printed.

HORSES LOST IN MILITARY SERVICE.

Mr. McRAE, from the same committee, made an adverse report on the bill to provide for the payment for horses lost in the military service of the United States; which was laid on the table.

SAMUEL H. ELLIOTT.

Mr. WINSLOW, from the Committee on Indian Affairs, made an adverse report on the memorial of Samuel H. Elliott; which was laid on the table, and ordered to be printed.

JOSHUA DUELL.

Mr. WASHBURN, of Wisconsin, from the Committee on Private Land Claims, reported back the memorial of Joshua Duell, and asked that it be referred to the Committee on Revolutionary Claims.

It was so ordered.

WOOD, KIRKLAND, AND OTHERS.

Mr. MORRIS, of Pennsylvania, from the Committee on Foreign Affairs, made a report on the memorial of Samuel S. Wood, William B. Kirkland, and others; which was laid on the table, and ordered to be printed.

Mr. BARKSDALE. I desire to say that I regret very much that that report has been made. I supposed that it would not be acted upon until a regular meeting of the Committee on Foreign Affairs. I understand that the meeting this morning was very thinly attended. I had no idea, as one member of the committee, that the subject would be acted on to-day; and my object now is to state to the House that I regret exceedingly that the gentleman from Pennsylvania has made the report, particularly as some of us who felt an interest in it did not happen to be present at the meeting of the committee when it was authorized.

Mr. MORRIS, of Pennsylvania. I regret that the gentleman from Mississippi was not present at the meeting of the committee. This subject has been frequently under discussion in the committee, and they authorized me this morning, if I could do so before the next meeting of the committee, to make the report; and, acting under the authority of the committee, I have made the report.

Mr. BARKSDALE. I do not deny the authority of the gentleman from Pennsylvania to make the report. I merely desire to say that I regret that the report has been made under the circumstances.

BEDA HAYES.

Mr. POTTER, from the Committee on Revolutionary Pensions, reported a bill for the relief of Beda Hayes; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

CHANGES OF REFERENCE.

On motion of Mr. POTTER, the Committee on Revolutionary Pensions was discharged from the further consideration of the following petitions, and they were referred as indicated below:

The petition of citizens of the State of Kentucky, praying for the allowance of bounty land to Wendell Trout—to the Committee on Private Land Claims.

The petitions of the heirs of William Emmons;

of the heirs of Captain Richard Jones; and of Jimena Christian—to the Committee on Revolutionary Claims.

ABNER MERRILL.

Mr. FENTON, from the Committee on Invalid Pensions, reported back, with a recommendation that it do pass, an act (S. No. 96) for the relief of Abner Merrill; which was referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

MARTHA SANDERSON.

Mr. MARTIN, of Ohio, from the same committee, reported a bill granting an invalid pension to Martha Sanderson; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

JANE YATES.

Mr. MARTIN, of Ohio, from the same committee, also reported a bill granting a pension to Jane Yates; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

JAMES C. MYERS.

Mr. BRADSON, from the same committee, reported a bill granting a pension to James C. Myers; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

RICHARD M. HADEN.

Mr. BRADSON, from the same committee, also reported a bill granting a pension to Richard M. Haden; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

ADRIAN RICH AND JOHN T. SMITH.

Mr. BRADSON, from the same committee, (in behalf of Mr. SICKLES,) also reported a bill granting a pension to Adrian Rich, and a bill granting a pension to John T. Smith; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying reports, ordered to be printed.

JOHN JACKSON.

Mr. KELLOGG, of Michigan, from the same committee, reported back, with a recommendation that it do pass, a bill (H. R. No. 70) granting a pension to John Jackson, an invalid soldier; which was referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

WILLIAM H. ROGERS.

Mr. STOKES, from the same committee, reported a bill granting a pension to William H. Rogers; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

AARON QUIGLEY.

Mr. STOKES, from the same committee, also reported a bill for the relief of Aaron Quigley, an invalid seaman; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

KATHERINE K. RUSSELL.

Mr. STOKES, from the same committee, also reported a bill for the relief of Katherine K. Russell; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

MARY F. PARKER.

Mr. FOSTER, from the same committee, reported a bill for the relief of Mary F. Parker; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

CHARLES LEE.

Mr. FOSTER, from the same committee, also reported a bill granting a pension to Charles Lee; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report, ordered to be printed.

JONATHAN W. SWIFT.

Mr. FOSTER, from the same committee, also reported a bill granting a pension to Jonathan W. Swift, of the United States Navy, which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHARLES GOODSPEED.

Mr. FOSTER, from the same committee, also reported a bill granting a pension to Charles Goodspeed, a soldier of the war of 1812; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

EFFISIA C. DEMAY.

Mr. FOSTER, from the same committee, also reported a bill for the relief of Effisia C. Demay, widow of Charles F. V. Demay; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MARGARET WHITEHEAD.

Mr. FOSTER, from the same committee, also reported a bill for the relief of Margaret Whitehead; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

RUFUS CALL, JR.

Mr. FOSTER, from the same committee, also reported a bill granting a pension to Rufus Call, jr., a soldier in the war with Great Britain; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES DENNIS AND OTHERS.

Mr. FOSTER, from the same committee, also made address reports in the case of James Dennis, Joseph Perkins, Ware T. Courd, Duval, Jacob W. Moore, and Joseph Brewer; which was read on the table, and ordered to be printed.

GREGORY PATTI.

Mr. FLORENCE, from the same committee, reported a bill granting a pension to Gregory Patti; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HESTER S. BARTON.

Mr. FLORENCE, from the same committee, also reported a bill granting a pension to Hester Sergeant Barton; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

NAVAL ASYLUM BENEFICIARIES.

Mr. FLORENCE, from the same committee, also reported back a memorial of the beneficiaries of the United States Naval Asylum, and moved that it be referred to the Committee on Naval Affairs. The motion was agreed to.

EDWARD RUMMEY.

Mr. STORES, from the same committee, reported a bill for the relief of Edward Rummev; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MRS. FERGUSON SMITH.

Mr. LEACH, of North Carolina, from the Committee on Revolutionary Pensions, reported a bill for the relief of Mrs. Ferguson Smith; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MARY BULLOCK.

Mr. LEACH, of North Carolina, from the same committee, also reported a bill for the relief of the heirs of Mary Bullock; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

GEORGE WALKER'S CHILDREN.

Mr. LEACH, of North Carolina, from the same committee, also reported a bill for the relief of the surviving children of George Walker, de-

ceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LOUISIANA LAND CLAIM.

Mr. BLAIR, from the Committee on Private Land Claims, made an adverse report in the case of the heirs of Don Carlos de Villamont, for confirmation of certain land claims in the State of Louisiana; which was laid on the table, and ordered to be printed.

MRS. JANE YENABLE.

Mr. BARKSDALE, from the Committee on Foreign Affairs, made an adverse report on the memorial of the widows of the Peninsular Legislature, in the case of Mrs. Jane Yenable, which was laid on the table, and ordered to be printed.

RETURNS OF UNDELIVERED LETTERS.

Mr. COLFAX. I rise to a privileged question. I call up the motion to reconsider the vote by which the bill (S. No. 302) in relation to the return of undelivered letters in the post office was referred to the Committee on the Post Office and Post Roads. This bill has already been considered in the Committee on the Post Office and Post Roads, and they have instructed me to ask that the bill may be brought before the House and be passed. The bill was drawn up by Judge Coleman, Postmaster General. The Post Office Department have no objection to its passage, and I hope there will be no objection here to its being passed.

The motion to reconsider was agreed to.

The question then recurred on the motion to commit the bill to the Committee on the Post Office and Post Roads.

The motion was disagreed to.

Mr. COLFAX. I will say a few words upon the subject of this bill. The number of dead letters is constantly increasing, and now amounts to two million five hundred thousand a year. It has become a great burden upon the Post Office Department, and a great expense to the Government.

This bill provides that if the writer of the letter shall indorse on the back of it a direction that it shall be returned to him if undelivered, instead of incurring the expense of advertising and of sending it to the dead letter office to be destroyed, it shall, after remaining unclaimed for thirty days, be returned to the person who wrote it.

Mr. MILES. It is necessary that the writer of the letter should indorse upon it the direction that it shall be returned.

Mr. COLFAX. That is a provision made in this bill.

Mr. MILES. If that is to be done, it seems to me that this bill will have very little value in it. Of course very few persons will take the trouble of doing that.

Mr. COLFAX. It could not be told who wrote the letter, unless his name was indorsed upon it.

Mr. MILES. It seems to me that there would be very few who would give such directions.

Mr. COLFAX. There are very many persons who would give such a direction. For instance, John Smith & Co. write to a man to pay their taxes; the man is dead, or has gone away. They do not see the paper in which the letter is advertised; and the letter goes to the dead letter office, and is destroyed. This bill would permit John Smith & Co. to indorse on the letter the direction under which, after having remained unclaimed for thirty days, it would be returned to them, instead of going to the dead letter office. Another instance: a wife writes to a husband, who is missing in Pike's Peak or California, that he must hasten his return, to save his property from sacrifice, or to see a child, rapidly declining. She directs it to the post office who instructed her to address him at; but when it arrives, he may be prospecting hundreds of miles off, with no intention of returning there till the close of the season. The return of her letter to her, after twenty or thirty days' waiting, and not called for, lets her know that he has not received her notice, and warns her that she must write to him elsewhere. In this way, and many others that might be named, it will tend to increase the number of letters sent through the mails.

On all the letters advertised at the various post offices of the country, the Government has now to pay one cent for advertising, which is a dead

loss to it on those that finally become dead letters. They pour into the dead letter office here by the millions, are there examined by clerks, and all letters which do not contain valuables are destroyed. They may contain information of the greatest interest, or business of the greatest importance, or may be misdirected to Washington, Ia., (Iowa), when Washington, Ind., (Indiana), is intended, and there is no remedy.

Under this bill, all unclaimed letters indorsed as required will neither be advertised nor sent to the dead letter office; but will be returned to the writers, saving expense to the Government, inducing other letters to be written in their stead, and saving in rendering the Post Office Department more of a convenience to the public—the great object which the Post Office Committee desire to attain.

Mr. JOHN COCHRANE. The evil is one which has been and is fast by commercial communities, and I am glad that this bill has been brought forward for its correction. It is the practice, in the city of New York and elsewhere, at this time, to give the directions which have been indicated, and I understand it is now the design to give out notices the sanction of law.

Mr. COLFAX. I will state that the bill was drawn up by Senator COLLAMER, a former Postmaster General. It has likewise received the unanimous approbation of the Committee on the Post Office and Post Roads of this House, as well as of the Committee on the Post Office and Post Roads of the Senate. I consulted the officers of the Post Office Department about it this morning, and I am fully satisfied that it ought to pass.

Mr. VALLANDIGHAM. Does it apply to dead letters alone?

Mr. COLFAX. It is to prevent letters becoming dead letters; and provides for sending them back to the writers after a certain time.

Mr. VALLANDIGHAM. The bill does not go as far, I think, as it ought to be made to go.

Mr. COLFAX. The Post Office Department have informed us that they would, during this session, lay before the House, through the Committee on the Post Office and Post Roads, other reforms for lessening the number of dead letters.

Mr. VALLANDIGHAM. I understand that only the letters which contain money and other valuables are now returned to the writers. It seems to me that the Committee on the Post Office and Post Roads might, with great advantage to the revenues of the Department, provide for the return of all letters to the writers, with the postage to be paid by them.

Mr. COLFAX. It would require a large addition to the staff of the office to do that. That, however, can be considered hereafter.

The bill was read the third time.

Mr. COLFAX. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under its operation the bill was passed.

Mr. COLFAX passed to reconsider the vote by which the bill was passed; and it was moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES E. ANDERSON.

Mr. MORRIS, of Pennsylvania, from the Committee on Foreign Affairs, reported a bill for the relief of Charles E. Anderson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SOLOMON WHIPPLE.

Mr. NIBLACK, from the Committee on Patents, made an adverse report in the case of Solomon Whipple, of Albany, New York, which was laid upon the table, and ordered to be printed.

MARIA BUNNELL.

Mr. NIBLACK. I am directed by the Committee on Patents to move that this committee be discharged from the further consideration of the petition of Maria Bunnell, widow of Isaiah Bunnell, and that it be laid upon the table.

The motion was agreed to.

EXCUSED FROM SERVING ON A COMMITTEE.

Mr. CONKLING. Mr. Speaker, I find by the Globe that I am appointed as one of the members of the committee, raised under the resolution

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of my colleague, [Mr. BARN], to inquire in reference to the contract for labor in the public store No. 12 Broad street, New York. I ask that I may be excused from service on that committee.

Mr. COWLING was excused; and the Speaker appointed Mr. TAPPAN to fill the vacancy.

The SPEAKER also appointed Mr. CHARLES as a member of the tobacco-trade committee, to fill the vacancy occasioned by the resignation of Mr. THOMAS; and Mr. READAN, in place of Mr. BENHAM, excused from service on the committee appointed upon resolution of the House, adopted on motion of Mr. HOARD.

ADJOURNMENT OVER.

Mr. DAVIDSON. Mr. Speaker, I move that when the House adjourns to-day, it adjourn to meet on Monday next. There are a large number of bills which gentlemen wish to have enrolled; if the House adjourns over, they will be enrolled; if not, then they will not be enrolled; for there will not be the time to do so.

Mr. TAPPAN. If the House adjourn over until Monday, I hope that it will be with the understanding that hereafter there shall be no adjournment over in the weeks when Friday and Saturday are objection days in the Committee of the Whole House. When we have objection days in the Committee of the Whole House, I hope there will be no adjournment over, but that we will occupy them with the consideration of the business upon the Private Calendar. [Cries of "That is right!"] If that be the understanding, I do not object to the adjournment over.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKET, their Chief Clerk, notifying the House that that body had passed bills and a joint resolution of the following title, in which he was directed to ask the concurrence of the House:

An act (No. 303) supplemental to the act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of copper," approved August 16, 1856.

An act (No. 46) to prevent desertion and to facilitate enlistment of soldiers in the Army of the United States;

An act (No. 42) for the relief of the heirs and legal representatives of Mark Elkins; and
A resolution (No. 2) removing the restrictions upon a certain grant of five sections of land to the State of Iowa.

And also notifying the House that the Senate had ordered the printing of the following documents:

Report of the Secretary of the Treasury, in relation to marine hospitals in the United States;
Memorial of the Legislature of Mississippi for land to aid in the construction of the Gulf and Ship Island railroad;

Memorial of the Legislature of Mississippi, relative to the graduation of lands along the Mobile and Ohio railroad and the Southern railroad; and
Memorial of the Legislature of Mississippi, for a navy-yard at the Bay of Biloxi.

HEIRS OF MAJOR JOHN RILEY, ETC.

Mr. BURNETT. I move that a message be sent to the Senate asking for the return to this House of the two bills for the relief of the heirs of Major John Riley and of the legal representatives of Francis Clendenen. It will be recollected that I moved this morning to reconsider the votes by which they were passed, and they ought to be here.

The motion was agreed to; and the bills were subsequently returned from the Senate.

PRIVATE CALENDAR.

Mr. TAPPAN. I move that the House resolve itself into a Committee of the Whole House. The motion was agreed to; and the House accordingly resolved itself into a Committee of the Whole House on the Private Calendar. (Mr. WINTLOW in the chair,) and proceeded to take

up the bills and reports of a private nature in their regular order on the Calendar.

DAVID MYERLE.

An adverse report (C. C. No. 81) upon the petition of said Myerle.

Mr. MAYNARD. That case of David Myerle has been referred to the Committee of Claims, and that committee has either made a report or directed a report to be made.

Mr. TAPPAN. That case has been considered at the present session by the Committee of Claims, and I move that the papers here be referred to that committee.

Mr. FLORENCE. This case illustrates what I said this morning, that cases appear here as adversely reported on by the Court of Claims when there has been no such report. The court said that this was a case of great equity; but that it was not a case for their consideration, and they referred it to the House. It had better go to the Committee of Claims.

Mr. BURNETT. I move that the committee concur in the report of the Court of Claims.

Mr. TAPPAN. There is no adverse report from the Court of Claims in the case of Daniel Myerle. The question before them was a question of law; and they turned it over to Congress as one having equity in it. It has been before the Committee of Claims during the present session, and fully considered. A bill was introduced for the relief of Mr. Myerle, accompanied with a report.

FLORENCE. With the consent of the gentleman from New Hampshire, I desire to say that the committee concurred in the report of the Court of Claims, declaring that there is equity in this case, which involves the necessity of referring it to the Committee of Claims.

Mr. TAPPAN. I move that the case be referred to the Committee of Claims.

Mr. BURNETT. I call for the reading of the report.

Mr. TAPPAN. It is a long report.

Mr. BURNETT. Gentlemen say this case has equity in it. I understand that the object of establishing the Court of Claims was to enable claimants to go before the court, present their case with the testimony to sustain it, and, if allowed by the court, to come here and have the House allow them, without investigation or debate. The same rule ought to apply to cases where the report is adverse. Now, this case has been before the Court of Claims. It has been acted upon by that court; they have had the question under consideration; they have taken cognizance of it; have investigated it, and have returned it here with an adverse report.

Mr. TAPPAN. That is not so.

Mr. BURNETT. They refused to allow the claim. The case could not have got here unless they refused to allow the claim. Now, I appeal to gentlemen here upon every side, and ask them, how are we to dispose of these cases? We never can do it if we refer them to the committee of this House after they have been acted upon by the court, and if we reverse the decisions of the court.

Mr. TAPPAN. Mr. Chairman—

Mr. FLORENCE. This case is not properly upon the Calendar.

Mr. TAPPAN. The gentleman from Kentucky has yielded to me.

Mr. FLORENCE. I think I can relieve the committee of the difficulties.

Mr. BURNETT. I will hear the gentleman from New Hampshire.

Mr. TAPPAN. The gentleman is entirely mistaken in reference to the fact that the Court of Claims has decided this case upon the merits. They decided the case on a technical objection; but the court itself makes a strong appeal to Congress to consider the equity of the claim. There is no adverse report from that court. The papers should go to the Committee of Claims, to be considered with the other papers before them. And I ask confirmation of what I have said, that the last clause of the report be read to this House.

Mr. BURNETT. I say to the gentleman now that I have no disposition to interfere with parties who have just claims by consuming the time of this House; but I tell him that he cannot act upon this case without that entire report being read. I am willing to let the case go over to the committee gentlemen may examine it, to see whether it is proper that it should be referred to the Committee of Claims; but I am not willing that it shall go by just upon the motion the gentleman has made.

Mr. FLORENCE. In the last Congress, the report of the Court of Claims in this case was referred to the Committee of Claims, and I question whether it is now properly upon the Calendar—certainly not properly here in the phraseology in which it appears.

Mr. BURNETT. I do not desire to consume the time of the House; but being satisfied that this reference ought not to be made at this time, I trust gentlemen will allow it to pass over on the Calendar.

Mr. TAPPAN. The case has already this session been before the Committee of Claims, a long report made in favor of granting relief, and a bill introduced for its relief.

Mr. FLORENCE. And the history of this case proves the correctness of the conclusion of the Court of Claims. It has been passed by one or other branch of Congress some four or five different times. It has been before Congress twelve or fifteen years; but, by some unfortunate circumstances, justice has not been done.

Mr. TAPPAN. I am perfectly willing to have this case disposed of, as it properly should be; but I appeal to the gentleman, if the most proper way to dispose of it would not be to let it go to the Committee of Claims, which has made a report in the case?

Mr. BURNETT. I have always doubted, and now doubt, whether this House, under the act organizing the Court of Claims, has the power to refer these cases to the committees of the House. But leaving that out of view, here is a case which, it is conceded, has been before that court, and in which the party could not obtain judgment there. Under the act organizing the court, the usual and ordinary motion is, that Congress concur in the action of the court; and yet gentlemen say we ought to refer this case to the Committee of Claims. In answer, I say I do not want to do the party justice, and that I am willing to let it pass over, in order that it may be investigated.

Mr. TAPPAN. What would the effect be?

Mr. BURNETT. It would leave the case on the Calendar, to be considered when reached again.

Mr. FLORENCE. The case is referred to the Committee of Claims. They have already had the case before them, and have made a favorable report upon it. And indeed the case has received a favorable consideration and report in every Congress since it has been here, by either a committee of the Senate or of the House.

Now, sir, how much better would it be to refer the report of the Court of Claims to the Committee of Claims? If it influence their judgment adversely to this claim, I suppose that will attain the purpose of the gentleman from Kentucky. I do not know his views in relation to this case. I know that when I was on the Committee on Naval Affairs, in the Thirty-Second Congress, I investigated the case thoroughly, and the committee reported favorably upon it. I recollect that the case was under very close discussion in the House, and that the bill was passed on a vote of yeas and nays. I am well acquainted with the case. I have watched the history of it. The Committee on Naval Affairs in the last Congress made a favorable report upon it.

The fact is that the committees of the last Congress reported favorably upon it; and that, too, since the action of the Court of Claims.

I cannot now imagine what objection the gentleman can have to having this case referred to the Court of Claims—if you choose to style it so—referred to the Committee of Claims, because, if he wants the judgment of the committee influenced

adversely to this claim, he can do so in no better way than I propose to do.

Mr. BURNETT. If the gentleman from Pennsylvania will reflect for one moment, he will find that the easiest mode to get rid of this question is to pursue the course which I suggest. There is already on the Private Calendar a bill reported for the benefit of David Myerle. Let the case go over. I am willing to agree to that, and proposed it at the start.

Mr. TAPPAN. Will the gentleman from Kentucky allow the last clause of the report to be read?

Mr. BURNETT. I have no objection to that. The Clerk read the clause. The Court of Claims say in it that it is difficult to estimate, with accuracy, what would be an equitable sum to be paid under the circumstances; but that if Congress should be of opinion that justice required the claimant to be indemnified to that extent, it was for Congress to determine the amount.

Mr. TAPPAN. It appears, as I stated, that there is, in fact, no adverse report from the Court of Claims. But rather than have time consumed by the reading of this report, I have no objection that the matter shall lie over for the present.

Mr. FLORENCE. I have no objection to the reference. How is the investigation of the question to be made by Congress? On that report? Certainly not; but by a standing committee of the House.

Mr. WALTON. The committee has already reported it.

Mr. FLORENCE. I know it has. The bill was passed over informally.

ADVERSE REPORTS FROM THE COURT OF CLAIMS.

Mr. TAPPAN. I am anxious to dispose of all the cases reported adversely from the Court of Claims; and I propose to move that all of them shall be laid aside, to be reported to the House with a recommendation that the reports be concurred in, except in those cases where gentlemen may see fit to make a different motion.

Mr. HOUSTON. I understand the gentleman from New Hampshire to propose to let all the adverse reports from the Court of Claims go to the House with a recommendation that the adverse reports be concurred in.

Mr. TAPPAN. Yes; excepting in those cases where any gentleman makes a different motion, and can give any good reason why the reports should not be concurred in.

Mr. HOUSTON. In those cases where gentlemen do not wish the adverse reports concurred in, what do they propose to do? Leave them on the Calendar?

Mr. TAPPAN. I am perfectly willing to leave that matter to the House.

Mr. HOUSTON. I am willing to have all these cases reported to the House with a recommendation that the reports of the Court of Claims be concurred in; but I am unwilling to have any of these adversely-reported cases brought into the House, and the report non-concurred in. If a case is to be reported on favorably, I want to have an investigation of it.

The CHAIRMAN. Then, the motion of the gentleman from New Hampshire is, that all the cases reported adversely by the Court of Claims be reported to the House with a recommendation that the House concur in the reports.

Mr. TAPPAN. That motion does not, of course, include the first case on the Calendar—David Myerle—which lies over.

Mr. BURNETT. If there be any gentleman who does not wish the House to concur in the report of the Court of Claims in any particular case, he may move to except it from this general motion.

There being no objection to Mr. TAPPAN's proposition, the following cases on the Calendar were laid aside, to be reported to the House with a recommendation that the reports of the Court of Claims be concurred in:

An adverse report upon the petition of Joseph Stokely and others, heirs of Nchemiah Stokely; An adverse report upon the petition of Jeremiah M. Williams and others, heirs of Thomas Williams;

An adverse report upon the petition of James Thompson, surviving partner of C. M. Strader & Co.;

An adverse report upon the petition of Robert Harrison;

An adverse report upon the petition of Abraham E. Woolley;

An adverse report upon the petition of the owners and officers of the brig General Armstrong;

An adverse report upon the petition of N. and H. Goddard, executors of Nathaniel Goddard; An adverse report upon the petition of Joseph Clymer;

An adverse report upon the petition of Dennis Cronaus;

An adverse report upon the petition of C. Ansell's heirs;

An adverse report upon the petition of J. L. Worden;

An adverse report upon the petition of John H. Waggaman;

An adverse report upon the petition of Thomas C. Nye;

An adverse report upon the petition of Mary E. D. Blancy, administratrix of George Blancy;

An adverse report upon the petition of the State of Alabama;

An adverse report upon the petition of Isaac Bowman and George Brinker, surviving executors of Isaac Bowman, deceased;

An adverse report upon the petition of James H. McCulloh, executor of James McCulloh;

An adverse report upon the petition of the heirs of Dr. James Thatcher;

An adverse report upon the petition of Henry W. Mott;

An adverse report upon the petition of Almanzon Huston;

An adverse report upon the petition of the heirs of Dr. George Yates;

An adverse report upon the petition of Charles V. Stuart;

An adverse report upon the petition of Martin B. Lewis;

An adverse report upon the petition of George McDougall;

An adverse report upon the petition of Herman Hooker and others, representatives of James Hooker, deceased;

An adverse report upon the petition of Charles St. John Chubb, executor of Lewis Warrington and others.

An adverse report upon the petition of David G. Barnitz, administrator of Lieutenant Colonel David Griir;

An adverse report upon the petition of Samuel F. Holbrook;

An adverse report upon the petition of James McCulloh;

An adverse report upon the petition of Nathaniel Riddick, administrator of Colonel Willis Riddick;

An adverse report upon the petition of Nancy D. Holker, administratrix of John Holker;

An adverse report upon the petition of H. J. Anderson, administratrix of Elbert Anderson;

An adverse report upon the petition of Lydia R. Shreve and Walker R. Carter, administrators of Henry M. Shreve;

An adverse report upon the petition of S. Calvert Ford;

An adverse report upon the petition of Erastus Williams, administrator of Elisha Tracey;

An adverse report upon the petition of Thomas B. King;

An adverse report upon the petition of Fernando Samaniego;

An adverse report upon the petition of Nchemiah B. Northrop, administrator of John Langdon Bénédict;

An adverse report upon the petition of Willis Bénédict;

An adverse report upon the petition of Alexis Fort;

An adverse report upon the petition of George, N. Butt, survivor of Butt & Black;

An adverse report upon the petition of James Kearney;

An adverse report upon the petition of Elliott Woodbury and Ezra Foster;

An adverse report upon the petition of Rufus L. Baker;

An adverse report upon the petition of Harriet B. Macomb, administratrix of General Alexander Macomb, deceased;

An adverse report upon the petition of Rufus Van Brunt;

An adverse report upon the petition of Peter N. Pailliet;

An adverse report upon the petition of William H. Chaser;

An adverse report upon the petition of Richard Sternburg;

An adverse report upon the petition of James Valentine;

An adverse report upon the petition of William Aubrey;

An adverse report upon the petition of Israel Ketcham;

An adverse report upon the petition of Richard W. Meade, administrator of R. W. Meade, deceased;

An adverse report upon the petition of Anthony Addison, administrator of Margaret Leitch;

An adverse report upon the petition of Blas P. Alvino;

An adverse report upon the petition of D. D. Davidson, administrator of Daniel Delozier;

An adverse report upon the petition of Mary Williams, widow of James Williams;

An adverse report upon the petition of Aubrey Kirk and others, heirs and legal representatives of John Campbell;

An adverse report upon the petition of Edward D. Tippet;

An adverse report upon the petition of Carlisle & Cox, administrators of C. P. Van Ness, deceased;

An adverse report upon the petition of John H. Reilly, administrator of William Reilly;

An adverse report upon the petition of J. W. Deeble;

An adverse report upon the petition of Hopkins Lightner, executor of Stephen Pleasanton;

An adverse report upon the petition of Samuel A. Smith;

An adverse report upon the petition of Josiah F. Polk;

An adverse report upon the petition of Abraham Martin;

An adverse report upon the petition of Sarah B. Webber, administratrix of John A. Webber;

An adverse report upon the petition of Charles A. Dubois de Luchet; and

An adverse report upon the petition of John A. Merrill.

ANSON DART.

A bill (H. R. No. 220) for the relief of Anson Dart.

The bill directs the proper accounting officers of the Treasury Department to pay, out of any moneys in the Treasury not otherwise appropriated, to Anson Dart, as superintendent of Indian affairs in the Territory of Oregon, the sum of \$4,000 per annum, deducting therefrom \$2,500 per annum already received, for the time he served as such superintendent, being from July 1, 1850, to May 4, 1853; and also to settle with him upon principles of equity and justice, so as to indemnify him for all moneys paid and expenses incurred by him for the use and benefit of the Government, for the services of an extra assistant clerk six months, and for the board of the Indian interpreter employed by him during his term of office as superintendent.

The report was read. It appears therefrom that Anson Dart asks provision for the payment of moneys due him for services rendered and expenses incurred while in the discharge of his duties connected with the Indian superintendency in the country now including the State of Oregon and the Territory of Washington, and presents the following specification of his claims: 1. He asks to be allowed the difference between his salary, as received by him as superintendent as aforesaid, and the salary established during his term of office for the superintendent of Indian affairs in California. 2. To be allowed the amount paid by him for an assistant clerk, for six months' service, to aid him in his negotiation of Indian treaties. 3. To be allowed for board of interpreters and of clerks employed by him in his official business. 4. For his traveling expenses in returning to Washington to settle his accounts after his office had terminated. 5. For interest on moneys paid by him for the use of the Government from time of payment. In support of his petition and of his several claims, the facts were established that he was appointed superintendent in June, 1850, and served as such from July 1, 1850, until May 4, 1853, and during that period had under his superintendency the Indian affairs in all the country now included in the State of Oregon and Territory of Washington, as

persons could not be obtained. This allowance was approved by the same authority to which I have already referred—that of Secretary Thompson.

Now, sir, I will take up but little more of the time of the committee upon this claim, for I know that members are impatient in the consideration of these private claims. I have, however, passed this claim may be of little importance in the view of the House, it is important to the claimant; it is his all. From the time he left Oregon he has been attempting to get this tardy justice done him by this Government. He has had the reports of five committees in this House, and they have passed the House for his relief, and they have passed the Senate; but it has been impossible to get the action of both Houses in the same session. There is no much difficulty in the manner of transacting our business, that it is almost impossible to obtain, not merely for the claims without merit, but to obtain for the honest claims, the necessary action of both branches in the same Congress.

Mr. Chairman, I hope that this bill, which has been before the House now for some four weeks, may receive the action of the House, and may go to the Senate, that the petitioner may receive that justice which has heretofore been denied him, merely for want of necessary attention. It was fully proved that he was a faithful officer; that he managed the affairs of the agency with great economy, that he saved the expenditures of his agency, including authorized presents and supplies to the Indians, did not exceed \$24,000 a year; that peace was preserved during his entire administration between the Indian tribes, and between them and the white population around them; that he negotiated thirty Indian treaties; and was the disbursing agent for six Indian agencies, and that all the money placed at his disposal had been fully accounted for. Surely, then, it is not too much to ask, in these days of deliberation and discussion of duty, that a faithful public officer should receive at least justice in his application to this House.

Mr. BURNETT. I have examined this case carefully and attentively. I did it at the instance of the claimant. I was exceedingly anxious to do him justice. I tried to do it, but I could not. Justice may have a claim against this Government; but I must confess, I arrived at a different conclusion from the gentleman who has reported this bill.

What are the facts? In 1846 the Territory of Oregon was organized. By a law then in force, the Governor of that Territory was *ex officio* the superintendent of Indian affairs. He discharged the duties of both offices up to the time of the establishment of the office of superintendent of Indian affairs for the Territories of Oregon and Washington. That is a matter of fact.

This is no new claim before Congress; it is one that has been pending for years; and, in my judgment, it has neither law nor justice in it. The facts are these: this gentleman accepted the office of superintendent of Indian affairs in 1850, with the full knowledge, on his part, that the salary was \$2,500 a year. He accepted and entered upon the discharge of his duty, and for the three years discharged his duties in that office faithfully. His salary of \$2,500 a year was paid out of the Treasury, in accordance with law. And now what does he ask of this House? He asks that we shall pay him \$1,500 more. For what? The salary of the superintendent of Indian affairs now for Oregon and Washington is only \$2,500. That is the amount which the present superintendent receives. You are asked to pay this man more than you pay the Governors of the Territories—to pay him more than you pay the judges of the Territory of Utah. You are asked to pay him \$1,500 a year additional for each of the three years in which he held office there, with the full knowledge and understanding on his part what his compensation was to be. If gentlemen are prepared to do this, I ask if they will not do it in every case where an officer thinks his salary is not adequate to the duties he has performed? Why, sir, it has been contended for years that the salary of the minister to China was not adequate, and that it ought to be increased; and gentlemen have gone out there with the expectation that the salary would be increased; but I ask you if, for that reason, we should be justified in going back and increasing their salary?

Well, sir, what else? This man, who went out there and continued to hold office for three years, says that when he went there he had a vague promise made him by the Commissioner of Indian Affairs, and by some other persons, whose names I do not now remember, that his salary would be increased to \$4,000 per annum. But it was not increased. Then, if he was to be paid for the compensation which he was receiving, did he not resign and go home?

Mr. EDWARDS. The gentleman, perhaps, did not understand the remark I made, in reply to a question that was propounded to me, that the salary of the superintendent of Indian affairs was not fixed for California until 1853—after Mr. Dart had gone to Oregon.

Mr. BURNETT. Suppose it was not. He entered upon the discharge of his duties with a full knowledge of what the salary was to be, and he has no claim, either in equity or in law, upon this House, that we should go back and pay him this \$1,500 additional salary. Now, I ask the gentleman what, from 1848 down to the time of the establishment by law of this Indian superintendency, the duties of the Governor were changed *ex officio*, the duties of superintendent of Indian affairs? In 1850, I believe, this superintendency was established. In 1855, if I am not mistaken, the law establishing the superintendency was repealed, and again the Governor was made superintendent of Indian affairs.

Mr. STOUT. I will state to the gentleman that he is in error in relation to that matter. The law was changed in 1855, I believe, which provided that the Governor should be superintendent of Indian affairs; and again, the superintendent of Indian affairs was appointed. This jurisdiction included both Oregon and Washington Territories.

Mr. BURNETT. We have now a superintendent of Indian affairs whose duties cover both Oregon and Washington, and who receives precisely the same salary that was paid to Dr. Dart. The salary has never been any higher. We find that there are a number of gentlemen who are willing to take these offices at the salaries affixed to them by the law; and that, after they have held them for years, they come to Congress and ask for increase of salaries. I am, and have always been, opposed to this increase of salaries. So much for that branch of the case.

Mr. Chairman, the bill ought to fall upon the increase of salary demanded; but there is another objection to the bill. If the claimant employed a clerk for six months, and the services of that clerk were needed, then he ought to be paid the amount which he is out of pocket on that account. If a clerk was necessary, then I am willing to go for that part of the bill. I am willing that he shall be paid the \$750, which he says is due for clerk hire. The law fixes the pay of interpreters. It provides that they shall receive so much. It was the law when this claimant accepted the office. Here in this claim there is a vague and indefinite claim for a clerk, and there is no reason why it should not be definite and exact. And then there is not only a charge of \$750 for clerk hire, but there is a vague charge in addition to that for extra clerk hire. He does not state the number of clerks, or the time they were employed, or the nature of the services performed. We are not told whether the clerks were necessary, or what services they did for the country.

This account is to be settled upon terms of equity and justice. Now, sir, I would like gentlemen to tell me whether in that phrase "equity and justice" they include the payment of interest? If the claim be passed, and the account is settled at the Treasury, is it the design of gentlemen that interest shall be allowed on the amount of the claim? If the law authorized the payment of these sums now asked for by Mr. Dart, then he would not have needed them. The Government would have been no necessity for him to come to Congress; but the law did not authorize their payment, and what Congress gives him, it gives him outside of law and in the exercise of its legislative discretion; and I hold that interest cannot be claimed with any justice, and I insist that it ought not to be allowed.

What does this claimant ask at our hands? First, that we shall give him an increase of salary; secondly, that we shall allow him for clerk hire, when he gives us no proof that it was needed; and,

in the third place, that we shall allow him for board of interpreters. There are two charges for clerk hire, and we have no statement of the amount in that head. In addition to all that, we are asked to allow him interest. Is this claim, Mr. Chairman, that appeals to the equity and justice of the Representatives of the people? Is this a proper matter for the House to consider? Is it proper for the House in making such a grant? I do not think that it is. Gentlemen on the other side admit that we are asked to pay to this claimant money which the law would not allow him. We are acting upon our annual discretion. Whence, I will always vote for, changes upon the Treasury, which may not come within the provisions of the law, I cannot be induced to vote for any that are evidently unjust and unfounded. I therefore cannot vote for this claim of Anson Dart.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, I regret that my friend from Kentucky should feel called upon to oppose this bill. If there ever was a just private claim before Congress, then this is one. Let me state the facts in this case. In 1850, Anson Dart, then, as now, a citizen of Kentucky, was appointed and was appointed a superintendent of Indian affairs for Oregon. Previous to that time, he had received an appointment to the position of chargé d'affaires to the Argentine Confederation. There is a letter on file from Mr. Clayton, then Secretary of State, in which he is appointed to that position, and that office, with a salary of \$4,500 per annum and no outfit of a like amount. About that time this superintendency of Indian affairs for Oregon was created, and it was desirable to have some gentleman to fill that place who was acquainted with Indian affairs; some gentleman who had experience among the Indians.

Dr. Dart was selected to accept the office of superintendent and to forego his appointment to the Argentine Confederation. The reason for this was his long acquaintance with the Indians, by reason of his high character and familiarity with all matters pertaining to the Indians. A brother-in-law of George Catlin, the celebrated painter, and in company with him, he had visited nearly all the Indian tribes from the frontiers of Mexico to the Gulf of Mexico, and was well acquainted with a familiarity with the language and manners of the red man such as few other persons possessed. Dr. Dart declined to accept this appointment, and urged as a reason the utter inadequacy of the salary, and signified his unwillingness to yield up his position in the Argentine Confederation. Mr. Ewing, then Secretary of the Interior; Mr. Luke Lea, then Commissioner of Indian Affairs; and Mr. Atchison, chairman of the Committee on Indian Affairs of the Senate, assured him that, if he would take the appointment, the salary of that superintendency should be raised to the amount proposed to be given as salary to the superintendent of Indian affairs for California—an office about to be established.

Mr. CRAWFORD. Upon what authority was that asserted?

Mr. WASHBURN, of Wisconsin. I will answer the gentleman. Th. Hon. Daniel Wells, jr., a Representative of the State of Wisconsin in the Thirty-Fourth Congress, when this bill was pending, made a statement, which I will repeat for the information of the House. I read from the Congressional Globe. He said "that he had called upon Mr. Lea, the Commissioner of Indian Affairs at the time of Dr. Dart's appointment, and asked him what was the understanding between Dr. Dart and himself when the appointment was made." He replied that Dr. Dart had declined to accept it, on account of the smallness of the salary. He stated further, that several conversations took place between Mr. Lea, Commissioner of Indian Affairs, and Mr. Atchison, chairman of the Senate Committee on Indian Affairs, and Dr. Dart, at the time when Dr. Dart had declined to accept the appointment and went to Oregon, that provision was made to give him a salary of \$4,500." The salary was afterwards fixed for the superintendent of Indian affairs for California at \$4,000, and not \$4,500, as was expected.

Mr. CRAWFORD. What authority had the Commissioner of Indian Affairs to pledge the American Congress to raise this salary to the amount stated?

Mr. WASHBURN, of Wisconsin. None at all, sir.

Mr. REAGAN. There was evidence before the committee to show that at the time a bill passed fixing the salary of the superintendent of Indian affairs for California, it was intended to embrace a provision fixing the same salary to the superintendent of Indian affairs for Oregon. The Secretary of the Interior recommended at the time that it should be done. However, by some inadvertence, that was not done. There was also evidence before the committee that Dr. Dart had resigned from the Department of the Interior, the mother, that the attention of Congress should be called to the fact of the inadequacy of his salary.

Here the committee infinitely rose; and the Speaker having resumed the chair, several messages in writing were received from the President of the United States, by the hands of his Private Secretary, JAMES BUCHANAN, Esq.

The committee then resumed its session.

Mr. CRAWFORD. The explanation of the gentleman from Texas does not answer the point he has made. And let me say, that the bill increasing the salary of the superintendent of Indian affairs for California did not pass until 1852—nearly three years after this superintendent of Indian affairs had entered upon the discharge of his duties, and just about the time he was ready to leave Oregon.

Mr. REAGAN. I will state that there was evidence before the committee, given by a number of distinguished gentlemen; among others, by Mr. Corwin, of Ohio, and Mr. Rust, of Texas. I do not recollect precisely the statements they made; but the statements of the gentleman who was superintendent of Indian affairs acted upon assurance given to him, and he had a moral right to suppose that the Government would secure to him this salary.

Mr. CRAWFORD. That is an increase equal to the California superintendency, passed two years afterwards.

Mr. REAGAN. If it be true that this bill was passed two years after, then I think the committee was laboring under some misapprehension or want of information.

Mr. CRAWFORD. The point I desire to bring to the notice of the House is, that the committee acted under a misapprehension if they believed that Dart had any right secured to him by the bill increasing the pay of the California superintendency, before that bill was passed until about the time this superintendent was about to return home.

Mr. WASHBURN, of Wisconsin. The gentleman asks what authority the Department had to bind this Congress, or what authority the chairman or any member of the Committee on Indian Affairs of the Senate had? I answer, no authority. We do not contend that Congress is legally bound to recognize any engagement or any pledge which the chairman of the Committee on Indian Affairs, or the Commissioners of Indian Affairs, have made; but we do contend that it is the duty of Congress to take notice of this recommendation, and if it is just, proper, and right, to sanction it. The assurances then given were right and proper, and the public service was greatly promoted thereby; and the principles of common honesty require that we should sanction what was then done.

The gentleman from Georgia says that the bill providing for California did not pass until 1852. I think it passed in 1852; but that makes no difference, so far as the question is concerned. But if the passage of that bill was delayed until 1852 it is the best possible answer to the question of the gentleman from Kentucky, [Mr. BURNETT], who desired to know why this claimant held on to the office for three years. Why did not he resign when the salary of his duties was established and he not mentioned it? You know the delay which took place in transmitting news to California and Oregon, and the presumption is that soon after the bill for the superintendency for California had passed he went out of office. That would the delay of the bill be concerned. But it does not surprise the gentleman from Georgia. He knows the difficulties in the way of getting bills through the two Houses of Congress.

I say to that gentleman and to the House that no competent man could have been induced to go there in 1850 at a salary of \$3,500. It is true, as has been remarked, that that is the salary of the present superintendent of Indian affairs in Ore-

gon; but every man knows that the expenses of living upon that coast have been reduced since that time more than one half, and that \$2,500 a day is equivalent to \$5,000 in 1850.

It is not denied that this gentleman discharged his duties well and faithfully. The gentleman from Kentucky admits that fact. While he was in Oregon we had no difficulty with the Indians upon that coast. No delict of millions of dollars against this Government was run up by Indian war there. On the contrary, the total expense of the Department upon the Pacific coast, for the three years of his superintendency, was only \$24,000 a year. I believe that Senator Bell was right when he declared in the Senate that we ought not only to pass this bill, but in addition, to give him a handsome testimonial for those services.

Mr. STOUT. I wish to say a word in reply to the suggestions the gentleman has made in reference to the remarks of Mr. Bell, as read from the Globe, and also the remarks just made by the gentleman himself.

I take this occasion to say, that while I am not in any way disposed to interfere with or embarrass the passage of the bill now before the House, yet justice to other superintendents of Indian affairs in Oregon and Washington compels me to say that when I arrived at the mouth of the Columbia, the gentleman from Wisconsin, as to the merits of Mr. Dart, as compared with other superintendents, is erroneous.

Mr. WASHBURN, of Illinois. I desire just here to make a suggestion. This is the first bill of the session increasing the salary of the superintendent of Indian affairs. It is the first bill of this character as we are discussing this, we shall never make any advance upon the Calendar. I would suggest that the committee rise, for the purpose of closing debate in a reasonable time. After that, the bill will be open to five minutes, which ought to give the gentleman ample opportunity to express their opinions upon it.

Mr. STOUT. I hope I shall be allowed to make my remarks without interruption.

I know little about the merits of this claim. Oregon is a new territory, a new State. It is a new territory, but while I lived upon that coast, I believe that the salary of the superintendent of Indian affairs at that time was too small, as I believe it to be now. But I do not believe that Mr. Dart had more duties to perform than are now performed by the present superintendent. Nevertheless, I think that he is entitled to any special credit for having kept and maintained peaceful relations with the Indians. Circumstances connected with these matters, that might be easily explained, caused peaceful relations to be maintained. While I would not do anything to interfere with the just consideration of this claim, I protest against drawing these invidious comparisons between this gentleman and his successors—gentlemen who are entitled to as much credit as can be claimed for Mr. Dart by his friends.

Mr. WASHBURN, of Wisconsin. I did not intend, in anything I have said, to cast any reflection upon any gentleman who have been connected in any way with the Indian superintendency in Oregon. I merely stated the fact that the present superintendent of Indian affairs, of the Government, arising out of Indian difficulties, were only about twenty-four thousand dollars a year; and that peace was maintained there.

Mr. HOUSTON. I would ask the gentleman who reported this bill why he inserted in the bill a provision to disallow the claimant for all moneys paid and expenses incurred by him for the use and benefit of the Government? Now, it must be very evident to every gentleman's mind that if he paid out and expended money legitimately, whatever amount was so expended and paid out would be paid by the Government. It is not possible he has paid back. Now, I suggest to the gentleman that he shall himself move to strike out the words to which I have referred, for the reason that it would be received, and perhaps properly received, an direction to the Secretary of the Interior to disallow the claimant for all moneys that it were paid in a way that would or would not justify a member of this House in voting for it. It seems to me that this language is too broad, and that the law now covers everything that Mr. Dart could claim, if he has expended any money at all.

Mr. EDWARDS. Discretion often makes quite a difference in the sense, and it may not be strictly accurate in the part of the bill the gentleman

refers to. If the gentleman will read the whole sentence, he will put a different construction upon it, and see that the proposed indemnity is limited "to moneys paid and expenses incurred for the use and benefit of the Government for an extra clerk six months, and for board of interpreters." It was intended so to limit it, and so reads.

Mr. HOUSTON. Then, I shall propose to amend the bill, so as to indemnify him for the expenses.

Mr. BURNETT. I would say to the gentleman from Alabama, before the notice is made in reference to amending any section, that I do not want to be cut out from amending the first section of the bill.

Mr. HOUSTON. It is all one section.

Mr. BURNETT. I propose to amend this bill, in the first place, by striking out the following words: "the sum of \$4,000 per annum, deducting therefrom \$2,500 per annum." The portion which I move to strike out is that portion of the bill which gives him additional compensation for having discharged the duties of superintendent of Indian affairs. Now, if the gentleman from New Hampshire will accept that amendment, he may bring the bill to the House, and I will make no objection to it.

This bill, instead of going back to the session of 1852 and 1853, when the salary of the superintendent of Indian affairs in California was increased, goes back to the commencement of the service of this man, in 1850. I move to strike out the portion increasing the salary.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from New Hampshire that he permit the amendment to be adopted, and let the bill go to the House, and have a vote upon it there. Mr. BURNETT. I make this proposition to the gentleman; let him agree that he shall have a vote in the House on the motion to strike out that portion of the bill. Let him do that, and I am willing that his bill be reported.

Mr. EDWARDS. I am willing to agree to this.

Mr. BURNETT. Very well, sir.

Mr. JOHN COCHRANE. I propose to amend the bill. I do not intend to detain the House on this subject. It is a very simple one. It seems to me that there are no contracting parties in this Government in the way of money, and that the office, and that if no individual accepts an office under the impression that the salary shall be raised, he stands or falls by that impression independently as it exists. And there is no obligation, either in law or equity, on the part of the Government, or any of those who are acting under or for the Government, to increase that salary according to any expectation, however much the office-holder may have suffered by reason of disappointed hopes. There are thousands of individuals who suffer more grievously even than the holder of salary, in the way of money, of those applicants for office who have wended their way to different parts of the Union, disappointed expectants of office; I have known some who have applied even for consulates, day after day, and tarrying long by the way, and month, and frequently by the quarter, who have at last come to be humble applicants for old clothes. I hardly think that they have an equitable claim upon the Government or upon the sympathies of the people. The whole race of office-seekers and office-holders are those who must stand or fall within the circumference of their professional duties.

So much for the first branch of the bill. I think, however, in relation to the remaining parts of it, there are equities—equities of a grave and serious character. Here is a gentleman who received more than \$4,000 a year for his duties. He is, or, as I would say, more than the duties imposed on him at the time he accepted his commission; for, according to the report of the committee, it seems that a short period after he entered upon the performance of those duties, his office was abrogated and dispossessed of, and his duties were imposed on him, and faithfully discharged by him. Now, it is true that the law is very clear upon the subject—that the office-holder who performs more duties than he expected to perform will not be entitled to increase of salary, even if he performs the additional duties of other officers that had been dispensed with. But the equity still remains—that if this gentleman, in the performance of such

duties, has been to expense and has disbursed moneys, the Government should refund him, honestly and fairly, those expenses and moneys disbursed. Therefore, sir, it is that I think the bill should be amended in this regard, so that the increase of salary should not be warranted and referred upon the applicant here, but that the increased expenditures may be allowed him; and the amendment I propose is to this effect: to strike out all after the word "Oregon," in the seventh line in the bill, down to the word "him," in the eighteenth line; so that the bill will read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pay, out of any moneys in the Treasury and otherwise appropriated, to Aaron Drat, late superintendent of Indian affairs in the Territory of Oregon, all moneys paid and expenses incurred by him for the use and benefit of the Government, for the services of one extra assistant clerk and one aide, and for the board of the Indian interpreters employed by him during his term of office as superintendent as aforesaid.

One word, sir, in reference to this last clause. An objection has been taken that the pay of interpreters is fixed by law, and is very true, and that it would not be equitable in the Government to increase it here, upon this application and under this bill. But the facts and circumstances in the report disclose that the services of the interpreters could not have been had at that time at the legal compensation; and that to retain their services, and to avail himself of them, it was necessary for him, in addition, to pay the amount of their board. That consequently brings this clause of the bill broadly within the equity of the case.

Mr. EDWARDS. I ask the gentleman from New York whether he will be satisfied with the arrangement just made with the gentleman from Kentucky, that he may have an opportunity of offering his amendment in the House?

Mr. JOHN COCHRANE. Yes, sir.

Mr. EDWARDS. Then I renew my motion that the bill be laid aside, to be reported to the House.

Mr. BRANCH. I do not desire to discuss this claim; but I think it is the gentleman who reported the bill on this question. I observe that great merit is claimed for this party, on the ground that he negotiated thirteen treaties with the Indian tribes. I would like to ask the gentleman whether any single one of those Indian treaties was ever confirmed by the Senate.

Mr. EDWARDS. I cannot give the gentleman any information upon that point.

Mr. BRANCH. I would like, then, to ask the member from Oregon.

Mr. WASHBURN, of Wisconsin. I can answer the gentleman from North Carolina. I think that none of these treaties were confirmed by the Senate. I think it highly probable that had the Senate confirmed them, we should have been saved many of the difficulties with the Indians in Oregon that have since occurred.

Mr. BRANCH. I understand the gentleman to say that none of those treaties have been confirmed.

Mr. WASHBURN, of Wisconsin. None of them have been confirmed by the Senate.

Mr. BRANCH. I will not contend with the gentleman from Wisconsin, or with any other gentleman, as to whether the treaties were good or bad, inasmuch as we do not know anything about them; but I will assume that the Senate of the United States, in rejecting those treaties, must have come to this conclusion, with ample means of information, that they were not treaties favorable to the interests of the Government, or that ought to be confirmed.

Mr. WASHBURN, of Wisconsin. The fact that Dr. Drat negotiated the treaties is not called in question, nor is it called in question that he acted in good faith. No gentleman ever undertook to say that he did not perform his duty faithfully and ably. The service was performed, and it makes no difference whether the Senate confirmed the treaties or not.

Mr. BRANCH. I understand the gentleman from Wisconsin to have admitted that none of these treaties were confirmed. Now that fact does not detract at all from our estimate of the labor performed by this Indian agent; but it certainly goes very far to detract from any estimate that we could put upon the value of the services rendered by him

in that regard to the Government. I understand this, from what I gather from this discussion, to be in the nature of a claim upon the Government for a gratuity or bounty in consideration of meritorious services rendered by this party to the Government. The fact that all the treaties that he negotiated with the Indians were rejected only by the committee as one of the grounds upon which he should receive this bounty or gratuity—were rejected by the Senate in proof that at least the services that he rendered in that regard have not been of such benefit to the Government.

Mr. BURNETT, of Wisconsin. The proof is, that immediately after the Senate refused to confirm the treaties the Indian war in Oregon broke out, for which we are to be charged some five or six million dollars.

Mr. BRANCH. It may be that this agent brought the Indian war upon us by holding out expectations to the Indians that the Government could not, in justice to itself, realize to them. It may be that, instead of being meritorious, he has brought this Indian war upon us, and fastened on the Government the claim for five or six million dollars for expenses incurred there.

Now, I repeat that I know nothing about the merits of this case, except what I have gathered from the debate that has gone on here; but I think that that single item is clearly not a ground upon which we can lay any favorable action to this agent. He may be an excellent agent. I will not doubt, after having heard what gentlemen have said about him on the floor to-day, that he was a faithful agent, and that he served the Government to the best of his ability; but here is one proof at least that he has not served the Government very judiciously, or very satisfactorily.

Mr. EDWARDS. I simply wish to state, in answer to the gentleman from North Carolina, that it is in evidence that there was profound peace with the Indians during the three years of this claimant's service. The other point, I perhaps not so important, and I do not feel disposed to discuss it. I ask for the question.

The question was taken; and the bill was laid aside, to be reported to the House with a recommendation that it do pass.

BRIEF GENERAL ARMISTICE.

Mr. HUGHES. In looking over the last adverse report of the Court of Claims, my attention was attracted by one which I am averse to having disposed of in the summary way in which the committee seem disposed to get rid of them *en masse*. I refer to report No. 149, an adverse report upon the petition of the owners and officers of the brig General Armstrong. I know nothing of this case except so far as it belongs to the history of our country. I believe there is no gentleman upon this floor who is not aware of the circumstances upon which it has been founded. It is founded upon one of the most brilliant acts in the history of maritime warfare. I am not willing that the case shall be disposed of on a mere technicality, which may be the case in the opinion delivered by the Court of Claims. I propose that the adverse report be reported to the House with the recommendation that it be referred to the Committee of Claims, and in making this motion I am influenced by no other consideration than a sense of public duty, for no individual has ever approached me about the case.

Mr. MAYNARD. I think the bill was referred to the Naval Committee in the last Congress, my attention was attracted by one which I am averse to having disposed of in the summary way in which the committee seem disposed to get rid of them *en masse*. I refer to report No. 149, an adverse report upon the petition of the owners and officers of the brig General Armstrong. I know nothing of this case except so far as it belongs to the history of our country. I believe there is no gentleman upon this floor who is not aware of the circumstances upon which it has been founded. It is founded upon one of the most brilliant acts in the history of maritime warfare. I am not willing that the case shall be disposed of on a mere technicality, which may be the case in the opinion delivered by the Court of Claims. I propose that the adverse report be reported to the House with the recommendation that it be referred to the Committee of Claims, and in making this motion I am influenced by no other consideration than a sense of public duty, for no individual has ever approached me about the case.

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The question was taken on Mr. HUGHES's motion; and it was agreed to.

REICHARD W. MEADE.

Mr. DAVIS, of Maryland. I desire to make a similar motion in reference to report of the Court of Claims No. 226, an adverse report upon the petition of Richard W. Meade, administrator of R. W. Meade, deceased. It was decided by the Court of Claims, probably, upon a mere technical point, and it is desirable that the Committee of Claims should have an opportunity of investigating and reporting upon the merits of the claim. I move, therefore, that it be reported to the House

with the recommendation that it be referred to the Committee of Claims.

Mr. BURNETT. I do not desire to detain the committee at all; but this is one of a class of cases which have come back from the Court of Claims with adverse reports, and yet we are referring them back to committees of the House. We ought either to repeal the act establishing the Court of Claims, or we ought to act on these cases when they come here, and dispose of them. I do not know whether my motion will take precedence of the motion of the gentleman from Maryland or not, but I move that the report be reported back in the House with a recommendation that the report of the Court of Claims be concurred in.

The CHAIRMAN. The question must first be taken on the motion of the gentleman from Maryland.

Mr. CRAWFORD. I do not understand how we got back to these adverse reports.

The CHAIRMAN. The order was, that gentlemen might designate such reports as they wished to have referred.

The question was taken on the motion of Mr. DAVIS, of Maryland; and it was agreed to.

ROBERT HARRISON.

Mr. MAYNARD. I desire to make a motion in reference to another case, as I do not see the gentleman from Florida [Mr. HAWKINS] in his seat. It is report of the Court of Claims No. 127, an adverse report upon the petition of Robert Harrison. It is a report which was made by the Court of Claims several terms since, and was referred in the last Congress to the Committee of Claims, and a favorable report was made upon the claim by that committee. It is what is called a "Florida claim."

My motion is that it be excepted from the general disposition that is proposed to be made of these cases, and be passed over informally.

It was so ordered.

HEIRS OF GEORGE YATES.

Mr. MAYNARD. I make a similar motion in reference to adverse report (C. C. No. 188) upon the petition of the heirs of George Yates. That has been referred during the present session of Congress to the Committee on Revolutionary Claims, and I see that Mr. JAGGON, of Georgia, has reported a bill in favor of the claimants. I ask, therefore, that the report be passed over informally.

It was so ordered.

TENNESSEE RIVER IMPROVEMENTS.

The next bill on the Calendar was the bill (H. R. No. 89) to liquidate the unadjusted claims of the Tennessee river improvement.

The bill was read. It provides that all accounts made by the duly authorized officers of the Government, appointed under the act of the Thirty-second Congress making an appropriation of \$50,000 for the improvement of the Tennessee river, shall be audited by the accounting officers of the Treasury, and paid out of any money in the Treasury not otherwise appropriated.

From the report it appears that on the 30th of August, 1852, Congress made an appropriation, for the improvement of the navigation of the Tennessee river, of \$50,000, in conformity with the estimate of the War Department of 1853, 1852 to be expended under the supervision of the Secretary of War. The work was placed under the charge of the late Lieutenant Colonel McClellan, United States Army, by the War Department. To aid him in the management of the work, it was thought necessary by the Department to invest him with power to engage the services of certain persons resident in the neighborhood, and familiar with the localities, as assistant engineers. Accordingly a commission was prepared, under the direction of the bureau of topographical engineering, and was sent to Messrs J. E. S. Blackwell, James C. Luttrell, Jacob Newman, C. W. Charlton, and W. G. Brownlow. During the years 1853 and 1854 a large amount of labor was performed under the general direction of Colonel McClellan and the immediate supervision of these assistants. Many persons, both mechanics and laborers, were employed, and the work was carried on with great activity until the death of Colonel McClellan by cholera, in the latter part of August, 1854. Finding the appropriation about exhausted, and apprehending that it was not likely to be continued, the work was suspended, and

upon the failure of the river and harbor appropriation bill was discontinued, and the boats, tools, and materials sold. After the decease of Colonel McClellan, until the discontinuance of the work, his place was supplied by Mr. R. W. W. Byrd, civil engineer. On closing up the accounts, it appeared, after appropriating the proceeds of the sales, and exhausting the original appropriation, there remained some balances, which there were no funds to pay. A portion of the compensation due to the assistant engineer, and the pay of the foreman upon the work; small accounts due to various citizens for powder &c., used in their operations; medical and surgical attendances to a laborer injured while in the employ of the Government, under circumstances which rendered it proper for the engineer, in his judgment, to provide for his treatment; these are the accounts and items for the auditing of which this bill provides.

Mr. MAYNARD. I move that the bill be laid aside, to be reported to the House with the recommendation that it do pass.

The motion was agreed to; and the bill was accordingly laid aside.

ADVERSE REPORTS FROM COURT OF CLAIMS.

Mr. TAPPAN. A list, containing certain adverse reports from the Court of Claims, has been handed me, which I am now instructed to ask the committee to exempt from the number to be reported to the House with a recommendation that the adverse decisions of the court be confirmed. I present first the case of J. L. Wordena—adverse report No. 170.

Mr. BURNETT. I submit to the Chair, and to the gentleman from New Hampshire, whether that is in accordance with the agreement which has been made in reference to these adverse reports. The motion was adopted, at the instance of the gentleman from New Hampshire himself, that all these adverse reports should be laid aside, to be reported to the House with the recommendation that the decision of the Court of Claims be confirmed; giving gentlemen, at the time, the privilege of excepting from the general order any particular case which they might designate. Yet the gentleman now himself proposes to violate that agreement, by coming in now with a list of other cases, which he asks the committee to have referred to committees of the House.

Mr. TAPPAN. On the contrary, what I now ask is strictly in accordance with the proposal which I made, and which the committee has agreed in reference to these adverse reports. It was expressly stated that any gentleman who might wish to except any particular cases, should be at liberty to designate them. I have no interest in this claim, and know nothing about it. I simply make the motion, as I have been requested to do.

Mr. CRAWFORD. I desire to understand this matter. Does the right to go back and take cases out of the list extend to the entire sitting of the committee for the day?

Mr. TAPPAN. Yes, sir, my understanding. Mr. CRAWFORD. My understanding was that these adverse reports were all to be laid aside, to be reported to the House with the recommendation that the decision of the court be confirmed, with the exception of such as should be designated at the time.

The CHAIRMAN. The Chair now understood it, and has acted upon that understanding.

Mr. TAPPAN. That was certainly not my understanding; and such an understanding would have been doing great injustice, for there was no time for members to select the cases which they might wish to except from the long list, without taking some time to go over it.

Mr. CRAWFORD. If that be the understanding, what do we gain by the order which was made, the majority of the cases from New Hampshire himself? It would have been better to have taken up each case and acted upon it separately.

Mr. TAPPAN. Not at all. The number of cases that will be excepted will be comparatively few. The great body of the reports will be reported under the agreement which was made. I have not more than half a dozen myself. The gentleman must see that it is so.

Mr. CRAWFORD. That is the very thing the gentleman cannot see.

Mr. TAPPAN. I am as anxious to get these cases off the Calendar as any gentleman can be;

but I do not see any other course than the one I have proposed by which justice can be done. I think that it is right that such of those cases should be referred to some of the standing committees of the House as it is desired should be. That was my understanding. I make the motion, and the committee can do as they please in reference to the matter.

The CHAIRMAN. The Chair will say that he understood the agreement of the committee as the gentleman from Georgia has stated it; that no cases were to be exempted, except such as were named at the time.

Mr. CRAWFORD. Then I ask the Chair to enforce that understanding.

Mr. TAPPAN. Why, Mr. Chairman, no such understanding has been acted on. Gentlemen have been permitted to more than bill excepted from the general list since the committee have passed from the consideration of the subject.

The CHAIRMAN. Only in two instances; and then the gentlemen waited, at the request of the Chair, until the bill which was then under consideration should have been disposed of.

Mr. TAPPAN. I heard nothing of the kind.

The CHAIRMAN. Both gentlemen came to the Chair in reference to the cases which they proposed to except; and they delayed bringing them before the committee at the request of the Chair.

Mr. TAPPAN. Of course, I could not be a party to any such understanding as that.

The CHAIRMAN. The Chair will put the question upon the motion of the gentleman from New Hampshire, if he desires it. The gentleman moves that adverse report No. 170 of the Court of Claims be reported to the House with a recommendation that it be referred to the Committee of Claims.

Mr. CRAWFORD. If that course is pursued, I would suggest that we can accomplish the same with less irregularity by going back and taking up the cases one by one as they occur on the Calendar.

Mr. TAPPAN. I should much prefer that the four or five cases which I have here should be disposed of as I have indicated. I had the list here with me when I came, but I did not refer to it. I should have disposed of all my cases before this time if I had been allowed to go on.

Mr. BURNETT. I think we shall consume much less time by going back and taking up the cases one by one.

Mr. CURTIS. I object to going back.

Mr. HOUSTON. I would suggest to the gentleman that he had better go forward, and not consume any more time on these adverse reports.

Mr. TAPPAN. They have got to be disposed of some way, and I do not know why we may not as well do it now.

Mr. BURNETT. Well, sir, I hope the gentleman from New Hampshire will be permitted to make his motion.

Mr. TAPPAN. Very well; I will not consume five minutes. I now move that report No. 170 be reported to the House with the recommendation that it be referred to the Committee on Naval Affairs.

Mr. BURNETT. Now I ask the gentleman whether he can give the committee any reason why this case should not go to the House with the recommendation that the decision of the Court of Claims be confirmed?

Mr. TAPPAN. No reason whatever. I have said that I know nothing about the claim.

Mr. BURNETT. Then I hope the motion of the gentleman from New Hampshire will not be agreed to.

The motion was disagreed to.

Mr. BURNETT. I now move that that case be reported to the House with a recommendation to refer it to the report of the Court of Claims.

The CHAIRMAN. That motion is not necessary. It will go there with the others, under the order already adopted.

JOHN H. WAGGAMAN.

Mr. TAPPAN. I now make the same motion in reference to report No. 171, upon the petition of John H. Wagaman.

Mr. BURNETT. I ask the gentleman whether he can give any reason why the committee should not refer to the same decision in this case as in the last?

Mr. TAPPAN. I know nothing about this case. I have made the motion, as I have been requested to do.

The motion was disagreed to.

THOMAS C. NYE.

Mr. TAPPAN. I make the same motion in reference to adverse report No. 177, upon the petition of Thomas C. Nye.

The motion was not agreed to.

MARY WILLIAMS.

Mr. TAPPAN. I move that the adverse report of the Court of Claims (No. 231) upon the petition of Mary Williams, widow of James Williams, be exempted from the general order, and referred to the Committee on Military Affairs. It is a claim for remuneration for property lost and destroyed during the Florida war in 1836, in consequence of its having been taken for public use by military officers of the United States.

Mr. BURNETT. That case has been before the Court of Claims, and it has been investigated and passed upon adversely. I move that it be laid aside, to be reported to the House with a recommendation that the report of the Court of Claims be concurred in.

Mr. CURTIS. I protest against its going to the Committee on Military Affairs. We have now more business than we can get through with.

Mr. BURNETT's motion was agreed to; and the bill was laid aside, to be reported to the House with a recommendation that the adverse report of the Court of Claims be concurred in.

THOMAS ATKINSON.

A bill (H. R. No. 234) for the relief of Thomas Atkinson, of Pennsylvania, is introduced.

Mr. BURNETT. I objected to that claim when it was last up. Subsequently I investigated, and I am satisfied that it is meritorious, and ought to be passed. I move that it be laid aside, to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

ROBERT JOHNSTON.

A bill (H. R. No. 235) for the relief of Robert Johnston.

The bill was read. It authorizes Robert Johnston, of Philadelphia, Pennsylvania, to locate, on any of the public lands of the United States subject to location with military bounty land warrants, the following described military bounty land warrants, heretofore issued under and by virtue of the act of February 11, 1847: No. 35885, issued to Charles H. Burns; No. 35913, issued to John Hurr; No. 35918, issued to John Leiman; No. 35919, issued to Ames Lightner; No. 37176, issued to Henry Weller; No. 38712, issued to Jesse C. Moore; No. 38713, issued to Thomas T. Madan; No. 38726, issued to James Smith; No. 38755, issued to James Deal; No. 38756, issued to William E. Fenimore; No. 38759, issued to John C. Hardy; No. 44579, issued to Samuel S. Smith; No. 44688, issued to Bagshaw Barsby; No. 44833, issued to John Kolk; No. 44859, issued to Charles Corragin; No. 44975, issued to Ludolph Wedemeyer; No. 44876, issued to Daniel Meyer; No. 44877, issued to Frederick Meyer; No. 44878, issued to Henry C. Johnson; No. 45729, issued to Daniel Adams; No. 45729, issued to Jeremiah Gensmer; No. 45731, issued to George M. Newell; No. 45866, issued to John Randolph; and No. 55298, issued to John Wallace, the discharges received by said soldiers after the conclusion of their respective terms of service having, as is alleged, been purchased from them for a valuable consideration: provided, that if it shall hereafter appear that the soldiers did not, in whole or in part, receive a fair and valuable consideration for such discharge, it shall be lawful for them, or their heirs, to assert their claims respectively in a court of law, and the particular tracts, selected in satisfaction of the warrants aforesaid, shall severally be subject to such claims in law or equity, and the patents which may issue for such tracts shall be subject accordingly to said claims, and that any assignment made of either of the land warrants, or the locations thereof, prior to the issuing of patents, shall be absolutely null and void in law and equity.

It appears from the report, which was read, that during the summer or fall of the year 1848 Robert Johnston purchased twenty-four discharges

from soldiers of the late war with Mexico, having paid the sum of eighty dollars for each discharge; that he was engaged in the brokerage or banking business in Philadelphia, and was imported by the soldiers who were in that city at that time to purchase their discharges, but he stated that he was not in the regular course of his business; that he was unacquainted with the law regulating the transfer of the soldiers' interest and title to bounty lands, as was shown by evidence, but was advised and believed that a general power of attorney, acknowledged before an agent, authorized him to receive and dispose of the warrants to be issued, was sufficient to vest the title to the warrants, and that upon the discharges being forwarded to the Pension Office, accompanied by the powers of attorney, the Commissioner of Pensions would issue the warrants directly to him. It appears that he had the powers of attorney so acknowledged and executed before Chancery Bulkley, an alderman of Philadelphia, each soldier being examined, and declaring his intention to convey his bounty land warrants; and that soon after he became possessed of said discharges and powers of attorney, he made application to the Commissioner of Pensions for the issue of the warrants to himself; but that the warrants were issued on each of said discharges in the names of said soldiers, and in the name of the said Robert Johnston, as follows: No. 35712, Jesse C. Moore; No. 42740, John C. Hardy, (35759); No. 55298, John Wallace; No. 45729, Jeremiah Genesier; No. 45731, William E. Fennimore, (35756); No. 35746, John Lehman, (35818); No. 35716, Henry Wells; No. 43731, George M. Newell; No. 44889, Daniel Adams; No. 44875, Ludolph Wedemeyer; No. 44876, Daniel Meyer; No. 45566, John Randolph; No. 44659, Charles Corrigan; No. 35885, Charles H. Burns; No. 35919, Alma Lightner; No. 44878, Henry E. Layton; No. 35736, James Smith; No. 35918, James J. Jones; No. 44885, Deal; No. 44379, Samuel K. Worme; No. 44698, Bagshaw Barsley; No. 35713, Thomas T. Malan; No. 44853, John Kolk; No. 44871, Frederick Meyer.

It appears that all the above warrants were duly received, and have ever since been in the possession of Robert Johnston; and that it was not until after the discharges and powers of attorney were forwarded by him that he became aware of the fact that he could not by law transfer and dispose of the warrants in the names of the soldiers, which had been executed to him by the above-named soldiers. This information was first obtained from the Commissioner of Pensions by way of reply to the application made by him for the issue of the warrants to him direct. But owing to the press of business in the Pension Office, this reply was not communicated to him for several months after the application was made by him. It appears that he has made search for these soldiers, but has been unable to find any of them. They were generally young men, whose homes were in different sections of the State, and they have long since left the city of Philadelphia. Eight years have elapsed, and no arrests have been entered upon said warrants.

Mr. McQUEEN. That bill was examined last year by the Committee on Public Lands and great care, and before it was reported, to the satisfaction of a just claim. I applied to the Land Office for information on the subject, and by the evidence of gentlemen certified to be worthy of every credit, it was made perfectly clear that these discharges were transferred to Johnston for a valuable consideration. I would have reported in favor of the claim at the last session, but the committee did not meet after I had authority to prepare the bill. No injury can result from the passage of the bill. It is just. I move, therefore, that it be laid aside, to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

EBEN S. HANSCOMB.

A bill (H. R. No. 2255) for the relief of Eben S. Hanscomb.

The bill was read. It authorizes Eben S. Hanscomb to enter the southeast quarter of section sixteen, township twenty-eight north, range twenty-four west, in the district of lands subject to sale at Forest City, State of Minnesota, upon his payment of the usual minimum of \$25 per acre, and directs the Commissioner of the General Land

Office to issue a patent on said entry; and it also authorizes the superintendent of public schools in Minnesota to select an equal quantity of other lands in that State for the use of public schools, in lieu of the lands herein granted.

Mr. ALDRICH. I wish, with the consent of the House, state briefly the reasons for this bill. I am well acquainted with Mr. Hanscomb. He lives not more than five miles from my house. It is right and proper that the bill should pass. [Cries of "Then let us lay it aside!"] Very well, then; I move that it be laid aside, to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

CASSIUS M. CLAY.

A bill (H. R. No. 240) for the relief of Cassius M. Clay.

The bill was read. It directs the Secretary of the Treasury to pay to Cassius M. Clay, out of any money in the Treasury not otherwise appropriated, the sum of \$1,599.79, in full for property destroyed and lost in Mexico, and in reimbursement of the amount of a judgment, costs and interest, recovered against him by Eliza Bowles for trespass in executing a military order of his superior officer in 1846.

It appears from the report of the committee, which Mr. ALDRICH read, that the petitioner was a captain in the Kentucky regiment of cavalry, under the command of Colonel Marshall, in the war with Mexico. The first claim is for the reimbursement of the amount of a judgment recovered against him in the courts of Kentucky by Eliza Bowles for trespass upon her property, committed in the execution of an order of his superior officer for the arrest of deserters. This amounted, in October, 1848, with costs and interest, to \$533.20, when it was paid by the petitioner. The second claim is for property destroyed in Mexico. In 1846. In this case it appears that he was ordered by Colonel Marshall to disperse a band of robbers who were threatening the train from Camargo to Monterey. The execution of this order compelled him to leave behind him property which was lost for want of proper attention, and before he had accomplished his orders he was taken prisoner, losing what property he had with him. This case was brought before Congress as early as 1848. At that time the Committee of Claims of the House of Representatives reported, with a bill for his relief, on the account of property lost in Mexico, to the amount of \$760. In 1849 the same committee reported again in his favor. In 1853 the Committee of Claims reported in favor of the first claim set forth in this report, but adversely on the second claim.

The adverse report of the Court of Claims is based upon a want of authority to grant relief in such cases, saying that "the power to relieve in such cases belongs, we think, exclusively to Congress." At the first session of the Thirty-Fifth Congress, the Committee of Claims reported this case, with a bill for the relief of the petitioner, was brought before the House, and after considerable discussion, in which Colonel Marshall made statements before the House in regard to the claim, the bill was passed by yeas and nays—

YEAS 107. NAYS 107.

Mr. HOARD. I move that the bill be laid aside, to be reported to the House with the recommendation that it do pass.

Mr. BURNETT. This bill is in favor of a gentleman of my State, Mr. Clay. It seems that the Court of Claims have acted on that part of the claim to be paid the amount of judgment obtained against him, for a trespass upon certain property in Louisville. The whole question, I suppose, was before that court, and the argument which has been used time and again upon this floor in reference to the opinions of the Court of Claims, applies with all its force to this claim. No reason is given why this should be taken out of the regular course of these claims.

Here is a judgment that has been obtained against this officer in an action of trespass before the courts of Louisville, Kentucky, which he has satisfied. The allegation is, that he made the trespass in discharge of his duty, under order from his superior officer to arrest deserters. The question went to the Court of Claims, and upon the proof adduced, that court made an adverse report. The case is then referred to a committee of this House, and they report that the claim ought

to be allowed, thus reversing the action of the Court of Claims.

Mr. HOARD. The court did not report against the claim; but only that they had not jurisdiction over it; that the power to relieve in such cases belonged exclusively to Congress. The law did not authorize it to be paid.

Mr. BURNETT. The gentleman says that that court did not have jurisdiction of the case because the law did not authorize the claim to be paid. Yes, sir, we are asked to take money from the Treasury, and put it into the pocket of an officer, who has been tried by a court of competent jurisdiction in Kentucky for trespass upon private rights, and had judgment rendered against him. Although he is from my State, I cannot vote any amount appropriated in this bill. I will not vote to put the pocket of a trespasser against an officer by a court of competent jurisdiction for having trespassed upon the rights of private citizens.

The other branch of the claim is for losses sustained in Mexico. From the report of the committee we are informed that Mr. Clay lost certain property in Mexico. The amount of the loss is given in gross. There is no specification, and the claim is loose and indefinite. I do not think it is right, and I must vote against it.

Mr. ALDRICH. I am glad that my colleague is usually very watchful and sagacious in matters of this sort, and I oppose any position he assumes, upon private claims, with diffidence. I think, however, he is in error here. In reference to the first part of the claim, there is no doubt that Mr. Clay should be indemnified for the loss of property he sustained in Mexico. I understand my colleague is in favor of that.

Mr. BURNETT. My colleague misunderstands me. If the proof shows that he lost property in Mexico, then he ought to be indemnified. In this case, the proof is not sufficient to show that the character of the property he lost, or what was its value.

Mr. MALLORY. I understand the amount is provided; that the items were specified, and the whole matter ascertained by that committee, and that they reported the amount in that bill.

In reference to the other branch of the bill, I think it is a well-settled principle that where an officer in the discharge of his duty incurs an expense, or even damages, it is the custom of the Government to reimburse him. In this case Captain Clay, of the cavalry regiment of Kentucky, was ordered by a superior officer to arrest a deserter while in encampment at Louisville. In the execution of that order, he found it necessary to enter a house. He forced the doors, and arrested the deserter. He was sued by that act, and damages were recovered against him. Now, I say, if there ever was a claim of that character before Congress which the Government out to pay, that is this case. I hope the claim will pass.

Mr. NOELL. I desire to say one word just here, in reference to the second branch of this claim, we have a general law upon the subject. I think, myself, it is not such a law as can be executed. I had the honor, a short time since, to introduce a general bill to authorize the Government to pay for losses lost in that war with Mexico, and the Committee on Military Affairs unanimously reported against it. Now I wish it understood, that if the Missouri volunteers are not to be paid for their losses in that war, I shall vote against every bill intended to give relief in individual cases for the same kind of losses.

There is a law in reference to this subject upon our statute-books, but it is wholly ineffectual. The troops of Doniphan and Price, which went from Missouri, lost all their horses, and have not been paid for them. I have no doubt, without understanding this state of affairs, when a bill is introduced into this House, to meet this case, it is reported against unanimously by the Committee on Military Affairs.

Mr. WASHBURN, of Illinois. I desire to state to the House that the precise state of facts stated by the gentleman from Missouri, in regard to the volunteers of Missouri who lost their horses and property in the Mexican war, exists in Illinois. There are to-day hundreds of thousands of claims justly due to citizens of Illinois and Wisconsin for horses and other property lost during that war, and not a dollar of it can be got under

the existing law; and although, in almost every case, they come, I think, within the true and just interpretation of the law, yet, by the construction put upon the law at the Treasury Department, none of those parties are enabled to obtain indemnity. I think there is great force and truth in the remark made by the gentleman from Missouri, and I am astonished that Congress has not yet before passed laws to enable those men who have lost their property in this way to obtain indemnity.

But I disagree with the gentleman in other respects. Whenever a particular claim is made before Congress, which is just and proper, for a loss of property in the service of this country, I am willing to indemnify the claimant in that particular case, though I am in favor of a general law for the relief of all such claimants, to be properly carried out by the officers of the Government.

Mr. BRANCH. I have no remarks to make in reference to the Missouri volunteers. I think they will in due time be taken care of to the extent of their deserts. But this claimant now before the committee appears to have been a captain in the Missouri militia. I gather from the report that on one occasion he was ordered by a superior officer to disperse a band of the enemy. While absent upon that duty, he lost property which he could have protected had he remained with that property, and had not gone off to disperse that band of the enemy. It is a case that comes under a commission. Is it the law of this country that the losses which a person shall sustain by the enemy under such circumstances shall be paid for by the Government? Has this person with him any property except such as pertained to his personal apparel and equipment?

Mr. CURTIS. The gentleman from North Carolina labors under a misapprehension of the facts in this case. Mr. Clay was sent off upon business with other officers. While engaged in that service, he was taken prisoner, and was a lawful captive, and remained a long period of time within the Mexican lines. When he returned he found his horses, equipment, and everything, gone. It is a peculiar case, *sui generis*, and ought to be paid specially.

Mr. BRANCH. Was the property gone by capture by the public enemy?

Mr. CURTIS. No, sir; it was lost while he was a prisoner of the enemy.

Mr. BRANCH. I must confess that the explanation of the gentleman from Iowa has not yet enabled me to know what description of property this was, or how it was lost.

Mr. McCLERNAND. I ask the gentleman from North Carolina to let me send to the Clerk's desk, to be read, the views of the minority of the committee upon this question. They were hastily drawn up, and not so thoroughly matured as they should have been, otherwise they would have been presented before now as the report of the minority of the committee. Yet they embrace the facts, and, I think, the principles which should govern this case.

Mr. BRANCH. I am willing the views of the minority should be read, as I only desire proper information upon this subject.

The report was read, as follows:

The minority of the Committee of Claims, to whom was referred the petition of Captain M. Clay, claiming compensation for losses sustained by him in Mexico, and relief against a judgment obtained against him, ask leave to report: That the property and other losses reported by Captain Clay are established, no far as the fact of the loss is concerned; but no person is perceived why this loss should be taken out of the treasury, and made up to the individual. It is not the duty of the Government to make good the losses of individuals. It is the duty of the Government to make good the losses of its officers and soldiers. It is the duty of the Government to make good the losses of its property. It is the duty of the Government to make good the losses of its service. It is the duty of the Government to make good the losses of its honor. It is the duty of the Government to make good the losses of its credit. It is the duty of the Government to make good the losses of its power. It is the duty of the Government to make good the losses of its glory. It is the duty of the Government to make good the losses of its name. It is the duty of the Government to make good the losses of its reputation. It is the duty of the Government to make good the losses of its honor. It is the duty of the Government to make good the losses of its credit. It is the duty of the Government to make good the losses of its power. It is the duty of the Government to make good the losses of its glory. It is the duty of the Government to make good the losses of its name. It is the duty of the Government to make good the losses of its reputation.

As to the second branch of the claim, to wit: the judgment recovered against Captain Clay, for having inflicted

injury upon other parties in violation of law, but in execution of a military order from a superior officer. The order was not issued in a state of actual war, or in the enemy's country, but in a state of peace in one of our own States, Kentucky, where the civil authority prevailed. If the case was one arising under martial law, arising under an imperious necessity, it would be different. It is the duty of the majority of your committee to decide that the claim is allowable upon any principle of law, justice, or public policy. If it were a case of a military order issued in a state of peace, no compensation should ever be given to a violation of the civil law by the military arm of the Government. In some cases, however, it has been seen that the public use and judgment for the value afterwards obtained against the officer making the seizure, Congress has granted relief; but where an injury has been inflicted upon the person or property of citizens by military officers, in violation of law, every principle of public policy demands that such officers should be held accountable.

But this question has been frequently before [Congress], and as frequently decided adversely to the claimant. Only one case, however, will be cited in this report, as that is a case precisely in point. In 1853, Samuel P. Scott had the command of the revenue cutter *Dash*, then lying in the port of New York. William Davis deserted, and one Alfred Tans was sent to arrest him. Davis refused to return, and this report that Davis had a party of men on the lookout to assassinate Scott. The latter did not see him afterwards with Lieutenant Hodge, discovered Davis, and when he refused to return, and instead of being arrested, he was shot; and one John Anderson, a keeper of a sailors' boarding house, and six others, approached and demanded Davis's release, which being refused, they fired upon him, and down twice. Davis was taken on board the ship, and Anderson arrested on a warrant for assault and battery. Anderson was taken on a warrant for Scott's murder, and the latter was acquitted. Anderson was convicted. Anderson brought a civil suit for damages against Scott, and was awarded \$500 and costs. The case was brought before the committee, and was referred to the committee. The committee reported that the claim was not allowable, and that the Government was not bound to make good the losses of individuals.

"There are many instances where an officer of the United States in the discharge of an official duty, for the benefit of the service, has taken the property of an individual for public use, and has been sued, and, after full defense, a judgment has been recovered. Congress has granted relief. This was a complete of personal injury, and a partial defense only made. To grant relief in this case would be both unjust and impolitic."

The apology was rejected; and a minority of your committee concurring in his view of the question, recommended the following resolution:

Resolved, That the claimant is not entitled to relief.

Mr. BRANCH. The report of the minority of the committee presents the facts and arguments very distinctly, and I shall not consume the time of the committee in reiterating them. It appears to me that the claimant in this case is in the same predicament as the claimant in the case of the *Victoria*, incident to military life, lost a portion of his personal property. He was subjected to such a loss as the man who goes forth to war, whether he bears a commission of his country or acts only as a volunteer, is liable to be subjected to. It is the first instance in which I have ever heard it claimed that the Government is to make good losses of that description. I am willing to leave this on the report of the minority of the committee.

In regard to the other branch of the claim I would say this: that where an officer, acting under the orders of his superior, attempts in good faith to carry out those orders, and falls into an error of judgment in regard to points of law, I would feel very much inclined to indemnify him for his losses, if he can show that he acted in good faith, and that he was not negligent. In this case, there is any proof of want of good faith on the part of Mr. Clay. But I am told that the Court of Claims, before which this case has been, has reported against it.

Mr. HOARD. Oh, no; the Court of Claims reported that they had no authority; they did not report against it.

Mr. CURTIS. I would say that this case is a very simple one. The minority report is based upon two propositions. The first is, that it was not an extraordinary service that he lost his horses. But it certainly was an extraordinary service.

Mr. BRANCH. I suppose the gentleman from Iowa understands that he is speaking in my time.

Mr. CURTIS. Then, I will wait till the gentleman from North Carolina gets through.

Mr. TAYLOR. I wish to make a remark in reply to the observation of the gentleman from North Carolina before he takes his seat. He says he understands that the Court of Claims reported against that branch of the claim for the same reason as that which we are now considering, that the Court of Claims admit the merit of the claim, but say they have no jurisdiction; and that they refer the claimant to Congress.

Mr. HOARD. I have the report of the Court of Claims here. They say that the power to relieve a claimant in this case belongs exclusively to Congress. They do not report against it.

Mr. BRANCH. I was going to say that I would not argue this case any further. It is now near four o'clock, and we have disposed of a great deal of business to-day, or we have got it into a condition to carry it into the House, and to clear the private docket of nearly all its adverse reports from the Court of Claims, so that hereafter when we go into a Committee of the Whole House, we will be able to take up cases reported favorably from the standing committees of the House. It is obvious that this claim is going to give rise to a great deal of discussion, and that it will be strongly resisted. I propose, therefore, that the committee do now rise, so as to have time to dispose of, and thereby save, what we have already accomplished to-day; and that this case be allowed to stand over till some future time. It can be taken up when we go into a Committee of the Whole House again.

Mr. CURTIS. I would rather that it were disposed of now.

Mr. BRANCH. I have not yielded the floor yet. I propose, before I close, to move that the committee do now rise, so as to have what we have already accomplished to-day.

Mr. CURTIS. I would like merely to reply to the minority report.

Mr. BRANCH. I would not hesitate to yield the floor to enable the gentleman to do so, and of course common justice would require me to yield, if I proposed to take up adverse to the case; but inasmuch as I do not propose any action adverse to the claim, but propose to leave it in the position in which it now stands, with a view to take it up at some future time, I do not think there is any necessity for the gentleman to make any explanation now; I therefore move that the committee now rise.

DENNIS CROWNS.

Mr. TAYLOR. Before the motion is put, I wish to have a question settled. I understand that there was a resolution submitted and adopted to-day to concur in the adverse report of the Court of Claims in all cases, save where there was an exception. The case of Dennis Crowns was referred somewhat since to the Committee of Claims, and is now pending before that committee. I ask that it be exempted from this general resolution.

Mr. BRANCH. I have no objection myself, but I believe the gentleman from Louisiana has jumped into slippery ground, which has already given rise to a great deal of discussion. However, I have no objection to withdrawing my motion for the present.

Mr. TAYLOR. The case I refer to has been sent to the Committee of Claims, and is now before it. It was not properly on the Calendar in Committee of the Whole House. I therefore move that it be exempted from the report.

The motion was agreed to.

SUREVE AND CARTER.

Mr. PHELPS. I desire also to have exempted from the effect of this resolution, the adverse report from the Court of Claims (No. 205) on the petition of Lydia R. Shreve and Walker R. Carter, administrators of Henry M. Shreve.

It was so ordered.

Mr. BRANCH. I renew my motion that the committee do now rise.

Mr. JOHN COCHRANE called for tellers. Tellers were ordered; and Messrs. ASHWORTH and Messrs. appointed.

The committee reported, and the tellers reported yeas 24, nays 13, no quorum voting.

The Clerk proceeded to call the roll.

Mr. EDWARDS, (interrupting.) I would inquire whether this matter cannot be arranged so that we may go on with the business? I am satisfied that we cannot compel a vote today upon the bill now before the committee, and I therefore hope that the motion to rise will be acceded to, so that we may pass the bills which have already been laid aside.

Mr. BRANCH. That is precisely what I proposed.

The Clerk continued the call.

Mr. TAPPAN, (interrupting.) Would it be in order to dispense with the further calling of the roll, with the understanding that the committee shall rise?

The CHAIRMAN. It can be done by unanimous consent.

Mr. STEVENSON. I object.

The call of the roll was accordingly completed, when the following members failed to answer to their names:

Messrs. Adair, Avery, Babbitt, Barksdale, Barr, Barret, Beale, Berock, Busham, Boudin, Boyer, Brown, Burch, Hurlingham, Burdick, Burroughs, Corbridge, Cox, Crenshaw, Clark B. Cochran, Coffey, Cowley, Cox, Crawford, Davidson, H. Winter Davis, John G. Davis, Robert Davis, De Jarnette, Dismick, Edmondson, Eastlick, Farwell, Fenton, Ferry, Foster, Fouke, French, Garrett, Gilmer, Graham, Hall, Hamilton, Handman, J. Harrison, Harris, Hart, Hays, Hendricks, Hickman, Irvin, Jenkins, Jones, Judd, Kent, Killinger, Kunkel, Landrum, Lamborn, James M. Leach, Leach, Longenecker, Loomis, Love, May, Mayhew, McPherson, Mitchell, Mitwell, Lahan T. Moore, Moffat, Pendleton, Perry, Pettit, Peyton, Perry, Reynolds, J. Smith, Root, Scott, Sickles, Smith, William Smith, Thomas N. Smith, Thomas, Spaulding, Spinner, Stanton, Stevens, William Stewart, Strait, Stratton, Thomas, Trimble, Vance, Venable, Wadsworth, Washburn, Webster, Wilson, Wood, Woodruff, and Wright.

During the roll-call,

Mr. QUARLES announced the following pairs: Mr. AVERY with Mr. KILLINGER; Mr. WRIGHT with Mr. MILLWARD, for one week; and Mr. VANCE with Mr. COVODE. He also announced that Mr. LEACH, of North Carolina, had been called home on important business, and had left the city.

Mr. FRANK announced the following pairs: Mr. BRENNAN with Mr. SICKLES; Mr. FEAT with Mr. MACLAY; and Mr. LOOMIS with Mr. DAVIS, of Indiana.

It was also announced that Mr. FORSTER had paired off with Mr. BARBER for the day.

Mr. MALLORY stated that Mr. LEACH was paired off for this week with Mr. STANTON. Mr. COVODE announced that Mr. STEVENS, of Pennsylvania, had paired off with Mr. GARRETT all Tuesday next.

Mr. UNDERWOOD stated that Mr. GARRETT was confined to his room by sickness.

Mr. VALLANDIGHAM stated that Mr. PENDLETON was still detained from the House by indisposition.

Mr. BRANCH stated that Mr. REFFIN was confined to his room by indisposition.

Mr. BLAKE stated that Mr. TINKLE was sick.

Mr. EDWARDS announced that Mr. MARSHALL had left the House this afternoon very well.

The roll having been called, and the absentees noted, the committee rose; and Mr. McRAE having taken the chair as Speaker *pro tempore*, Mr. WINSLOW reported that the Committee of the Whole House had had under consideration the Private Calendar, and finding itself without a quorum, had caused the roll to be called, and had directed him to report the facts to the House, with the names of the absentees.

A quorum having appeared, the committee resumed its session, the pending question being on Mr. BRANCH's motion, that the committee do now rise.

Mr. TAPPAN. As it is now near the usual hour of adjournment, and for the purpose of saving what has been done, I am willing that the committee shall rise.

The question was put; and Mr. BRANCH's motion was agreed to.

So the committee rose; and Mr. McRAE having taken the chair as Speaker *pro tempore*, Mr. WINSLOW reported that the Committee of the Whole House had had under consideration the Private Calendar, and had directed him to report to the House sundry adverse reports from the Court of Claims, with the recommendation that some of them be concurred in; and that others be referred to the Committee of Claims; also, that the committee had directed him to report sundry bills to the House with a recommendation that they do pass.

ADVERSE REPORTS OF THE COURT OF CLAIMS.

The recommendation of the Committee of the Whole House with regard to the several adverse reports of the Court of Claims reported to the House was concurred in.

By unanimous consent, the previous question was then seconded, and the main question ordered, on all the bills reported from the Committee of the Whole, and the House proceeded to dispose of the same.

TENNESSEE RIVER IMPROVEMENT.

An act (H. R. No. 89) to liquidate the unjust claims of the Tennessee river improvement, was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MAXNARD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

THOMAS ATKINSON.

A bill (H. R. No. 234) for the relief of Thomas Atkinson, of Parke county, Indiana, was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DUNN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ROBERT JOHNSON.

A bill (H. R. No. 238) for the relief of Robert Johnson was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FLORENCE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ANSON DART.

The question recurred upon ordering a bill (H. R. No. 220) for the relief of Anson Dart to be engrossed, and read a third time.

Mr. BURNETT. It was the understanding with the gentleman who reported that bill that the gentleman from New York [Mr. JOHN COCHRANE] and myself were to be permitted to offer our amendments in the House.

Several MEMBERS. Offer them.

The SPEAKER *pro tempore*. The gentlemen will have that privilege.

Mr. BURNETT. The amendment of the gentleman from New York precedes mine.

Mr. JOHN COCHRANE. I offer the following amendment:

Strike out all after the word "Oregon," in the seventh line of the bill, down to the word "him," in the thirteenth line, and insert in lieu thereof the following:

Any sum that may be found to be due to him upon a settlement with him, upon principles of equity and justice, for damages incurred by him for the use and benefit of the Government.

The question was taken; and the amendment was disagreed to—ayes thirty-two, noes not counted.

Mr. BURNETT. I now offer my amendment, which is to strike out the words, "the sum of \$4,000 per annum, deducting therefrom \$2,500 per annum already received."

Mr. EDWARDS. I believe that that is the same amendment, in substance, as the one just voted on.

The SPEAKER *pro tempore*. No debate is in order.

The amendment was disagreed to.

The bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EDWARDS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EBEN S. HANSCOMB.

The bill (H. R. No. 225) for the relief of Eben S. Hanscomb was next taken from the Speaker's table, and ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FLORENCE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. TAPPAN. I desire to inquire whether report No. 81, from the Court of Claims, in the case of David Myrick, was referred to the Committee on Naval Affairs?

The SPEAKER *pro tempore*. The Chair stated that the cases from the Court of Claims would be disposed of as recommended by the Committee of the Whole. Such cases as were to be referred to committees have been referred.

Mr. BRANCH. I so understood it.

Mr. TAPPAN. I desire distinctly to understand how the adverse report in the case of Cassius M. Clay was disposed of? It would be hardly right that the decision of the court should be confirmed with the bill standing on the Calendar for his relief.

Mr. BRANCH. I trust that, by general consent, that case will be considered as still remaining on the Calendar.

The SPEAKER *pro tempore*. That will be the understanding, there being no objection.

And then, on motion of Mr. BURNETT, (at fifteen minutes before five o'clock, p. m.) the House adjourned until Monday next, at twelve o'clock, m.

IN SENATE.

SATURDAY, March 31, 1860.

Prayer by the Chaplain, Rev. Dr. GRALEY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate communications from the Secretary of War, transmitting a report of the Quartermaster General, together with the papers called for by the resolution of the Senate of the 14th instant, requesting the Secretary of War to furnish the Senate with all plans, estimates, and reports relating to the construction of new barracks for troops at the presidio of San Francisco, and especially the report of the inspector general, relating thereto, of May, 1859; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. DURKEE presented the petition of Daniel Whitney, praying for the issue of patents for certain lands at Green Bay, Wisconsin, in favor of parties to whom the land was confirmed under the act of February 31, 1823, by commissioners appointed under that act; which was referred to the Committee on Private Land Claims.

Mr. DOLITTLE presented the petition of Samuel Colt, praying an extension of his patent for an improvement in fire-arms; which was referred to the Committee on Patents and the Patent Office.

It also presented a communication from Samuel A. Clark and others, protesting against the granting of certain lands lying west of farm lot Nos. 1 to 23, inclusive, and between those lots and the Mississippi river, to H. L. Douman and others; which was referred to the Committee on Public Lands.

Mr. FESSENDEN. I present the memorial of Philip & Solomon and their associates, praying the privilege of constructing a horse railway in Georgetown and Washington; and move its reference to the Committee on the District of Columbia.

Mr. BROWN. The committee have had this whole subject under consideration; and in the course of this day I expect to have the bill which the committee has already reported before the Senate and discussed. For the time being, I move that the petition lie on the table.

Mr. FESSENDEN. I do not know that I have any objection to its being laid on the table for today; but in case that bill should not get through, I should wish it to go to the committee, that they may bring it into consideration.

Mr. BROWN. Certainly.

The VICE PRESIDENT. It will lie on the table for the present, if there be no objection.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. DURKEE, it was Ordered, That the memorial of citizens of Washington city, praying an examination and settlement of the claims of J. W. Nye, for furnishing horses and carriages for the House of Representatives, commanding Pennsylvania avenue, and for improving a lot of ground, on the site of the Senate, be referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. YULEE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 342) to refund to the State of Florida certain moneys advanced by said State for military purposes; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 343) amendatory of the act regulating the distribution of Potomac water throughout the city of

Washington, approved March 3, 1859; which was read twice by its title, and referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the message of the President of the United States, communicating, in answer to a resolution of the Senate of the 21st, a report of the Secretary of the Navy, accompanied by copies of instructions given to the officers of the United States naval forces on the coast of Mexico to protect the persons and property of the citizens of the United States, and copies of the official reports of Captain Jarvis and Commander Turner of the capture of two Mexican war steamers, and the causes which led to said capture, reported in favor of printing the usual number, which was agreed to.

He also, from the same committee, to whom was referred a motion to print, and that two thousand additional copies be printed, of the report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a copy of the memorial of Brevet Lieutenant Colonel H. S. Roberts, relating to a reorganization of the militia of the United States, reported in favor of printing the usual number; which was agreed to.

CHARLES PORTERFIELD.

Mr. DURKIE. The House of Representatives yesterday sent to the Senate a bill (H. R. No. 943) for the relief of the legal representatives of Charles Porterfield, deceased. It was unnecessarily referred to the Committee on Public Lands. Inasmuch as the Committee on Revolutionary Claims have had the same subject under consideration and reported on it, I move that that reference be reconsidered, and that the bill be referred to the Committee on Revolutionary Claims. The motion was agreed to.

ALICE HUNT.

Mr. CHANDLER. I move to take up the bill S. No. 233. It will not take a moment's time to consider it.

The motion was agreed to; and the bill (S. No. 233) for the relief of Alice Hunt, widow of Thomas Hunt, was read the second time, and considered as in Committee of the Whole. It provides for paying per annum to the pensioner, at the rate of twenty dollars per month, from the 5th of January, 1860, to continue during life or widowhood.

Mr. CRITTENDEN. This bill, I think, does some injustice to this very excellent lady. It places her pension at twenty dollars a month. She was the wife of a captain, and is entitled to a captain's half pay. The half pay of a captain now is thirty-five dollars. I move to strike out "twenty dollars" and insert "thirty-five dollars."

The amendment was agreed to.

The bill was reported to the Senate amended, and the amendment was concurred in; and the bill, as amended, ordered to be engrossed and read a third time. It was read the third time, and passed.

KATE D. TAYLOR.

Mr. CRITTENDEN. I ask that bill No. 359, for the relief of Kate D. Taylor, be taken up. I think that it will occupy no time, as it is a case of the most crying necessity. She is the widow of Brevet Captain Taylor, who was lately killed in performing gallant service in the field in Oregon. She is poor, and left with two or three children.

Mr. BROWN. I am very reluctant, of course, to oppose anything that the Senator wishes—
Mr. CRITTENDEN. If it takes up any time, it shall not interfere with the gentleman.

Mr. BROWN. This day was set apart for the business of the District of Columbia.

Mr. CRITTENDEN. I will not interfere with the gentleman, if it takes any time.

Mr. BROWN. With the understanding that I am not to yield again, and that this bill is not to give rise to debate, I yield the floor.

The Chairman of the Committee on Pensions, and the bill (S. No. 359) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P. Taylor, was read a second time, and considered as in Committee of the Whole. It provides for placing the name of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P.

Taylor, on the pension roll, at the rate of thirty-five dollars per month, from the 17th of May, 1858, during life or widowhood, deducting the amount received through the office of the Third Auditor of the Treasury, at the rate of \$26 66 2/3 per month, under the fifteenth section of the act of 16th of March, 1850.

Mr. CRITTENDEN. I only wish to recall this case, by a very brief statement, to the recollection and attention of Senators. The case of Captain Taylor is of recent occurrence. He was killed, in the course of the last two years, in the Indian expedition under the command of Colonel Sherman, while he was behaving very gallantly at the time of his death. As brevet captain, and in command of a company, he was compelled to occupy a very perilous situation; and did so with great gallantry, and lost his life. I believe he was placed at the rear of the little band with which he was associated, under the command of Colonel Slepston, and was killed in defending it against the attack of a large force. The only question before the committee was whether this lady should be entitled to the half pay of a lieutenant, or the half pay of a captain. They decided in favor of the latter, and entitled to the half pay of a captain; and I trust it will meet the approbation of every Senator. He was brevet captain at the time, and he was acting as captain of his company at the time; and at that character, and in that command, was exposed to the greatest danger to which he lost his life. I think, as he was acting as a captain at the time—being in command as a brevet captain—and as the perilous condition in which it placed him was the immediate cause of his death, nothing can be more just than to give his poor widow, with two or three little children, anything to sustain them but the pension which the Government shall allow her, the half pay of a captain.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DISTRICT BUSINESS.

The VICE PRESIDENT. If there be no further petitions and memorials, the Chair will call up the business for which this day was set apart. The first bill in reference to the District of Columbia on the Calendar is the bill Senate No. 62.

Mr. BROWN. Before proceeding to the consideration of District business, I submit a petition to the Senate, that the Mayors of Washington and Georgetown be allowed to come on the floor during the progress of their business. Perhaps they may have suggestions to make to us.

The VICE PRESIDENT. It requires unanimous consent. The Chair hears no objection to that proposition.

PROVIDENT ASSOCIATION OF CLERKS.

The bill (S. No. 62) to amend "the Act to incorporate the Provident Association of Clerks in the civil Departments of the Government of the United States in the District of Columbia," was read a second time, and considered as in Committee of the Whole. It proposes to amend the charter as to allow any member of the association, on giving one month's notice to the president and board of officers, to withdraw from the association, and receive out of its funds and assets such sum as the president and board of officers may consider just and equitable, but in no case to exceed the amount he may have contributed, with interest at the rate of six per cent., nor his distributive share of the entire assets if distributed pro rata to family interest at the time of such withdrawal.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ALEXANDRIA AND HAMPSHIRE RAILROAD.

The bill (S. No. 64) to authorize the extension and use of a branch of the Alexandria, Loudoun, and Hampshire railroad, within the city of Georgetown, was read the second time, and considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and was read the third time.

Mr. COLLAMER. I wish to inquire if this is a grant to run through the city?

Mr. BROWN. No. It is simply giving a Virginia company the privilege of crossing the Potomac,

and establishing a depot in the city of Georgetown. That is all they ask.

The bill was passed.

PUBLIC SCHOOLS OF WASHINGTON.

The bill (S. No. 76) for the benefit of public schools in the city of Washington, was read the second time, and considered as in Committee of the Whole. It proposes to surrender no much of the fines and forfeitures heretofore to be collected in the District of Columbia as accrue to the United States, to the city of Washington for school purposes; and the amount so to be appropriated to the purpose of building permanent school-houses in the city of Washington, and to no other use; and when the whole sum so received shall amount to \$50,000, the operations of this provision are to cease.

The bill further provides that the corporate authorities in the city of Washington may levy a special tax, not exceeding ten cents on each \$100 worth of taxable property in the corporate limits of the city, for the benefit of public schools; and that whenever so raised by a special tax, the bill is officially notified by the Mayor that this tax has been levied and collected, it shall be his duty to pay from the Treasury of the United States, to the persons legally authorized to receive the school funds for the city of Washington, a sum equal to the amount so levied and collected, not more than \$25,000 per annum are to be paid by the United States, and the payments are to continue for five years, unless Congress shall otherwise order.

The bill was reported to the Senate, and ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CLARK. I think that bill had better be laid aside to-day.

The VICE PRESIDENT. Objection being made, the bill cannot be put on its passage to-day.

The bill (S. No. 280) directing the conveyance of all of ground for the use of the public schools of Washington city, was read the second time, and considered as in Committee of the Whole. It will be a direction to the Commissioner of Public Buildings to relinquish and convey to the corporation of Washington the right and title to the United States lot No. 14, in square No. 253, for the uses of the public schools, and for no other purpose; and the lot is not to be assigned or conveyed by the city corporation for any purpose whatsoever.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PARKSBOURNE RAILWAY.

Mr. BROWN. I perceive that the next bill is the avenue railroad bill. Let us should get into a discussion on it, and defeat other measures to which I think there will be no objection, I propose that we pass that bill by for the present.

The VICE PRESIDENT. If there be no objection, that bill will be passed over informally, and the Chair will call up the other District bills.

GRAND LODGE OF ODD FELLOWS.

The bill (S. No. 332) to incorporate the Grand Lodge of the Independent Order of Odd Fellows of the District of Columbia was read the second time, and considered as in Committee of the Whole.

Mr. CLARK. I desire to call the attention of the chairman of the Committee on the District of Columbia to section four of the bill. That section provides that this bill shall not be construed to confer banking privileges. I understand that many of the corporations and individuals of the District exercise those privileges without right or law, and I desire to inquire whether it would be better simply to prohibit them from doing it? They may attempt to do it without right.

Mr. BROWN. I have no objection to an amendment of that sort.

Mr. CLARK. I offer the following amendment to section four: to strike out all after the enacting clause of the section, and insert:

That the said corporation shall not exercise banking privileges, or issue, or put in circulation, bank notes, or any other paper or coin, or device, or seal, or stamp.

Mr. BROWN. I have no objection to the amendment. It seems to me to be about the same as the section is now; but if the Senator prefers that phraseology, let it be so.

The amendment was agreed to.

The bill was reported to the Senate, and the

amendment was concurred in; and the bill was ordered to be engrossed, and read a third time. It was read the third time, and passed.

TAVERN AND OTHER LICENSES.

The bill (S. No. 951) to authorize the levy court to issue tavern and other licenses in the District of Columbia, was next considered as in Committee of the Whole. It proposes to transfer from the circuit court of the District of Columbia to the levy court of Washington County the power to grant licenses to keepers of taverns and ordinaries, to hawkers and peddlers, billiard tables, bowling saloons, and auctioneers, in that part of the county of Washington beyond the corporate limits of the cities of Washington and Georgetown, under such regulations and penalties as the levy court may by law deem expedient.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GALLERY OF ARTS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 287) to incorporate the National Gallery and School of Arts in the District of Columbia.

The Committee on the District of Columbia reported the bill with amendments. The first amendment of the committee was on page 3, section three, line eleven, to strike out the word "law," and insert "the Constitution and laws of the United States;" so that it will read:

The trustees aforesaid shall hold their offices until the day of October, 1900, and until their successors shall be elected. And the said trustees shall have all necessary orders and by-laws for the complete organization, government, and administration of the institution herein established. They may appoint or elect a president and secretary of their own body, and all such officers, professors, or teachers, as in their may seem expedient, and may confer upon them such powers, not inconsistent with the Constitution and laws of the United States, as may to them seem proper to the end in view.

The amendment was agreed to.

The next amendment was in section five, line thirteen, to strike out the word "request," and insert "require;" so as to read: "and insert" "and the said books or journals shall at all times be open to the inspection and examination of the said subscribers and contributors, and when required by either House of Congress, it shall be the duty of the said trustees to furnish any information respecting the institution and its affairs which may be so required."

The amendment was agreed to.

The next amendment was to insert, as a new section:

Sec. 6. And be it further enacted, That nothing in this act shall be so construed as to authorize said corporation to incur any note, interest, debt, scrip, or other evidence of debt, to be used as a currency.

The amendment was agreed to.

The next amendment of the committee was to insert, as a new section:

Sec. 7. And be it further enacted, That this act may at any time be altered, amended, or repealed by the Congress of the United States.

The amendment was agreed to.

Mr. GRIMES. I should like to hear from the chairman of the committee some explanation of the objects of this bill for a gallery of art, from the casual reading which I have just given to it, that it is not an ordinary act of incorporation to gentlemen who desire to establish a school of art, but it is the creation of a school of art by Congress; and then it confers the control of that school of art upon sundry trustees of the act. That is the way I understand it; if that is so, I should like to know it.

Mr. BROWN. These gentlemen form a voluntary association, already entered into. They have made important contributions to art, and are offered a very important gift in the form of a lot and house, by a gentleman of fortune in this city. They want a corporate name, by which they can hold their property, and transact their business. I do not understand that we are doing anything more than simply giving a charter to a private association, already formed, under such restrictions as we think proper to impose.

Mr. GRIMES. Of course I should have no objection to such a bill as the Senator from Mississippi indicates. I not only would not object to that bill in favor of it; but this is a singularly drawn bill, at any rate, if that is the sole object of it. The first section enacts:

That there be, and hereby is, established in the District of Columbia, a gallery and school of arts, for the purpose

of promoting the improvement of the fine arts, and their education to patriotic purposes, by means of exhibitions, libraries, museum, instruction, and any other practicable operations.

This section does not create any incorporation; but it declares that the part of Congress, that creates a school shall be established. Established by whom? Established by Congress, as I understand; by the authority that has the control of the municipal regulations of this District. The bill then goes on, in the succeeding sections, to say that certain men—keepers of the school—be trustees of this school for a limited time; and that those trustees shall have the power to provide for their successors by appointment. It is true, that at this time it does not take anything out of the Treasury. I have not given the bill any examination, except the simple reading of it now; but I apprehend that the design of the bill is really to attach this school to the Government as one of the permanent institutions of the Government, and I am fearful that such is to be the effect of it.

Mr. BROWN. I have no dream that there is any such purpose; but I have no objection to a provision being added to prevent such a use of it.

Mr. GRIMES. I judge solely from the manner in which the bill is framed. I have seen a great many acts of incorporation, but I have never yet seen where the Government is desired to establish a particular institution should exist, and then went on to confer the control of that institution, after having declared its existence, on certain trustees, and gave them authority to control it. It may be all right; I do not pretend to understand it. I only ask for an explanation.

Mr. BROWN. The Senator will see by the concluding section of the bill, which we have offered as an amendment, that it is declared that this act may at any time be altered, amended, or repealed by the Congress of the United States; and putting that in, I think it is safe. If Congress does not want to give any money, if an application of that kind is made, it can repeal the charter.

Mr. BENJAMIN. I suggest to my friend from Mississippi to strike out of the first section from "Mississippi to strike out of the first section" and insert "hereby is," and then the objection of the Senator from Iowa will be met. That will leave it a permission to establish.

Mr. HAMLIN. I would suggest to the chairman this amendment: add after the word "Columbia," in the fourth line of the section, the words "by the persons hereinafter named." That makes it clearly and distinctly what the committee understood it, and what I have no doubt it now is.

Mr. BROWN. I have no objection to that.

Mr. HAMLIN. I would suggest by inserting after the word "Columbia," in the fourth line, the words "by the persons hereinafter named."

The amendment was agreed to.

Mr. BENJAMIN. I think, to make the section sensible now, it is necessary to strike out the words "and hereby is," and insert "may be" before "be established." Then the section will read: "there may be established in the District of Columbia, by the persons hereinafter named, a gallery and school of arts."

Mr. GRIMES. That will do.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the Senate proceeded to consider it. The bill was ordered to be engrossed, and read a third time. It was read the third time, and passed.

WASHINGTON CITY RAILWAY.

Mr. BROWN. I now move to take up the railroad bill.

The motion was agreed to; and the bill (S. No. 201) in relation to a railway along Pennsylvania avenue and other avenues and streets in the cities of Washington and Georgetown, in the District of Columbia, was read the second time, and considered as in Committee of the Whole. The bill proposes to constitute Richard Wallace, George W. Riggs, Walter Lenox, Jonah D. Hoover, James M. Carlisle, William B. Todd, Charles W. Boteler, Jr., George Harrington, John F. Coyle, and their assigns, to be the trustees of the Washington and Georgetown Railroad Company, with authority to construct and lay down a double-track railway, with the necessary switches and turnouts, in the cities of Washington and Georgetown, in the Dis-

trict of Columbia, through and along the following avenues and streets: commencing on Bridge street, at its intersection with High street, or at such point on Bridge street, east thereof, in the city of Georgetown, as may be designated by the corporate authorities thereof, along Bridge street to its intersection with the street running to the tubular bridge, across the Potomac river, to the city of Pennsylvania avenue, in the city of Washington; along the avenue to Fifteenth street west; along that street south to the avenue; along the avenue to the foot of the Capitol; thence around the northern boundary of the Capitol grounds to the northern gate thereof, from the north to the southern gate; thence along their southern boundary easterly to Pennsylvania avenue; along the avenue to Eighth street east, or Garrison street, and along that street due south to the navy-yard gate; with a lateral road connecting the main road with New Jersey avenue at its intersection with the depot of the Baltimore and Ohio Railroad Company; also a single-track railway commencing at the intersection of Seventh street west with M street north, and running south along that street to the south end of the avenue, and intersecting it with the road on the avenue, with the right to run public carriages thereon drawn by horse power, receiving therefor a rate of fare not exceeding five cents per passenger for any distance between any and all of the termini of the roads. The bill contains various provisions relating to the franchise of the municipal authorities of Washington and Georgetown, as to the manner of laying the railway, the time in which it shall be done, &c.

Mr. BROWN. It is very well known to Senators. Mr. President, that I have heretofore opposed the construction of any railroad upon any avenue; I am not less opposed to it now than I have always been; but in that position I have not been sustained in the Senate or out of it. It became perfectly apparent during the last Congress that a large majority of the Senate was in favor of a railroad upon the avenue, and it is a fact which was left to me, as the organ of the Senate for the people of this District, now to consider this second question: to whom should the franchise be given? There were before the committee three propositions: one, to incorporate the Washington and Georgetown Company, incorporated by the State of Maryland; one from what was denominated the Citizens' Company; and the other from the association of gentlemen named in this bill. The Committee on the District of Columbia, in determining to favor these names, were influenced by considerations which I will state. First, in so much as relates to the Metropolitan Railroad Company, we found that that had been an existing company for six or seven years; that it had never, during all that time, made one inch of progress towards the construction of the road; it made an call of some eight per centage—I do not know how much—three or four or five per cent; it was paid by some subscribers to the stock, but nothing was done. The company seemed to be languishing—in fact, it died, in everything but name.

Mr. COLLAMER. What was that company incorporated to do?

Mr. BROWN. To build a railroad from a point on the Baltimore and Ohio railroad, known as the Point of Rocks; a point some fifty miles, probably, east of Harper's Ferry, Georgetown, &c. It made no progress; it seemed to have no vitality; seemed indolent, heretofore, to do anything, and, in fact, did not do anything. Its directors came, through their agent, and represented to the committee that if this privilege of constructing a railroad on the avenue should be given to them, then, out of the profits arising from it, they were going to construct a railroad from Georgetown to the Point of Rocks—a work that is going to cost \$3,000,000, I think, by the lowest estimate. We did not believe a word of that; we thought it was a piece of humbuggery, and dismissed the whole thing.

Then we considered the proposition of the so-called Citizens' Company. We found that there were some three, or four, or five hundred persons, who had subscribed on paper, agreeing to take so much stock in their company, but that none of their representative made before the committee seemed to be this; that the stock was to be distributed among a vast number of people, and was not to be monopolized and taken into the hands of any particular persons. The limitation, I think,

carried in reporting the bill which came from the committee. I concurred in it, first, because I believed the character of the corporations was such as to insure its completion in the shortest possible time. That was the leading and controlling motive that operated upon my mind. If it was desirable at all, it was desirable that the work should be confided to those in whose hands we might have the most confidence of securing the rapid completion of the work.

The measure, which is now submitted by the Senator from Maryland was also antagonized to this bill in the committee; and the same reasons were urged there that have been urged here in its favor. In my opinion, in the opinion of the committee, they are not well founded; and I concur with the chairman in saying that your judgment, the Metropolitan Railroad Company may be regarded as a defunct thing, whether they get this charter or not; and I think it is the best illustration, legislatively, that I have ever known of what Virgil describes as blinding dead carcasses to bring bodies. This corporation, I say, in my judgment, is to be regarded as a defunct corporation. Some six or seven years ago persons subscribed money to it, but they never paid a dollar, or very few dollars.

Mr. BROWN. I will state in that connection, if my colleague on the committee will allow me, that the city of Georgetown made a subscription to the Metropolitan Railroad Company, and subsequently withdrew the subscription and transferred the money to the Loudoun and Hampshire Roads.

Mr. HAMLIN. I was going to make the same remark. They subscribed, I think, on paper about half a million dollars—a nominal sum. Perhaps enough to make the survey was paid in, and to have their charter the work commenced—quite a successful start, but it may be said to have the limitation in their charter, which was for a railroad from Georgetown to the Point of Rocks. It was designed to save the angle made by the Baltimore and Ohio railroad from Harper's Ferry to the Relay House, and thence to this place. The interest I think is some four miles, and the country between the Point of Rocks and Georgetown, as the Senator from Maryland I think has well said, cannot justify the expectation of very large dividends if the road ever should be running. In my judgment, it never could pay running expenses. If it could command traffic as it draws from the West at the Point of Rocks, and secure that travel to this place, it might be of some value; certainly of vastly more value than it can be now, because the Loudoun and Hampshire road is now constructed some ninety miles, and is to tap the western road some eighty miles west of the Point of Rocks, and will thus secure the western travel to this place which it was designed originally to secure over the Metropolitan route from the Point of Rocks to Georgetown. It is a direct road, and comes within about six days of any corporation on the south, and has the right to connect with Georgetown directly, by a bill which we have passed this morning.

Now, my friend, looking at all the antecedents of the Metropolitan road—looking at the fact that its promoters have not been successful in their efforts, looking at the fact that it has lumbered all this time, and will lumber always, in my judgment, whether you give it this franchise or not—I say it presents no case which commends it to our favorable judgment. I have my own opinions about this railway. I have formed them from the best opinions I can gather. My judgment is, that this bill, which the committee has reported, will not for years afford a sufficient remuneration to the men who invest their capital in the enterprise. I think it is not a profitable investment, and in our large cities, where there must necessarily be very much more travel than there is here, these roads are failing to be remunerative. A road from Georgetown to the Capital gate might be excellent property; but when you compel the corporation to carry the mail and passengers out of the yard, and when you compel them to go from the junction of Seventh street to the northern limits of the city or to M street, these branches must necessarily be non-paying. Taken as a whole, the effect will be beneficial to the city; but when you take the road as a whole, and as it is in this bill, I do not believe it will be as remunerative as it ought to be to any corporations who may construct the

work. But suppose it is largely remunerative: what is the clause in your bill? At any time within ten years you may reduce the fares—

Mr. PEARCE. After ten years.

Mr. HAMLIN. Let me see:

Provided, however, that at any time within ten years the directors of said road, the Congress of the United States shall have power to alter, fix, and regulate the fare, &c.

And then, I think, after every succeeding five years. Suppose the work should be found exceedingly remunerative; suppose all that the Metropolitan gentlemen say of it should turn out to be true, and it should be vastly productive—so productive that you can build other roads in neighboring States upon it, what then would be the duty of Congress? It would be, to reduce the fare to that limitation which should only make it a paying road to the corporations; for I take it the good people of this city and those who come here ought not to be taxed in a right within their municipal boundaries with rates so high that they shall be compelled to contribute to build roads in adjoining States. I do not myself believe it will be very remunerative; but assuming it should be vastly so, then I say the power which Congress has retained to itself in this charter should be, for me, my judgment would be exercised, and very properly.

Mr. PEARCE. Will the Senator allow me to interrupt him? I think he does not correctly understand the proposition. It is that, at any time within ten years, Congress may alter and fix the fare, and, during the succeeding five years, that they may at once bring the charge down; but they may at any time within ten years provide in advance for the charge for the succeeding five years.

Mr. HAMLIN. I understand it precisely so; but I understand that you must have a series of years; you must have a sufficient time to test the whole work, and see what it will produce. Two years, perhaps, would hardly be a fair test; but after you have tested it, I understand the bill precisely the Senator does. Whenever that time comes, if the fare is not less than thirty cents, and you find it is paying twenty-five per cent.—I do not believe it will pay three, but assume that it will pay twenty-five per cent.—what then will be the duty of Congress? I say its plain and palpable duty will be to exercise its power and to reduce the fare in this class of work, because you ought not to tax the people in this District exorbitantly to build roads in neighboring States.

I am aware that the amendment submitted by the Senator from Maryland contains a provision that the road shall be completed within six months, while the bill reported by the committee gives to the parties eighteen months. It was a question well considered in the committee whether that should not be reduced to twelve; and I am inclined now to think it might be reduced to twelve months. I do not mean to impute to him—conveys a suspicion upon the whole thing. I affirm that it cannot be done in six months. I affirm that it cannot be prudently and economically completed in six months; and the result would be that the attempt to attempt to complete the work, they would come and say, "we have exercised due diligence; we have invested our property here; now you must extend the time to us; you must give us sufficient additional time in which to complete the work." The whole matter in the Senator's proposition is so short, that instead of commending itself to my judgment as favorable, it creates, I confess, a suspicion. I have no opinions of my own that I form on my own experience upon these points; but I speak of the amendment submitted to me by practical men—by men who know all about the work—and I rely upon them, as I am bound to rely on them, for the best information I can have. Now I believe the best thing we can do will be to be of this matter; to pass the bill; to give the franchise to those who will complete a special and ability enough to insure the completion of the work in the shortest period of time, and be rid of it ourselves, and have the work in process of construction.

Mr. PEARCE. As to the impossibility of completing the railway in six months, that may well be the Senator's opinion; but I am of an entirely different opinion, and I have formed my opinion

not on any information given to me by anybody else, but upon my observation of the time within which other railroads, of equal extent, have been laid down in other cities. There is no grading to be done. It is a very easy difficulty at the present, put down your timbers, lay your rails upon them, and the road is done. If three miles of such railroad cannot be completed in six months, then, sir, the company that cannot do it has not the slightest particle of energy, and never will do it. It is not a charge of any difficulty at all. The great difficulty in laying down a railroad is preparing the track—the bed of the road; but here it is prepared already; the streets are graded. There is nothing on earth to be done but to take up the stones with which the streets are paved, and lay down the timbers, and iron, and they have the money, as they may they have, they can easily lay down the rails within the time required. It is not a bogus proposition. These men are not the men to impose on the Government. They would not be willing to make themselves ridiculous by offering to do what they could not do. The men who are named have the means among themselves. Mr. Ogle Taylor himself has ample ability to build the whole of this road, if he pleases; and there are several gentlemen of large property among them, as I know. They can do it, and do it within six months.

Now, in regard to the remonstrance which was read by the Senator from Mississippi, I have received a note signed by one of the Messrs. Parker, for the firm of George & Thomas Parker, in which they declare that their name has not been taken from that memorial against the grant to the Metropolitan railroad. They say they signed it under a misapprehension.

Mr. Parker says:

"I was under the impression they only contemplated going to the Georgetown road, but, on seeing their bill, I found they intended going to the Navy-Yard, and down Seventh street, from the boundary to the river; and therefore, I am in the habit of saying in preference to the memorial."

There is something added, which I do not exactly understand, but perhaps, in all fairness, I ought to read it:

"But I am still in favor of the Citizens' road, believing that it is based on principles of public and private property. We are authorized to have any number of the memorial."

Mr. FESSENDEN. That is a third proposition.

Mr. PEARCE. That, I understand, is abandoned. There were three; one is abandoned, and the only propositions now here are the one submitted by the Senator from Mississippi and the one submitted by myself. Then in regard to the remonstrance of gentlemen who had subscribed to the Metropolitan railroad, I have a list of their names, and the amounts of their subscriptions. Their subscriptions amounted to \$4,450; so that the remonstrants are as \$4,450 to about \$500,000. I shall not trouble the Senate with any extended discussion of this matter. We have had about it a great deal last year, and I desire to say just as little as is necessary.

Mr. BENJAMIN. Mr. President, I have an objection to the amendment offered by the Senator from Maryland, which is conclusive with me. I do not think they have the power to pass any such proposition. I am afraid that it will involve this whole matter in inextricable legal difficulty, and the result will be that the construction of this railroad will be indefinitely postponed. There is a corporation now existing, organized under the laws of the State of Maryland, for the building of a railroad from one point to another; and the proposition is that Congress shall give to the directors of that road—I think the amendment is not very clear whether it is to be given to the directors or to the stockholders—the right to give the franchise to the directors, as a corporation organized under a new name here, the power to build a different road; that contemplated by the original charter; and it provides that that road, when thus built, shall be practically the property of the Maryland corporation. I think that is a very objectionable proposition. This proposition is made to us without the memorial of the stockholders of the company, but upon the memorial of the directors, in opposition to the remonstrance of some of the stockholders, at least.

Now, sir, there is one principle of law, which I believe has been established by the concurrent jurisprudence of nearly every State in our Union,

and is well established in England. It is this: that when a corporation has been once organized for a particular purpose, and men have put their money into that corporation on the contract that their money shall be devoted to that purpose, no legislative power can take their money and devote it to anything else, and that the protest of a single member of the corporation will suffice to arrest the execution of any such law, the powers thus exercised being beyond the legislative power, being one in violation of contract. And any man who has signed his name to the Maryland corporation, agreeing to give his money towards building a railroad from Georgetown to the Point of Rocks, has the right by injunction to arrest that corporation from engaging in the construction of another and different road. That, I think, is clear.

That is beyond dispute. Now, the honorable Senator from Maryland says that there are only a few of these corporators who protest. That is all that is apparent to us now. Suppose this bill passes in the shape he proposes; suppose the true effect of this amendment be to give this power over the District railroad to the Maryland corporation; how is the money to be raised? Will you levy your installments upon the Maryland stockholders? How will you enforce their payment?

Mr. COLLAMER. Will the gentleman allow me to say that there is no provision in this amendment for making other corporations liable?

Mr. BENJAMIN. I was going to call attention to that in a moment. If this is a power granted to the Maryland corporation, where is your power to levy an installment towards building a road in the District on any one of those corporators? You cannot give it by this bill. Without their assent, you cannot give power to their directors to call on them for installments to build a road in Washington city. The amendment seems to have contemplated that difficulty, and endeavored to avoid it, or rather to get rid of it; and how? It provides that certain gentlemen, to be named, "having been duly elected and qualified, the first named as president and the others as directors of the Metropolitan Railroad Company, heretofore incorporated by the Legislature of the State of Maryland," they, and they alone, are to be the directors of the corporation, and they are hereby, created a body corporate, under the name of the Metropolitan Railroad Company.

Then the frame of the proposed bill is, that the directors of the Maryland company and their successors in office, for the Metropolitan Railroad Company for the cities of Washington and Georgetown. Well, now, if they are the corporators, and they alone—and that seems to be all that is contemplated—can we expect that these six or eight gentlemen are going to pay out of their pockets the money to build a railroad in Washington and Georgetown, with a provision that all the profits resulting from that investment shall be paid to a different corporation? We cannot expect any such public spirit from any body of gentlemen. I apprehend that all that they propose, but they propose, after they themselves, the directors of this Maryland company and their successors—shall have been incorporated into a Metropolitan Railroad Company, to ask the stockholders of the Maryland company to join them. Suppose some of those stockholders decline; what will be the result? Those that agree will be the members of the new company. They will be the members of this new company on condition that the money they put in this new road, and the profits of the new road, shall, in effect, belong to a different corporation; that those who decline to subscribe to this new corporation shall have the profits of the new corporation, and be subjected to none of the responsibilities. It is very easy to know what will be the result. The stockholders of the Maryland corporation will say: "We do choose to subscribe, and we have undertaken, and have undertaken, by this bill, to build the road, and to give us the profits, and there is no necessity for us to subscribe anything; we are to have all the profits without subscription."

That is the form of this proposition; that is the way it reads; that is the way it is framed. The measure is impracticable. You cannot give to the directors of a corporation power to build a different road; you certainly cannot do it without the unanimous vote of the stockholders; and you frame your bill here so as to render it absolutely certain that the stockholders will not vote to sub-

scribe, because, by the frame of the bill, they are to get all the benefits without subscription. The whole of the profits are to go to them, whether they subscribe or not. The result is, then, we are to take it for granted that these few gentlemen, who are directors of another company, will compel the stockholders of this company to subscribe to this railroad, for the pleasure of giving its benefits to another corporation. That certainly will be the practical effect of the amendment. We may see, by examining that practical effect, what the result will be—that the road will not be built, and this subject will be before us again next session.

Mr. CLINGMAN. I have but a single word of explanation to make. I was a great deal perplexed, last session, between these two projects. Representations were made to me in favor of each by highly respectable gentlemen; but, thinking that the Metropolitan road, if carried out, might be serviceable to the country, I made up my mind to vote for its proposition with some hesitation. It was urged then that it would merely have the effect of defeating the movement. We adopted it, and incorporated it, and then the whole matter fell dead. Now, as I am of opinion that it is better to allow the people here to have a road, I intend to vote against this amendment. We have not tried either measure; but all the indications lead me to suppose that we are more likely to get the road built by incorporating the company from Mississippi and of the committee, and therefore I shall vote for it, although I gave the preference, last winter, to the other proposition. I may say further, that while a good many representations have been made in favor of each, by persons who felt an interest in the subject, more of those citizens who seemed not to be the stockholders were anxious for the first proposition than any other, seemingly in the belief that they would get the benefit of a road by it; and as at present advised, therefore, in addition to the strong objection to the second measure, I shall vote for the first from Louisiana, I shall give my vote for the original proposition of the committee, and against the amendment of the Senator from Maryland.

Mr. HUNTER. I believe it is in order to perfect the original bill before the vote is taken on the substitute; and I offer the following as an independent section, which I hope the Senator from Mississippi will accept:

And be it further enacted, That the stockholders to said company shall be liable, each in his or her individual capacity, for the debts and liabilities of said company, never contracted, to the amount of stock held by each.

Mr. BROWN. I have no right to accept an amendment to a bill reported by a committee. The bill is not mine; but I think the amendment is right, and I shall vote for it myself.

The amendment was agreed to.

Mr. PEARCE. Mr. President, I will not deny that there is much force in the objections which have been made by the Senator from Louisiana, some of which had only occurred to me this morning. I never read the bill which I presented as a substitute last year, and I have since made some slight amendments to it; but I should be glad to have an opportunity of considering this matter a little further. If the bill may be laid over for a few days, I will investigate it carefully, and I do not doubt but I can obviate the objections which have been made by the Senator from Louisiana, I shall withdraw the objection to the other bill.

Mr. BROWN. My only objection to that is this: this day has been given to the business of the District of Columbia; and if we postpone the bill, we know enough of the Senate to predict, I believe, in business, to know that we shall hardly ever get to it again, or at least, not in time for the House of Representatives to act on it during this session. I know something of the delays there; and I know that the Senate will respect the necessities of the day, and from week to week, and I should much rather dispose of the bill to-day.

Mr. PEARCE. That potent little phrase does not apply here. It is not the case of the other House, and you must therefore give them as much time as possible.

Mr. PEARCE. It will only make a difference of two or three days. Let the Senator make Wednesday; then, if all opposition be withdrawn to the other project, I take it for granted it will pass

through without difficulty; certainly it will without any difficulty from me.

Mr. BROWN. Certainly; if the Senator wants until Wednesday to examine the proposition, and we can have any sort of understanding that the Senate will take up the bill and act upon it, then, I have no objection to its being even a Wednesday week. That will still give the House time enough to act. The only reason why I insisted on considering it to-day was, that this day in the Senate had been assigned to this kind of business.

If there be a general understanding of the Senate that on Wednesday we shall be allowed to bring it up and act on it, I have no objection to postponing it; but I do not want the bill to be postponed very long, lest it be lost in the House of Representatives for mere want of time.

Mr. PEARCE. I have no desire to postpone it, for I am really anxious to have this railway made.

Mr. HAMLIN. Before there is any disposition of that sort made, I want to offer an amendment to the first section of the bill reported by the committee, and I propose that it shall be read in committee. It is to add the name of Gilbert Vanderwerker after the name of Walter S. Cox, making him one of the corporators, as he was in the original bill.

The amendment was agreed to.

Mr. TRUMBULL. Before the bill is disposed of—I mean, before it is taken up in committee, I suggest by the Senator from Maryland—I move to strike out the seventh section, which is in these words:

Sec. 11. And be it further enacted, That said body corporate shall buy of Gilbert Vanderwerker all the real estate, houses, omnibuses, and barns, used by him for the purposes of his line of omnibuses now running along Pennsylvania avenue, between Georgetown and the Navy-Yard, and that said body corporate shall be bound by two disinterested persons; one to be named by said body corporate, and the other by said Vanderwerker. And in case of a dispute, the same shall be referred upon oath amount, it shall be their duty to call in some third disinterested person to act with them in fixing said amount; and it shall be the duty of said body corporate to pay to said Vanderwerker, for such real estate, houses, omnibuses, and barns, whatever amount said persons, or any two of them, shall determine.

I know none of these parties, and have no interest whatever in giving the building of these horse railroads to one person more than another; but the public interest is to authorize anybody to construct these railroads in the city of Washington who will best accommodate the public. Now, sir, I know no reason why the persons who are to build these roads should be saddled with the purchase of all the omnibuses in the city of Washington. It may be said that this Mr. Vanderwerker has invested a large amount of money in omnibus lines, and that if you authorize the construction of horse railroads he will be a sufferer. This is but one of the misfortunes that overtake men in business every day. Suppose an individual builds a tavern stand on some important road; it is valuable only as a tavern stand; travelers stop there; and as the public exigencies require the construction of a railroad that takes all the travel past him. He has to suffer that inconvenience. He embarked in the enterprise of keeping a hotel, with the knowledge that improvements might be made which might take travel away from him. Those improvements are made, and he is a sufferer. It is the same with omnibuses. Why may a builder of a house? I know not whether he has made money out of his omnibus lines, or has lost money. It has nothing to do with the public interest. We are legislating for the public, and I am opposed to granting special favors to individuals; and I see no reason why we should buy omnibuses more than we should buy out the public hacks in the city of Washington. I trust that the action will be stricken out. If the company we are incorporating wishes to purchase the omnibuses, let them do so. Let the Senator, Gilbert Vanderwerker, they are at liberty to do it; let them do so; but do not let us compel them to purchase these things at a valuation that is to be put upon them by parties who may be selected.

Mr. PEARCE. If the section which the Senator proposes to strike out were offered by some

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gentleman who desired to protect Gilbert Vanderwerken, and against the consent of the corporation, it would become rather a different case from that which is actually before the Senate. It seems these parties have arranged with Vanderwerken. This is his bill, prepared according to their views. As I understand, they are willing to effect this arrangement with him; and if they are, I do not really see that we are doing any injustice, or forcing any bounty to individuals. It is a matter of arrangement between them, as I understand. If the parties agree to it, I really do not see that there is any difficulty.

Mr. BENJAMIN. There is another consideration. We have had experience in this matter in other States, and there is a public consideration making this action necessary. If a new company is to put a superior line of communication upon a line already served by Mr. Vanderwerken with his omnibuses. If you pass the bill, and make no provision such as is made in this section, the result will be that the omnibus proprietor, finding that he is going to be driven out, will withdraw his omnibuses, dispose of them as best he can, and in the interval the public will be deprived of the accommodation they require. By degrees, as this railroad is constructed, it will connect with the line of omnibuses to the extent that it will. By leaving the line of omnibuses and the railroad line in the same hands the public accommodation is subserved, and the public are provided with means of travel while the work is going on. If you leave these two lines in opposing hands, Mr. Vanderwerken, the independent proprietor, or he can find means of disposing of his property, will do so; or, otherwise, will withdraw it, and the public will be deprived, in the mean time, of all accommodations, either by omnibus or railroad. It has, therefore, been made in these charters, to require of those who build the railroads to take the lines of omnibuses, and then they continue the two works together, and keep the public constantly accommodated. We found it so in New Orleans, I know. After several attempts it was found that the lines of city railroads without some arrangement of that kind; and such a provision as this has worked exceedingly well. In theory, perhaps the Senator from Illinois would be right; but really practically, this mode of arranging between the old lines and the new is found to subserve the public interest.

Mr. HAMLIN. It was stated by gentlemen, who I supposed were well informed on the subject, to the committee, that it was the practice in our cities where horse railroads were laid down and lines of omnibuses were run over the continuous route, to make a provision for the rights of the omnibus owners. I think it is right. I have no doubt about it. The case of the hackmen in this city furnishes no parallel whatever. They go all around; they go everywhere; they go anywhere; they have no straight single line route, such as they have in New York, where thousands of dollars invested in a single project. They may have two or three sets of horses, and perhaps two or three coaches; but they have no such amount invested as an omnibus proprietor, who they run on one continuous line.

But, aside from all that, there is still another reason, which, it seems to me, ought to satisfy every gentleman here, even my friend from Illinois; and that is, that the company make no objection to it; that they want his horses; they want him to stay in his line of land on the route; they want to build additional stables for the horses they will use upon their line; and the only property which they do not want would be the omnibuses, and that would be the only amount of property they would be required to buy, or to share the loss of should it be so. This is a very strong case. If this be the understanding between the parties, I think we are a little more swift than justice, to step in between the parties and say: "You shall not deal in equities as you please." Then you may say: "Why is the section here?" They can do it outside of this. That is a very strong case. If they may disagree as to the amount, and this

simply provides the ultimate method in which that disagreement shall be settled, if there is one.

Mr. TRUMBULL. If it be true that those parties have made an arrangement already, we need not legislate about it. What have we, as legislators, to do with this buying of horses or buying of omnibuses? We have nothing to do with it, and it is the principle that I object to. Why, sir, a State might just as well, when it chartered a railroad along the Mississippi, put in a clause that the company should buy out all the steamboats along the river. There would be exactly as much propriety in it.

Mr. COLLAMER. Why not buy out the hackmen?

Mr. TRUMBULL. I stand before you mighty with as much propriety compel this company to buy out the hackmen. If we are incorporating a company here that can afford to give a bonus to this omnibus line, we are incorporating it on principles which are unjust to the public. Instead of allowing them to charge five cents, allow them to charge but four. I presume, if you would allow them to charge ten cents for every passenger, they would not only agree to buy out the omnibus lines, but buy out all the hackmen. I do not intend to give a bonus to somebody else.

We are interested here, in legislation for this people and for the public, to look to it that we grant no privileges which shall amount to a burden upon the public; and when we get these railroads let us get them upon the cheapest plan. It cannot be otherwise than that this company expect in some way to get the money which they pay as a bonus for the privileges that they are to obtain by the passage of this act. They will get it back, I suppose, in a high tariff of fares. I think that the principle of the section is all wrong. It certainly cannot be here, if there is an arrangement, as the Senator from Maryland suggests, of direct trading, by which these corporations agree to purchase out this omnibus line. We have nothing to do with it. It is their business, not ours as legislators, if they cannot agree as to price. I suppose the bill is not prepared in this way, and I do not see how it is to their interest to do so; and I am not for compelling them to purchase them. I think we ought not to establish such a precedent.

Mr. DOOLITTLE. While we are legislating for the District, I suppose that it is our true purpose to legislate upon facts as they exist. There is already upon a public line of communication from Georgetown to the Navy-Yard, run with horses and omnibuses; and when you get your railroad laid down, you will still have omnibuses, but they will be drawn away by horses, and they will be running upon an iron track. We do not want both means of communication. We want the one, and we want to get rid of the other. I desire, for one, to get rid of the old omnibuses, if we have the railroad, for we do not want them both; and I think that an arrangement has been made, by which the omnibuses draw upon ordinary wheels over the cobble-stone pavements can be got rid of, and omnibuses substituted to be drawn with iron wheels and over an iron track. I decidedly prefer the latter. That arrangement having been made, as I understand, and the committee having reported the bill in this way, and the corporations being willing to accept the burden of removing what would become a nuisance upon the avenue, if they have a horse railroad—removing this omnibus line, the burden of the section remaining in the bill just as it is.

Mr. BROWN. The committee had very distinct reasons for reporting this section of the bill. Mr. Vanderwerken came here when every citizen and every stranger in Washington was subjected to delay and inconvenience by hackmen and their put on a cheap mode of travel between Washington and Georgetown. It seemed that nobody in Washington had enterprise enough to do that; at least, it was not done, or it was not efficiently done. He invested a large sum of money in the enterprise, and the result of four or five or six years before he can by any possibility have been re-

munerated, such a your go-ahead policy that you propose to supersede his lumbering omnibuses by a railroad, and thus break up his business. Then, what are you going to do? You are going to grant a monopoly to some seven or eight or ten gentlemen! Do not care whether you take these persons or strike them out and put others in, it amounts to that at last—you break upon one man in his business in favor of some ten or a dozen others in their business. That one man thus broken up, and especially if he be an enterprising man like Gilbert Vanderwerken, who came here and established this cheap line of travel when nobody else would do it, ought to be protected. It would be a great outrage if you did not protect him. He has rendered a great public service to the country; he has rendered a great public service to Washington, to every citizen and stranger here; and he deserves the protecting hand of his Government.

Nor is there anything new in this. For a long time it was the policy of the Government, when one man undertook another in carrying the mail, to require him to take the stock of the old contract at a fair valuation. The Government recognized the principle and enforced it; and yet that was not giving to the man who underbid the other the monopoly; it was only giving him the benefit of the old bid. But here you grant a certain privilege a monopoly; an important franchise; one which it is supposed at least to be worth a great deal of money. To do that, you propose to break up a citizen in his business, established by his enterprise; and the bill simply proposes to protect that citizen to regularity in the payment of the important franchise that they shall, in some way, indemnify the man who is broken up in business. I think the section is right. I think it the most important section in the whole bill. I cannot surrender it. The Senate may strike it out; but they will do it against the strongest protest.

Mr. TRUMBULL. I ask for the yeas and nays. I think there is an important principle involved in it.

The yeas and nays were ordered.
Mr. CHAMBERLAIN. I believe the section will not be stricken out. It will be recollected by most Senators present that a bill was introduced two years ago, from the Committee on the District of Columbia, giving the franchise for constructing this road to Mr. Vanderwerken and his associates. That bill failed to become a law through the opposition, as I am informed, of the very parties who are now petitioning for the right to make the road. I am in favor of the original bill, and would vote for it if it were before us, giving the franchise to Mr. Vanderwerken and his associates; but inasmuch as the bill now before us is one which actually defeated him and his associates from receiving this franchise will be compelled to pay him for his stock now on hand.

Mr. CHITTENDEN. All that could reconcile me to vote for such a provision as this, would be the assumption that the Government had been upon by these corporations and the gentlemen owning this omnibus line. If that is the case; if they are willing to take the grant of the franchise proposed to be made to them by this bill, and to pay this gentleman, I have no objection; but if it is to be imposed upon them, upon any ground of equity or justice, independent of agreement, I am opposed to it. I do not see why you might not as well make them buy all the hacks in the town—perhaps not all for the same reasons, but on the same principle. If we do not do this, and if we lose by it, let them indemnify everybody who loses by it. I think you had as well clog the great railroad that runs from New York to Albany or to Buffalo, by paying all the wagoners thereby thrown out of employment, and for all the wagons rendered useless, as you do this. I do not see any justice in it; but if it be true that there has been an arrangement made to this effect, I am perfectly willing that the owner of the omnibuses shall be indemnified by these parties.

Mr. TRUMBULL. Allow me to inquire what is the object of the provision, if there is an ar-

management? We only force them to do it by this section of the bill.

Mr. CRITTENDEN. They might want this to sanction it; but if the fact exists, I suppose it is known to my honorable friend from Mississippi who advocates this bill. If not, I cannot vote for any such imposition.

The question here is asked by year and nays, resulted—yeas, 9; nays, 31; as follows:

YEAS—Messrs. Bingham, Crittenden, J. Durkee, Fessenden, Fitzpatrick, Green, Grimes, Turner, and Trumbull—8. NAYS—Messrs. Ames, Brewster, Briggs, Burdick, Chandler, Clark, Chittenden, Collamer, Diodotie, Douglas, Fish, Ford, Gwin, Hamilton, Harlan, Hiram, Johnson, Johnson of Arkansas, Johnson of Tennessee, Lester, Mason, Nichols, Olcott, Pearce, Polk, Powell, Rice, Sebastian, Stewart, Simmons, Tompkins, and Wade—31.

So the amendment was rejected.

Mr. BROWN. If there can be no other amendment proposed to the bill, I desire to make a preliminary motion before—

Mr. HUNTER. I am inclined very much to think that the bill ought to be amended, so as to take the road along another street, and not drive Pennsylvania avenue. It seems to me the best route would be to take the Capital gate along by the Post Office, Interior, and Treasury Departments, so as to save Pennsylvania avenue.

Mr. BROWN. That is a question that can be considered. I think with the Senator from Virginia, but nobody had submitted any such proposition, and it was concluded by the committee that if one asked for bread, it was hardly worth while to offer him a stone. No one asked to run a railroad on the line indicated by the Senator from Virginia. I thought myself it was the most proper way to run the road, and I believed it would be more profitable; but those who petitioned for this franchise did not think so; they have not asked for it; and we have no assurance that anybody would build a road there if you granted the privilege. These parties have not asked it; and I supposed that when you were allowed to do a thing, we either granted them the privilege or denied it, and did not say to them, "You can do this; but you can do something else."

Mr. HUNTER. This would not coerce the parties to pursue this route. If they did not think it profitable they would not take the route. The whole result would be to present this issue: that they might either make a road along that line, or else have none at all. So far as I am concerned, I am not at present willing to see a road through the avenue, though I should be very willing that they should have a road through the Capitol. I have sort I have indicated, if it would suit them. If nothing else will suit them but a road on Pennsylvania avenue, I have not made up my mind to vote for the bill.

Mr. BROWN. The Senator and myself come very near agreeing. I have said to-day, I said a dozen times during the last session, that I was opposed, and I am opposed now, to putting a railroad on the avenue; but I found, on consultation with Senators, that they were determined to grant the privilege to nobody. I think the majority of the Senate are now in favor of a railroad upon the avenue. I have no doubt about it. Then it simply became, as I said this morning before, a question as to whom you would grant the franchise. But no one has asked for the privilege of building a railroad on the line indicated by the Senator from Virginia. If anybody wants it, and will ask the privilege, I am for granting it; but as nobody has ever asked for it, I see no necessity of granting it.

Mr. PEARCE. I hope the bill will not be amended in this particular. A railway along those other streets, and not along Pennsylvania avenue, would neither be productive to the owners of the road, nor beneficial to the public. That is the great thoroughfare of the city. The great throngs of passers from one end of the city to the other go along the avenue, and it is a proper place for a railway, if we have one at all. I would just as soon have none, as one put out on some distant streets.

In truth, there is no manner of objection to it. There is no inconvenience to the public in having a passenger railway laid along the avenue, as has been done, along this great avenue. Its immense width will make it a very easy thing to lay down this railroad, with all the width desired for it, and yet no inconvenience to the traffic in cars, carriages, or any other way. The rails are to be level with the street. They are sunk; but the roll of the rail is

on a level with the street. Carriages can pass it with perfect facility. It interrupts no one; and the truth is, it is vastly more convenient and less disagreeable in every particular than omnibuses, which are constantly running. You have no noise from one of these passenger railway cars—none of that disturbance, which is very disagreeable from omnibuses, and which is a great inconvenience. It does not destroy the avenue. The company keep it in repair for three feet outside of their tracks. I cannot see a single reason for driving the railway from Pennsylvania avenue. The Senator's is a very reason for running it out of that avenue.

Mr. BROWN. I believe the Senator from Virginia has not offered the amendment. There is no proposition to amend before the Senate.

The PRESIDING OFFICER. (Mr. Foor.) If there be no other amendments offered to either of the propositions before the Senate, the question recurs on the amendment of the Senator from Maryland, to strike out the original bill, after the enacting clause, and insert what has been proposed.

Mr. BROWN. If that be the only proposition to be taken up, I will be glad to do so. I have expressed a desire to look into the legal question submitted by the Senator from Louisiana, I will move to postpone the further consideration of this bill until next Saturday; but, preliminarily to that, I would ask the Senate to allow me to postpone the bill until after the consideration of District business, so as to make it absolutely certain that this question will come up on that day.

Mr. JOHNSON, of Arkansas. Before that is done, I should like to be heard, and I think I may express what is the opinion of the majority of this body in regard to it. It is, that in all human probability next Saturday we shall not be able to get a quorum on this matter. Already the subject has been not only discussed, but decided upon by the majority of the body. If there is any new matter which the Senator from Maryland may find hereafter that he thinks would change and affect the minds of men, there is another House that is expressly provided where everything may be developed. The bill has been already passed by the Senate, and I do not know why, when there is a majority here who are disposed to settle this question now, are we to have it postponed and come up constantly hereafter? Why should we set apart another day and go through again the whole of this discussion? For what reason? I do not know. I do not know the Senator from Maryland to inquire, when the whole case has been prepared and put in his hands heretofore? I do not see any propriety in it. I do not think it is demanded of this body. I think, if we should do this, we shall come to no conclusion on this case. There can be no case stated that any member feels an earnest interest in, in regard to which he may not say that the arguments on the other side have shown something he did not expect, and if he is allowed a little more opportunity to modify his opinion, he may be able, very possibly, to satisfy the whole body or if not he will abandon his position. I do not see that it ought to be done.

I hope very much that we shall not be compelled to give another day to this subject. The subject has been decided by the majority of the body on by the other House. If there is reasonable ground to oppose and defeat the measure before it goes to the other House, the facts can certainly be communicated there; and we must have some confidence in that branch. In fact, we know, from the superior difficulty of passing any measure there, that they will not consent to pass this measure if they think it ought not to be passed. I hope the Senator from Mississippi will not concede the postponement. If he does I cannot say that, for one, I shall be here next Saturday, and I shall be glad to see much more of the many Senators who would repeat with me that they feel no assurance that they can be here next Saturday to listen to unnecessary discussion on a subject that has been already fully debated.

Mr. BROWN. If the Senator from Maryland is quite satisfied to allow the vote to be taken upon his amendment now, I should be gratified; but when a Senator says that he has doubts upon a very grave question presented by a brother Senator, and asks two or three days to consider it, I do not think it is in accordance with the usual

every-day courtesy of the Senate to deny him that privilege. I even use the expression of my friend from Arkansas, cannot do it. If the Senator from Maryland wants two or three days to consider this matter, so far as I am concerned he may have them.

Mr. GRIMES. Fix Thursday, instead of Saturday.

Mr. BROWN. I object to fixing Wednesday or Thursday for this bill; because I am fearful that I shall run foul of somebody's special order, some Senator's special business, and have this bill displaced. Of the Senator will postpone the question until Saturday, and assume that day a second time for the consideration of District business, then I am absolutely certain on that day to get it up; and now let me say, upon the question of not getting a quorum, that there is plenty of other business, and very important business. The Committee on Public Buildings and Grounds—

Mr. DOOLITTLE. Will the honorable Senator from Mississippi allow me a moment? I think there will be no difficulty in having this question disposed of if we were set for either Tuesday or Wednesday, of Arkansas. The bill is one that the opinion stated by the honorable Senator from Louisiana is correct, that the stockholders of a corporation cannot, by any possibility, be bound without their consent, when there is a distinct proposition to allow them to build another and different road, and there is not the slightest doubt that when the honorable Senator from Maryland shall come to examine the question, he will be satisfied that that position is correct; and the thing will pass by without any debate whatever.

Mr. JOHNSON, of Arkansas. There is no such a proposition to the Senator from Maryland. In that view of the case, it is plain, I think, from what we may observe here, that the bill has reached that point where there is but very little difficulty about determining it, but for the consideration of the District business. I do not see any reason for it in all probability, that the Senator allow the vote to be taken on the bill, and then enter a motion to reconsider; and if his mind is not satisfied he can take time. He can make his motion, and call it up hereafter, with the understanding that he should be heard upon it, and then he can insist on it; and if not, of course it stands for nothing.

Mr. PEARCE. If the vote be taken now, under the circumstances, it will be in vain for me to move any reconsideration, undoubtedly. I am not in favor of such a course. I do not see the Legislature of Maryland which contemplates certain other powers to be acquired by the Metropolitan Railroad Company on application to the Government of the United States. I have not seen that act for a long time; I do not precisely express what its purpose is. It may be that it may cover this case; it is possible it may not. All I ask is, that I may have an opportunity to investigate it. I have been pretty frank to say that I think the objections of the Senator from Louisiana are not in fact objections, but they are questions of substance to be discovered in the course of an examination, which will not take more than two or three days at the furthest. There will be no difficulty, I take it, if opposition be withdrawn, in passing this bill. It has reached the point at which the Senate can vote on it. I do not think it would be a waste of time to take it up some day next week if it were made the special order for any day at half past twelve o'clock, which would give time for the morning business to be gone through, and would give time to settle it. I suggest, therefore, that it be made the special order for Wednesday next, at half past twelve o'clock.

Mr. HUNTER. Saturday will be a better day. We shall have appropriation bills ready by that time, I think.

Mr. BROWN. That is what I feared. I think Senator HUNTER had better let me take my own course with this matter. It will be more convenient to all of us to come here on Saturday. ["Say Saturday."] This is not the only matter. Let me remind Senators again, that the District has plenty of business to engage you on Saturday for next Saturday, but for a dozen Saturdays, if you will devote yourselves to it. We have another important question lying back of this, about the grading of streets. Then you have the Capitol extension question; the water works question; if plenty of business to attend to on Saturdays, and you have

a mind to attend to it. I have no fears of not having a quorum. Senators will very much neglect their duty, if they do not come here and attend to important business relative to the District of Columbia, not only from my committee, but from others. Therefore I will allow me to draw me. I will ask that Saturday again be assigned for the consideration of District business, and then I shall move to postpone the consideration of this question to that day.

THE PRESIDING OFFICER. By common consent, the Chair will entertain that motion. It is not strictly in order, if objection be made.

Mr. WADE. I hope this bill will be postponed until Saturday, and I wish to give notice now—

THE PRESIDING OFFICER. The first question is on assigning Saturday for the consideration of District business.

The motion was agreed to.

THE PRESIDING OFFICER. The question now is on postponing this bill until Saturday next.

Mr. WADE. I am glad it is settled as it is; and I rise to give notice that early next week I shall move to take up the homestead bill, and I will antagonize it to anything else that may be got up, and I hope its friends will all be on hand.

The motion to postpone was agreed to.

DAMAGES FOR GRADING.

Mr. BROWN. I now move to take up the bill in reference to the grading of the streets. The motion is agreed to; and the clerk (S. No. 313) to authorize the Court of Claims to award damages against the United States in certain cases therein mentioned, was read the second time, and considered as in Committee of the Whole.

It provides that whenever any owner of real estate in Washington shall desire compensation to have been damaged by the act of the Government in causing the grades of the streets and avenues of the city to be changed, he may petition the Court of Claims for damages against the United States; and the court shall hear the petition, and award such equitable damages as, on proof taken in the usual form, may appear to be due; but in no case shall the United States be held in damages where the grade has been made in accordance with the survey existing at the time the petitioner desired the change of grade. It is also provided that the United States is not responsible for damage done to private property by grading streets and avenues according to the surveys existing when the owner thereof made his or her purchase, but only for damages resulting from changes and alterations made in such grades by order of Congress. And it shall in all cases be lawful for the United States to plead as offset any benefit resulting to the real estate of any complainant by reason of such change of alteration; and to have the amount deducted from the award before judgment rendered for the compensation.

Mr. HUNTER. This seems to me to be a very dangerous bill. According to this, we are to become liable for all the damages which may have been occasioned by the altering of the grades of the streets of Washington, and I am not sure how much money this will involve, and what sort of inquiry are we to go into in order to avail ourselves of the little guard the bill gives us? We are to take testimony to know whether the house was built according to the original survey or not; we are to take testimony, and present it, to see whether the advantage conferred on the property-holder by the change of grade is greater than the injury sustained. I know cases where individuals say they were injured to the amount of thousands. There is no telling what the bill will cost us. Nor is it equitable that we should be made to pay these damages. I believe it has been a matter of decision—my friend from Louisiana, [Mr. BAXAMIN.] I think, has a case on the subject—which shows very clearly that we are not bound in law or in reason to pay for such things.

Mr. BROWN. The committee did not report this bill lightly. They admitted, as the printed report shows, that the Government was not legally liable. That is the uniform current of decisions in this country and in Europe. The Government is not liable, simply because it is regarded as a sovereign. As a sovereign, it is not liable except where it admits its liability. These very complainants have had their cases before the

courts, and, as the report shows, have been dismissed with costs, because they had no legal right to damages; but the report is based upon equitable grounds. What ought the Government to do when by its own act it has injured a public interest in its own citizen? Look out, sir, from your Capitol at the house which belongs to Captain Wilkes, built originally according to the survey established and approved by George Washington, who made the plan of your city; but now, by change of grade in the city, the house is left standing upon an elevation twenty-five or thirty feet above the level of the street. This was arbitrarily done by the Government. You are not legally bound, because, I say again, the Government is sovereign; but has the Government, out of its own accord, the right to wrong its own citizen, to inflict palpable, downright, and outrageous injury on him, and say it will not compensate him, simply because it is in its power to do so? This would be the argument of the highwayman who has the power over his victim and robs him. I undertake to say, that in cases of this kind, the Government, while not legally bound, according to the rulings of the judges, is equitably bound to make indemnity, and ought to do it. Sir, here are citizens who went according to the grade established at the time they were purchased by disinterested parties that they examined the surveys, the surveys approved, standing approved at the time, built their houses accordingly; then, the Government comes and arbitrarily digs down the street fifteen or twenty feet in its own power, and renders the property of the owners utterly worthless. I claim that in cases of that sort, equity requires us to make indemnity, and it is not honest to refuse it.

Mr. POLK. Will the Senator from Mississippi allow me to ask whether it is the Government of the United States who does it, or the corporation of Washington?

Mr. BROWN. The bill says expressly that the Government is to be responsible only where Congress alter the grade.

Mr. HUNTER. I ask if that does not make us responsible, in fact, for every alteration in the streets; because the corporation cannot alter the grade without the consent of Congress?

Mr. BROWN. I do not care. If Congress ordered its creature to do wrong, Congress is responsible. I suppose that the time can not tell whether the man who went and dug away the earth was paid out of the national Treasury or the treasury of the city of Washington; it was still the act of Congress, and Congress ought to be responsible for it. I do not recognize the right of any Government to destroy my property, and yet refuse to make indemnity. If it were the case of the Senator from Virginia, instead of being the case of these complainants, I dare say he would regard himself as entitled to damages. If he had bought from the Government—mark you, from the Government itself—a lot of ground, and had erected a magnificent house upon it, such as were suited to the dignity of a Senator from Virginia, with a guarantee that the Government would make no grade in front of his house which would cut it off from the street, and the Government cause and dig a great ditch in front of his house twenty feet deep, rendering his property valueless, what would the Senator expect this Government to do, and what would the Government do? He would expect indemnity, and the Government would award it, and the humblest American citizen is entitled to the same thing.

Mr. HUNTER. As I understand it, the proposition of the Senator is that though, in passing laws for the government of this city, we pass the laws, we can give according to the best lights of our wisdom and the best interests of the people, and authorize the corporation to do things which may injure an individual, we are to pay the damages. It would be just as proper to say that we were bound in our individual capacities for the errors we commit.

Mr. BROWN. Understand that an individual is bound in his individual capacity for his individual errors.

Mr. HUNTER. For a law he votes for? **Mr. BROWN.** No, sir; but I understand that the Senator from Virginia, if he commits an individual error against me or my property, however honest and well meaning he may be, is bound for it; and if Congress commits a wrong against

a citizen, Congress ought to be bound. I admit it is not legally bound, because it has not agreed to be so; but equitably bound.

Mr. BENJAMIN. I really think, sir, that this is a very extraordinary proposition, and it is to be said that the Government of Washington has control over its streets, but we have a right to supervise that control. Having large interests here, this being the seat of Government, we see that the streets are not laid out and graded to the inconvenience of the public, but to the damage of the public property; but in all other respects we give the corporation of Washington the same powers that all other cities have for the grading of its own streets. The proposition now is, that whenever we authorize the city of Washington to grade its streets, we, the Government of the United States—not the city of Washington, not the corporation, but the Government of the United States—shall pay every man whose property may be inconvenienced or diminished in value by it, the damage he suffers. The streets belong to the public. The fee of the soil carries the right to the surface down to the center of the earth, according to the fiction of the law books, and a right to the sky above, as high as you can carry your buildings. You take a street which belongs to you, either dig it down or fill it up to the surface of the ground, for the purpose of the public convenience, and the proposition is, that because you have used your own property in that way, you shall pay, somebody else whose property is thereby rendered less valuable.

In using your own undisturbed legal right, you are not only to pay for what you do for the public convenience, but you must pay everybody else that may happen to be injured; so that in legislation we are not to be guided, as people generally are guided, by the consideration of the public interest regardless of the rights of the individual; but we are to regard the public interest, and take care of that, and then pay for every particular inconvenience that may be suffered besides. I do not see the justice or the equity of it. Why more in the case of the public body than in the case of an individual? The man who digs down a street then in the case of the individual who digs down his foundation next to your lot? The man next to you has a right to dig as deep a pit as he pleases, provided he keeps on his own lands. It may be an injury to your property; what of that? It is his own property, and he has a right to do it his own way, and you hold your property subject to that contingency. The public does the mine with its roads.

But the Senator from Mississippi says that there is equity in this; that peoples' property is left worthless. I do not see how that can be. People buy their property according to grades which are established, says the Senator. True, but every man who knows a grade has already been established, knows that the corporation always has the power, or somebody over the corporation has the right to give the streets the grade, because in accordance with the public convenience. The grading of streets is not something, like the laws of the Medes and Persians, so fixed that it cannot be revoked and changed. Every man holds his property subject to the public convenience, either as to the grade of the changing of grades or the way that the roads run. On principle it has been thought that private property has been sufficiently protected everywhere, both in the cities and as against the General Government, by providing that you shall not take a man's property for the public use without paying him for it. The proposition now is to go a great deal further, and to carry the principle far beyond anything that I have ever heard of—not only that you shall not take his property for public use without paying him, but that you shall not take his property for the public convenience without paying him if it happens to be an injury to his particular property. On the same ground you might say, in your country districts, if a road went over a hill, that you could not wind it around and carry it up in that way by the county or whatever authority, because it would injure the man who lived on the hill formerly had a road going by his door, and now he is to be paid if it is found to be a public convenience to carry the road around the hill on a better grade. All these things are contingencies to which men are subject who own property.

This is a city in which the grades are still, in my opinion, in a state of transition. I do not

think that anybody can say that this city is graded in many of its parts, as yet, with any degree of certainty. Shall it be imposed on the public ever again to grade those streets; shall it be impossible for Congress and the corporation to grade these streets without knowing but that they are giving rise to some monstrous extravagant claim for damages? Shall we put the Government of the United States at the mercy of the public, who have just interest here, to pull up each other's property, and to exaggerate the amount of damage done? Do we not all know what is the result of these things? There was a little island in the Potomac which some company owned—I believe the case has been referred to the Committee on the Judiciary; I have never examined the details; I do not know its merits; but I know this, that for the uses and advantages of the water of the Potomac, on land which the Government bought, there is a claim before us, of how much I do not know; but a jury of inquest of the neighborhood, on account of the alleged damages done to the riparian proprietors, for an acre or two of ground on the Potomac river, miles away from Washington, awarded \$150,000. Their property was not taken; but for the damage done to their riparian rights, the diminution of the volume of water, \$150,000 were assessed by the jury for damages against the Government. What protection is there? What need of our going beyond the regular established rules of law? Why more in Washington than in any other city in the Union, give the owner of property the right to claim from the Government, either the corporation or the General Government, damages of this character?

The decisions of your courts are here in every State of the Union. In every State where this question has arisen, the courts have held that this is one of the contingencies to which the owners of property are liable. The courts have everywhere held that neither the municipal corporations nor the States are bound for these damages; that it is an incident of the ownership of property, like many other incidents, which the owner must bear. Sometimes less valuable and less convenient than at others. Now, in this very case I have before me the decision of the Supreme Court of the United States. Suit was brought against the corporation of Washington. The court does not alone hold the claim to be one of the contingencies, but gives reasons showing that there is no equity for the claim. After first determining, at the suit of Anne C. Smith, that the corporation had a right to change the grades, they examine the question of damages, and they say:

"Having performed what was confided to them by the law, according to the best of their judgment and discretion, without exceeding the jurisdiction and authority vested in them as agents of the public, and on land dedicated to public use for the purposes of a highway, they have not acted 'unlawfully or wrongfully,' as charged in the declaration. They have not trespassed on the plaintiff's property, nor exercised a nuisance injurious to it, and are, consequently, not liable to damages where they have committed no wrong, leave nothing to be claimed by the law as agents of the public. The plaintiff may have suffered inconvenience and have been put to expense in the consequence of this action, as the result of the defendant's not being 'unlawfully or wrongfully,' they are not bound to make any recompense. It is what the law says 'damnum ab injuria.' Private interests must give way to the accommodations; one cannot build his house on the top of a hill in the midst of a city, and require the grade of the street to conform to his convenience, as the result of that of the city."—Smith vs. Corporation of Washington, Howard's Reports, vol. 99, p. 145.

Now, sir, in a city, the surface of which is as irregular as that of the city of Washington, where it is obvious, on first inspection, that the grades must constantly change to conform to the public convenience, it is evident that anybody who buys property, buys with his eyes to the possible diminution of its value by change of grades. He gives less for it for that reason, anticipating all the contingencies that may occur. He says, "This property is worth so much; it would be worth more if I were sure the grade would never be changed; but inasmuch as power exists in the municipal corporation to change the grade for the purpose of subserving the public convenience, and as they may take it into their heads to change this grade, I shall have to pay something; it may cost me some money to conform my property to the new grade, and therefore I shall pay less for it now. Every prudent man who foresees these things, must foresee them in a city whose surface is not a dead level. Therefore, to pay money now, after the property has been injured by a

change of grade, is paying it to the detriment of the former prudent proprietor, who, having foreseen this injury, sold for less than he would have sold for. The present proprietor would, in point of fact, be making a speculation out of the public; because, if a prudent person, (and for these alone laws are made,) he ought to have foreseen the possibility of this change of grade, and, accordingly, he would have considered the price for the property. It is true, the grade was formerly fixed; but from the very nature of things, from the aspect of the city, from its surface, everybody must have known, who bought property which was not on a level, that the grades were liable to be changed; that there was a possibility somewhere that could change these grades; and I think it is too late now to ask us to pay these damages.

The Senate will observe, that if we once, upon that principle, pay, if we agree now to admit the equity of the principle, where will you stop? How much will you pay? How many years will you pay? Suppose the grades were once fixed: how were those who bought, even before the grades were fixed, to know how you were going to make your grades when you did fix them? There must be a fixed grade existing at the time of the property bought previously. There was a grade existing from the very foundation of the city—the natural grade. It was a grade that might be changed, and was not intended by anybody to be so fixed that it could not possibly be improved afterwards. The Government, in making the very foundation of the city to do exact justice to all, if you allow damages to anybody to-day.

I think the claim is a dangerous one, the claim is an inequitable one. I do not see the basis in natural justice for it. It is admitted by the committee that it is not a legal claim, and I trust the Senate will not give any foundation for it as an appeal to equity. It does not possess any to my mind. I do not feel it as an equitable claim that would be just against me as an individual, or as an equitable claim against the public. If there be no equity in the claim, how can the equity be against the corporation, not against the Government of the United States. Why should the citizens of Mississippi and Louisiana pay damages to the inhabitants of the city of Washington, in consequence of the construction of the city of Washington, the streets of the city are differently graded? On that principle, I can see no basis whatever. If the Senator chooses, at the request of citizens of the District, to introduce a law making it incumbent on the corporation, when it changes a grade, to give every citizen who may be paying him damages—if the people of this District want that—I do not know that I should make any objection to it; but on principle, I should very certainly object to its being saddled on the public Treasury.

Mr. BROWN. I wish my very learned and eloquent and esteemed friend, the Senator from Louisiana, would not criticize bills which I introduce until he has taken the trouble to read them. The bill itself answers nine tenths of his objections. This bill is based on this principle, which is the basis of all the bills of this kind, that whereas the grades were originally fixed and established by the survey ordered and afterwards approved, put upon the record, and then Congress, by its own direct act, interposed and caused them to be changed, damages are only to be assessed in such cases.

Mr. GREEN. Will the Senator allow me to suggest that there is no quorum present?

Mr. BROWN. I do not care; I am not speaking to a quorum.

Mr. BROWN. Do you not intend to pass the bill, or do you not do that without a quorum?

Mr. BROWN. I do not know that there is not a quorum, and I do not intend to give way to ascertain that fact, at least until I reply to the speech of the Senator from Louisiana. The bill does not propose to pay damages, except in those isolated cases where the result from the direct grades of the Government. Where Congress orders a change of the grades, and in making that change individual damage is inflicted, the Government is equitably responsible; and why? As the report states, the Government is not responsible for the change of the grade. It said it under an implied contract that it never would make grades in front of the particular house or lots, beyond so many feet. It was a positive contract, because the sur-

vey had been made, had been approved, and had been put regularly upon file. Now let me ask the Senator from Louisiana, how can he suppose I sell him a lot of ground adjoining my own premises, and enter into a contract with him that I never will dig a ditch on the line more than three feet deep, and a ditch afterwards, in the exercise of my right of proprietorship, dig a ditch twenty feet deep, and then, in the exercise of my right of proprietorship, to him in action of damages—in a legal action?

Mr. BENJAMIN. Yes, I admit that; and if there is any contract, as the Senator says, then the law gives a remedy.

Mr. BROWN. The law gives no remedy against the Government; because the Government has not recognized its responsibility, because it is sovereign. What I want you to do is to open the courts of the country to legal suits for damages like this, and declare that you will not protect yourself behind the principle that the sovereign is not legally responsible for its actions.

Mr. BENJAMIN. I am willing to do that; but I understand this bill does not do that.

Mr. BROWN. The bill does not so declare in terms, but that is the effect of it. It puts the Government in the precise attitude that I would stand towards the Senator from Louisiana in a like case.

Mr. BENJAMIN. I am willing to do that.

Mr. BROWN. It does nothing more, nothing less. The Government sold the lots; the Government sold the ground to the persons whose houses you are all up around us here on high peaks. You put the money in the Treasury, and did it, I assert again, under a contract that the grade should be thus and so. The report which accompanies the bill says that, for grades made in accordance with the original survey, no damages shall be awarded. The Government is responsible only for changing the grades in such a manner as to injure private property. I supposed the case of two proprietors adjoining, one of them selling to the other under a contract not to dig ditches in front of his premises to a certain depth, and then violating his contract and digging them five or six or seven times as deep, because that is the Government's case. I tell you all these buildings here in sight of the Capitol, which you can look out upon at any time, and dig ditches in front of them, and are originally according to the survey approved, filed away, recorded. The Government then, for its own convenience, or for its own profit, went and graded the streets twenty feet below that original survey, thus ruining these private proprietors. I say that in a case of this kind, the Government stands equitably in the same attitude that I should stand towards the Senator from Louisiana if I thus treated him. No court would refuse to award damages against me; and if the Government will acknowledge its responsibility, no enlightened court will ever refuse to award damages against the Government.

Mr. BENJAMIN. I have no desire to debate the subject any further; but I wish to call the attention of my friend from Mississippi to the fact that in his bill, which he has introduced, the bill provides that any person who has been injured by the grading of a street may bring suit against the Government, before the Court of Claims; but it does not go on and say that the Court of Claims may thereupon inquire into the liability of the Government, and, if the Government is found to be legally liable, assess damages; but provides that any man may go before the Court of Claims and allege damages; and if he prove damages, the Government shall pay the damage. In fact, the report made by the Senator proposes that the Government shall be liable by the law. It admits the absence of legal liability, but says it would be just to pay them. I do not think it would be. If the object is to allow the Government to be sued for these damages, upon the principles of law and equity, as administered by the courts, I am willing to have the Government be sued at any time. I am in favor of that principle always, with proper guards for its defense; but to create a liability, as this bill does, when none previously existed, I am certainly not willing to allow.

Mr. BRIGHT. I move to postpone the further consideration of this subject until Saturday next, with a view of going into executive session.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. BRIGHT. I move that the Senate proceed to the consideration of executive business. There is a nomination which it is important should be acted on.

Mr. GREEN. There is no quorum.

Mr. BRIGHT. There is a quorum in the building.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

IN SENATE.

Monday, April 2, 1860.

Prayer by the Chaplain, Rev. Dr. GERLEY.

The Journal of Saturday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. BROWN presented the petition of Francis Miller, praying compensation for services while assistant keeper of the penitentiary of the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. WIGFALL presented the petition of Sarah G. Bryant, widow of Charles G. Bryant, a quartermaster and commissary of subsistence to a company of rangers called into service by the Governor of Texas, praying a pension and arrears of pay, which she alleges to be due; which was referred to the Committee on Pensions.

Mr. SEBASTIAN presented papers in relation to the claim of James Ford to compensation for corn furnished the Seneca and Shawnee Indians; which were referred to the Committee on Indian Affairs.

Mr. DOOLITTLE presented resolutions of the Legislature of Wisconsin, in favor of the passage of the amended bill of the House of Representatives; which were ordered to be laid on the table, and be printed.

Mr. MASON. A few days ago I presented to the Senate certain resolutions of the Legislature of Virginia, concerning revolutionary claims of that State against the United States; which, on my motion, were laid on the table. I ask that they be taken up now, with a view of having them referred to the appropriate committee.

The motion was agreed to.

Mr. MASON. I now move that they be referred to the Committee on Public Lands.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WADE, it was

Ordered, That the letters of the Secretary of the Interior, inclosing, in compliance with a resolution of the Senate, papers relating to the application of Richard Fitch for bounty land, on the files of the Senate, be referred to the Committee on Public Lands.

On motion of Mr. POLK, it was

Ordered, That the petition and papers in the case of General John Robinson, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. FITZPATRICK, it was

Ordered, That the petition of William George C. Culbert, late a surgeon in the United States Army, praying an allowance in lieu of quarters, which he was entitled to while in the States, be referred to the Committee on Military Affairs and Militia.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 344) to amend an act entitled "An act to amend 'An act to establish a criminal court in the District of Columbia,'" which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MASON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 345) to declare the meaning of the act entitled "An act making further provisions for the satisfaction of Virginia land warrants," passed August 2d, 1852, which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. POWELL, from the Committee on Pensions, to whom was referred the petition of Mrs. Mary B. Walbach, reported a bill (S. No. 345) for the relief of Mary B. Walbach, widow of the late Brevet Brigadier General John De B. Wal-

bach, of the United States Army; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the memorial of Mary Chase Barney, sole daughter and survivor of Samuel Chase, of Maryland, one of the signers of the Declaration of Independence, praying a pension, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of George W. Babin, praying to be allowed an increase of pension, reported adversely thereon.

Mr. THOMSON, from the Committee on Pensions, to whom was referred the petition of Joseph Patten, a participant in the war of 1812, praying a pension, submitted a report, accompanied by a bill (S. No. 346) for the relief of Joseph Patten. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Catherine Wilkie, daughter and only heir of Joseph Paine, praying relief on account of the military services and sufferings of her father during the revolutionary war, asked to be discharged from its further consideration, and that it be referred to the Committee on Revolutionary Claims, which was agreed to.

He also, from the same committee, to whom was referred the petition of Adam Huter and others, praying that bounty land may be allowed to the heirs of the militia of the Indian wars and of 1812, who, if living, would be entitled to the same, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the petition of John Jordan, praying that his pension may commence from the date of his discharge, submitted an adverse report; which was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred a bill reported by the Court of Claims for the relief of Anna B. Johnson, of Henderson county, Virginia, with the opinion of the court in favor of the claim, reported the bill (S. No. 348) for the relief of Anna B. Johnson, of Henderson county, Virginia; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Elizabeth Kug, of Virginia, with the opinion of the court in favor of the claim, reported the bill (S. No. 349) for the relief of Elizabeth Kug, of Virginia, without amendment; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Lydia Clapp, of Washington county, New York, with the opinion of the court in favor of the claim, reported the bill (S. No. 350) for the relief of Lydia Clapp, of Washington county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Hannah Meuzies, of Kentucky, with the opinion of the court in favor of the claim, reported the bill (S. No. 351) for the relief of Hannah Meuzies, of Kentucky; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Nancy Ittig, of Herkimer county, New York, with the opinion of the court in favor of the claim, reported the bill (S. No. 352) for the relief of Nancy Ittig, of Herkimer county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Elizabeth Morgan, of Rensselaer county, New York, with the opinion of the court in favor of the claim, reported the bill (S. No. 353) for the relief of Elizabeth Morgan, of Rensselaer county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Anna Hill, of Monroe county, New York, with the opinion of the court in favor of the claim, reported the bill (S. No. 354) for the relief of Anna Hill, of Monroe county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Sarah Eaton, of Worcester county, Massachusetts, with the opinion of the court in favor of the claim, reported the bill (S. No. 355) for the relief of Sarah Eaton, of Worcester county, Massachusetts; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Mary Pierce, of Cortland county, New York, with the opinion of the court in favor of the claim, reported the bill (S. No. 356) for the relief of Mary Pierce, of Cortland county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Phoebe Polly, of Otsego county, New York, with the opinion of the court in favor of the claim, reported the bill (S. No. 357) for the relief of Phoebe Polly, of Otsego county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Jane Martin, of Harrison county, Virginia, with the opinion of the court in favor of the claim, reported the bill (S. No. 358) for the relief of Jane Martin, of Harrison county, Virginia; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Mary Pierce, of Cortland county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Temperance Childers, of Virginia, with the opinion of the court in favor of the claim, reported the bill (S. No. 360) for the relief of Temperance Childers, of Virginia; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Sarah Weed, of Albany county, New York, with the opinion of the court in favor of the claim, reported the bill (S. No. 361) for the relief of Sarah Weed, of Albany county, New York; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Sarah Loomis, of New London county, Connecticut, with the opinion of the court in favor of the claim, reported the bill (S. No. 362) for the relief of Sarah Loomis, of New London county, Connecticut; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Rebecca P. Nourse, of Kentucky, with the opinion of the court in favor of the claim, reported the bill (S. No. 363) for the relief of Rebecca P. Nourse, of Kentucky; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported by the Court of Claims for the relief of Jane Smith, of Clermont county, Ohio, with the opinion of the court in favor of the claim, reported the bill (S. No. 364) for the relief of Jane Smith, of Clermont county, Ohio; which was read, and passed to a second reading.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the petition of Dent, Van & Co., praying to be reimbursed for supplies furnished to the United States Indian in the State of California, by direction of the United States Indian commissioner, asked to be discharged from its further consideration, and that it be referred to the Court of Claims; which was agreed to.

Mr. GRIMES, from the Committee on Pensions, to whom was referred a petition of citizens of West Point, Kentucky, praying that the pension now allowed to Franklin W. Armstrong may be increased, reported adversely, and asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Philetus Burch, pray-

league; but if there be some old grant under which a large number of settlers have occupied land, a very large quantity of lands might be passed away under a single claim to a great variety of occupants. I desire to guard against any case of that sort. I hope the Senator from Louisiana will move the amendment.

Mr. BENJAMIN. I will indicate an amendment which will cover the Senator's scruple. It is, in section four to strike out the first eight lines down to the words "square league," and then make the rest of the section conform, by some changes which I have marked.

The Secretary read the proposed amendment; which is, to strike out, in section four, after the enacting clause, the words:

"That wherever the Commissioners of the General Land Office shall approve the report of the said commissioners in cases embraced in said clause No. 1, such approval shall be final, and patents of relinquishment therefor shall issue in favor of the claimant: Provided, however, That such claim shall not be so finally approved and patented for a quantity exceeding one square league."

In line ten, after the word "class," insert "or," so as to make it plural, and insert "No. 1 and," so that the section will read:

Sec. 4. And be it further enacted, That whenever the said Commissioners shall approve the report of the said commissioners in cases embraced in classes No. 1 and No. 2, he shall report the same to Congress for its action; and whenever the said Commissioners shall approve the report in cases embraced in class No. 3, the rejection of the claim so acted on shall be final and conclusive, and the land embraced within the claim shall be sold and treated as other public lands belonging to the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in; and the bill was ordered to be engrossed, and read a third time. It was read the third time, and passed.

LOCATION OF LAND WARRANTS.

THE VICE PRESIDENT. The Chair will now call up the special order.

Mr. HAMLIN. On consultation with the Senator who is entitled to the floor, and with his permission, I ask the Senate to allow me to call up bill No. 199, which I am sure will not occupy five minutes' time. If it does, I will move to lay it aside. I move, I say.

The motion was agreed to; and the bill (S. No. 199) to authorize the location of certain warrants for bounty lands heretofore issued was read the second time, and considered as in Committee of the Whole. It provides that warrants for bounty lands heretofore issued under the authority of the act entitled "An act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain, and for other purposes," approved the 27th of July, 1842, and of the several acts reviving it, approved 26th of June, 1848, and 8th of February, 1854, may be located, in conformity with the general laws in force, at any time within three years from the date of this act; and that all entries and locations made with such warrants since the 26th of June, 1854, shall be as valid and effectual as if the acts before mentioned had not then expired.

Mr. HAMLIN. The bill speaks for itself. By the act of 1842 there was a limitation of time, within which these bounty warrants should be located. It expired. Congress renewed it for five years in 1848, and again extended it for five years more in 1854. There are a few warrants which were issued under that act, the holders of which were unable to locate them within the time. I know a single one within my own State. I think the Public Land Committee say there are about a dozen cases, and that it is to supply in a general law what they are requested to do in so many special laws—that is to extend it three years more.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RELATIONS OF STATES.

The Senate resumed the consideration of the following resolutions submitted, by Mr. Davis on the 1st of March:

1. Resolved, That in the adoption of the Federal Constitution, the States adopting the same acted severally as free and independent sovereignties, degrading a portion of their sovereignty to be exercised by the Government for the increased security of each against dangers, domestic as well as foreign; and that any intermeddling by anyone or more States, or by a combination of their citizens, with the do-

mestic institutions of the others, on any pretext whatever, political, moral, or religious, with a view to their disturbance or subversion, is in violation of the Constitution, insupportable, and so interferred with the peace and domestic peace and tranquillity—objects for which the Constitution was formed—and, by necessary consequence, is a violation of the duties of the States.

2. Resolved, That negro slavery, as it exists in fifteen States of this Union, comprises an important portion of their domestic institutions, and that the duties of the States existing at the adoption of the Constitution, by which it is recognized as constituting an important element in the apportionment of powers among the States, and that no change of opinion or feeling on the part of the non-slaveholding States of the Union, in relation to this institution, could justify them or their citizens in open or covert attacks thereon, with a view to its overthrow; and that all such attacks are in manifest violation of the mutual and solemn pledges solemnly and solemnly entered into by the States respectively on entering into the constitutional compact which formed the Union, and are a manifest breach of faith, and a violation of the most sacred obligations.

3. Resolved, That the union of the States rests on the equality of rights and privileges among its members; and that it is especially the duty of the Senate, which represents the States in their sovereign capacity, to resist all attempts to discriminate unfairly in relation to persons or property in the Territories, which are the common property of the United States, so as to give advantage to the citizens of one State which are not equally available to those of every other State.

4. Resolved, That neither Congress nor a Territorial Legislature, by direct legislation, has the power to annul or impair the constitutional right of any citizen of the United States to his life, liberty, or property in any Territory, and there hold and enjoy the same while the territorial condition remains.

5. That the experience should at any time prove that the judicial and executive authority do not possess means to insure adequate protection to constitutional rights in a Territory, and the territorial government shall refuse or refuse to provide the necessary remedies for that purpose, it will be the duty of Congress to supply such deficiencies.

6. Resolved, That the inhabitants of a Territory of the United States, when they rightfully form a constitution to be admitted as a State into the Union, may then, for the first time, like the people of a State when forming a new constitution, decide for themselves whether slavery, as a domestic institution, shall be maintained or abolished within their jurisdiction; and "they shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."

7. Resolved, That the provision of the Constitution for the extradition of fugitives from service or labor, without the adoption of which the Union could not have been formed, and that the laws of 1793 and 1850, which were enacted to secure its execution, and the maintenance of which is essential to the safety and security of the Union, and the highest judicial authority, should be honestly and conscientiously maintained, and that all acts of individuals or of State Legislatures to defeat the purpose or to evade the maintenance of that provision, and to evade its purpose, if it is to be maintained, are hostile in character, subversive of the Constitution, and revolutionary in their effect.

Mr. SAULSBURY. Mr. President, it is not my intention to speak to the merits of the resolutions submitted by the Senator from Mississippi. They are the occasion rather than the text of my discourse. I propose to speak briefly to a word concerning the state of the Union; to inquire whether its harmony is endangered; whether its integrity is threatened; whether its existence is imperiled; and if so, by what means and through what agency, as it results have been produced; upon whom responsibility therefor is to be laid; and whether there be any remedies for such evils, and what those remedies are. Taught from earliest boyhood to respect the teachings of the Father of his Country as both patriotic and wise; to regard the Constitution as a sacred law, and to believe that his precepts should be by no means disregarded; believing that the liberties which our fathers achieved can only be permanently secured by the preservation of the Union which they formed; that liberty and union are one and inseparable, I have accustomed myself to regard the Federal Union as the palladium of our liberty, and for that, above every other reason, earnestly to oppose every political party organization whose principles were calculated, if practically applied in administration, to the ruin of the Union, to subvert the Government, to subvert the Union of our common country from the people of another.

That differences of opinion should exist, both in reference to the domestic and foreign policy of a Government, in a country where such policy is dependent upon the popular will, is a necessary matter of wonderment nor cause of regret; but that a people prosecuting the inestimable blessings of a free Government, themselves the real sovereigns, and those charged with the administration of public affairs, subject to their control, and removable at their pleasure, should allow those

differences, in themselves capable of legal and satisfactory adjustment in accordance with the fundamental law of their political society, to endanger that possession, to wreck the fortunes of the present, to blight the hopes of the future, shows them ungrateful of the liberties which they are inheriting, not by purchase, and they who negligently surrendered. That such may be our sad, our mournful fate as a people, the indications of the present, no less than the examples of the past, admonish, unless we timely pause, calmly think, and wisely act. It is not the struggles of national infancy, nor in the early battles with adverse fortune in individual life, that the existence of the one is forever destroyed, or the hopes of the other generally blighted. Property is more dangerous to either than adversity; and each would be equally fortunate, could the spirit by which property was attained be remembered and practiced, when dangers have been passed and difficulties subdued.

Scarce eighty years have passed away since our fathers, few in numbers, but brave in spirit, fought the battles of the Revolution, and the people of the North, they came from the South, they came from the East, they came from their then West, and, by their united efforts, achieved a common liberty for a common people—liberty for themselves, and liberty for us, their posterity. To achieve that liberty, many of them fell a sacrifice on freedom's altar.

"They fell, devoted but undying.
The very pearls that names were sighing:
The waters murmur of their name,
And the winds sigh in the same name.
The moanest rail, the mightiest river,
Rolls singing with their name forever."

To secure the liberty thus achieved to themselves and to their posterity, the people of the several States agreed to meet together through their representatives, to form a Government for the good—the good not of each separately, but of the whole unitedly. They did meet; they did consult in the spirit of fraternal feeling. They were not without their differences of opinion; they were not without their apparent conflicts of interest; but these differences, these conflicts, these apparent conflicts were not "irrepressible," they were harmonized, and they entered into a compact; they formed a Union which they intended to be perpetual, and which will endure forever if we act for its preservation in the same spirit of moderation and justice in which they acted in its formation. Our fathers were wise men—practical men. They had not studied in the schools in which were taught the sublimated theories of "irrepressible conflicts." They assumed not to be wiser than their Maker, nor better than their fellow-men. They essayed not to govern the destiny of Providence to man, nor impartially assumed the moral government of the world. They had not even learned the simple nomenclature of "capital States" and "labor States" now incorporated into the political vocabulary. They were not inspired with the theories which they have never merited, and of political honors which, if conferred, would be worn only to be disgraced. They found society formed; they did not attempt to reform or disrupt it. They were members of distinct and independent political communities, differing in some extent, in their domestic institutions and economic pursuits, but discovered in these no serious impediment to a common union for a common good.

Under the mysterious dispensations of an all-wise Providence, African slavery had existed in the thirteen States of the Union, from the time of their first settlement. It had become incorporated into the very frame-work of society. Had it been desirable, it would have been impossible for the superior or white race to rid themselves of the inferior or servile race. The discovery of the equality of races was not made until after the American finger and providence of the Almighty are traceable in that distinction, was reserved for the political seeds of a subsequent generation. The framers of the Constitution were the representatives of independent political sovereignties. They formed a Federal Union for the common benefit of all.

They clothed the Federal Government with such powers, and such powers only, as they considered essential or necessary for the equal and common interest and position of each and all. They reserved to the States respectively the regulation and government of their own domestic institutions and internal policy in their own way. They did not question the right of property, but as respects the nature of that property, its owners might be subjected to its loss by reason of its escape, either voluntarily or through the solicitations and persuasions of others, and as the Constitution was formed, among other things, to secure domestic tranquillity to the people of the States, and between them and their fathers provided in the Constitution, in the common bond of their Union, that—

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

Here is a distinct and positive recognition in the Federal Constitution of the right of property in slaves. Here is a constitutional recognition that one man may have a right of property in another, and a constitutional guarantee that such right shall be respected and enforced not only against the opposition of individuals, but against the interference of States. "Historically," remarks Justice Story, in the case of *Prigg vs. The Commonwealth of Pennsylvania*—

"It is well known that the object of this clause was to secure to the citizens of the slaveholding States full and perfect right and title of ownership in their slaves as property in every State of the Union, into which they might escape from a State where they were held to service or labor. The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States; and, indeed, was so vital to the preservation of their domestic interests and institutions, that it cannot be doubted that it constituted a fundamental article, without the violation of which Union could not exist. It was its true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from interfering with, or obstructing, or abolishing the rights of the owners of slaves."

Again, in his Commentaries on the Constitution, he remarks:

"The great object of a provision under the Confederation was to fill a previous controversy by the slaveholding States; since in many States no and wherever would be allowed to the owners, and sometimes, indeed, they met with open resistance."

And here, sir, it may be remarked that this provision was incorporated in the Constitution by the unanimous vote of that body; and that it appears, from the opinion and Commentaries of Mr. Justice Story cited, that—

"The true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from interfering with, or obstructing, or abolishing the rights of the owners of slaves."

What were those principles and doctrines? The name which have been recently revived, and which are now advocated by the leaders and masses of the Republican party: that slavery is a moral, social, and political evil; that it is contrary to the law of God; and that all men—African slaves as well as American freemen—are of one race and equal; and that political institutions which deny them equal political rights and advantages are unjust; and that the denial to them of these rights is in contravention of the Scripture injunction, Do unto others as ye would have them do unto you. Let those who now profess such a reverence for the memory of the fathers, know that those very fathers, by incorporating this provision in the Federal Constitution, meant to guard their countrymen against the doctrines and principles which they now advocate, and to prevent, in the future, the repetition of the wrong resulting from these doctrines and principles which had been suffered in the past.

Upon this provision and its historical illustrations, I remark that the Constitution, in which it is contained, has long been the property of the several States, and thereby the general advantages which it was designed to secure having been obtained by them, the faith of such States, and of every State which has since been admitted into the Union under it, was and is pledged to see to it that this clause, as well as every other clause, is fairly observed and honestly enforced. It is the agreement, it is the covenant, it is the bond. Each citizen is bound to see that the faith of his State is preserved, and any attempt, either by the indi-

vidual citizen or by a State to evade or violate, weaken or annul, the obligation thus assumed, is personal dishonor and State perjury. But, sir, our fathers were not perfidious. They assumed obligations as patriots, as patriots they discharged them. In 1793, they passed the first fugitive slave act to carry out in good faith this provision of the Federal Constitution. It was approved by George Washington, President of the United States, who framed the Constitution, and then President of the United States. Under his administration, and those of the elder Adams, of Jefferson, and of Madison, the domestic and foreign policy of the Government was shaped and advanced, if not perverted, to the public mind of the country was at times deeply agitated in reference to that policy, and deeply stirred by the discussions of questions connected therewith. But from the violation of pledged faith there was no cause for general or sectional complaint. The failures of the Republic in her domestic and foreign policy, and her opposition against the formation of political parties founded upon geographical distinctions and sectional interests. No State had been denied admission into the Union on account of the character of its domestic institutions.

But many of the fathers had fallen asleep. Most of those remaining had gone into the retirement of private life, and there awaited, in the tranquillity of age, the expected summons to their kindred dead. But, sir, that repose was destined to be broken. A people who had achieved so fully achieved their independence of a powerful foreign and oppressive foe, who had established a free and independent Republic, far, far away from the seats of former civilized political empire—a Republic the anomaly of the present, and fit to be the model of the future; who had widened the principles of the Government they had established practically and felicitously applied in the development of their national resources and in the expansion of their growing power; who in a second struggle with their former oppressor had vindicated their rights and secured the permanent maintenance of their national rights, now, that peace with her olive branch had again returned to bless the husbandman in his toil, the merchant in his traffic, the artisan in his trade, and all in their honorable pursuits, and all in their peaceful and useful avocations, were suddenly startled by a fearful apprehension that the Government they cherished was about ingloriously to end, not by the assaults of a foreign foe, but from the folly and madness of those upon whom his blessings were lost.

At the time of the adoption of the Constitution many of the States were slaveholding States. In 1789 and 1790, many of them having found that slave labor was to them unprofitable, unsuited to their soil, their climate, and industrial pursuits, and having to a great extent parted with their slaves for a valuable consideration, by sending them among their more southern brethren, where the condition of the slave would be improved, and where his labor would be more remunerative, had become non-slaveholding States. No one of these States, however, had freed their slaves solely from motives of humanity. Economic considerations, their aversion to their African race, their philanthropic, philanthropy was dormant. When personal interest ceased, humanity—falsely so-called—became active. The Constitution of the United States had provided that "no States may be admitted into this Union." There was no qualification annexed, and no condition imposed, in respect to the domestic institutions or internal policy of such States. No such qualification or condition could, therefore, constitutionally be imposed by Congress upon the admission of a State. All States were equal before the Constitution, equal. Those originally ratifying the Constitution, equal to one another, being the sole judges of what their domestic institutions should be. Unless those to be admitted by Congress upon their application were equally their own judges in this respect, then the States, that were equal, were no longer equal.

Under these circumstances, and at the time I have mentioned, Missouri applied for admission into the Union. Her government was republican in form. She labored under no constitutional disqualification for admission. Does any one believe that Missouri had been so inferior to the community, as was New York, as was Delaware, at the time of the formation of the Constitution, that, under the same circumstances, her admission into the Union would have been opposed? Does

any one believe that had the framers of that instrument been clothed with the power of determining whether Missouri should be admitted, they would have refused her admission? Not unless party prejudice has so blinded his judgment as to render it an unsafe counselor even in the ordinary duties of life. Yet, sir, the admission of Missouri was opposed, and the Senator from New York has said "that Missouri was refused admission on the verberance of that great debate."

If such be the fact, it only proves that there were men then, for the first time in the Federal Congress, as there are men now throughout this country, who, for the purpose of gaining a sectional and party triumph, were willing to sacrifice to their followers the high places of power and the emoluments of office in the prosecution of unconstitutional measures, would cause the Union of their country to reel. Sir, in that struggle patriotism did not take counsel from prudence, as suggested by the Senator from New York; but patriotism unwisely listened to the demands of ambition. If ever there was a blot and a blur upon the statute-book of this country, it was the miscalled compromise of 1820. It was a statute, since judicially declared unconstitutional, which was extorted from patriotism by the spirit of election and the suggestions of selfishness. Sir, ever since I read the able and conclusive argument of the eloquent and gifted Pinckney upon the Missouri restriction, I have regarded the motives that demanded it, or was it those motives that provided the act of 1820, which attempted to prescribe the conditions of the admission of States into this Union, with a loathing and a detestation which is only half removed by the tardy but patriotic repeal of such conditions in 1854.

Mr. President, our opposing friends are now talking about the aggressions of the slave power. They would have the country believe—the even have the effrontery to assert on this floor—that the peace of that country, in reference to the institution of domestic slavery, would have been uniform and unbroken, but for the interference of the reasonable and unconstitutional demands of that power. To history I appeal. Let her decide the controversy. Who was it that crented the excitement in 1819 and 1820? Was it the friends and supporters of the equal rights of the States, who then were the friends of the rights of the South and the people of each Territory when they came to form a constitution, preparatory to their admission as a State into the Union, should form and regulate their own domestic institutions in their own way, or was it those who thought the Republican party now profess to think that Congress should form and regulate those institutions for the people of the Territories? Had the slave propagandists of the South forced slavery upon the people of Missouri? Had "border ruffians" from other States expelled the friends of freedom from her fertile plains? Had not her own people, freely, of their own choice, established among themselves the relation of master and slave? Did she not, with that relation thus established, apply for admission as a State into the Union? Had Congress refused her admission, would the world have been any more excited in the world in reference to slavery if objection had not been made to her admission? Who made that objection? Was it the Democratic party of that day; was it the Representatives from the slaveholding States, or was it the Representatives from the non-slaveholding States; those who, for the accomplishment of partisan purposes, had become the advocates of the Free-Soil principle which has since become intensified into modern Republicanism? By the recorded sections of the Republican party are refuted. By the recorded history of the friends of domestic slavery are proved to be the friends for the first excitement since the formation of the Constitution upon this subject.

But, sir, we are told by the Senator from New York, that the question of Missouri was not the question of 1820, so far as principle, and even the field of its application, was concerned. Every element of the controversy now present entered it then; the rightfulness or the wrongfulness of slavery; its effects, present, and future; the constitutional and political rights of the people of the States, and of their citizens; the nature of the Federal Union, whether it is a compact between the States, or an independent Government; the springs of its power, and the ligatures upon their

exercise. Sir, I accept the issue, and will hereafter consider it more particularly in reference to its principle. But the Senator, like most of the members of his party, who are also members of this body, professes great reverence for the memory and labors of the fathers. I wish to cite the opinions of one of those fathers in reference to the issue of 1820, which was the issue of 1850; and of one for whose opinions upon the subject of slavery some of our opponents have expressed unbounded admiration. In the retirement of private life, and in the veneration of declining years, lived Thomas Jefferson at Monticello, in his own native and loved Virginia, when the controversy of 1819 and 1820 started the country from its comparative repose. His hand had drafted the Declaration of Independence. He had been a chief in establishing the principles and policy of the infant Republic. He was now awaiting his summons to the spirit land. He was "originally opposed," remarks his biographer, "to the slavery restriction clause of the bill, and equally so to the establishment of the Missouri compromise bill," said wascalled. Instead of regarding the efforts of those who opposed the admission to the Union with fear, and approving their motives, he readily apprehended, and promptly exposed, their true designs. In a letter to C. C. Cabell, dated January 22, 1820, he thus declares: "The Missouri question is for power."

Again, in a letter to H. Nelson, dated March 12, he says:

"I thank you, dear sir, for the information, in your favor of the 4th instant, of the settlement for the present of the Missouri question. I am so completely withdrawn from all attention to public affairs, that I cannot follow the course now than the definition of a geographical line which, on an abstract principle, is to become the line of separation between slavery and freedom. I have no doubt that the cause ever enjoy the blessings of peace and self government. The question sleeps for the present, but is not dead."

Again, in his letter to Mark Langdon Hill, April 5, of the same year, he says: "I am a legislator on the Missouri question. I wish I could say so to its death; but this I deprecate. The idea of a geographical line once suggested, will brood in the minds of all those who are not slaves, and excite their ungovernable passions to the peace and union of their country."

In a letter to William Short, of the 13th of April, he observes:

"Although I had laid down as a law to myself never to write, talk, or even think of politics; to know nothing of public affairs, and therefore had ceased to read newspapers, yet the Missouri question has been so long in my mind, that I cannot avoid thinking of it. The old schism of Federal and Republican threatened nothing, because it existed in every State, and united them together by the federation of the mind. But the excited debate on a marked principle, moral and political, with a geographical line once conceived, I fear would never more be obliterated from the mind; that it would be recurring on every occasion, and renewing irritations until it would kindle-rage around and mortal interest as to render separation preferable to eternal discord. I have been among the most zealous in believing that our Union would be of long duration. I now doubt it much, and see the event at no great distance, and direct consequence of this question as to the line which has been so confidently counted on—the laws of nature control this—has by the Fugitive, Ohio, Missouri, or more probably the Kansas, and the northern boundary. My only comfort and confidence is, that I shall not live to see it, and I carry into the present generation the glow of thoughts and feelings which the fathers' sacrifices of life and fortune, and of rendering defense the experiment which to decide ultimately whether man is capable of self government. But the excited debate upon him will signify their epoch in future history as the celebration of the model of their predecessors."

And in his celebrated letter to John Holmes, which has heretofore been cited in this Chamber by opposition Senators, he says:

"I thank you, dear sir, for the copy you have been so kind as to send me of the letter which you have written to the Missouri question. It is a perfect justification to them. I had for a long time ceased to read newspapers, or pay any attention to public affairs, and I was in a state of peace, and content to be a passenger in our bark to the shore which I saw not distant. But this momentous question, like a fire-bell in the night, awakened and filled me with terror. I considered it at once as the knell of the Union. It is hardly exaggerating to say that I have written a reply only a weak specimen. A compromise bill, concerning with a naked principle, moral and political, does conceived and kindled in every angry passion of the mind, and will never be obliterated; and every angry irritation will mark it deeper and deeper."

And again:

"Of course I am certain that as the passage of slaves from one State to another would not make a slave of a single human being who would not be so without it, so their diffusion over a greater surface would make them individually happier, and proportionally would they diminish the means of their emancipation by dividing the burden on a greater number of co-sufferers. An assistance, too, from

this act of power would remove the jealousy excited by the undertaking of Congress to regulate the condition of the different descriptions of men occupying a State. This restriction is the exact opposite to what even the most humane of the South would have taken from them and given to the General Government."

"I regret that I have no new code to exhibit that the well-to-do suffered themselves by the generation of 1776, to acquire self-government and happiness to their country; that they were not so much interested in the rights of their fellow-men as their own; and that my only consolation is to be, that I live not in sleep over it. If they would but dispassionately consider the question, they would see that the principle, more likely to be effected by union than by secession, they would pause before they would perpetrate against themselves, and of treason against the hopes of the world."

But I will not multiply quotations. These sufficiently show the motives of those who caused the "Union to reel" in 1820. It was the thirst for power, the promptings of philosophy, or the love of freedom. "The question sleeps," says Jefferson, "it is not dead." "This is only a reprieve, not a final sentence." Subsequent events proved his opinions to be prophecies. Miscalled a compromise, it was never observed nor intended to be so by those who caused it. The possession of present power never gratified; it must continue, expand, and be perpetual. Hence, aggression is its handmaid; injustice and oppression its agencies.

This much-talked-of compromise proved to be no compromise at all. Why not and who are responsible therefore? Even the Senator from New York, in his arraignment of the Democratic party at Rochester, unintentionally, it is true, but in fact, abetted, it and admits its enemies to be responsible for whatever of excitement and of aggression has arisen upon this subject. Hear him. He says:

"From 1820 to 1840, the subject of abolishing slavery in the District of Columbia, and in the national dock-yards and arsenals, has been the subject of the most heated debate. The Democratic party thereupon promptly denied the right of petition."

Who was it, then, they retorted, the slavery agitators, who were unwilling to let things remain as the fathers left them; who, from 1835 to 1844, were making their appeals to the national Congress to legislate further, notwithstanding the Missouri compromise, upon the subject of slavery? Was it the Democratic party? Assuredly not, if the Senator from New York is credible. They refused to legislate upon this exciting subject when called upon to do so, against the faith of compromises, the guarantee of the Constitution, and the peace of the country, by anti-slavery forces, who had no possible practical interest in the legislation they demanded. Again, says the Senator:

"From 1840 to 1842, good and wise men counseled that Texas should remain out of the Union until she should consent to relinquish her self-inflicted slavery; and charges that the Democratic party precipitated her admission into the Union. This is only additional evidence that, upon every occasion when the subject of domestic slavery has awakened excitement either in or out of Congress, and excitement was never produced, and never sustained, by the Democratic party, but its enemies. They have invoked the action of Congress for its suppression in the original Territories; they have opposed the acquisition of other territory, unless the people thereof would abandon their own domestic institutions; they have opposed the admission of any new State into the Union, unless the people of that country to say what those institutions should be."

Again, when we acquired our Mexican possessions, what occasioned the excitement then existent in the country? The attempt not to legislate slavery into, but to exclude slavery therefrom; to prohibit its growth, and to determine in advance what the domestic institutions of a distant people should be; to determine these matters for them, and not allow them to determine them for themselves. When, for the purpose of preventing excitement and sectional feeling upon this subject, propositions have been made in Congress by Democratic members to extend the Missouri compromise line to the Pacific ocean, the propositions have invariably been opposed by these pretended friends of that compromise, but real disturbers of the peace.

I will not dwell upon the history of the compromise measures of 1850. How intense was the excitement, how bitter the controversy, is already too familiarly known. If by their adoption, the storm was apparently for a time allayed, it was soon to be revived, with far greater intensity;

to grow and swell until the "Union was indeed convulsed under the rebuke of the great debate." The passage by Congress of the fugitive slave law, as one of those measures to carry more fully into effect the great constitutional compact entered into by our fathers, was seized upon by designing men as a pretext for popular appeals to kind and fanatical spirits, and for stirring up the passions of the northern portion of our country. Men of extreme views and unbounded personal ambition, unwilling to bide their time, perceived in this spirit an engine of political power, and a means, if it could be made available, of displacing the more conservative men in the free States; and when Congress, finally, in establishing the Territories of Kansas and Nebraska, repealed a former unconstitutional act, the occasion was too opportune for the purposes of sectional agitation to be left unimproved by personal ambition. As the Senator from Massachusetts by his legislation to nullify the fugitive slave law; and a great sectional party arose, relying solely for success upon the superior strength of section over section, waging a political warfare, which, for virulence of feeling and bitterness of speech, is scarcely to be paralleled in the history of the great ages in this or any other civilized country, either in ancient or modern times. Having selected an advocate at their standard-bearer, they enter the contest of 1856, the assumed representatives of the philosophy, morality, civilization, and Christianity of the age; and with scarcely a dissenting follower in fifteen States of the Union, they emerge from the conflict self-surprised at their almost triumphant success. Upon the distant plains of Kansas they placed in the hands of their maddest followers the deadly weapons of a fratricidal war against the peaceful inhabitants, and exhort, far, far away towards the setting sun the impious sentiment, fallen from the lips of a degraded priest-hood, that in life's civilization, the rifle is more efficient and more pleasing in the sight of the Almighty God, than the plow, the sickle, or the reaping machine, for place and power, they have told the deluded followers, that in God's law, and in the Declaration of American Independence, it is written that all men are created free and equal, and that neither the arbitrary regulations of political communities, nor the selfishness of a few States, can interpose rightful barriers to the inalienable rights of man.

There is one listener to their teachings, believes in their principles, and resolves to carry them out to their logical conclusions. John Brown, in the private and secret, and in the public and avowed purpose, collects his meager but determined force, and goes forth upon his mission to free the slave, even by the murder of his master. The stillness of a Sabbath's night is chosen for the accomplishment of the heinous deed, and ere the morning sun flames the heavens, quiet and peaceful citizens sleep the last cold sleep of death. And where did this occur? Almost in sight of the spot where repose the ashes of him whose hand drafted the declaration of a nation's independence: of a man whose mission it was to free the slave, and to lead the infant armies of his country forth in glorious and successful war; and of him who, of all men, did most to frame that bond of Union—the Constitution of his country—which made the people of this land one in interest, one in right, and one in destiny. As the drums beat, and the bugles sounded, the mother clasps her unconscious infant more closely to her bosom, and the manly father girds himself for the defense of his country and his home. The invader, the murderer, and the traitor is seized, and awaits in a felon's cell the execution of the law's doom. Sympathizing messages are borne to him from sympathizing spirits far away, reminding him of his glorious fate, and still more glorious future historic name. Even Senators, while disapproving of the act, avow the sympathy of their people for the qualities of the felon hero; and a now, and then, the great and good men of the public principles, declares that John Brown will hereafter be regarded as the most glorious martyr in the history of martyrology. The whole land has been convulsed. The Senate of the United States has divided, as if by a house-line, and those on either side regard each other as common foes. Can these things be, and this Union stand? If the American people are wise, they will deeply ponder this question.

In tracing the history and causes of political events, I have indicated my views in reference to

in any of the Territories of the United States. In utter contempt of this decision, the miscalled Republican party avow that, if successful in their efforts to gain the political control of this Government, they will, by congressional legislation, make that prohibition, and that they will so construct the Federal judiciary that they shall register, as constitutional, their decrees. A lawless legislature, a plant, subvert, party-faring and corrupt judiciary, these are the things that, if consummated, liberty will have fled our land and ascended to her native heaven.

Mr. President, against such calamities I know of but one protection. It is in the union and harmony of the Democratic party, and the cooperation therewith of all truly conservative and Union-loving citizens throughout this whole country—North, South, East and West. The Senator from New York was right when he declared that the issue was between the Democratic and Republican parties. There never has existed in this country at the same time more than two great political parties. There can exist but two now. This is no time for the formation of a Union or other party. There has existed in this country a great Union party from the beginning, and it exists to-day, powerful and great, the bulwark of the Union of the Constitution; the conservator of the Union of these States. Under its guiding councils we have increased from less than five, until we now number thirty millions of people. Its policy has excluded the number of your States from nearly the original number—thirty-three. It has secured for you every foot of territory which has been added to your national domain. It took the banner of your Union and planted it upon your southern Gulf, and Florida became one of the galaxy of States. It took that banner and planted it upon the vast Territory of Louisiana—an empire in itself, and thus extended your possessions towards the setting sun. It took that banner and planted it upon the virgin soil of Texas; and she now is one of the sisterhood of States. Westward still "the power of empire takes its way," and, faithful to its true mission of expansion and development, it takes that same banner of your Union and, marching right onward, plants it in glorious triumph upon the shores of the mighty Pacific; and Utah, New Mexico, and California are yours forever. This true banner has made ours an ocean-bound Republic; great, mighty, prosperous, and free. In peace it has developed our resources and expanded our power; and in war it has successfully maintained our rights and nobly vindicated our national honor. Under its policy, and by its courage, in thirty-three wars, the feeble Republic of yesterday has become one of the greatest and mightiest among the nations of the earth.

Mr. President, this true Union party will also soon meet, through its representatives, in national council. When its roll is called, there shall be a response from every State in this vast Confederacy—from Maine to Oregon; from Georgia to California; from northern lakes to southern Gulf. From the banner which shall float over the hall of its nomenclature to that Union, but its banner shall be the banner of our common Union. If counsel of one of its feeblest yet most devoted of friends could be heard by that convention, it would be: Be true to your principles; be just to all the members of the noble party you represent; accept the issue presented by the Senator from New York and those whose chief life is apply no new tests of party faith; forget your past differences upon abstract and comparatively unimportant issues; be tolerant of present differences of opinion on questions of minor importance; lay upon the altar of your country the sacrifices of personal, political, and religious differences; plant yourselves firmly upon the great principle of non-intervention by Congress with slavery in State, Territory, or the District of Columbia; and, remembering that a nation's destiny only depends upon your conduct, go forth to the achievement of a noble and a glorious triumph.

Mr. TEN EYCK. Mr. President, so much has been said, during the present session of Congress, in both of its branches, about the infidelity of avowed members of this Union to their constitutional duties and obligations, that I feel myself called upon to submit a few remarks in behalf of the State which I have the honor, in part, to represent upon this floor. In doing so, I beg it to be

distinctly understood, that I have no accusations, "raising" or otherwise, to bring, and no excuses or apologies to make, save, however, for an apparent want of tact in referring more particularly than I should do to the State I partly represent.

The State of New Jersey, sir, has always been true to the Union; she has always been just, faithful, and devoted to the Constitution—the Constitution as understood by its framers and the States which she includes, and which she protects, and as subsequently interpreted and expounded by a Marshall and a Story, by a Webster and a Clay. It was a suggestion of hers that led to the meeting of the convention in May, 1787, in Philadelphia, which framed this Constitution. When that State of Virginia, by her House of Delegates, recommended the meeting of a convention at Annapolis, in 1786, it was solely for the purpose of regulating that trade and commerce which, during the Confederation, by reason of the selfish, jealous, and contentious of the several States, had become well nigh ruined and destroyed. When this convention met at Annapolis, owing to the small number in attendance—there being present commissioners from but five States of this Union—New York, New Jersey, Pennsylvania, Delaware, and Virginia, the latter concluded to the transaction of no business other than the adoption of a report to the several States sending them and to the Congress, in which they say:

"The State of New Jersey had enlarged the object of the appointment, empowering the commissioners to consider how far a uniform system in their commercial relations and other important matters might be necessary to the interest and permanent happiness of the several States," and to report such an act on the subject as, when ratified by them, would enable the United States, in Congress assembled, effectually to provide for the calamities of the Union."

And the report further goes on to state:

"The commissioners entertain an opinion that the idea of extending the powers of their delegates to other objects than those above mentioned, which has been broached by the State of New Jersey, was an improvement on the original plan, and will deserve to be incorporated into that of a future convention."

In consequence of this, and the recommendation of the Congress of the Confederation, the constitutional convention met in Philadelphia, in May, 1787, and on the 17th of September they finished their labors. The State of New Jersey was one of the States of Virginia has received all the credit of this. It has been with her as it was with the great Alfred. On account of her having done much—and she has done much and nobly—it has been usual to attribute everything to her. Why, sir, the State of New Jersey was first, and before a series of able resolves in her Legislature, called the attention of the Union, as it then existed, to the necessity of a more efficient form of government. But I do not mean to institute comparisons between the different States of this Union, much less to undertake the disparagement of any one of them, for I hold that the fame of each is the glory of the whole, and that the slightest shade cast upon one tarnishes, to a certain extent, the common luster of them all. The State which I have the honor to represent was one of the first to propose, and which adopted this Constitution. It was preceded, by only a few days, by the States of Pennsylvania and Delaware, and she did it in a convention of her people called for that purpose, promptly, cordially, and unanimously, without a dissenting voice. She was first to adopt the amendments to it, and I trust I may say that she will be the last to abandon it, and that, if this wisest frame of government ever devised by human ability, skill, genius, and philosophy, shall be destroyed by violence, it will be no hand of hers that strikes the blow. I am therefore, sir, confident that I cannot consider the destruction of this Union as excusable, much less as justifiable; for with it will perish the hope of civil and religious liberty on this continent; and instead of being an empire, grand, powerful, and magnificent, we should be a collection of discordant, warring, and selfish States. The Constitution was a sacred covenant, entered into by our fathers for the purpose of forming a more perfect union, establishing justice, insuring domestic tranquility, providing for the

common defense, promoting the general welfare, and securing the blessings of liberty to themselves and their posterity. It must be maintained; it must be sustained in the letter and in its spirit in each and every particular; ay, sir, even so far as regards that particular institution which is now making so much noise in the world. If attempts should be made to interfere with it in the several States of this Union, where it exists by law, either by violent means, or by bribery, or by fraud, or by a bare-headed exposure to the sun of Kansas, or in the shape of seditious and intestine insurrection, or by assaults or attacks from without, the people of my State will stand, if need be, by their brethren of the South, and by stand and shoulder to shoulder, as their fathers did in the time of fiery trial, when their blood ran together on the same battle-field; when they put forth a common shout for victories achieved and mingled in a common sorrow at defeats sustained.

But, sir, when it is attempted to carry it further, and beyond this into the Territories of the United States, then we, in common with others, have something to say upon the subject. The question is not now whether slavery shall be abolished in the States of this Union, where it exists by law, arising from the action of the several States, but whether it is to be carried into the Territories of the United States. No one pretends to abolish it within the States, except a few who are enemies of the Constitution, anyhow. But, sir, the question is, I repeat it, whether these broad domains are to be made a free labor, with its thrift and enterprise, its trades and handicrafts, its enterprise and industry, its busy marts and commerce, its shops, its mills and factories, its school-houses, colleges, and churches, its fields of luxuriant grasses, its flocks and tending herds, its golden harvests, whether they are to be made the abode of servitude, with its wealthy few, its landless manhood, its worn-out and impoverished soils, and its negro huts and quarters, and its waste and dilapidation.

The practical question, in fact, is whether the Territories are to be open to all the free white citizens of this Union for homes and firesides for themselves, their families, and descendants, or whether they are to be closed up and forever barred against them by the introduction of African slavery, and whether they are to be open to all, or whether they are to be open to a select few, or whether they are to be open to no one inconsistent or incompatible between the two different systems of labor that they may not both exist and continue to exist without the one necessarily impinging upon the other in the different portions of this country, as they have decided for the Territories. I am, sir, a free laborer, and I manifest that they cannot both flourish and exist together in the same place, in the same spot, on the same plantation, in the same field, and in the same workshop; and I submit that although this institution is to be maintained where the people, by their legislative laws, have agreed to maintain it, yet still, when it is attempted to introduce it into the Territories which, since the morning dawn of creation, have been as free as the wild deer bounding over their prairies, it should be mildly and constitutionally, yet firmly and forever resisted. Why? I have no hesitations in saying that it is running through so many different degrees of latitude; embracing almost every variety of climate; furnishing every species of production—the South having its sugar, its cotton and tobacco; the middle and western States their agriculture, mules and manufactures; and the East having also its manufactures, fisheries and commerce—there must be, of necessity, diverse pursuits and interests; and although we, as legislators, are bound to have a general regard for the welfare of the whole, still as we are expected to be true to the welfare of home and its concerns. According to the method by which the right of representation is computed under the three-fifths rule, we think that a portion of this Union has already power; controls and influences the legislation of Congress to as great an extent as the States which are represented by the framers of the Constitution that they should have, and that it ought not to be extended. This was a bargain entered into by our fathers upon a compromise, and we should and must stand to abide by it according to the letter and spirit of the contract, when it is attempted to carry it further, and to an extent beyond what was embraced within the limit of the contract, we think it is injurious and unjust to us,

and ought, in the opinion of this Legislature, to be speedily abolished; and that our Senators and Representatives be requested to use their influence in favor of this desirable object.

4. Resolved, That his Excellency the Governor of this State be, and he is hereby, respectfully requested to transmit certified copies of the foregoing resolutions to each of our Senators and Representatives in the Congress of the United States from this State, with a request that they be presented before the bodies to which they respectively belong.

Approved March 9, 1848.

This occurred the year before the act of Congress was passed abolishing the traffic in slaves in the District of Columbia; a year before the ratification of those measures usually denominated the compromise measures of 1850. Before resuming my seat, I wish to say a few words on the subject of the fugitive slave law. That subject is embraced within the scope of the resolutions which have been submitted by the honorable Senator from Mississippi, [Mr. Davis.] In New Jersey, we have always regarded the act of Congress passed in 1793, respecting the rendition of fugitive slaves, as obligatory upon us. No grave doubts as to its constitutionality has ever been raised or agitated there. I recollect that many years ago, a quarter of a century at least, a case occurred which was referred to some two weeks since by the honorable Senator from Ohio, [Mr. Wade], in a speech made by him. He referred to a case that had been decided by Chief Justice Horiblower, and which I recollect that he stated him to say that his recollection of that case was, that Chief Justice Horiblower had held this act to be unconstitutional. The case occurred before the chief justice at chambers. There has been no report of it. It occurred about the time it came to the bar, and my recollection is that chief justice decided the cause and set the fugitive at liberty, on the ground of defective evidence in support of the claim; but, in giving his opinion, he may have thrown out some ideas of his own with respect to the unconstitutionality of the act; but I cannot say now that they were his.

Aside from that, however, there has never, so far as I know, been any question raised in our State with respect to the constitutionality of that law. We have always acknowledged the binding force of that provision of the Constitution which declares that "no person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor is due." Why? For the reason that it was one of the terms of the compact or agreement on which the Union was framed. This was the understanding at the time; and this is what its framers meant and intended, let its language be what it may. The Constitution of our United States was not a mere contract entered into between two sharp dealers, so framed and contrived as that one party might get the advantage of the other upon a technical construction; but it was a broad, fundamental, frame of Government, entered into by high-toned men for the purpose of securing Government for themselves and their posterity; and it is to be construed and interpreted according to the way and in the manner in which they meant and intended that it should be.

I believe that the States such as are not bound to furnish the means of enforcing this provision of the Constitution by the agency of their own officers and tribunals; but they are as clearly bound to surrender up fugitives from labor, when so adjudged, as they are prohibited by this provision from discharging them from labor and in the State from which they may have escaped; and I think it also clear that the people of the several States, upon whom the Federal Government within the scope of its authority acts individually and directly, are bound to assist in the enforcement of its authority when the law is in the form of law. For instance, if a marshal should be resisted in effecting an arrest, and in the proper execution of this law should call on a citizen, a bystander, for aid, it would become his duty, however disagreeable or unpleasant it might be, one of the posse comitatus, to assist in the enforcement of it.

Slavery, at the time of the adoption of the Constitution, existed in most of the States of this Union; nearly all. No such provision as the one referred to existed in the Articles of Confederation, and it was felt to be a grievous inconvenience

by the slaveholding States. In several of the States, no aid whatever was allowed to the owners, and sometimes open resistance was made to the recovery of such fugitives. This provision, then, had a meaning, and was intended to meet the difficulty and put an end to the complaint. The States which consented to the Constitution agreed to it; and in the State which I have the honor in part to represent, we have acknowledged its obligation and force. The concession was made, and we will abide by and adhere to it. Let our southern brethren not forget that it was made by some sacrifices of feeling and for their benefit and advantage. Under this provision of the Constitution and the act of Congress of 1793, fugitives from labor have been surrendered up in our State to the party to whom their labor was due. We have always kept the bond. It was a covenant, with many others, made understandingly, made on a compromise, made to form a more perfect union, and to escape from the debility, antagonism, and ruin of that wretched and feeble Government of the Confederation under which all the talents and glories of the Revolution were wasted, and of being lost forever.

But we hold that if a doubt about the constitutionality of this act of Congress could be raised, it is now too late to raise it; it has been settled by repeated decisions of the courts and the practice of the States for many years, and so much ought to stand. But, sir, this is not all. I wish to say something on the subject of the action of the State which I have the honor in part to represent. In 1836, the Legislature of New Jersey, under its power to pass regulations of policy, passed an act concerning fugitive slaves. It was re-enacted in the revision of 1846. This law is now in force. I have it before me, and I take leave to refer to a few of its most important sections, for the purpose of showing what the contents of this statute are.

The first section authorizes the arrest of the fugitive on a warrant to be issued by a judge of the common pleas or a justice of the peace, on application of a claimant, his agent, or attorney, accompanied by an affidavit that the fugitive has escaped from service, and stating the claimant's title to the service of such fugitive.

By another section it is required that the sheriff or constable receiving and executing such warrant shall, without unnecessary delay, carry the person arrested before the judge, according to the expiry of the warrant; and it is further enacted, that if the sheriff or constable who is called upon willfully neglect so to do, shall be liable to a fine not exceeding \$500, or imprisonment for a term not exceeding six months.

By another section it is provided that the hearing of the case shall be before the judge issuing the warrant, and two other judges called by him to his assistance, and unless either party shall demand a trial by jury, when a venire is to be issued by the judge directed to the sheriff of the county to summon a jury of twelve men, who shall pass upon the merits of the case.

By another section it is provided that if the judge shall authorize the removal of a fugitive without the title of the claimant being first directed upon in his favor, he shall be subject to a fine not exceeding \$500, or imprisonment not exceeding six months; and any judge refusing to perform any of the duties required by the law, shall be liable to pay a sum not exceeding \$500. And the act creates other fines and penalties for arresting a person as such fugitive without a warrant or other legal authority for the purpose, under some act of the Legislature, or of the Congress of the United States.

In Nixon's Digest of 1846, an old statute of our State is found, still unrepealed, in these words:

"It shall be lawful for any person not an inhabitant of this State, who shall be traveling to or from, or passing through this State, or coming into this State from any of the United States, and having a temporary residence in this State, to bring with him or her any slave or servant, and to convert or leave this State to make such slave or servant out of this State: *Provided,* That the number of such slaves or servants shall not exceed the whole number of free or household slaves or servants then and continued by said traveler or temporary resident."

Now I refer to these matters and statutes in the hearing of Senators from the different States of this Union, to show that we have kept our part of the covenant, and to ask them to keep theirs—not to violate it; not to extend it to matters and

things and places where it does not belong and was not meant to apply.

I am familiar with several cases that have occurred in the State of New Jersey, where slaves have been delivered up under the act of the Legislature of our own State upon proceedings had before the county judges. The last case of the kind I recollect to have occurred was that of three fugitives claimed by Mr. John Roth, I think of Cecil county, Maryland. Mr. Roth applied to the tribunal furnished by our State laws—not to the tribunal furnished by the act of Congress. The case was tried before a jury composed, almost exclusively with the same political party to which I at that time belonged, and which I believe I hold the principles of at this time—the old Whig party. The jury rendered a verdict in favor of the claimant, and Mr. Roth took his fugitives out of the State without difficulty and without interruption. Nay, more, the honorable Representative from the second congressional district of my State, now in Congress, Hon. JOHN L. STRATTON, was the attorney of the claimant on that occasion, and prosecuted the case with great success and ability. During the canvass which took place, and resulted in his election, it was made a point against him by his political opponents that he had thus been engaged in a trial that had ending in sending three fellow-beings back to the land of bondage; and what was the combat between the two sides? The result of Burlington he received a majority of near eighteen hundred votes over his competitor—nearly eight hundred majority more than any other man since my recollection has ever received in that county in either a national, State, or county election. Sir, the people of this State, and I think the people are not in favor of this institution, are still in favor of executing the laws, and will maintain and support them. I do not pretend to say that my friend in the other branch of Congress had his majority augmented in consequence of the part he took in the prosecution of that claim; but I mean to assert that in his district it did not cost him a single vote; and yet there is not a man in that district, who, so far as he himself is personally concerned, would have any part or lot in the holding of a man as a chattel, or as property in any way.

Sir, the people of that State, as well as the people of the middle and western States generally, are opposed to all extravagance and all ultraism. They are opposed to all extremes. They will stand as a rock between the two extremes of ultraism and ultraism, whether it comes surging down from the North or lashing up in fury from the South. But, sir, they would rather, far rather, prefer standing as friends upon the fields of Monmouth, Trenton, Germantown, and Brandy wine, and reaching forth their arms to their brethren of the old and new age, and Concord on the one hand, and to their brethren of Yorktown, Guilford Court-house, and King's Mountain, on the other; beg them to cease their threatening menaces; beg them to cease their criminality and recommitment; beg them to stand by the compact of the Union; beg them to cease to cease their unholy fraternal strife; beg them to join their hands once more in a long, lasting, and fraternal clasp; beg them to do this for the Union—for the sake of that Union upon which our truest, noblest destiny as a nation hangs.

Mr. BROWN. It is known, Mr. President, that I have demanded protection for slave property in the Territories by congressional enactment, and that I have denied the authority of a Territorial Legislature, by non-action, unfriendly action, or direct action, to destroy or impair the value of slave property. It is further known that I have appealed to Congress for immediate and direct interposition for the protection of slave property in the Territories.

These positions of mine have subjected me to the attacks of the friends of the old and new age, and of attempting to interpolate new theories into the administration of the Government.

I propose, very briefly, to vindicate myself against these charges, and to show that I have asked nothing new.

As in 1822, Congress, by direct act, set aside, and declared null and void, certain ordinances of the Legislative Council of the then Territory of Florida. Congress went further, and ordered certain sums of money which had been paid under those ordinances to be refunded. It may be more satisfactory to Senators to show the

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the powers of this Government, as understood by the Democracy. The Democratic party has declared, in the most unmistakable terms, that Congress has not the right to legislate slavery into a Territory, or out. The President of the United States, Mr. Buchanan, said in his letter—"I believe I can quote it correctly without referring to it, except from memory." He said that the people of the Territories had the same right with the people of the States over the subject. I believe in all this; and yet I deny that either Congress or the inhabitants of the Territories can legislate slavery into a Territory, or out of it; and why? Because I draw a distinction which has not been usually drawn in debate here, between slavery as a political institution and slaves as property; and in this, as it occurs to me, consists the entire difference between gentlemen who call themselves Democrats, and suppose that they stand on the same platform.

I admit to the fullest extent that the people of a Territory have the same right as the people of a State to legislate slavery into the Territory, or out; but what right have the people of a State? Can a State Legislature legislate slavery into a State, or out of it? I think that a man who stands upon this floor will assert such a proposition. If so, then a State Legislature can destroy property. If it can destroy the title of an individual to his slave, which is his property, it follows that the State Legislature can destroy title to land, and to every other species of property, from all of us must deny. What power, then, have the people of a State? because this vague expression, undefined at the time, has created very much misunderstanding in the minds of Democrats on this question as to the principles to which they are committed.

Let me take for illustration a case which has occurred a few years ago. In 1836, upon the bloody field of San Jacinto, men with arms in their hands established a government. Suppose that those men had then and there declared that every land title within the limits of the Republic of Texas should be annulled; who would have said no? Certainly not Santa Anna, with his Mexican myrmidons, for they were conquered; surely not the people of the United States, for they had no connection with us. Who, I ask, would have said no? Suppose or they had declared upon the same spot, upon the limits of that Republic, hold property in man, who could say no? Suppose they had established a government, republican in its form, dividing its powers into legislative, executive, and judicial departments, and that some man had subsequently, who held a title from Ferdinand and Isabella—a league or eleven league claim—brought suit against one of the men who had there established the government; and that the courts had attempted to interfere: what would have been the answer? "From whom do you derive your authority who brought this breach of faith upon your people? How do you sit here and adjudicate these cases? Did not those men, upon that bloody field, at the very moment that they organized this Government, dividing its powers into legislative, executive, and judicial departments, declare that all land titles within this Republic should be abolished? You hold your office and authority from them, and this defendant holds his land by a title derived from the same source."

There is a moral wrong in this, you say; answer me in a moral wrong in denying property in lands so there is a moral wrong in destroying property in slaves; for as often as it has been reiterated and reiterated that man cannot hold property in man, it is a fact that the first property that man ever held was in man; and as to the authority of the States and Territories to legislate slavery into an organizing a government, I will undertake to say further, that the only government that was ever formed by God himself, for man on earth, established that very right; and that when the Israelites, non-slaveholders, were coming from Egypt to the promised land, and their government was organized by the Almighty, their constitution and their laws given amid the mutterings of thunder and the flashing of lightning on Mount Sinai, He told them not only to have slaves, but He

established the slave-trade among them, and declared that the leaders round about should be their bondmen and their bondmaids. But I am told, in these latterdays of progress by the latterday aunts, that it is immoral to own property in man. They are wise beyond what is written, and they who denounce the institution of slavery, have to denounce the God who made them, who breathed the breath of life into their nostrils, and at whose will they exist.

Then when is it and how is it that property can be established or destroyed? It is not, I say, by a Government, but by the power that creates Government. In every political community there are two powers constantly at work. There is the creating power, the constitution-making power, the organic law-making power; and there is the executing, or law-making power. In every political community, then, the creating, or the constitution-making power, establishes what is or what is not property, either directly or by acquiescence and silence. By one process or another that creating, organic law-making and constitution-making power establishes what is and shall be property, as well as it shall be no property. When is it once done, and the Government is at the same time organized, that Government operates upon what it finds to be property: that Government is organized for the purpose of taking care of life, of liberty, and of property; and if it fails to do that, it is guilty of the high purposes for which it was organized.

Then I deny that the executing or law-making power can decide what is property or what is not; and therefore I deny that a State Legislature can legislate slavery into a State or out of it; but I admit that it can legislate what is or what is not slaves. It must legislate upon that subject. It must protect and pass laws for the protection of this, as it does for every other species of property. Denying, therefore, that a State Legislature can legislate slavery into a State or out of it, I insist that a State Legislature can legislate what is or what is not slaves; it must legislate upon the subject of slaves; it must pass laws for the punishment of the larceny of slaves as it must pass laws to punish the larceny of any other species of property. It must pass laws for the defense of slaves, and the protection of them, as of every other species of property. It must pass laws establishing particular forms of action for the recovery of them, as of every other species of property; and if it fails as to any species of property, then to that extent it has failed to carry out the great purpose for which it was organized. Drawing a distinction between slaves and slavery, I say that the Democratic party has not now, and never has, been committed to the absurd doctrine that the inhabitants of a Territory, because they cannot legislate slavery into a Territory or out of it, cannot legislate upon the subject of slaves, and must not—I mean through the territorial government which is established by the Federal Government. When they become, by the consent of this Government, through which the States act, a people, and come to charter a government for themselves, then, but not till then, can they, like the people of the States, legislate slavery into the country or out of it. Like the people of the States, for then they become a State—a political community. Then they cease to be inhabitants of a Territory belonging to another people.

Then they become a people, and can determine on their own institutions. Then, sir, how is it as to Congress? But before I get to that, let us take up the territorial government and its powers. If a State Legislature can legislate slavery into a State or out of it, because it cannot establish organic law; because it has no constitution-creating or organic law-making power, then it follows, as a matter of course, that the Territorial Legislature cannot do it, and hence the squatter-sovereignty doctrine of the Democratic party is an absolute truth. Has Congress any constitution-making power? Has Congress any organic law-making power? Has Congress any creating power? Where, I ask, is the grant? Then, if Congress cannot make

constitutions; if it cannot organize governments and declare what is property, and what is not; if it can charter corporations only, and those of a particular kind, I ask, where is the power to legislate slavery, as a political institution, into a Territory, or out? By chartering incorporations, I mean such as are chartered for this city or for a Territory; but I do not mean those which are created or repealed at the will of the Government chartering it. Should either fail to carry out the purpose for which it was incorporated or chartered, it would be the duty of this Government to repeal it.

Let us test the question as to the District of Columbia. Every one knows that, by the Constitution of the United States, Congress has exclusive legislative power in this District; but I have already drawn—and I trust I have made myself comprehended—a distinction between the legislative power and the executive, constitution-making power. Congress has exclusive legislative power in the District of Columbia, and therefore is bound morally and politically to the States that vested the authority which it exercises in it, to pass laws for the protection of every species of property in the District, and to do so, not because it has legislative power, Congress can legislate slavery into the District or out of it. Not from the power to legislate, unless I am mistaken in the distinction I draw between the ordinary legislative powers of Governments chartered by the people, and the organic law-making power exercised only by those who charter their Governments. But I am answered that, as to the Territories, we are committed to the non-intervention doctrine, and that it applies to the District as well as to the Territories. I go for non-intervention with slavery; but I am not for the denial of non-intervention on the part of the Federal Government with slavery. I do not intend to assert, and never did assert, never admitted, but have always repudiated, the idea that Congress could not, or should not, or was not bound to pass laws for the protection of every species of property, wherever it had jurisdiction; and what certain gentlemen call non-intervention, I call intervention; what they call intervention, I call non-intervention. In this District Congress has jurisdiction, "exclusive" legislative power; yet it cannot legislate slavery into, or out of it, but it must as to slaves, because here they are property.

In this District the inhabitants have property in land, in negroes, in horses, in mules, in hogs. If the Federal Government were, by its legislation, either hostile or unfriendly to, to pass such a code of laws, or refuse such a code of laws, for the government of this District as utterly to destroy all land titles, all titles to horses and mules, would any man say that was not intervening? Would any man deny, or dare deny, that that was not intervention; but that the denial of it? The sense of proper means to protect property is intervention against property; and if this Federal Government has not the right within the limits of the District of Columbia to intervene to destroy landed property, I ask, where does it derive its right to intervene to destroy negro property? There is the question; and I wish it to be met fairly and squarely on both sides of this Chamber.

I take it, therefore, that if we were to pass a bill, and it were concurred in by the other House, and were approved by the President, and the laws were proceeding actively for the recovery of and within this District, all actions to recover damages for a trespass upon land, all laws providing for the detinue, descent, and distribution of land as property; and especially if we were to provide by law that any man who should violate the limits of this District for sale should forfeit his title to it, I say there is no man on either side of this Chamber who would or could deny that we were derelict in our duty; that we were exercising an authority which had never been vested in us; that we were making a law, and that we were bound to execute it. Why? Because we do not possess the creating or organic law-making power; because we cannot declare what is property or what is not; because we possess no sov-

foreign power. That resides in the people of the States, as separate political communities. We legislate to protect what is property.

If then we cannot destroy the title to property in lands, either directly or indirectly, by what authority can we repeal laws for the recovery of slaves in this District? By what authority can we repeal all patrol laws, or laws for the device, decent and distribution of slaves as property? I deny that we at the South draw any distinction between slaves and other property. We ask simply that that property shall be put upon the same footing as every other species of property. We ask that, and we ask nothing more.

Then, sir, the point I rose to discuss was, that the Senator from New Jersey was mistaken in supposing that Mr. Jefferson was quoted as authority for any such legislation as he now desires. He must not bring up the opinion of a man that slavery is either socially, morally, or politically, an evil; he must bring up the opinion of a man that this Federal Government has a right to legislate slavery into the District, or out of it, to legislate slavery into a Territory, or out of it, or to legislate slavery into a State, or out of it, or that this Government can do indirectly what it cannot do directly; and until he shows that authority, he cannot quote the fathers as authority for the course he is now pursuing.

Now, sir, the Senator from Mississippi who has just addressed the Senate, [Mr. BAWG], complains somewhat of inconsistency on the part of some of us in not sustaining the resolutions which he introduced some time ago; and upon that point he has a few words, and he has finished. I said in the opening of my remarks that I regretted that these matters had been brought up for discussion. If there was a necessity for action, it would have been better to have introduced a bill, and to have discussed it upon its merits as a practical question; but the resolutions have been brought up; we have to vote upon them. I regret that the Senator is not present. I would ask him if the want of protection for slavery upon constitutional principles in Kansas is the only evil we are now suffering under upon that question, in his opinion. Why does the Senator from Mississippi insist that we shall vote upon that question as to Kansas, and yet fail to introduce a resolution upon a question as delicate, involving as deeply the constitutional question, as deeply the interests of the South, directly as he has introduced the bill of Columbia? A law of Congress passed in 1850 forbids any man to offer his slave for sale in the District of Columbia. It does not provide that he shall be hanged, or that he shall be put in the penitentiary, or that he shall be put in the pillory, or that he shall be fined or imprisoned; but it provides that the title which he holds to his slave shall be abolished, and the negro free. Is there any power in this Federal Government to free a negro in the District of Columbia, if he is offered for sale? If so, there is no question as to the abolition title to land, if the owner shall offer it for sale? Draw a distinction, if you please. Why then bring in this eternal Kansas question, and leave the matter nearer home untouched? I judge that the Senator does not introduce a bill on the former question, or on the latter, because he knows it cannot now pass; that it would be useless and senseless agitation.

I say, for the same reason I am unwilling myself to introduce a bill, or to vote for a bill, establishing slavery in Kansas; or passing what is called—and it is unquestionably a slave code in Kansas. My objection to that at this time is greater than to the former; and for this reason: in the first place, it cannot pass, as a bill repealing the act of 1850 could not pass; in the next place, if it did pass, it could not be enforced. Of the Abolitionists who have been elected to Kansas by New England emigrant aid societies, you could not get a jury that would not perjure themselves rather than enforce a criminal code in that Territory at this time. Then, why do it? If I went for any legislation upon that subject at all, it would be to take from them their character of incorporation, and to annex them to some people who would enforce the laws there, and who would carry out the provisions which were made for the purpose of protecting property. Kansas had ceased to be a Territory, and from that day I am unwilling to pass, on the eve of a great contest—I say it without fear, favor, or affection, or hope

afraid; I fear not who hears it or who knows it—I am not willing now to aid a party in the coming contest, the success of which I believe involves the destruction of this Union. I am willing, therefore, to go into the next presidential contest, and to fight for the land and the people. I am willing, they say, will starve and tame the wolf, and hunger may tame the Black Republicans into some little common sense, if not patriotism, before four more years roll around. They are fighting for property, beat them, and they will disband. I am forever willing to fight the Devil with fire; and when I eat with his satanic majesty, to have a long-handled spoon. [Laughter.] I am willing to meet them on the platform that we now have; to fight them on the present issues; to give them no advantages; to defeat them; to put in power the only party that is, in my belief, capable of administering this Government; the only party that can save the Union; the only party that can render the Union whole again.

For these reasons, I have been opposed to these new and impracticable questions, or, if not new, questions that are started now at a most unfortunate time. For these reasons I differ with my friend from Mississippi as to his resolutions, and shall vote for those which were introduced by the other Senator, if they shall come up and a vote be demanded on them; though, in my judgment, it would have been better to let the whole matter pass, leave the Charleston convention to nominate its own candidates upon its own platform, or select a sound, good man without platform, defeat and starve out the enemy, and between this and four years hence we would have time to rectify things. It is not, therefore, that I have no sympathies with the Senator's doctrine; it is not that I have no sympathies with this idea of congressional legislation; it is not that I am afraid to meet any practical issue at the proper time; but I think ought to deal with things practically, to deal with them as we find them; and if the Senator from Mississippi can allow this act of 1850 to remain on the statute-book, I think he can let Kansas alone, at least for a few months.

These are my reasons. I would not have obtruded them on the Senate, but as I was obliged to vote at some time or other on these resolutions, and as we would do so other business to-day, I thought I might just as well consume time now. I trust that the Senator from New Jersey, who addressed me for four years, will accept my position. The fathers may have thought that slavery was an evil. They never admitted that this Government could destroy property. I commend to his perusal the views of Mr. Madison as to the unconstitutionality of the ordinance of 1787, and Mr. Jefferson's as to the Missouri compromise. They opposed those measures; and, were they alive, could not act with the Republicans without ignoring all their strict construction notions.

Mr. SAULSBURY. As I called upon these resolutions for a simple purpose, I move that they lie on the table for the present.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 89) to liquidate the unadjusted contracts of the Tennessee river improvement—to the Committee on Claims.

A bill (No. 177) to extend the time within which the Governor of the State of Oregon shall select Indians, as provided in the act for the admission of Oregon—to the Committee on Public Lands.

A bill (No. 213) to incorporate the United States Agricultural Society—to the Committee on the District of Columbia.

A bill (No. 230) for the relief of Anson Dart—to the Committee on Claims.

A bill (No. 245) for the relief of Eben S. Hanscomb—to the Committee on Public Lands.

A bill (No. 254) for the relief of Thomas Atkinson, of this county, Indiana—to the Committee on Public Lands.

A bill (No. 258) for the relief of Robert Johnston—to the Committee on Public Lands.

A bill (No. 523) extending the charter incorporating the "German Benevolent Society," of Washington, D. C., to the District of Columbia, approved July 27, 1843—to the Committee on the District of Columbia.

The bill (H. R. No. 230) for the relief of Anson Dart was read twice by its title.

Mr. LANE. I move that it be referred to the Committee on Claims.

Mr. DUFFELL. That claim has been twice before the Committee on Indian Affairs, has been reported by that committee to the House, and has passed the Senate. It is in reference to matters growing out of his appointment as superintendent of Indian affairs in Oregon, as I understand. I have no objection to the Committee on Indian Affairs having the appropriate committee.

The PRESIDING OFFICER. Mr. CLAY in the chair. Does the Senator from Oregon insist on his motion?

Mr. LANE. I have not heard the bill read. I should like to hear the bill read. It is very short, I think.

The Secretary read the bill.

Mr. LANE. I do not want to throw any obstacles in the way of the bill; but it will be observed that it has for its purpose an increase of pay after the service was performed and paid for, and I am not sure that it had not better go to the Committee on Claims, for it is in the shape of a claim, as I understand. It is a claim for additional pay as superintendent of Indian Affairs. I have no disposition to throw any obstacles in the way of the bill, but I have not yet had a hearing before a committee; and I have moved its reference to the Committee on Claims.

Mr. DOOLITTLE. A single word, not to take up the time of the Senate. I understand this matter has been before the Committee on Indian Affairs, and I was a member of the Senate, when the Senator from Georgia [Mr. TOOMAS] was upon that committee, and has been reported twice by the Committee on Indian Affairs since I have been in this body. It is in the shape of a claim, as the Senator says, that it is for an increase of salary; but the facts before the committee, in a single word, were these: that the Commissioner of Indian Affairs, at the time of Mr. Dart's appointment, when he went out to Oregon, understood that the salary was not sufficient, and that he had applied to the Congress that it is for an increased amount should be given. That fact appears. I will not go into a statement of all the facts now; but it is not an application for an increase of pay for services that had been rendered, without any facts connected with it, but it is for an increase of salary, and pay being increased, I, of course, do not insist upon its going to the Committee on Indian Affairs, because I am a member of that committee. I am willing the claim should be investigated by any other committee; but having been investigated by the Committee on Indian Affairs for three sessions at least, it seems to me that would be the proper committee.

The PRESIDING OFFICER. If there be no objection to the reference proposed by the Senator from Oregon, the Chair will take it as the sense of the Senate, and it be referred to the Committee on Claims. If it be objected to, the Chair will send the sense of the Senate on the motion.

Mr. DURKEE. I object to that reference.

The PRESIDING OFFICER. Objection being made, the Chair will put the motion to the Senate to refer the bill to the Committee on Claims.

The motion was agreed to.

ELIZABETH M. COCKE.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 81) for the relief of Elizabeth M. Cocke, widow of Major James H. Cocke, late marshal of the district of Texas; which was to strike out all after the enacting clause of the bill, and insert—

That the Secretary of the Treasury be, and hereby is, authorized to stay the issuance of execution on said judgment for such time as in his opinion may enable said administratrix to prosecute to final judgment a suit against said Martin, deputy marshal of said James H. Cocke, who received and disbursed the money for which said judgment in favor of the United States was, said Elizabeth M. Cocke, administratrix, as aforesaid, was rendered: Provided, however, That before such stay of execution shall be granted, the security of said James H. Cocke shall be established to the satisfaction of the court in which said judgment was rendered.

Mr. HEMPHILL. I move that the Senate concur in the amendment.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States.

States, transmitting a report of the Secretary of State, in compliance with a resolution of the Senate, of the 26th of February, in reference to the uniform or costume of persona in the diplomatic or consular service.

Mr. SUMNER. I move that those papers be laid on the table, and printed.

The motion was agreed to.

Mr. POLK. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, April 3, 1860.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. Theophilus H. Street, D.D. The Journal of Friday last was read and approved.

PETERS, MOORE & CO.

Mr. PARROTT. I ask leave of the House to withdraw the papers in the case of Peters, Moore & Co., for the purpose of referring them to the Court of Claims.

Mr. CRAWFORD. I ask whether these papers have not been passed upon by a committee of the House, and decided adversely?

Mr. PARROTT. I understand not; but I would not be certain as to that.

Mr. CRAWFORD. If they have been considered by a committee of this House and decided against, I should doubt the propriety of their being withdrawn, unless there is some special reason for it.

Mr. WASHBURN, of Maine. I desire to interpose an objection to everything that is not in order.

Mr. CRAWFORD. Very well; that cuts off the gentleman's request, of course.

Mr. PARROTT. I will say that this is an old case. The parties live in the State of Pennsylvania, I believe. They are not my constituents, and I merely made the request at the instance of a gentleman.

The SPEAKER. The papers cannot be withdrawn, objection being made.

REPORTS OF COMMITTEES.

Under the rule of the House, the committees were then called in their order, for reports for reference to a Committee of the Whole House alone.

JEREMIAH MOORS.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported back an act (S. No. 80) for the relief of Jeremiah Moors, which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

NEW YORK HARBOR IMPROVEMENTS.

Mr. ELIOT presented a bill to remove obstructions in the navigation at Hell Gate, in the East river, opposite the city of New York; and a bill for the improvement of Harlem river and Spuyten Duyvel creek, in the county of New York; and moved that they be referred to the Committee on Commerce.

Mr. WASHBURN, of Maine. I object to everything except the reception of reports of committees for reference.

Mr. ELIOT. Very well; I withdraw the bills.

MILWAUKEE LIGHT-HOUSE.

Mr. ELIOT. I am instructed by the Committee on Commerce to ask that certain papers before them in relation to Milwaukee light-house be printed.

There being no objection, the order to print was made.

TENNESSEE AND KENTUCKY SERVICES.

Mr. THAYER, from the Committee on Public Lands, reported a bill directory to the Secretary of War respecting certain services in Tennessee and Kentucky, which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

POINT COUPEE.

Mr. THAYER, from the same committee, also reported back an act (S. No. 258) to grant to the parish of Point Coupee, Louisiana, a certain tract

of land in said parish, with a recommendation that it do not pass.

The bill was laid on the table.

OREGON INDIAN LANDS.

Mr. THAYER, from the same committee, also reported back an act (S. No. 143) to secure the right of preemption to certain settlers on lands temporarily occupied as an Indian reservation in Oregon; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

Mr. STOUT. I desire to enter a motion to reconsider the vote by which this bill was referred. The SPEAKER. Under the rule, no motion to reconsider can be made.

HOSPITAL IN WASHINGTON.

Mr. CARTER, from the Committee for the District of Columbia, reported back a bill to incorporate the regents of a general hospital for the District of Columbia; which was referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

CONTESTED-ELECTION CASES.

Mr. HICKMAN. I am directed by the Committee on the Judiciary to report a bill. The bill is reported because the resolution under which it was drafted was supposed to be obligatory in its character; but the general sentiment of the committee is, that the bill should not pass. It is a bill to amend an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested election," approved February 19, 1853.

The SPEAKER. The gentleman from Maine [Mr. WASHBURN] makes objection, and the bill can only come in for reference under the rules.

Mr. HICKMAN. Let the bill be referred, then.

The bill was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

APPEALS FROM CIRCUIT COURTS.

Mr. HICKMAN, from the Committee on the Judiciary, reported a bill to extend the right of appeal from the decisions of circuit courts to the Supreme Court of the United States; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

ILLINOIS SOUTHERN JUDICIAL DISTRICT.

Mr. KELLOGG, of Illinois, from the same committee, reported back House bill No. 116, to attach the counties of Peoria, Woodford, Livingston, Iroquois, and Marshall, in the State of Illinois, to the southern judicial district of said State, with the recommendation that it do not pass; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

BERRIAN BROWN.

Mr. PORTER. I am directed by the Committee on the Judiciary to report adversely upon the petition of Berrian Brown and others, of Wisconsin. I move that the committee be discharged from the further consideration of that case, and that it be laid upon the table.

Mr. WASHBURN, of Maine. I object to that, as it does not come within the provisions of the rule.

The SPEAKER. Objection being made, the report cannot be received.

JOHN HOPPER.

Mr. HOLMAN, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of John Hopper, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CAROLINE GOLDING.

Mr. DE JARNETTE. I am directed by the Committee on Revolutionary Claims to make an adverse report in the case of Caroline Golding, for the amount of land scrip to which she is entitled.

The SPEAKER. Objection is made; and as the report proposed by the gentleman from Vir-

ginia does not come within the provisions of the rule, it cannot be sustained.

LAND CLAIMS IN NEW MEXICO.

Mr. KENYON, from the Committee on Private Land Claims, reported back House bill No. 195, to confirm certain land claims in the Territory of New Mexico, with the recommendation that it do pass; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

FRANCIS LAVONTURE and PIERRE GRIGNON.

Mr. WASHBURN, of Wisconsin, from the same committee, reported a bill for the relief of Francis Lavonture and Pierre Grignon; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BOARD OF FOREIGN MISSIONS.

Mr. ETHERIDGE. I am directed by the Committee on Indian Affairs to report back Senate bill No. 71, for the relief of the American Board of Commissioners for Foreign Missions. It only authorizes that board to expend money for repairs, which it cannot do now, because of a certain article of a treaty referred to.

The SPEAKER. The report can only be received by unanimous consent.

Mr. BARR. I hope that there will be no objection to it.

Mr. WASHBURN, of Maine. I object; as I will continue to object to everything not in order.

Mr. ETHERIDGE. Then let the bill be referred.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

INDIAN AGENCIES.

Mr. ALDRICH, from the Committee on Indian Affairs, reported a bill to establish two Indian agencies in Nebraska Territory, and one in the Territory of New Mexico; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

VALENTINE WEHRHEIM.

Mr. FENTON, from the Committee on Invalid Pensions, reported back Senate bill No. 221, for the relief of Valentine Wehrheim, with the recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PHINEAS G. PEARSON.

Mr. FENTON, from the same committee, also reported back House bill No. 100, for the relief of Phineas G. Pearson, with the recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN PURCELL.

Mr. FENTON, from the same committee, also reported back House bill No. 101, granting an invalid pension to John Purcell, with the recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THOMAS W. PHELPS.

Mr. FENTON, from the same committee, also reported a bill for the relief of Thomas W. Phelps; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HARRIET S. WYMAN.

Mr. FENTON, from the same committee, also reported a bill granting a pension to Harriet S. Wyman; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. FENTON. I am directed by the Committee on Invalid Pensions to make sundry adverse reports.

The SPEAKER. Objection being made, they cannot be received.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by

Mr. HICKER, their Chief Clerk, notifying the House that that body had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 29) for the relief of Arthur Edwards and his associates;

An act (No. 30) for the relief of Sheldon McKnight;

An act (No. 111) for the relief of Aaron H. Palmer;

An act (No. 114) for the relief of R. F. Blocker, E. J. Gurley, and J. F. Davis;

An act (No. 221) for the relief of A. T. Spencer and Gordon S. Hubbard;

An act (No. 224) for the relief of the heirs-at-law of the late Abigail Nason, sister and devisee of John Lord, deceased;

An act (No. 82) to amend the act to incorporate the Provident Association of Clerks in the Civil Departments of the Government of the United States, in the District of Columbia;

An act (No. 66) to authorize the extension and use of a branch of the Alexandria, Loudoun, and Hampshire railroad, within the city of Georgetown;

An act (No. 200) directing the conveyance of a lot of ground for the use of the public schools of Washington city;

An act (No. 233) for the relief of Alice Hunt, widow of Thomas Hunt;

An act (No. 250) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P. Taylor; and

An act (No. 252) to incorporate the Grand Lodge of the Independent Order of Odd Fellows of the District of Columbia.

And also, that the Senate had ordered the printing of the following documents:

Message of the President of the United States, communicating, in answer to a resolution of the Senate, a report of the Secretary of the Navy, accompanied by copies of instructions given to officers of the United States naval forces on the coasts of Mexico to protect the persons and property of the citizens of the United States, and copies of the official reports of Captain Jarvis and Commander Turner of the capture of two Mexican war steamers, and the causes which led to said capture; and report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a copy of the memorial of Brevet Lieutenant Colonel B. S. Roberts, relating to a reorganization of the militia of the United States.

MILEAGE OF MEMBERS OF CONGRESS.

Mr. ASHMORE, from the Committee on Mileage, made an adverse report on the bill (H. R. No. 71) to reduce the compensation and mileage of Senators, Representatives, and Delegates in Congress; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. ASHMORE also, from the same committee, made an adverse report on a bill (H. R. No. 69) to reduce the compensation of members of Congress, and to regulate the mileage; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

LEAVE TO WITHDRAW.

Mr. ETHERIDGE. I ask the unanimous consent of the House to withdraw the resolution I reported a few moments ago, for the benefit of the American Board of Commissioners for Foreign Missions.

Leave to withdraw was granted.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House communication from the President of the United States, transmitting a report of the Secretary of War, with its accompaniments, communicating the information called for by the resolution of the House of Representatives of the 1st instant, concerning the difficulties on the southwestern frontier; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of the Interior, transmitting the information called for by a resolution of the House of Representatives of the 14th ultimo, in respect to the accounts of Charles W. Pine, late United States marshal, and Henry S. Fitch, late United States district attorney, of the northern district of Illinois; which was laid on the table, and ordered to be printed.

Also, a communication from the War Department, in answer to a resolution of the House of Representatives of the 26th of March, calling for Lieutenant Colonel Roberts's report on the subject of a general reorganization of the militia of the United States; which was laid on the table, and ordered to be printed; and

A communication from the President of the United States, transmitting a report from the Secretary of State, in compliance with the resolution of the House of Representatives of the 23d of March, requesting the President to communicate to the House of Representatives, if not incompatible with the public interest, any recent correspondence between our consul general at Havana and the Captain General of Cuba, touching the imprisonment in that island of an American citizen; which was laid on the table, and ordered to be printed.

HARLEM RIVER.

Mr. ELIOT, by unanimous consent, introduced a bill for the improvement of the navigation of the Harlem river and Spuyten Duyvel creek, in the county of New York; which was read a first and second time, and referred to the Committee on Commerce.

HELL GATE.

Mr. ELIOT, by unanimous consent, also introduced a bill to remove obstructions to navigation at Hell Gate, in the East river, opposite the city of New York; which was read a first and second time, and referred to the Committee on Commerce.

COOLIE TRADE.

Mr. ELIOT. I ask the unanimous consent of the House to introduce a bill prohibiting the Chinese coolie trade by American citizens in American vessels.

Mr. BURNETT. I object.

Mr. ELIOT. Then I move to suspend the rules, to enable me to introduce it.

Mr. BRANCH. I call for the regular order of business.

Mr. ELIOT. It is in order to move to suspend the rules, and I hope no gentleman will object to the introduction of the bill.

Mr. REAGAN. I ask the gentleman from Massachusetts to allow me just here to make a report from the Committee on Indian Affairs. I was not in my seat when that committee was called.

Mr. ELIOT. You can do that when this matter is disposed of.

The SPEAKER. The regular order of business, under the rule, will prevent the motion to suspend the rules until the morning hour has expired.

Mr. SHERMAN. I move to make the bill punishing polygamy the special order after the morning hour only.

The SPEAKER. That has already been done. Mr. SHERMAN. Then a motion to suspend the rules will not be in order until that matter is disposed of.

The SPEAKER. It will not be.

SCUTTLE CUT-OFF MASSACRE.

Mr. REAGAN, from the Committee on Indian Affairs, made a minority report in the case of the Scuttle-cut-off massacre of the 24th of July, 1859; which was ordered to be printed.

O. F. D. FAIRBANKS AND OTHERS.

Mr. REAGAN also, from the same committee, reported a bill for the relief of O. F. D. Fairbanks, Frederick Dodge, and the Pacific Mail Steamship Company; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHAUNCEY A. BORG.

Mr. REAGAN also, from the same committee, reported a bill for the relief of Chauncey A. Borg of Nebraska; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SWAMP LAND CERTIFICATES.

Mr. LOGAN, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be, and

they are hereby, instructed to report a bill making certain cases of grants of swamp lands to States and counties transferable and subject to location in any State or Territory where suitable lands may be subject to sale.

REGULAR ORDER OF BUSINESS.

Mr. ALLEY. I ask the unanimous consent of the House to disorganize the Committee of the Whole House on the Private Calendar from the further consideration of House bill No. 514. It is a case of great suffering and of great merit; and if the House will permit me a moment I will explain the facts.

Mr. CRAWFORD. This matter does not come within the regular reports from committees.

Mr. ALLEY. It does not; but I hope there will be no objection.

Mr. GROW. I call for the regular order of business.

Mr. BURNETT. I hope the gentleman from Massachusetts will be permitted to call up the bill that he alludes to, for it is certainly one of great merit.

The regular order of business was insisted on. Mr. HICKMAN. I am instructed by the Committee on the Judiciary to report a bill, and to ask to have it put upon its passage. I think that when the bill is read to the House, together with the reasons given for it in a communication from the Secretary of the Interior, there will be no objection.

Mr. CRAWFORD. I ask for the regular order of business.

Mr. HICKMAN. If this bill be objected to, I will move that the rules be suspended, in order that the bill may be put upon its passage.

POLYGAMY IN UTAH.

The SPEAKER. The motion to suspend the rules would not be in order now. There is a special order before the House which takes precedence of all other business. It is the consideration of House bill (No. 7) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, with the consent of all officers of the Territory. It is the consideration of House bill (No. 7) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, with the consent of all officers of the Territory. It is the consideration of House bill (No. 7) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, with the consent of all officers of the Territory. It is the consideration of House bill (No. 7) to punish and prevent the practice of polygamy in the Territories of the United States and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah, with the consent of all officers of the Territory.

Mr. BRANCH. Before the gentleman from Virginia moves, I would ask the unanimous consent of the House to have a clerical error in my amendment corrected. It is only to substitute the words "fourth and fifth," for the words "third and fourth," in the first section.

There being no objection, the correction was ordered to be made.

Mr. MILLSON. When this bill was last under consideration, some views were expressed by the gentleman from North Carolina, [Mr. BRANCH,] and by the gentleman from Louisiana, [Mr. TAYLOR,] from which I felt myself obliged to dissent. I would now like to say a few words to them. It is desirable that we should pass this bill with as much unanimity as possible. The great intelligence and high character of the gentlemen from North Carolina and Louisiana are calculated to give a weight to the opinions expressed by them, in which I do not think they are intrinsically entitled.

The object of the bill is to punish the crime of bigamy in all the Territories of the United States. The attention of Congress would, perhaps, have never been called to the necessity for such legislation, but for the frequent practice of this crime in one of the Territories. It is not denied that in Utah the crime of bigamy is not only extensively practiced, but has even been attempted to be legalized by statutes of the Territorial Legislature. I do not think any very good can be looked for in different state of things in that Territory, considering the character of the people who have taken possession of it. We certainly had no right to expect from them a very high degree of morality. The disciples of Mormonism might not be pressed upon as far as very good could be looked for. Not only was it not to be expected, but perhaps it was not even to be desired, that the result should have been different. It was fit, and it was fortunate that so low and degrading an imposture should reveal itself in its devilish truth.

It is not an easy matter, I say, to have a difference of opinion in reference to the propriety of sup-

praising this odious practice. It has been said, however, that we have no power to pass a law for the punishment of this crime. If this be so, we must suppose that the mischief is without remedy; we cannot budge an inch further. But is it so? Has the Congress of the United States no jurisdiction over this offense? Have we no power to punish this crime? Sir, I should never have thought of making this a subject of serious inquiry, but for the announcement of the gentleman from Louisiana (Mr. TAYLOR) the other day, when he said:

"I believe we have no power to pass a criminal law which is to operate within the Territory of Utah, or within any other organized Territory, or within the United States." Mr. Speaker, I am not fond of using the argument of epithets, and therefore I will not say that the opinion of the gentleman from Louisiana was an extraordinary one; but I trust I shall be able to demonstrate that it was at least a very erroneous one.

Sir, if the Congress of the United States possesses no power to make laws for the punishment of crime in Utah, or in any of the Territories of the United States, where does the power reside? Certainly not in the State Legislatures. The gentleman from Louisiana himself will not say that it is in the hands of the legislatures within the jurisdiction over this crime, or the State of Virginia, or New York, or any other State. Where, then, is the power to be found, if not in Congress?

What, sir, are all the Territories of the United States, Whitefish, where they may rise in insubordination, and arson, and robbery, and perjury, and every other crime that is punished by every civilized nation, be committed within the territorial jurisdiction of the United States with absolute license? Does the gentleman deny that the Territories are within the territorial jurisdiction of the United States? Then, sir, I would suggest to him that our American statesmen have been laboring under a grave error from the time when they first put the machinery of this Government in operation up to this very moment. Sir, in the very first year after the adoption of the Federal Constitution an act was passed by Congress for the punishment of crimes where ever the jurisdiction of the United States extended; and I quote, for the information of the gentleman from Louisiana, an extract from the first crimes act as provided:

"That if any person or persons shall, within any fort, arsenal, dock yard, magazine, or in any other place or district of country under the sole and exclusive jurisdiction of the United States, commit the crime of treason, or any such person or persons, on being thereof convicted, shall suffer death."

What does the gentleman from Louisiana say to the act of 1790 for the punishment of the crime of murder?

Mr. McCLERNAND. Allow me to inquire the date of that act?

Mr. MILLSON. April 30, 1790.

Mr. McCLERNAND. Where is its application to the organized Territories?

Mr. MILLSON. I have read the words, "within any fort, arsenal, dock yard, magazine, or any other place or district of country under the sole and exclusive jurisdiction of the United States."

Mr. McCLERNAND. I undertake to say that there is no instance of the enactment of a law by Congress making a penal offense in an organized Territory of the United States; and I apprehend that the gentleman will find, upon examination, that was not within the design of the legislators, at the time that act was passed, to give it an application to an organized Territory. The application of that law, and of others similar to it, was to individuals in the unorganized territory of the United States, before those individuals pass from individual status to a political state. That is the distinction.

Mr. MILLSON. In reply to the gentleman from Illinois, I say that not only is he not correct in the statement that there is no single instance of the application of these criminal laws to any organized Territory, but that there has never been an organized Territory of the United States to which this very law has not been made expressly to apply. I now take issue with him broadly on the first part of his statement.

Mr. McCLERNAND. Let me understand the gentleman. Is he in his mind asserting that the laws of the United States relating to offences generally apply in the Territories as they do in the States?

Mr. MILLSON. Yes, sir.

Mr. McCLERNAND. Very well; there is no difference between you and me upon that point; but the point that I make is this: that Congress has never assumed jurisdiction to enact a slave code for the people of a Territory.

Mr. MILLSON. I do not know why the gentleman talks about a slave code. I am not talking about a slave code.

Mr. McCLERNAND. I meant to say a criminal code, which I have described.

Mr. MILLSON. I understand the gentleman, and I meet him with the flattest contradiction possible to be given, by stating that there never has been an organized Territory to which these laws have not been applied, and I will make that evident presently.

Mr. McCLERNAND. What laws?

Mr. MILLSON. These laws which I have quoted.

Mr. McCLERNAND. That law falls within the category which I have described.

Mr. VALLANDIGHAM. I rise to a question of order. Being upon the same side as the gentleman from Illinois, in opposition to the bill, therefore I feel at liberty to make the point. I trust that an opportunity will be presented to the gentleman from Illinois to answer the argument of the gentleman from Virginia, and that this system of interruption will be broken up. I desire to hear the gentleman from Virginia at length.

Mr. MILLSON. Mr. Speaker, I am perfectly willing to receive a suggestion, or even a contradiction, from any gentleman from any other place on any other subject on this floor; for I take it for granted that it will be done in such a spirit of courtesy as will rather give piquancy to the debate. I do not fear that it will subject me to any embarrassment.

Mr. VALLANDIGHAM will take issue with the gentleman from Illinois, and say, that the very kind of law which is now proposed the Congress of the United States shall enact, has been passed on all previous occasions, and made applicable to every organized Territory of the United States; that is to say, a law defining crime, and punishing crime, in every place or district of country within the sole and exclusive jurisdiction of the United States.

The gentleman says that it was not the intent of this act that it should be made applicable to the Territories of the United States. Sir, what force does he give to the expression "in any other place or district of country" used in this act? I would like my friend from Illinois—and I will yield to him for that purpose—to tell me what application he makes of that language. After enumerating the places mentioned in the Constitution of the United States, to wit: dock-yards, magazines, arsenals, and forts, why were the other words used—"and any other place or district of country"? To what do they apply?

Mr. TAYLOR. If the gentleman will allow me to repeat the question I have asked, I trust after he has concluded, I shall have an opportunity of expressing my views upon this subject, inasmuch as my remarks already made have been so severely commented on.

Mr. McCLERNAND. I am sorry, gentleman, I will say, that the expression to which he makes reference was employed in that act with regard to the language of the Constitution of the United States. It will be remembered that the Constitution of the United States delegates certain specified powers to the Congress of the United States. These powers are all of a national character.

Mr. MILLSON. The language which I refer to is: "other places or districts."

Mr. TAYLOR. The Constitution of the United States, then, confers exclusive jurisdiction upon the Congress of the United States in the dock-yards, arsenals, forts, and other places which shall be ceded to the United States with the consent of a State. The expression in the act, then, to which the gentleman from Virginia refers, particularizes those portions of country which had then become the property of the United States by cession from any State, and the expression "such other places or districts," was used because at the time that act was passed no such territory had yet become the

property of the United States by cession. That was the intention of the expression used in the act, as I contend. It was to provide for a future cession.

Mr. MILLSON. I asked a specific question; and in answer, the gentleman from Louisiana has given an explanation of the objects of the Constitution. We all know what the Constitution contains. I inquired what the language, "other places or districts of country," was intended to refer to? The gentleman's reply was, for the most part, wholly aside from the question; but he says, in effect, that the expression was intended to apply to the District of Columbia. Why, sir, I tell my friend from Louisiana that the District of Columbia was not then required.

Mr. TAYLOR. I said precisely that. I said the language was intended to designate the places which had become the property of the United States, and then such places as should become the property of the United States by cession from the States.

Mr. MILLSON. I think the explanation of the gentleman does not remove him any further from the difficulty; because the law applies to places under the jurisdiction of the United States, and the District of Columbia was not then under their jurisdiction; and besides, the gentleman ought to be aware that it was never proposed to relieve the District of Columbia from the operation of the criminal law of Maryland and Virginia, and it has never been so relieved. The portion ceded by Maryland to the United States was to the criminal law of Maryland; and the portion ceded by Virginia, to the criminal law then in force in that State. And yet the gentleman from Louisiana, in order to escape the difficulty, supposes that this general, comprehensive description in the law of any other place or district of country "was intended to apply to a district not then acquired, but which was afterwards to be acquired. Sir, I will tell you to what it was intended that that law should apply. It was intended to apply to the District of Ohio—the Northwest Territory—which was, about that time, designated in an act of Congress as the "district of Ohio."

Mr. McCLERNAND. Will the gentleman from Virginia allow me to ask him whether the act to which he has referred applies also to the States?

Mr. MILLSON. No, sir, it does not. But, Mr. Speaker, with a view of removing all further doubt, I will remind my friend from Louisiana that the very first organized Territory to which this law was made applicable was his own Territory of Louisiana. The very first application of this act was made to the very Territory now represented on this floor by the gentleman from Louisiana—or rather the two Territories, known as the Territories of Orleans and Louisiana. By the act of 1804, erecting Louisiana into two Territories, this expression provided for a second application of the act for the punishment of certain crimes against the United States "shall extend to and have full force and effect in the above-mentioned Territories."

Mr. TAYLOR. This act prescribes the punishment of various offenses against the United States, such as treason, piracy, &c. There are some portions of it applicable to Louisiana, and others that are not.

Mr. MILLSON. I have not heard of anybody committing treason in the Territory of Louisiana; but the law was intended to be applicable wherever the offense was committed. The law punished certain offenses, and I will give the gentleman a list of them: treason, murder, conspiracy, piracy, felony, forgery, larceny, perjury, receiving stolen goods, &c. &c. These are some of the crimes punished by the act of 1790, and by the act of 1804, extending that law directly and expressly to the Territory of Louisiana.

My friend from Illinois (Mr. McCLERNAND) has said that there never has been a Territory to which any attempt by Congress to provide directly for the punishment of crimes in any of the organized Territories of the United States; and I have said that there never was an instance where they did not do it. They did it in the Northwest Territory. They did it in the Territory of Indiana. They did it in all of the Territories. They extended the law to all the territory acquired from foreign nations. They made the law applicable to Louisi-

lana, the territory acquired from France; next to Florida, the territory acquired from Spain. In the act organizing a territorial government for Florida, the crime act was, by particular description, made applicable to that Territory. Other territory was acquired from Mexico, and to this very Territory of Utah this same act was extended.

In the act establishing a territorial government for Utah, it was provided that the Constitution and all the laws of the United States, not locally inapplicable, should have the same effect in that Territory; and if any man committed the crime of murder, or forgery, or bribery, or any other of the offenses defined, before the election of the first Territorial Legislature, he would undoubtedly, as the gentleman must admit, have been punished under this law, and so, after the election of a Territorial Legislature, he would, as I maintain, equally be punished under this law.

Now, then, the Congress of the United States has labored under serious misconception in reference to its constitutional rights and duties; if, as the gentleman says, Congress has no power to pass criminal laws which are to operate in the Territory of Utah or any other organized Territory of the United States. How else could it be? Are those who go to the Territory of the United States to be entirely free from accountability for crime? Suppose a number of persons to migrate from the United States, and from foreign nations, and possess themselves of one of the Territories of the United States. By the argument of the gentleman from Louisiana [Mr. Taylor] they are not subject to the operation of the laws of the United States. By what law, then, are they to be bound? What if a company of banditti should occupy a portion of our territory on the overland route to California, and there commit murder and robbery, and other crimes; how are they to be punished? The gentleman says that they are not subject to any criminal laws that we can enact. Then how can we boast of being a Government of laws?

But, sir, if we cannot make laws for the punishment of crime in the Territories, on what better foundation does our civil jurisdiction over them rest? Where does the gentleman find a warrant for making any distinction between our criminal and our civil jurisdiction? If we have no power to govern the Territories, how can we make laws to govern them, and determine for themselves what extent of country they will claim as their own. They may decide that their territorial limits shall be as ample or as small as they may please. Who is to restrain them in their claims for limits? By what authority could Congress declare that our Territory shall be bounded on the north by a particular parallel of latitude, or assign any limits at all? You have no power to govern them, criminally or civilly; why, then, do you presume to give them a governor and judges? They claim a right to establish their own form of government. Why not?

Sir, these gentlemen fall into the mistake by confounding an independent right with what is only a privilege conceded. They talk about the principles of the Revolution, and say that the doctrine contained in the Declaration of Independence is, that every man has a right to self-government. Sir, did the men of the Revolution contend for the right of individual self-government? Did they maintain that each citizen had the right of governing himself? Did they make any pretension to such a grotesque claim as that? No, sir; they complained that the concessions of the British Parliament were not as ample and liberal as they should have been. They insisted that the people, the United colonies, should exercise certain rights which were denied them.

Sir, it would be fit and proper to complain if the Government of the United States was to use their power over the Territories as to subject these people to oppressive restrictions and restraints. But because the Government of the United States is engaged, in exercising their proper control, act in accordance with the Declaration of Independence, and concede every useful privilege to every private citizen, does it follow that those privileges can be claimed as independent rights, aside and apart from the Government?

Why, I have heard gentlemen here in debate, and that within a few days past, employ arguments upon this floor which seemed to go to the extent of declaring that each citizen of the United

States, emigrating from the States to the Territories, was an independent power or State; and, according to their conception, the inhabitants of a Territory—the Territory of Utah, for instance—were not indeed to be governed by an independent State, but, separately, forty thousand independent States. Forty thousand sovereignties are now in the Territory of Utah; each man invested with his own right of self-government; each man having the right of governing himself, and no one else; and they are so invested, they say, for that is the logical and necessary consequence of the doctrines maintained upon this floor. They confound, they misunderstand, the principles of the Revolution. The patriots of the Revolution never intended to assert that each individual citizen of the United States possessed the right of self-government, and that he carried it with him wherever he might go. They maintained only that the people of Virginia, as a Commonwealth, had the right to govern themselves and one another. They formed a State; they constituted a sovereignty; and they knew but little of this fantastic doctrine of squatter sovereignty which has led many highly intelligent gentlemen to imagine that each solitary citizen was himself a power.

But my friend from North Carolina, [Mr. Braxton], in denying the position, and, seemingly, with some apprehension that should be extended, very serious consequences may result. He says:

"I will suggest to my friends upon this side of the House that, if we can render polygamy criminal, it may be claimed here as an independent right, and might, 'in the language of barbarism,' slavery, as it is called in the Republican platform of 1860."

"It may be claimed!" Claimed by whom? Does he claim it? I know my friend from North Carolina will not assume the responsibility of this argument. Who claims it? Will the Republican party claim it? I have not heard of any such claim. I do not know why the Republican party should undertake, in their party resolutions, to denounce polygamy in the Territories. It is denunciation without responsibility, without basis. Surely they could hardly flatter themselves that they could antagonize themselves with the Democratic party by denouncing polygamy. Perhaps they had some remote idea, some glimmering hope, that whatever they might do would have no jurisdiction over this crime, and let the Democratic party, and for that very reason it would be opposed by them.

I implore southern gentlemen not to assume the burden of defending every bad thing that may be gratuitously denounced in the Republican platform. What would appear to be thought of slavery if it could only be defended by justifying every crime and excusing every immorality? What is it seriously supposed that we concede the right of Congress to legislate for the abolition or prohibition of slavery in the Territories, because Congress has the right to suppress crime? Would gentlemen see no danger from the admission that slavery in the Territories is protected by no higher guarantees than bigamy? Must the authority to suppress crime carry with it the power to abolish slavery? Is this the argument of southern men? Must we concede the right to suppress crime and decling as "two relics of barbarism" must we therefore repeal our anti-dueling laws? Had they denounced slavery and murder as two relics of barbarism, must we therefore declare that we have no jurisdiction over this crime, and let the murderer go unpunished? Sir, the safeguards of slavery, not only in its establishment in the several States, but also in its relations to the Government of the United States, are to be found in the Constitution. If the Constitution gives to Congress the power to suppress slavery as a crime, let us not be afraid to exercise our general authority to punish crime.

But it is thought to be inconsistent to punish polygamy, which is called a domestic institution, and not to prohibit slavery, which is another domestic institution. There is no inconsistency in it. There is no admission implied, in the exercise of the one power, that the other may be fitly claimed by Congress. We are as much bound by the Constitution to punish crime, as we are restrained by the Constitution from treating slavery as a crime. The duty arising from the Constitution is of the same source—the Constitution. Sir, if there were such provisions in the Consti-

tution in respect to polygamy as there are in regard to slavery, I too would oppose this bill.

If the Constitution conceded to every husband, having more than one wife, the right to reclaim them all; if it forbade any State in which those fugitive wives sought refuge to release them from their matrimonial bonds, and commanded their return to their husbands, I too would say that it would be a gross and palpable violation of the Constitution to punish polygamy as a crime. Whatever may be the result of the investigation, we should be restrained from passing any law for its suppression; and whatever opinion it may please gentlemen of the Republican party to entertain in regard to slavery, they are as much bound by the Constitution, and are as much restrained by it from treating polygamy as a crime, as we should be from treating polygamy as a crime, if it were so sanctioned by the Constitution.

But, Mr. Speaker, it is said that this is an intimate domestic relation, and therefore we ought not to interfere. Sir, is it not as intimate a domestic relation in New York and Virginia, as in England and France, as in the Territories? Have not the Governments there interfered? This argument goes much too far. It strikes at the propriety of any such interference with domestic relations in any where. If it be a proper interference with domestic relations by the law-making power of Virginia, and Kentucky, and Georgia, and England, and France, pray tell me, sir, why not in us too, if we are the only legislative body having authority to act, as I trust I have shown we do? The law not interfere with domestic relations! The law everywhere interferes with them. Marriage has always been a subject of regulation by the State. Law, which is only the influential will and reason of the wise and the good, has, in every age, undertaken to control it. It should not be given up to the discretion of the parties, never looked upon as only a private contract between the man and the woman, to be made whenever they alone think fit, to last only during the term they may agree upon, and to end at their own will. It is the State no party to such a contract. As the State is now in concerning that it shall be made, in regulating its conditions after it is made, and in determining when and how it may be dissolved? Away, then, with this argument of the free-love school!

Sir, this is the big game of society if this most delicate and important relation could be assumed and thrown off at the uncheckered will of every thoughtless boy and giddy girl; if the fountains of public virtue might be poisoned by every voluptuary; if husband and wife, instead of being bound to one another by indissoluble ties, might, without any hindrance of the law, be at the mercy of rival allurements and solicitation? No, sir; this is not such an interference with domestic relations as is unusual or improper. It is the interference which every age has demanded; which every nation has asserted; which every State has claimed for the whole community, and even for the protection and advantage of those for whom its restraints are intended.

But we are told that this law, if it should be passed, will be inoperative—that it will not be carried into effect. They say that it will be a mere paper law; it may not be. But what then? We shall have acquitted ourselves of our duty. We shall have wiped away a reproach from the national reputation. We shall have put upon the statute-book our condemnation of this crime. There may be a criminal sentiment in Utah, as there may be a manly sentiment elsewhere, that may obstruct the operation of this law, as the operation of the laws against the slave trade has been obstructed. What then? We shall have put upon the statute-book our legislative opinion of the crime and its proper punishment. Let the law stand, the salutary rest, then, on those who may, in violation of their oaths, choose not to execute any of its provisions.

Mr. Speaker, I wish to say a word or two before I close, on some amendments offered to this bill. When the bill was introduced by my friend from North Carolina, [Mr. Braxton], I was properly subject for legislation at some future time and in some other connection, I do not see the propriety of adding it to this bill. This is a bill for the punishment of crime. It may be that the people of Utah are competent to govern themselves, but the people of the United States are not competent to legislate for governing that Territory; and if so, then, after a proper investigation by the Committee on

authority to legislate directly on the domestic interests of the Territories, then indeed is this bill, and every other measure of equivalent effect, an unwarranted usurpation of power.

But how, sir, can any man maintain that position? Is it not admitted that the territorial governments derive their being and validity exclusively from the act of Congress? They are not the spontaneous creation of an autonomous power in the people of the Territories; for, if they possessed an original and inherent right of self-government, they would be the territorial communities instead of subordinate dependencies on a superior authority. Whether from an express clause in the Constitution, or by virtue of its function as the organism of Federal legislation, Congress obtains jurisdiction over the Federal domain. For purposes of convenience, it may employ the instrumentality of a territorial government in the discharge of its trust; but Congress cannot abdicate its power over the Territories, nor renounce the obligations of its constitutional duty.

Whenever, therefore, its intervention is invoked by the public interests, and permitted by the Constitution, Congress is obliged to correct the errors and to repair the omissions of the Territorial Legislature. And this control of Congress over the Territories subsists to the last moment of its territorial existence; for, when that moment supervenes and annuls the organic law of an independent State. This theory, sir, of congressional power is sustained by the uniform policy of the Government. Innumerable examples of intervention attest the right of Congress to legislate directly on the interests of the Territories. An invariable reservation of power to ratify or to repeal the acts of a Territorial Legislature, dissipates every doubt as to the paramount authority of Congress over the territorial dependencies of the confederate States.

The honorable member from Louisiana [Mr. TAYLOR] concedes that the territorial government is the creature of Congress. He admits, too, that Congress may, at its discretion, annul the organic act of a Territory. On what principles, then, of logical consistency, does he deny that Congress, which may thus annul the organic law of a Territory, is incompetent to enact a single measure of legislation for that Territory? And if he admits the power of Congress to annul the organic law of a Territory—annihilating at one blow all the functions and the very existence—how can he contest the right of Congress to repeal a particular provision of the territorial government? Sir, the honorable member cannot sustain himself in the position which he occupies. Either he must affirm the dogma of equal sovereignty, contending for an original and inherent power of self-government in the Territories, in contravention of the patronage and control of Congress, or else, admitting the subordinate and dependent relation of the Territories, he must acknowledge their subjection to the paramount authority of Congress.

These principles, I understand, Mr. Speaker, have the assent of the honorable member from North Carolina [Mr. BAILEY]; yet he, too, is opposed to the bill from the Judiciary Committee. In other words, he admits the power of Congress to interpose for the suppression of polygamy in Utah, but shrinks from its exertion, lest, by application to another object, it be employed for the extinction of slavery in the Territories. Sir, I am surprised that so logical and accurate a thinker as my honorable friend from North Carolina should be misled by so false an analogy. The Republican policy may associate polygamy and slavery as "twin relics of barbarism"; but I dispute the philosophy of the classification. I deny that they stand upon the same guarantees, and will fall together when driven from the common basis of constitutional security. In the interest of slavery, I repudiate the suggestion that its rights in the Territories may be impaired by any legitimate act of Federal legislation. The authority of Congress over the Territories is exclusive, but not absolute, being restricted by the nature of its trust, and by the terms of the Constitution. The Territories are the common property of the States, and the power of Congress over them cannot be perverted to the partial advantage of any section. That would be repugnant to justice and subversive of the equality of the States. Slavery exists under the law, and its exclusion

by Congress from the Federal territory would be in flagrant derogation of the rights of the South and the equitable spirit of the Constitution. Wherefore, Congress cannot interpose to the disparagement of slavery in the Territories. But, polygamy enjoys no such recognition.

It is not only unknown to the Constitution, but is repugnant to every principle of republican government. It does not exist in any State; but, on the contrary, is prohibited, by penal enactment, in every State of the Union. Hence I affirm that no suppression in the Territories by the direct agency of Congress would promote the established policy of the States, and operate in vindication of the prevalent spirit of the Constitution. There is, then, no association, no alliance, no analogy between polygamy and slavery; and the prohibition of the one system by an exertion of Federal power in no way impairs the security of the other.

Mr. Speaker, there remains still another objection on principle to the bill before the House. Some gentlemen understand polygamy to be an institution of the Mormon Church, and say, as such, to enjoy impunity under that clause of the Constitution which forbids the enactment of any law in restraint of religious liberty.

Now, sir, this argument, if sound in principle, will avail to exempt any abomination which affects religious worship. It will suffice for the protection of Thugism or Suttee, as well as polygamy. Plainly, then, it is an unsound argument and a pernicious philosophy which conducts to such absurd and mischievous consequences.

But, and which the honorable member declares, it is not true that polygamy tends to any religious sanction. It is not true that the Mormons practice it as a pious observance.

Mr. HOOPER. The gentleman from Virginia is in error when he states that polygamy is not recognized by the religion of the people of Utah. It is to him that it is recognized by the Mormon faith.

Mr. PRYOR. Mr. Speaker, I have looked through the Mormon Bible—a disgusting farrago of nonsense and blasphemy, written in ribald parody of the more obvious characteristics of Scripture and the more exalted precepts of the Bible; an exposition of the Mormon faith, and nowhere do I find a word in recognition of the practice of polygamy.

It is objected again, sir, even by some of those who approve the principle of the bill, that the exercise of the coercive intervention of Congress for the suppression of polygamy in the Territories will provoke a violent resistance from the Mormon population. Sir, this is the first time I have ever known an argument against legislation for the abatement of an abuse to be based upon the strength and insolence of that abuse. If, indeed, it be true, that Mormonism is already so powerful and audacious as to defy the legitimate authority of Congress, then is there urgent need for the most prompt and effective prohibition of polygamy. The loss of the river, the loss of the horses, the loss of the waters to pass by that he might cross the river, will be surpassed by us, if we defer legislation against polygamy from apprehension of its resentment and recourses. Sir, this objection to the bill only commends it the more strongly to my judgment.

Having, I trust, successfully surmounted the difficulties in the way of congressional legislation for the suppression of polygamy in the Territories, I cannot suppose it necessary to urge any inducement to an immediate and vigorous exertion of the power. I will not suspect for a moment that any gentleman here hesitates to apply whatever authority Congress may possess to the instant extirpation of that scandalous iniquity. Its existence for so long a period has already compromised the character of the country. Sir, there is something shockingly incongruous in the association of the polygamous practices of a barbarous age and a debased people with the Christian civilization of the nineteenth century and the chastened liberality of this enlightened nation. We boast of our freedom, our religious and moral superiority; but in the glow of patriotic pride we must blush with a sense of responsibility for the sordid superstitions of this Mormon sect.

What person of pure sensibilities and pious aspirations but is shocked and humiliated by the spectacle of a community that so openly and so wantonly are a reproach in the eyes of the nation?

a reproach upon civil liberty, as exhibiting to what extravagance of licentious development republican institutions may conduce; and a reproach upon religious freedom, as betraying the excesses of depravity which may flourish under shelter of indiscriminate toleration. Nor is the existence of Mormonism an altogether insignificant obstruction in the path of our progress to material greatness. History abounds in impressive illustrations of the lesson that polygamy is incompatible with the nature of a vigorous race and the energetic development of civilization. Nor is the experience of Mormonism an altogether insignificant illustration of the system by the bitter fruits of addition and crime. If, then, we would avert the scorn of Christendom, and protect our country from the blight of the most consuming curse that can fall upon a nation, let us not hesitate, because of any scruple of legal technicality, to employ the most efficacious expedient for the suppression of polygamy within the limits of the Republic.

Mr. ETHERIDGE. Mr. Speaker, I recollect a short time ago seeing an account of a colloquy between two friends, in regard to the certainty of the final coming of the millennium—when the lion and lamb were to lie down together. One was finally convinced by the other that the time would eventually come, but he hesitated in making the admission, he was consulting the propriety of believing that the lamb would be inside the lion. [Laughter.] We have the lion, and the lamb now apparently lying down together in the House of Representatives, and it remains for the historian to ascertain hereafter which is the lion, and which is the lamb. [Renewed laughter.] For the first time since I have been a member of Congress do I see—though with some slight exhibitions of protest, it is true—my Democratic friends and the Republican party harmonizing in relation to this controverted and vexed question of the suppression of polygamy in the Territories of the United States. "To that complexion has it come at last."

That my morality may not be questioned at any future time, I announce in the beginning that I shall not shrink from the bill, and I shall not shrink in view the same end—the abolition of polygamy in Utah. My readiness to do so is attributable, I am sure, in a great degree, to my early policy. [Laughter.] I believe sincerely, however, that the suppression of this evil, understood fully, and with a knowledge of the congressional power involved in voting it, that man will not be in a position hereafter to deny consistently that Congress, by "unfriendly legislation" upon this and kindred subjects, may cripple slavery in the Territories. My friend from North Carolina [Mr. BAILEY] felt the force of this when a few days ago, he presented a substitute for the bill. He is a cautious and observant gentleman, and readily perceived, as I suppose, that the first section of the bill, which creates the offense of bigamy in the Territories, is a positive violation of the Constitution, which has the right or power to legislate in regard to the "domestic institutions" of the people of the organized Territories. He offered his amendment or substitute at the earliest possible moment—a substitute which enables him to obviate the difficulty of pointing out the unconstitutional character of the bill, and which it will be very convenient for him to refer to hereafter when he gets into a congressional canvass; and by which he will, no doubt, be able satisfactorily to show his constituents that he had nothing to do with this transaction. [Laughter.]

Mr. REAGAN. Does the gentleman's support of the bill rest upon the ground that he believes in doing so he is asserting the doctrine of the power of Congress over the subject of slavery? Mr. ETHERIDGE. The gentleman will avail all my reasons in favor of the passage of the bill by waiting until I get through with my remarks. I intend to be as clear and explicit as I can. I desire so to act and speak in regard to this matter that neither my vote nor my reasons for it need be misinterpreted, and I understand the effect of the bill; and my remarks are designed as a kind warning to certain gentlemen who may not have examined closely its provisions, and who are not fully conscious of its lack of harmony with some modern political theories. I am making up my general remarks on the bill. I have made up my mind to do so. This course

accords with my judgment, and unlike other gentlemen, who may desire to act with reference to the effect their course may have on their constituents, I feel no such restraints. Having no political future, because I have no political aspirations, I am willing and anxious to meet this question, and ready to aid in strangling this inquiry while we may, without detriment to our domestic fortune of political parties. As I said before, my advocacy of the bill, if gentlemen desire it, may be attributed to my early training—in the moral precepts which were taught me in my earlier years.

Mr. JOHN COCHRANE. My friend from Tennessee has no political future; but in reference to his own piety he takes this position. In respect to that piety, I ask him if he has a future?

Mr. ETHERIDGE. I have; and I will remind my friend from New York, and warn him, too, of the old piety saying, that

"Those who have grown gray in sin
Are hardened in their crimes."

[Laughter.]

Now, sir, what I shall heretofore say is not to be construed into an attack upon the bill. I repeat, I am for it, sincerely so; and if this proposition fails, I shall go for the next best proposition which, to any extent, will break up this den of polygamists who now pollute the atmosphere of Utah.

When the bill was first reported, and until within the last few days, I supposed that it would meet but little opposition. In fact, my sympathy was somewhat excited at the inequality in number of the advocates and opposers of this restrictive measure; this interference with the conjugal happiness of so many of our fellow-citizens in this distant country. It is the first great battle between the pious monogamists and the patriarchal polygamists. Our conjugal friend from Utah [Mr. Hooper] is, I apprehend, almost the sole public champion of the happy state of many of his most prosperous constituents; and really the numerical odds which appear against him excite my sympathy; for I feel always a generous sympathy for the few in their struggle with the many.

But there is not only an important principle in this bill, as well as a great duty to perform. That principle I have already briefly referred to; and it might as well be stated now as heretofore, that the Republicans will not only claim the chief merit of the passage of this bill, but will also claim to it in after times as a direct legislative admission of the power of Congress over the domestic affairs of the people of the organized Territories, including negro slavery. Even now we can observe them exhibiting every mark of satisfaction as they behold our extreme Democratic friends moving into this political snare, which is contrary to the former expositions of your platform; and the kindness of my nature alone prompts me to warn gentlemen of the danger. I do not desire to have any one mislead by carelessness or inadvertence. This question of the power of Congress to regulate the domestic institutions and relations of the white people of Utah is one which necessarily and unavoidably brings up the whole question of the power of Congress to govern those Territories in availing which relates to their domestic affairs—slavery included. Gentlemen feel it, and it is useless to attempt to avoid the force of what I have said by a denial only.

Now, I regret that this question of the power of Congress to govern the Territories promises to be, in the future, as in the past, a controverted one—a question which is to be always open and controverted, and upon which it seems next to impossible to obtain anything like unanimity on the part of our public men. Every three or four years, I am, out of obedience to what seems to be the will of the public mind, required to be required by the Democratic party to change some former opinion—to subscribe to some new dogma or party platform. I hardly get my political catechism memorized before I am required to renounce my teachings and take the opposite ground.

I was reading, a day or two ago, from the opinion of Judge Tancy in the *Dred Scott* case, a remark of his, which struck me with some force, and though it was made in regard to another question—to wit, whether, or not a negro should be regarded as a "citizen"—yet, if these words,

"negro" and "citizen," had been stricken out, and "power of Congress over the Territories" inserted, the Republican members would have seized upon it as an argument to support their construction of the Constitution. I will read it:

"We have the language of the Declaration of Independence, and of the Articles of Confederation, in addition to the fact that the Constitution itself is a declaration of the different States, before, about the time, and since, the Constitution was adopted; we have the legislative enactments, from the time of its adoption to the present period; and we have the constant and uniform action of the executive department, all concurring together, and leading to the same result."

What "result"? That the negro was not a citizen of the United States within the meaning of the Constitution.

Here we find the highest judicial tribunal of this country pointing to the action of Congress for sixty years, to the opinions of its Attorneys General; to the action of State Legislatures; to public opinion itself, to show what was the proper construction of the Constitution in regard to the matter which was then being considered. Previous to 1848-49, the action of Congress, the executive department, and the opinions of those who made the Constitution, and the general acquiescence of the people, all might have been referred to as an argument in favor of the correctness of the action of the Government for the first sixty years of its existence, in governing the Territories, and exercising and maintaining jurisdiction over the domestic institutions of the people thereof. I say this was the generally received opinion of our public men up to 1848-49. Then the whole question was reviewed, and it resulted, in 1850, in a compromise of opinion, by which the whole subject of the government of the Territories was referred to the people—as in the case of New Mexico and Utah—reserving only to Congress the right to dissent from any legislative acts of the Legislatures of these Territories which Congress might not approve. Well, that doctrine was in fact the platform of the Whig and Democratic parties of 1852; and both these parties, in the presidential contest of that year, declared it should be thereafter adhered to; and all parties were required to say that the congressional action of 1850, in regard to this specific question in the Territories, should be forever maintained.

Well, in 1854, the catechism was again revised by the passage of the Kansas-Nebraska bill, the principal feature of which was, that the legislative power of Congress had applied to the Territories of Utah and New Mexico was proper as far as it went, but that it did not go far enough; that you must give the people of Kansas and Nebraska the power to regulate all their "domestic institutions" in their own way, subject to no restraint whatever, except the restraint imposed upon them by the Constitution, which restraint, as every one knew, existed before you imposed it by the terms of the bill. But you went further, and said that you cared not what they might do in regard to their domestic institutions, you would not interfere with them. Everybody was required to give to this new article in the Democratic catechism; to declare it the settled policy of the whole country, and particularly of the South. Thus stood the matter until 1860, when the catechism of Democratic Congress had applied to the Territories revised. All the teachings of the faithful in 1856 are now to be regarded as so much babble; and I am now required by the Democratic leaders of the section of country in which I live to say that Congress has plenary power over the Territories, provided always that that power shall be exercised alone upon one side—[laughter] upon the southern side. It—the power of Congress—according to modern Democratic teaching, can be exercised only in favor of the negro, or, rather, in favor of slavery in the Territories; and never against slavery. I have now given the reading of the catechism. It may not be published until after the Charleston convention; but it will soon have an indorsement a thousand times more powerful than was given to the Impending Crisis of Helper.

I revert to these things to show you how public opinion has been unsettled by the action of political conventions, and by the action of politicians. And to-day no man can tell, with any degree of certainty, what the people will be required to believe in reference to the power of Congress over the Territories four years hence. I confess

I am afloat; I am drifting along at the mercy of the winds and waves, hoping and trusting that I will ultimately find some peaceful place to pilow my head—if nowhere else, at home, among those who would gladly see fraternal relations restored among the brethren of a common country—a country they love because of its blessings.

I repeat, it is my belief that the people will keep up with these new teachings and changes of those who seek to control and direct public opinion.

Now, sir, what are domestic institutions? They consist simply of husband and wife, parent and child, guardian and ward, master and servant, and master and slave. I believe that the Constitution embraces the entire list, as recognized in the law books. Now, when you have said to the people of those Territories, that they may form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States—which restriction Mr. Benton declared was a stump speech injected into the body of the bill—you stipulated with them that they should exercise this power in all cases. I have enumerated all the domestic relations known to the laws of this country; and I appeal to you whether I have not enumerated them correctly.

And I ask, if Congress can take jurisdiction of the relation of husband and wife, may it not also exercise jurisdiction in regard to another domestic relation? Now, "forewarned is forearmed."

I know that many of our friends are now inviting attention to these things to produce "difficulties in the family." But I disclaim any such purpose. There is domestic trouble enough in Utah, without increasing it here. I have but announced my deliberate legal opinion, which I trust I shall always have the more confidence to call for whenever the occasion and my public duty allow it. Domestic institutions have been about the same from the beginning of time. Go back to the days of Abraham. Ask my patriarchal friend from Utah, the sole representative of the "domestic institutions" of the ruling course of State of Utah—"domestic," I might say, in an eminent degree, [laughter]—and he will tell you that his constituents are attempting to perpetuate the manners and customs of antiquity, and it is unadvised in us to say that this bill does not interfere with one of the "domestic institutions" of society. The Delegate from Utah, who is the sole representative of the people of that Territory, I am sure will feel that the American Congress is disposed to proscribe a portion of his fellow-citizens, by interfering with their domestic institutions; and his sensibilities must be touched at the prospect of passing a measure, the effect of which will be to drive many a wife and matron from home which are endeared by an exuberance of conjugal love, and thus cause them to sorrow alone in the face of an unyielding world. [Laughter.] Do you suppose the people of Utah would have taken this liberty of remodeling their domestic institutions, and falling back upon the customs of the patriarchal age, if they had not given them the power to reform and regulate their domestic institutions? And ought they then to be told that they are to be told that they are to have all domestic affairs, "the people of a Territory, like those of a State," were sovereign and independent? And should not some of our friends be lenient to these deluded Mormons, who are so ready, for their own justification, to appropriate to themselves the force of the example of the patriarchal age? And do not these friends of ours—unnecessarily, I admit—also point to Abraham, with his flocks and herds, his horses and his cattle, his man-servants and his maid-servants, as a conclusive authority and vindication for our own peculiar institution, when assailed by fanaticism? And ought we not to be somewhat kind and forbearing, when we hear our patriarchal friend from Utah exclaim, "We have Abraham to our father." [Laughter.] I feel the force of these things; but I still feel hesitating in my own considerations, to grapple with this monster, polygamy, while it is in its infancy and may be subdued.

Now, sir, I maintain that all writers on jurisprudence have alluded to the domestic relations declare husband and wife to be the most sacred. That of master and servant, or master and slave, are certainly not regarded as any more sacred than that of husband and wife and parent and child. If, sir, there is anything in the world for which, sooner than another, a man will peril

his life, everything, it is for his wife, the mother of his children; and it must not be forgotten that these divided people regard polygamy not only as a part of their social relations, but as a feature in their religion.

Now I am favoring this measure, I admit, with a perfect consciousness of all the legal consequences fairly involved in the passage of this bill. I very much resent one of the most intelligent, religious and moral districts in the whole country; and my constituents, without respect to party, have desired me to use my feeble influence to put down this monstrosity; this offense against religion, and against the laws of God. There is no important legal principle conceded in this bill, to wit: that we have the power to break up this abomination in Utah; but I propose, by leave of the House, to extend the application a little, because it is a very dangerous premise, which, when conceded, proves too much. I maintain that this bill concedes too much for that class of southern politicians who maintain that the Constitution carries slavery into all the organized Territories, whether the people of such Territories favor it or oppose it, and that it is the duty of Congress to legislate in this, and to maintain slavery there, without any regard whatever to the popular will. As this bill concedes the right or power of Congress to legislate against a domestic institution, I propose, I say, to extend the application, and see whether the poisonous chalice may not be passed to the people of our own lips. Now, perhaps, I should not, were I to consult the wishes of gentlemen, speak with this sort of freedom—certainly not if I were restrained by selfish considerations—but having no interest in my country but that of a citizen who desires its peace and prosperity, and no motive of a political nature, no aspirations to make me unkind or to warp my judgment, I shall indulge in a fair and candid expression of honest opinion, unswayed by anybody. I propose to notice some offenses not mentioned in this bill, but which are of a kindred nature, and though they are not so much talked of, yet they might be easily embraced in this bill. I almost dislike to name them; but it is said, "the galleries should have no ears."

An acquaintance of mine, a candidate for Congress last year, was sitting in the gallery of the committee, who said he intended to vote for him for Congress; but before doing so, he wanted an explanation from him. "I see," said he, "that there is a terrible thing in the western country; a woman who is giving the Government a deal of trouble out in the Territories. They call her Poly Gammy; who is she?" "Why," said my friend, "she is the favorite wife of Brigham Young." [Laughter.] Now, if I had some other name than the correct one for some offenses, proper to be mentioned in this connection, I certainly should appropriate it.

I repeat, there are other offenses of a kindred character to polygamy. Take, for instance, the crime of incest, adultery, and other offenses that are well known to lawyers, and which I need not enumerate very particularly; not one of which offenses can be called moderate; they are all *malum prohibitum*. Now, why does this bill limit the punishment to the offense of polygamy, and omit incest and adultery—punish married persons and not the unmarried? The answer, of course, is, that polygamy is the worst offense, the oddest; but here *here the power* to add incest and adultery to the offense of polygamy—to punish the single as well as the married. I give this illustration to show that the principle conceded by the first section of the bill may be extended so as to embrace all offenses of a kindred nature. They are not made in one country, and have in others been introduced by statutory regulation. Do not gentlemen, therefore, see that the application of the principle of this bill might be extended so as to embrace all the offenses I have mentioned? No gentleman

will say that the application of this principle may not be extended so as to embrace them all. And if you can extend the principle so as to embrace them, may you not extend it so as to embrace all persons, of every color, to whom Congress may desire to apply it? If Congress has power to regulate the domestic relations of white people in the Territories, why not also a Republic like ours, and hereafter consistently propose to extend it to the relations between black men and women also?

It cannot be said that the legal relation of husband and wife exists among the slave population. Every lawyer will admit that marriage can be legally contracted only by free persons, and there is not a slave State in the Union—if there is I would thank gentlemen to correct me—that allows marriage among slaves, and regards it as that legal civil contract which is essential and indispensable to a legal marriage.

Mr. MALLORY. In reply to the gentleman from Tennessee, I will state that there is a common law prevailing throughout the slave States of the Union which regards the marriage contract between slaves as sacred. There is no statute in this Union which forbids my State to do this; and I believe in every other slave State this is the case.

Mr. ETHERIDGE. Mr. Speaker, I have examined this question to-day, and all the law writers say that marriage can only be contracted by persons who are free.

There is not an exception. It is certainly true, as I remarked, that there is not a slave State in the Union that regards the relation of husband and wife among slaves, save only so far as the master may be pleased to regard it; and it affords me an opportunity to say that in a large majority of instances they respect this relation; but that is not attributable to the provisions of the laws, but to the humanity of the masters.

Mr. MALLORY. The *lex non scripta*.

Mr. ETHERIDGE. The law not written does not apply to the slave population, whom we regard as having no legal rights, except those specially conferred upon them by law, of which the right to contract marriage is not one. But to allow that negroes can be made subject to the legislation of Congress, and extend the same application to the provisions of this bill, I have but to point to the fact that in every slave State in the Union negroes are regarded as capable of committing all offenses that may be committed by white men. There is scarcely a misdemeanor or crime known to the law which is not committed by negroes, and is not punishable in all cases with more or less severity. Petty larceny, for instance, is punished with less severity.

Mr. MOORE, of Kentucky. Will the gentleman from Tennessee allow me to ask him one question?

Mr. ETHERIDGE. Yes.

Mr. MOORE, of Kentucky. Does the statute of your State prohibit fornication among negroes?

Mr. ETHERIDGE. I remember no regulation on that subject; but the legislation of every State can at any time declare it a misdemeanor or a felony. I ask the gentleman this question: If Congress has power to interdict offenses among white people in the Territories, may it not among black people or slaves?

Mr. MOORE, of Kentucky. How can you prohibit a second marriage among slaves, when, according to the gentleman's own argument, they cannot marry the first time?

Mr. ETHERIDGE. The gentleman will admit that I have shown that if Congress has power to prohibit polygamy, it may likewise prohibit adultery and all kindred offenses; and I ask the gentleman if Congress cannot extend the application of its laws to blacks as well as to whites?

Mr. MOORE, of Kentucky. I say not, if the question is limited to me.

Mr. ETHERIDGE. The gentleman says not; but I have too much respect for his legal ability to believe that when he comes to look into the question he will arrive at any such conclusion.

Now, if you fall back upon the late edition of the Declaration of Independence, that every citizen who goes into the Territories carries with him the laws of his domicile—in other words, that every southern man who carries a slave into the Territories carries also with him the slave laws of the State where he emigrates—then gentlemen will be compelled to admit that if polygamy had

existed anterior to the formation of the Federal Constitution in the old thirteen States, it would now lawfully exist in the Territories. I presume no one will deny it. Certainly no gentleman will deny it who has said that whosoever a slaveholder goes into a Territory with slave property, he carries with him the slave laws of the State from which he comes. If the original thirteen States that formed the Federal Constitution; but no one will deny that any State has the power at any time to change its organic laws, and permit polygamy. Well, suppose, for the sake of the argument, that all the States in this Union were now to allow polygamy; then gentlemen will have to concede that polygamists would be allowed to go into the Territories of the United States and be protected by Congress in the enjoyment of this peculiar institution—of their property.

If, then, it comes to this; that the interpretation of the Constitution is made to depend, not upon the reading of the Constitution itself, but upon the whimsical action of the several States. You say that you now have authority under the Constitution to interdict polygamy in the Territories; but suppose the States were to legalize it, then our political high priests would doubtless permit these Mormons to go into the Territories with their families, however numerous, and to establish their harems there in defiance of the power of Congress. This is certainly a new mode by which to interdict the Constitution. I am prepared with very high Democratic authority to show that such a position is indefensible. It is absurd. I will read again from the opinion of the Chief Justice in the celebrated case of *Dred Scott*.

Mr. LAMAR. Will the gentleman allow me to point him to his place?

Mr. ETHERIDGE. As soon as I get through with the extract I wish to read. Judge Taney says, in regard to all attempts to construe the Constitution with reference to changes in public sentiment, since its formation:

"No one, we presume, supposes that any change in public opinion can so radically and intentionally alter the meaning of the Constitution as to change the rights of the civilized nations of Europe, or in this country, should induce the court to give to the words of the Constitution a new and different meaning; and that every thing intended to be done by the instrument was *frustrated and adopted*. Such an argument would be altogether inadmissible in any tribunal called on to interpret it. If any of its provisions are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended, but while it remains unaltered, it must be construed now as it was understood at the time of its adoption. It is not only the same in words, but the same in meaning, and delegates the same powers to the Government, and reserves and secures the same rights and privileges to the citizen; and no less so it contains the same guaranty of freedom to the same words, but with the same meaning and intent with which it spoke when it came from the hands of its framers, and with which it has since been received by the people. Any other rule of construction would abrogate the judicial character of this court, and make it the mere *creature* of the popular passions of the moment. Neither is it created by the Constitution for such purposes. Higher and graver trusts have been confided to it, and it must not fail to discharge them."

I ask then, gentlemen, how can the different States of this Union, by introducing polygamy, legalize it in the Territories? And that is precisely the position that all must assume who maintain that when a person goes from one of the States of the Union into the Territories, he carries with him the laws of the State from which he emigrates in regard to the property he carries with him. We are told here, day by day, that the Constitution of the United States recognizes slavery. It has been repeated over and over again, until the superficial hearer supposes that there is no other law in the Territories than the Constitution in regard to slavery. Now, sir, I am ready to maintain that the Constitution of the United States does not recognize slavery, or guaranty slavery, any more than it recognizes or guarantees the relation of husband and wife, or parent and child. By the same law which would recognize a fugitive slave, you can recapture your son or your indentured apprentice, if either should escape from the State in which you live and be found in another State.

Now, sir, the recognition of a thing, and the

Blackstone says, in speaking of *freedom*, that it was controllable in his day by the temporal courts; that in 1850, when the law was not so much for their interests to put on the semblance of great purity of morals, incest and adultery were made capital crimes. But at the Restoration, men fell into a contrary extreme of licentiousness, when the rigor of the law was not renewed. These offenses that are not made in any one country, and have in others been introduced by statutory regulation. Do not gentlemen, therefore, see that the application of the principle of this bill might be extended so as to embrace all the offenses I have mentioned? No gentleman

establishment or creation of it, are very different things.

Mr. LAMAR. That is just the point at which I would like to see my question.

Mr. ETHERIDGE. Very well. I will hear you. Mr. LAMAR. I wish to know whether the gentleman maintains and asserts the power of Congress to punish slavery as a crime in the Territories of the United States?

Mr. ETHERIDGE. I will answer the question fully before I close—if not sooner, when I come to state my reasons for consenting to vote for the bill. I am now, however, endeavoring to point out the difficulties some of my friends upon the other side of the House may have in arriving at a similar conclusion, for they may not be able to discern them readily. [Laughter.] I desire this great reform in Utah should be effected, and I shall go very far to accomplish it, but I will not permit my friends on the other side "to go it blindly." [Renewed laughter.]

I do return to this constitutional recognition or guarantee of slavery. I say if this be true, and you have, therefore, a constitutional right to your negro; you have the same right to your wife, to your children, and to your apprentice. I repeat, there is a great difference between the recognition of a right or a thing, and the establishment of that thing or that right. Sir, the old thirteen States are recognized by the Constitution; but did the Constitution create them? The Constitution recognizes certain rivers, bays and mountains; but did the Constitution create or make, or establish them? The Constitution recognizes foreign Powers—Powers which have existed for centuries; but, I ask, did the Constitution create or establish any one of these Powers, which it recognizes in terms? It recognizes slavery by implication in the same article in which it also recognizes husband and wife, parent and child. Any man who lives in a State where the common law of England prevails, may invoke the aid of the Constitution or the law of Congress for the reclamation of his fugitive wife, child, or apprentice. I repeat that any man who lives in a State in which the common law of England has not been abolished, may claim the provisions of the fugitive slave law for the surrender of his fugitive wife, his minor child, or his indentured apprentice, to the same extent as the master who seeks to recapture his slave. By the common law the relation between parent and child, master and apprentice, and master and slave, is in kind almost identical, or the same. The only difference that exists is in the degree of power and authority, and the duration of the reciprocal relations or duties they owe each other.

Why, sir, your son owes you his service and labor until he be twenty-one years of age. You owe him, in return, your protection and moral training; and that is precisely the relation which exists between you and your child. The slave owes you his service and labor. There is this difference, however; that the property in your child, or your right to his service or labor, ceases when he becomes twenty-one years of age; while your property in your slave and your right to his service and labor extends to his whole life, and he should be a slave for life. With this exception, your power in both cases is, in kind, about the same. Your power over your child includes the right to chastise him; and you may hire him as another, if you please; but, as I have already said, your right to his labor and your power of control ceases when his minority ceases; while, in the case of the slave, your control continues during his life.

Now, sir, if your slave, your son, or your apprentice, escapes from a State where the common law prevails, into another State, you have the same right, founded upon the same authority, to pursue and recapture the one as the other. The proceeding is a simple one. In the case of the child or apprentice, you would have to prove, before a commission or a court of law, that he had been committed to your custody, and that he had been taken by the law of the State whence they fled, you were entitled to their labor or service, and that they were fugitives; in which event, the father or the master, as the case might be, would be entitled to a surrender of the fugitive, precisely as is the case with a slave. And so, in regard to the fugitive escaping from a State in which the common law of England prevails.

Until within the last few years, the right of the

husband to chastise the wife for good cause was recognized in many of the States, as a common law right; and now, wherever the common law prevails, his right to her labor and to all her earnings is almost identical with the right of the master to the earnings of the slave; and it must not be forgotten, that the common law was in force in all the States when the Federal Constitution was adopted. I say, therefore, that I am right, recognized by the Constitution, in my right to my slave, inasmuch as the right recognized by the same instrument of the father or master to the apprentice or the child, or of the husband to the custody, the labor, and the earnings of the wife.

Now, sir, the relation between master and slave, it should be remembered, is older than the Constitution, and exists to-day in the southern States of this Union upon a basis tenfold stronger and more enduring than any supposed guarantees found in the Constitution. If you place it upon this risky platform of the Constitution, you warn you are thereby throwing away your strongest safeguards for its protection. The object of that clause in the Constitution was merely to secure, by compact between sovereign States, the enforcement of a personal remedy for the recapture of a thing, which, when the guarantee of the Constitution would have been left alone to the comity of the States. If you hold your slaves by virtue of the Constitution, instead of the laws of the States, which in many cases are older than the Constitution, will you not have to look to the Federal Government for protection to slave property? And will you not thereby do yourselves an ultimate injury, because of the abandonment of the stronger position which I have always assumed—that the Constitution carries slavery nowhere, and is not even prohibited to it. To show that I am right, I put this case: If your slave escapes from you, and does not go out of the State in which you reside, you may invoke the Federal Government—the fugitive slave law—bill do me day to capture him; but the Federal Government will give you no relief until the slave passes beyond the jurisdiction in which he resides to another State, at which time the slave may be arrested by authority of the Federal Government, and not before. But the Federal Government does not go beyond this. To this extent it goes, and no farther, because this is the limit of the recognition of slavery contained in the Constitution. At this point the Constitution has performed its full office, and beyond this you cannot invoke its aid.

Mr. JENKINS. I should like to ask the gentleman from Tennessee a question, for he has been indulging in rather severe strictures upon the doctrines of the Democratic party. I understand the gentleman to hold that my title to a slave which I take into one of the Territories of the United States is not recognized by the Constitution, and that from whence I come. What, I ask the gentleman, is the source, from whence I derive the title to my slave, then, if not from those laws?

Mr. ETHERIDGE. So far as regards any strictures I may have indulged in upon the doctrines of the Democratic party, I am not a gentleman that I have learned these doctrines from the teachings of that party, for I have been for years hunted down in my own State by the members of that party for not acceding to their great discovery of the right of the people of the Territories "to form and regulate their domestic institutions in their own way." I learned them some years ago in this House, when they began their denunciations against me for protesting against the repeal of the Missouri compromise at the time of the passage of the Kansas Nebraska bill.

Desoultre in this House and at the time as containing these odious features of which I now speak—"squatter sovereignty;" and for that I was assailed in a spirit of bitterness by the Democratic party. And, sir, my opposition to that Kansas bill was not based altogether upon selfish motives. I felt satisfied that that compromise was broken down it could do the South no good; it might produce much mischief. How was it possible for the South, with its feeble numbers, feeble in comparison with the North, to emigrate to the Territories and compete with the millions of the North in a struggle for political supremacy? I was in favor of retaining that compromise, which gave protection to the South

in all the Territories south of it. I saw then, as clearly as I see now, that we could have no hope in this sort of a contest—a contest in which soil, climate, and a preponderance of population in the free States, to say nothing of the foreign population, of which there were then arriving about a half a million a year, were to be encountered. I was unwilling to provoke such a contest.

It cannot be forgotten that every acquisition of territory by this country since the formation of the Government, with the exception of Florida, has sooner or later provoked an angry agitation of the slavery question. The first great out of the acquisition of the Territory of Louisiana. It was renewed at the time of the annexation of Texas; and again when we conquered from Mexico California, Utah, and New Mexico. The first settlement of this slavery question was made for the country known as the Louisiana Territory—it was the Missouri compromise. On the application for the admission of Missouri an angry controversy arose, which I will refer to only to say that it was settled by the compromise of 1820.

The annexation of Texas produced other dangers, and provoked additional agitation, which was, however, happily adjusted by extending the Missouri compromise through that State at the time of its admission. It was again renewed to us, this we acquired Utah, New Mexico, and California, as I have stated, when this disturbing element again provoked angry wrangling and debate. The struggle ended, however, as we all know, in the compromise measures of 1850, which were regarded as a finality; which were supposed to be a final settlement of the whole subject. Thus we see that whenever the Union of the States has been endangered, as it was at each of these periods, the dangers which were then impending upon our Union, and which were, I am persuaded, regarded as honorable by all parties at the time, it is historically true that each of these compromises was sanctioned and approved by the most distinguished men of all parties; that they restored and maintained peace between the North and the South, and that peace was better to us than the cal of evils of the day. We all feel and know that these things are so. I have never regarded the mode of settling the slavery question so important as letting it alone after it is settled. You settled it in 1820.

Mr. SINGLETON. I want to know exactly what is the gentleman's position, and I hope he will let me propose an interrogatory to him.

Mr. ETHERIDGE. Certainly, sir.

Mr. SINGLETON. I understand the gentleman to say that he is in favor of a bill which admits the power of Congress to regulate slavery in the Territories, to abolish it, to drive it out of the Territories if it should be deemed proper to do so. Do I understand the gentleman correctly? I hope the gentleman will give me a straightforward answer, and not a compromise man. I have put a plain question, and I hope the gentleman will answer it in the same spirit.

Mr. ETHERIDGE. I will give the gentleman an answer, and I may mix up the answer with a little Democracy. [Laughter.] In my judgment, the power to regulate this question of slavery or polygamy in the Territories, and which this bill applies to white people, may with equal propriety be applied to the negro, if Congress should think proper to do so. This bill involves a concession

Mr. SINGLETON. That is not an answer.

Mr. ETHERIDGE. If Congress can, by a system of "unfriendly legislation," disturb or interfere with the domestic relations of the white race, it can, in my judgment, interfere with the domestic relations of the negro race, if Congress can, by imposing a fine of \$500 and imprisonment for two years, punish white men for the offense of polygamy, as provided by the bill, it may certainly extend the provisions of the bill and embrace adultery as an offense, and punish a promiscuous man, a white man, if we may do the one, certainly we have power to do the other. Whoever votes for this bill must, therefore, do so with the express or implied admis-

sion that Congress has power to punish all offenses of this kind in the Territories, without reference to the persons who may be found guilty of the offense.

If Congress should hereafter become perverse enough to attempt such "unfriendly legislation," and make the application to slaves in the organized Territories, I apprehend this bill will be cited as a precedent for such "unfriendly legislation" against slavery. Should the attempt ever be made, I have too much respect for the fairness and liberality of the great body of the American people, of my countrymen, to believe that a controlling majority can ever be found in Congress who will seize this as a pretext to adopt any such annoying legislation in regard to slaves in the Territories—the common property of all the people. I shall not withhold my approval of this bill because of any fear I have of any such result, as I have said that this is a concession of the power of Congress to interdict slavery in the Territories by "unfriendly legislation."

Mr. SINGLETON. There is a good deal of circumlocution about the question, in answer. I have made the sincerest efforts to understand the gentleman, and I do not understand him yet. I put it to him in all candor whether, by voting for this bill, as he says he intends to do, he thereby publishes to the world that he recognizes the power of Congress to abolish slavery in the Territories whenever it may think proper?

Mr. ETHERIDGE. I have repeatedly stated that I was in favor of driving this nauseating and disgusting crime of polygamy from the face of the earth. I desire to see it accomplished, sir. I am not in favor of doing it, I will claim, sir, the power to do so. I have already admitted that in doing so, in legal effect, we are making a concession of the power of Congress over the Territories; which, by an extension of the principle, can be made to embrace all the Territories, as well as white people; and that the only guarantee I have against the use of any such power in the future, to the prejudice of the slaveholder in the Territories, is in the good sense and liberality and forbearance of Congress in withholding the "unfriendly legislation" which I desire.

Mr. SINGLETON. You have declared every man upon this side of the House who votes for this bill recognizes the power of Congress to abolish slavery in, or to exclude slavery from, the Territories. Do you publish to the world that there is the position you assume when you vote for the bill?

Mr. ETHERIDGE. If Congress is disposed to pass "unfriendly legislation" in regard to the social intercourse and domestic relations of the white people of Utah, it may, I apprehend, extend its action, and include black people also. [Laughter.]

Mr. MILLSON. I have a single question. The gentleman says if this be extended to white people it may be extended to black people in the Territories. I put it to the gentleman whether there is any sort of objection to applying it to black men and black women in the Territories, who are free, and capable of contracting marriage?

Mr. ETHERIDGE. None in the world. I understand the very basis of this legislation to be that polygamy is offensive to the American people, the enlightened spirit of the age. It is offensive to religion.

Mr. PRYOR. As I have already indicated, I propose to vote for this bill. The honorable gentleman from Tennessee declares that he regards the vote of every gentleman who supports this bill as tantamount to an acknowledgment of the right of Congress to abolish slavery in the Territories. That may be true of that gentleman, and of course it is true, because what he imputes to us we must declare for himself. I would to repudiate the proposition so far as I am concerned, and to say that I observe a distinction between slavery and polygamy under the Constitution.

Mr. ETHERIDGE. I know that the honorable gentleman does, for he has stated it. I am only speaking for myself.

Mr. PRYOR. Very well, then. Let that be understood.

Mr. ETHERIDGE. Of course I am not responsible for the opinions of others.

Mr. LAMAR. The gentleman has not answered my question, in whether the gentleman asserts the power, the constitu-

tional competency, of Congress to declare and punish slavery in the Territories as a felony or a crime!

Mr. ETHERIDGE. I say, sir, that I admit the power of Congress to legislate over the black population of the Territories, and to increase the very same offenses that Congress assumes to legislate about where the white people of a Territory are concerned. I say that while this bill upon its face does not embrace negroes who are slaves, yet that Congress has the power, according to the principles of this bill, either to increase the number of offenses or to extend the punishment contemplated to negroes who are slaves. Every man must know that this legislation is based upon the idea that this illicit association of the people of Utah is subversive of good morals, and offensive in the sight of God and man.

My friend from Kentucky [Mr. MALLORY] referred a while ago to the marriage of slaves. I have here the authority to sustain the statement I made—

Mr. LAMAR. Before the gentleman goes to that, I will put a question to him.

Mr. ETHERIDGE. One thing at a time. Mr. LAMAR. I am so much indebted to the gentleman for the clear answer he has given me, that I want to put another question to him.

Mr. ETHERIDGE. The gentleman will pardon me. I understand, but a few minutes more of my time left.

I will read an extract from the law book I hold in my hand upon the point I referred to in reference to the marriage of slaves. Marriage is defined as follows:

"A contract made in due form of law, by which a free man and a free woman engage to live with each other during their joint lives, in the union which exists between husband and wife. By the terms *free man and free woman*, in this definition, are meant, not only that they are free, not slaves, but also that they are clear of all bars to free marriage."

Mr. MALLORY. Which case is that?

Mr. ETHERIDGE. Here is a list of cases cited in the authority from which I read, almost as long as Pennsylvania avenue, and the gentleman can take his choice of them. [Laughter.]

I read in Boyer's Law Dictionary:—

I am reminded, Mr. Speaker, that I have but five minutes of my hour left. I have submitted gracefully to interruptions. I know that it is an ungrateful task to unfold to any political party the dangers which are involved in a step it thus far declines to take. I shall not be surprised, if we postpone a vote on this bill for a day or two, to find my opinions sustained by many of the most cautious and intelligent leaders of the Democratic party.

I know many gentlemen are not willing to deny the legal conclusions fairly to be drawn from the principles conceded by this bill. I put it to gentlemen whether they are not bound to admit that by the passage of this bill they surrender, to a great extent, the controverted question of the power of Congress over the Territories; or, rather, the power to reach slavery by "unfriendly legislation."

I vote for the bill upon the ground that the moral sense of my constituents of all parties demands it. I shall positively be interested in the extirpation of this crime from Utah. I have seen and read various amendments proposed, intended designed to avoid the force of the view I have presented. My friend from North Carolina, [Mr. BRANCH], whom I have referred to already, will admit, if called upon, that the object of his amendment is to obviate the difficulty I have named, and escape a direct vote upon the bill.

Mr. BRANCH. I will say in response to the gentleman from Tennessee, that I had no such object in view as the dodging of any portion of the bill. My object was effectually to root out polygamy from Utah; and, to remove any suspicion the gentleman may have that I desire, either for myself or my friends, to dodge this bill, I tell him now, sir, distinctly, that I will never vote for the first section of Utah; that polygamy may continue to exist in Utah before I will vote to eradicate it by any one of the first sections of the bill.

Mr. ETHERIDGE. The gentleman is willing to take the responsibility and vote against it. He is a kind man, and felt some sympathy for his friends, and, sir, the amendment offered by him was designed to give his friends a narrow gangway upon which to escape from the wreck of the

dangers behind them. I am sure that the amendment was kindly meant on his part, and offered in order that his Democratic friends, or some of them, might have a chance to avoid an inconsistent position which would be obvious were they to vote for this bill with a knowledge, as they already have, of the effect of its provisions, and the concession it makes to the power of Congress over the Territories.

I am willing to take all the responsibility in voting for this bill. This is a great exigency which I feel it is wrong to surrender that large Territory, to become in future time another Sodom and Gomorrah. I repeat, I will vote for this bill or any other which is sufficiently stringent to strike at the root of this acknowledged evil—this admitted crime.

Mr. TAYLOR obtains the floor, and spoke for an hour, in answer to the argument of Mr. MILLSON. [His speech will be published in the Appendix.]

During its delivery the following proceedings took place:

Mr. NELSON, (interrupting.) Mr. Speaker, several gentlemen have been inquiring whether a vote is to be taken on this bill this evening. I understand that a number of gentlemen desire to discuss it; and, with the permission of the gentleman from Tennessee, I will say to you, so far as I am concerned, I shall not attempt to press a vote upon it this evening.

Mr. SHERMAN. I give gentlemen notice that this subject cannot be reached to-morrow in the regular order, and cannot be for a week to come; that if it is to be disposed of at all, it should be disposed of to-day. There are special orders extending from this day for at least two weeks.

Mr. VALLANDIGHAM. I hope the proposition of the gentleman from Tennessee will be adopted by the House, that no vote be taken this evening, and that the discussion be permitted to proceed.

Mr. PHELPS. It we cannot dispose of it to-day, and if special orders intervene, let it go over till another time.

Mr. TAYLOR. Gentlemen can settle this question for themselves.

Mr. T. continued his remarks.

Mr. PRYOR, (interrupting.) Mr. Speaker, it is now four o'clock, and as it is evident that my friend from Louisiana is somewhat exhausted, I will move an adjournment, if I may say this for that purpose. He has spoken half an hour, and he can occupy the residue of his hour to-morrow morning.

Mr. TAYLOR. I will yield the floor for that purpose.

Mr. PRYOR. I move that the House do now adjourn.

Mr. BRANCH. There are a great many gentlemen who desire to speak upon this question; and if the gentleman from Louisiana can conveniently go on with his speech, I think it would be better for the convenience, go on this evening. I have been announced that there will be no vote called for on this bill this evening. I know the fact that there are a great many members who desire to speak—many more than can speak to-morrow; and if the gentleman from Louisiana can, with his kind permission, go on this evening, I think it would be greatly preferable; so that we may get off as many speeches as we can to-day, and be able to take a vote to-morrow evening.

Mr. CRAWFORD. There is a special order set for to-morrow—the bill for the admission of Kansas.

Mr. BURNETT. That is a mistake. The Kansas bill was not made a special order.

The SPEAKER. The Chair does not understand that the Kansas bill was made a special order.

Mr. CRAWFORD. I think the chairman of the Committee on Territories supposed that it was made a special order.

The SPEAKER. It will come up in its order. The Chair does not see how it can take precedence.

Mr. SHERMAN. I desire to say that this bill stands in the way of every other bill until it is disposed of; and there is no doubt that if we adjourn now, this bill will come up to-morrow, and will be debated all day to-morrow.

The SPEAKER. That is the idea the Chair entertains.

porary government for the Territory of Arizona, and to create the office of surveyor general therein; which was read, and passed to a second reading.

He also, from the same committee, reported a bill (S. No. 365) to provide for a temporary government in the Territory of Colorado; which was read, and passed to a second reading.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the petition of Francis Miller, praying compensation for extra services while assistant keeper of the penitentiary of the District of Columbia, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 344) to amend an act entitled "An act to amend 'An act to establish a criminal court in the District of Columbia,'" reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 202) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 147) to prevent malicious mischief at a protest meeting in the District of Columbia, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 213) to incorporate the United States Agricultural Society, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 295) authorizing the corporation of Georgetown to lay a special tax for distributing Potomac water through said town, asked to be discharged from its further consideration, and that be referred to the Committee on Public Buildings and Grounds; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 343) amendatory of the act regulating the distribution of Potomac water throughout the city of Washington, approved March 3, 1859, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Buildings and Grounds; which was agreed to.

Mr. MASON, from the Committee on Foreign Relations, to whom were introduced by a resolution of the Senate to inquire into the propriety of providing by law for the reception of the Japanese mission shortly expected to visit the United States, reported a joint resolution (No. 23) in regard to the mission from Japan; which was read, and passed to a second reading.

Mr. HEMPHILL, from the Committee on Patents and the Patent Office, to whom was referred the petition of Frederick E. Sickels, praying that his application for an extension of his patent may be referred to the Commissioner of Patents, submitted a report, accompanied by a bill (S. No. 367) for the relief of Frederick E. Sickels. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FOLK, from the Committee on Foreign Relations, to whom was referred the memorial of the heirs of John Forsyth, praying that certain charges erroneously made against him in the settlement of his accounts as United States minister at Madrid, may be adjusted and the amount refunded, submitted a report, accompanied by a bill (S. No. 368) for the relief of the representatives of the late John Forsyth. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. JOHNSON, of Arkansas, from the Committee on Public Lands, to whom was referred the memorial of the Mayor and Board of Aldermen of the city of Pensacola, Florida, praying that the title of the United States to certain lots in that city may be released to the city, reported adversely thereon.

PACIFIC MAILS.

Mr. GREEN submitted an amendment, which he gave notice of his intention to propose, to the bill (H. R. No. 304) inviting proposals for carrying the entire mail between the Atlantic and Pacific States in one line; which was ordered to be printed.

HOMESTEAD BILL.

Mr. JOHNSON, of Arkansas, submitted an amendment, which he gave notice of his intention

to propose, to the bill (S. No. 1) to grant to any person who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period therein specified.

DISTRICT JUDGE OF ALABAMA.

Mr. FITZPATRICK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be, and they are hereby, instructed to inquire into the expediency of providing for the payment of the salary of the district judge of the State of Alabama.

DAVID WALDO.

Mr. FITZPATRICK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be, and they are hereby, instructed to inquire into the expediency of providing for the payment of the claim of David Waldo, for damages sustained by him on account of the non-fulfillment on the part of the Government of a contract made with him by the War Department, on the 28th of May, 1860.

WILLIAM MEDILL.

Mr. GREEN asked, and by unanimous consent obtained, leave to introduce joint resolutions (No. 22) concerning the First Comptroller of the Treasury, William Medill; which were read twice by the Clerk.

Mr. GREEN. I move that the joint resolutions be referred to a select committee of three or five, whichever be the custom of the Senate.

The VICE PRESIDENT. What number does the Senator desire?

Mr. GREEN. I shall be satisfied with either. Five, I suggest.

Mr. TRUMBULL. I should like to hear the resolutions read.

The Secretary read, as follows:

Whereas the Congress of the United States, by the sixth session of the Post Office department act, passed August 16, 1855, enacted as follows: "The First Comptroller of the Treasury be, and he is hereby, required to adjust the accounts of William M. Carmack and Albert C. Ramsey on account of the appropriation by the Postmaster General of these counties to carry the mail on the Vera Cruz, Acapulco, and Mexico City routes, and to award them according to the principles of law, equity, and justice, the amount so found due; and the Secretary of the Treasury is hereby required to pay the same to the said Carmack and Ramsey, out of any money in the Treasury not otherwise appropriated; and whereas it is the judgment of Congress that the law so enacted declared the fact that a contract existed as stated in the said law, involving the claims of the said Carmack and Ramsey, and further determined that damages had been incurred to them by reason of the abrogation of said contract by the Postmaster General aforesaid; and whereas it is the further judgment of Congress that there was imposed on the said Comptroller of the Treasury by the said law the imperative duty of proceeding to ascertain and adjust the said damages in accordance with the principles of 'law, equity, and justice'; and whereas William Medill, First Comptroller of the Treasury, instead of proceeding to execute said law of Congress aforesaid, did undertake to affirm and decide that said contract was never abrogated; thereby intending to defeat the said law of Congress, and thus to evade and evade the decision of his predecessor, the Hon. Elihu Whittier; and whereas, in so doing, the said William Medill incurred the penalty of the said law of Congress, and has thereby refused to obey the order of Congress, and he was bound to have done otherwise; Therefore—

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the said William Medill, First Comptroller of the Treasury aforesaid, has justly incurred the disapprobation of Congress.

Resolved further, That in the judgment of Congress the conduct of the said William Medill makes it improper that he should longer remain First Comptroller of the Treasury.

The VICE PRESIDENT. The Senator from Missouri moves that these resolutions be referred to a select committee.

Mr. TRUMBULL. My object in calling for the reading was merely to see what they were. They seem to be an arraignment of one of the public officers. I do not consider it my province particularly to take charge of the officers. If the majority of the Senate think proper to institute an investigation, through a select committee, I do not know that I shall object. It strikes me, however, that the resolutions would more appropriately go to the Committee on the Post Office and Post Roads.

Mr. HUNTER. I hope the resolutions will go over. I should like to examine them.

Mr. GREEN. They cannot go over. I object to that. They are now pending before the Sen-

ate on a motion of reference. A mere objection cannot put them over under the rules of the Senate.

Mr. BROWN. The resolutions have been received, and read twice. I think the Senator from Missouri is clearly right; they cannot be postponed now by an objection.

The VICE PRESIDENT. The Chair believes the resolutions were received, and read twice without objection. Perhaps the motion to refer is in order.

Mr. HUNTER. I did not hear them, and I should like to hear them read. ["Oh, no,"]

Mr. MASON. If my colleague will allow me, the resolutions struck me as seemingly to involve the judgment of the Senate upon matters on which I, for one, have no information whatever.

Mr. GREEN. Permit me to suggest to the Senator from Virginia that I do not propose present action; but to refer them to a committee, and let the committee report, and then let the Senate act.

Mr. MASON. I understand that; but still they seem to involve the judgment of the Senate on matters upon which I, for one, have certainly no information. They are to be referred to a select committee of five, and the committee is not instructed to find or inquire whether the claims are correct or incorrect, founded or unfounded. They are to be referred to a select committee, as the judgment of the Senate; and further, the judgment of the Senate is to be expressed that this officer should be removed. Now I have no objection to the inquiry of course, but I think the proposition should take a different course.

The VICE PRESIDENT. On reference to the 26th rule, the opinion of the Chair is that the Senator from Virginia may require the resolutions to be read.

Mr. HUNTER. I do.

The VICE PRESIDENT. Then the resolutions will lie over.

APPEALS AND WRITS OF ERROR.

Mr. BAYARD. There are two bills from the Judiciary Committee which I ask the Senate to take up this morning. I move first, to take up bill No. 4, the second bill on the Calendar, concerning appeals and writs of error; a bill which was reported at the last Congress, and ought, I think, to be taken up at this time, to receive the sanction of the committee. It is a very short bill, which I think will consume no time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 4) concerning appeals and writs of error. It provides that appeals or writs of error from the final decrees and judgments hereafter rendered in civil actions, and in causes of admiralty and maritime jurisdiction, in a district court, shall only be allowed where the matter in dispute exceeds the sum or value of \$300, exclusive of costs. It further provides that no writ of error or appeal shall be allowed to the Supreme Court of the United States from final judgments or decrees hereafter rendered in civil actions, and in suits in equity, and causes of admiralty and maritime jurisdiction, in a circuit court, or district court acting as a circuit court, unless the matter in dispute exceeds the sum of \$3,000, exclusive of costs, except in civil actions brought by the United States for the enforcement of the revenue laws, or for the collection of the duties due or alleged to be due on imported merchandise; and writs of error are not to be brought or appeals allowed from such final judgments or decrees, except within two years after rendering or passing the judgment or decree complained of, or (in case the person entitled to such writ of error or appeal is dead, or insane, or imprisoned, or otherwise disabled) within two years, exclusive of the time of such disability.

Mr. BAYARD. The sole object of the first section of this bill is to restore the amount at which an appeal may be allowed in equity cases. As the law now stands, an appeal is allowed where the decree is for fifty dollars or upwards. The costs in admiralty are very high, and the committee unanimously agreed that it was utterly unnecessary to burden suitors in that court with an appeal jurisdiction in a circuit court. The suggestion came to me originally from the judge of the district court for Texas, founded on his practical experience of the extreme injustice to suitors of allowing delay, especially in regard to that class who

could least bear it, where the decree in their favor was fifty dollars or a little over. Appeals were taken with a view to prevent the administration of justice, and to wear out the patience of a suitor. The law is merely restored in that respect to what it was in the original history of the country; and the stronger reason for it is in the fact that the value of money has certainly depreciated within the last ten years relatively, and therefore the sum ought to be increased for which an appeal will be allowed. Now it allowed where the sum amounts to fifty dollars. The bill proposes to restore the old law, which only allowed an appeal where the amount in controversy was \$300. I think that sum is a reasonable one. The judge of Massachusetts suggested \$500. The committee thought it rather high, and unanimously fixed it at \$300. The second section relates to appeals to the Supreme Court, and there, from the necessary connection with it, and the fact that one of the great objects of that court is to settle principles which shall govern other cases, and not to decide every case which may be heard in the circuit courts, the right of appeal is proposed to be limited to cases in which the matter in controversy involves \$3,000 net value, instead of \$2,000, as at present. That is founded on the same consideration, in part, that the value of money has depreciated in relation to other property; and, therefore, \$300 now would be quite as proper a limit as \$2,000 was twenty years ago. The further effect of it would be, in the judgment of the committee, not to overwork that court to the extent it is overcrowded with business in cases which really do not pay the expense of the appeal, and also make it equitable to both parties. We do not think it would end in any defect of justice by extending the amount at which an appeal should be allowed.

Another clause of the second section of the bill relates to the time within which an appeal shall be taken. That is fixed by the committee at two years. All these provisions were unanimously agreed to in committee, founded on the knowledge of the practice of the courts and the practical effect of the measure, by the members of the committee, who come from the different States of the Union, and who are practically conversant with courts of justice and the administration of justice. I trust the bill will be passed by the Senate.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

VACANCIES IN OFFICES.

Mr. MASON. There is a bill upon the table to organize a mission to carry into execution the treaty with Paraguay. I assure it will not occupy five minutes; and I ask that they may take up, because it is a matter of public interest that ought to be passed.

Mr. BAYARD. I stated to the Senate, when I made my motion, that there were two bills which I wished to take up. They follow each other very securely on the Calendar; neither of them will take the Senate long;—either hardly as long as the one which has just been passed; and I think that the honorable Senator from Virginia might allow me to dispose of these two bills. They were before the Senate all the time Congress was in session, and were not acted on. I hope the Senator will allow me to dispose of that bill first. It cannot take ten minutes. It will meet with no objection. It is merely to supply a defect in the existing law.

Mr. MASON. I could have my bill passed while the Senate is talking.

Mr. BAYARD. I do not know that. I think I might have been allowed to go on, and take up the bill alluded to. The Senate must decide.

Mr. MASON. If it was a matter of any personal interest to me, I would yield to the Senator who has just said that there is a public duty involved in this bill.

The VICE PRESIDENT. The Chair will state that the Secretary has sent for the bill alluded to by the Senator from Virginia. It has not yet come from the Printer. It will be some time before it can come here.

Mr. MASON. Then I yield to the Senator from Delaware.

Mr. BAYARD. I move to take up the bill (S. No. 5) to supply vacancies in certain offices.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider

the bill. It provides that all officers of the United States, appointed for a term of years, shall hold their offices from and after the expiration of the regular terms for which they have been or may be appointed, until their successors shall have been appointed and qualified; and also, that wherever a vacancy shall exist, or shall hereafter occur, in the office of marshal or attorney of the United States for any district, the district court may appoint a marshal or an attorney, as the case may be, who shall serve until a regular appointment and until such new appointee shall have been qualified and sworn of law. It also provides that every clerk of the circuit or district courts of the United States, in cases of sickness or temporary disability, may appoint a deputy, to be approved by the judge or judges, or a majority of them in vacation, or by the court, who shall take the oath, and may, in the name of the principal, perform the duties of the clerk; but all clerks and their surrogates shall be responsible for the conduct of their deputies.

Mr. BAYARD. The bill speaks for itself. It contains a provision that has often been found to exist, where offices become vacant during the session of the Senate. No person can act until an appointment is made by the President, and confirmed by the Senate; and thus the appointment must either be hurried, both in the nomination of the Executive and action of the Senate, or there is no person to perform the duties. The bill cannot create any possible difficulty. It enables the officer whose regular term expires to remain in his position until a successor is qualified. The other section applies to the case of marshals. It is necessarily made general, but also of essential, because the officer may die at a distance from the seat of Government or during the session of the Senate, and the functions ought to be constantly attended to. It may be imperatively necessary for them to attend to it, and yet there is no positive law sanctioning the action of the Executive and of the Senate to perform the duties of these ministerial officers. It is to these cases alone that the bill applies.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CONVENTION WITH PARAGUAY.

Mr. MASON. I want to take up the bill in relation to Paraguay, if it has come.

The VICE PRESIDENT. It is here.

Mr. MASON. It will take but a moment, I hope.

The motion of Mr. Mason was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 340) to carry into effect the convention between the United States and the Republic of Paraguay.

Mr. MASON. It was thought proper by the committee, as the bill organized a commission, that it should be prepared at the Department of State, and sent to the committee, and meet their approval. I think it is prepared as well as it could be for a like occasion. The treaty provides that these commissioners shall sit at Washington, and shall not sit longer than three months; and it was recommended, and I think wisely, that their compensation should be a sum in gross. The committee have instructed me to move to fill the blank for the compensation of the commissioner with the sum of \$1,500.

The amendment was agreed to.

Mr. MASON. I am further instructed by the committee to move that the compensation of the secretary be \$1,000, and to fill the blank accordingly.

The motion was agreed to.

Mr. MASON. It will be observed that the last clause provides that this money shall be refunded to the United States out of the sum recovered from Paraguay. I ask that the Secretary be directed to insert the first two or three lines, for my impression is that there is a mistake there.

The Secretary read as follows:

That the President of the United States, by and with the advice of the Senate—

Mr. MASON. It ought to be "advice and consent." I move to add the words "and consent."

The amendment was agreed to, and the bill was reported to the Senate as amended; and the amendments were concurred in, and the

bill ordered to be engrossed, and read a third time. It was read the third time, and passed.

SAMUEL J. HENLEY.

Mr. CRITTENDEN. I ask leave of the Senate to take up the bill (No. 249) for the relief of Samuel J. Henley.

The motion was agreed to; and the bill (S. No. 249) for the relief of Samuel J. Henley, was read a second time, and considered as in Committee of the Whole.

Mr. HUNTER. I should like to have some account of that bill. That is a very large amount—over \$96,000—for Indian supplies in California. I should like to have some account of the reason for the liability of the United States.

Mr. CRITTENDEN. It would perhaps be more satisfactory to have the report read, which accompanies the bill, and explain the reasons and facts on which the claim is founded. I could, probably, more briefly state the substance of the case, but it might not be so satisfactory to the gentleman. I therefore prefer that the report should be read.

The Secretary proceeded to read the report of the Committee on Indian Affairs; but before concluding, the hour of one o'clock arrived.

INDIAN APPROPRIATION BILL.

The VICE PRESIDENT. The Secretary will pause. The Chair must call up the special order.

Mr. HUNTER. Is the special order the Indian appropriation bill?

The VICE PRESIDENT. The Chair has no recollection that that was made a special order.

Mr. HUNTER. I move to postpone all prior orders, with a view to take up the Indian appropriation bill.

Mr. GWIN. Let us dispose of this bill.

Mr. HUNTER. This is a private claim. I am inclined to let it come in tomorrow morning, in the morning hour, or on Friday.

It was informed by the chairman of the Committee of Ways and Means of the House of Representatives that the appropriation bills will come over very rapidly now.

Mr. LATHAM. This will take but a short time.

Mr. HUNTER. I do not think this will take a short time, from what I have heard of it.

The VICE PRESIDENT. The motion is to postpone the special order, and to take up the Indian appropriation bill.

Mr. JOHNSON, of Tennessee. What is the special order?

The VICE PRESIDENT. The resolutions of the Senator from Mississippi, in relation to the protection of property in the Territories.

Mr. JOHNSON, of Tennessee. They were laid on the table, I think.

The VICE PRESIDENT. The resolutions of the other Senator from Mississippi [Mr. DAVIS] were laid on the table. The question is on the postponing the special order, and taking up the Indian appropriation bill.

The question being put, a division was called for. Mr. JOHNSON, of Tennessee. I do not know that there is any great pressing exigency for the passage of the Indian appropriation bill.

The VICE PRESIDENT. The Chair will state to the Senator that the Senate is in the act of dividing at this time.

The question being put, on a division there were—aye, fourteen.

Mr. HUNTER. There seems to be no quorum. I ask for the yeas and nays. Then we can have a quorum.

The yeas and nays were ordered.

Mr. JOHNSON, of Tennessee. I wish to state to the Senate that if this motion fails, to take up the Indian appropriation bill, I shall move then to take up the last-mentioned bill, and hope we shall take up that bill and press it, until final action is had on the part of the Senate. It is a measure of fully as much importance as the Indian appropriation bill, as far as being postponed again and again, and I hope we shall take it up and have definite action on it, so far as the Senate is concerned.

The VICE PRESIDENT. The motion is to postpone the special order, with a view to take up the Indian appropriation bill. On this question the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. JOHNSON, of Tennessee. How do I understand I am to vote? Is it on a motion to postpone, or a motion to take up?

The VICE PRESIDENT. To postpone all prior orders, and take up the Indian appropriation bill.

Mr. JOHNSON, of Tennessee. Does it then require a yeas and nays motion to take up the bill?

The VICE PRESIDENT. No; the Chair calls it up if the motion prevails.

The Secretary proceeded to call the roll. Mr. TRUMBULL, (when his name was called.) I should like to inquire if the effect of this vote is to call up the Indian Appropriation bill?

The PRESIDING OFFICER, (Mr. Foor in the chair.) That is the motion, to postpone all prior orders, with a view to take up the Indian appropriation bill.

Mr. TRUMBULL. Then I vote "no."

Mr. HINGHAM. "With a view to take it up." Cannot anything else be taken up?

The PRESIDING OFFICER. By the force of this vote the Indian appropriation bill will be before the Senate. Of course it will be competent to move to postpone it, and take up another bill.

The result was announced—yeas 27, nays 15; as follows:

YEAS—Messrs. Bigler, Briggs, Clark, Clay, Clingman, Colburn, Crittenden, Fessenden, Fitzpatrick, Fox, Green, Hewitt, Hamlin, Hendon, Hunter, Johnson, of Arkansas, Kennedy, Lane, Latham, Mason, Nicholson, Pease, Polk, Southard, Sebastian, Thompson, and Vane—27.

NAYS—Messrs. Bailey, Briggs, Chandler, Doolittle, Durkee, Fitch, Grimes, Harlan, Johnson, of Tennessee, Rice, Simmons, Sumner, Trumbull, Wade, and Wilkinson—15.

The PRESIDING OFFICER. So the Senate decides to postpone all prior orders, with a view to take up the Indian appropriation bill, which is now before the Senate, as in Committee of the Whole.

The Senate, as in Committee of the Whole, accordingly proceeded to consider the bill (H. R. No. 215) making appropriation for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1854.

Mr. HUNTER. I will say, in regard to the body of the bill, that it is strictly according to estimate, and, for the most part, only to carry out treaties. The amendments are on the new estimates, which require explanation. If it be the pleasure of the Senate, I propose that the amendments of the Committee on Finance be read, and I will give explanations as they are read.

The PRESIDING OFFICER. By unanimous consent of the Senate, that course will be taken. The Chair does not hear the reading of the whole bill called for. The amendments of the Committee on Finance will be read.

The Secretary proceeded to read them. The first amendment of the committee was, in page 8, lines one hundred and eighty-two and one hundred and eighty-three, to insert "per third article of treaty of 23d February, 1855;" so that the clause will read:

For completing the planting and preparation for cultivation of two hundred and seventy-five acres for the Pillager and Lake Winnebago Indians of Wisconsin, per third article of treaty of 23d February, 1855, \$2,500.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in page 16, lines three hundred and seventy-nine and three hundred and eighty, to insert the words "balance of \$157,500," so that the clause would read:

Insert—For interest in land of investment on \$67,500, balance of \$157,500, in the 1st July, 1851, at 5 per centum, for redemption or other legal redemption, under the direction of the President, per second article treaty 19th October, 1838, and ninth article treaty 17th May, 1854, \$4,675.

Mr. HUNTER. It is a mere clerical amendment, to make it conform to the estimates in words.

The amendment was agreed to.

The next amendment of the Committee on Finance was, in page 20, line four hundred and sixty-three, to insert the word "article" after the word "third," so that it will read:

For permanent annuity to goods or otherwise, per third article and separate article to treaty 30th September, 1809, \$350.

The amendment was agreed to.

The next amendment of the committee was to insert, at the end of the bill:

For fulfilling the provisions of the treaty with the Creek

Indians of March 21, 1832, respecting the orphan children of the Creeks, and to be in lieu of the investment of the same sum required to be made by the sixth article of the treaty with the Creeks, the limitation of the 7th, 1854; the Creeks, by formal act of their council, having agreed to exchange funds with said orphans, the proceeds of whose sale under the treaty of 1852, were hereunto, without authority of law, invested and used as a general school fund among the Creeks; and the said council of the Creeks, in consideration of the said act of March 21st, having petitioned for such exchange and for the payment to said orphans of their dues, \$300,000.

Mr. HUNTER. The explanation to that is this: by the second article of the treaty of 1832, with the Creeks, twenty sections of land were to be selected, under the direction of the President, for the orphan children of the Creeks, and divided, or retained, or sold, for their benefit, as the President should direct. These sections were duly selected, and were afterwards sold; and the proceeds, and for a time the accruing interest, were invested in stocks of different States, which are now depreciated, but on which the interest is regularly paid. Since 1847, however, the annual interest on the amount so invested has been used and applied to school purposes among the Creeks. With a view of realizing this fund to the orphans who had retained their majority, and desired to have their money paid over to them, as has been uniformly done in other like cases, the Creeks, in the sixth article of the treaty of 1856, agreed to set apart the sum of \$200,000 of the money stipulated to be paid to them by this treaty, to be invested as a school fund; and in consideration of the present depreciation of the stocks in which the orphan money is invested, and the loss that will therefore be sustained by their sale, and for which the Government might hereafter be held liable, the Creek council, representing both the nation and the orphans, have agreed to petition for an exchange of the funds with the orphans, as the latter will yield annually a larger amount of interest. The amount, therefore, having been increased by the additional investment of interest, is \$206,742.

The fund acquired, by the treaty of 1856, to be invested for school purposes. The appropriation of this sum will not increase the amount needed for fulfilling treaty stipulations; as under the treaty of 1856 it is required to be appropriated for investment, which positive requirement of the treaty the Government has overlooked. It is now asked for by the Department; and the sum of \$10,000, with interest thereon, asked for in the annual estimates from the Indian Office for the fiscal year ending 30th June, 1851, and embraced in the present bill, will not be needed. The same amount, under the present fiscal year, which has not yet been remitted for payment, can also be saved, and retained in the Treasury; as the nation, in lieu of it, got the interest on the orphan fund. It is merely an exchange of funds. Instead of paying \$300,000 to the nation, to be invested for educational purposes, and selling the stock of the orphans, we give the nation the stock for educational purposes, and give the orphans the money. The amendment was agreed to.

The next amendment of the committee was to insert, at the end of the bill:

For payment of this amount to the Shawnees, due them under the provisions of the eleventh article of the treaty of 10th May, 1854, to be reimbursed to the United States, when collected from Agents Gay and Arnold, against whom suits are pending, \$2,574.44.

Mr. HUNTER. Two hundred and sixty-two dollars of this money, belonging to the Shawnees, was remitted to William Gay, the last agent, for payment; \$2,811 to his successor, A. Arnold, for the same purpose. Both failed to make full payment, and hence the application for means to pay them. The money was due them under the treaty stipulations. Both Gay and Arnold are deceased; suits are pending against their executors, and should these funds be recovered, they will be returned to the United States.

The amendment was agreed to.

The next amendment of the committee was to insert:

For clothes attending the vaccination of Indians for the years 1860 and 1861, \$5,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For purchasing land claims on the general reservation at Peget Sound, \$97,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For completing the building of the grist and saw mills a Leech Lake, for the Pillager and Lake Winnebago Indians of Wisconsin, for the under the third article of the treaty with the Chippewa Indians of 23d February, 1855, \$2,500.

The amendment was agreed to.

The next amendment of the committee was to insert:

For pay of an engineer for one year, \$600.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the purchase of seven hundred and ninety-four acre, nearly four hundred acres of land, owned by the Missionary Society of the Methodist Episcopal Church, at Lequesne Point, Michigan, for certain bands of Ottawas and Chippewas, at the annual Government price, \$902.44.

Mr. HUNTER. This appropriation is required to carry into effect the stipulations embraced in the eighth section of the first article of the treaty of July 31, 1855, with the Ottawas and Chippewas of Michigan.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the payment to Spink or Bull Frog, alias Joseph Benson, the amount of \$400 for his valuation on an improvement under the Executive treaty of 1855, in pursuance of the provisions of the twenty-fourth section of the act of March 3, 1855, making appropriations for the civil and diplomatic expenses of the Government, \$600.

The amendment was agreed to.

The next amendment of the committee was to strike out lines three hundred and fifty-seven to three hundred and sixty, inclusive, in the following words:

For five per centum interest on \$900,000, for purposes of education, per sixth article treaty 7th August, 1856, \$10,000.

Mr. HUNTER. That is to strike out \$10,000, which the Secretary stated would not be necessary, in the event we made the exchange of funds for the Creek nation.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the general incidental expenses of the Indian service in the Territory of Utah, presents of goods, agricultural implements, and other useful articles, including the traveling expenses of the superintendent, agents, clerk hire, and so forth, \$45,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For surveying and mapping four farms and reservations, \$1,200.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the general incidental expenses of the Indian service in Oregon and Washington, including the transportation of supplies, goods, and presents, where no special provision is made by treaty, and office and traveling expenses of the superintendent, agents, and sub-agents, for the year ending 30th June, 1851, \$25,000.

Mr. HUNTER. I will state, in relation to that, that the Secretary of the Interior largely reduced the estimate of the superintendent of Indian affairs in those Territories. He says this is as little he can get along with—less than was appropriated last year.

The amendment was agreed to.

The next amendment of the committee was to insert:

For defraying the expenses of the removal and subsistence of the Indians in Oregon to the reservation there, aiding them in procuring their own subsistence, purchase of provisions and presents, compensation of laborers and other employees, for the year ending 30th June, 1851, \$25,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the reservation there, aiding them in procuring their own subsistence, purchase of provisions and presents, and compensation of laborers and other employees, for the year ending 30th June, 1851, \$25,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For payment of improvements of the Indians west of the Cascade mountains, the Nez Percés, the Flatheads, the Yakamas, which may have to be abandoned in consequence of the discovery of gold in the same region, \$100,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For payment of improvements of the Indians west of the Cascade mountains, the Nez Percés, the Flatheads, the Yakamas, which may have to be abandoned in consequence of the discovery of gold in the same region, \$100,000.

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The amendment was agreed to.

THE CONGRESSIONAL GLOBE.

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quence of certain treaty stipulations with them, and for surveys of reservations to which they are to be removed, \$5,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For insurance, transportation, and the necessary expenses of delivery of annuities, goods, and provisions to Yakama, Flathead, and Nez Perce, for the year ending 30th June, 1860, per fourth article of treaty of 18th June, 1855, \$10,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the first five installments due and payable to the Yakama nation, for the year ending 30th June, 1860, per fourth article of treaty of 18th June, 1855, \$10,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the first five installments due and payable to the Nez Perce Indians, for the year ending 30th June, 1860, per fourth article of treaty of 18th June, 1855, \$10,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the pay of each of the head chiefs of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes, for the year ending 30th June, 1860, per fifth article of treaty of 16th July, 1855, \$1,000.

The amendment was agreed to.

The next amendment of the committee was to insert:

For the pay of each of the head chiefs of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes, for the year ending 30th June, 1860, per fifth article of treaty of 16th July, 1855, \$1,000.

The amendment was agreed to.

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The amendment was agreed to.

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The amendment was agreed to.

Mr. HUNTER. There is an important amendment of the Committee on Finance, which is not printed—it seems to be omitted by inadvertence—to provide for a second installment due under treaties with the Indians in Oregon and Washington Territories. I will prepare that while the chairman of the Committee on Indian Affairs is offering his amendments.

Mr. SEBASTIAN. Inasmuch as the chairman of the Committee on Finance has offered all the amendments which he is prepared to submit at this time, I move to postpone the further consideration of this bill until Thursday, with a view of preparing amendments and obtaining information from the office, which can probably be obtained by that time.

Mr. HUNTER. Does the Senator move to postpone it until one o'clock on Thursday, and make the special order for that time?

Mr. SEBASTIAN. Yes, sir.

The motion was agreed to.

BILL BROWN A LAW.

A message from the President of the United States, by Mr. BECHANAN, his Secretary, announced that the President had this day approved and signed an act (S. No. 247) for the relief of Mary E. Castor.

ROBERT H. MORRIS.

Mr. JOHNSON, of Tennessee. I move now to postpone all prior orders, and take up the homestead bill.

Mr. YULEE. Allow me, before that motion is voted upon, to ask the Senate to take up a bill which I have been requested to appeal to the Senate to dispose of. It is a House bill for the relief of the legal representatives of Robert H. Morris, of New York. It is a private bill, which will probably not be debated at all.

Mr. JOHNSON, of Tennessee. If it will take no time, I give way for that purpose.

Mr. YULEE. I move to take up the bill.

The motion was agreed to; and the Senat, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 242) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York.

Mr. JOHNSON, of Arkansas. I think there is a principle involved in this bill that I have heard denied very constantly by the Committee on the Post Office and Post Roads, unless I am mistaken. It reads:

That the Auditor of the Treasury for the Post Office Department be authorized and directed to readjust and settle the account of Robert H. Morris, late postmaster of the city of New York, from May 30, 1845, to June 30, 1846, and to allow in said account all sums of money paid out by said Morris for defraying the expenses of said office within said period, including the amount paid on account of the city dispatch office.

Of course it must embrace those expenses hitherto rejected for want of any law to authorize them. It goes on:

Provided, That, in the opinion of the Postmaster General, such expenses were properly incurred, and were necessary for the business of said office.

I know that there have been before this committee, in two instances, applications for relief from the post office for persons who have performed the postal service there, who stand in the same attitude. They only asked the privilege of being allowed to show that the service, over and above what were the terms, nature, and character of their contract, was performed, not only by the authority, but with the approval, of the Post Office agent. Not only was the service done with his authority, but they are able to show that it was necessary, and that the mails could not travel without it.

There is no authority of law to make any allowance. It is within the knowledge of all the people of the State that those parties did suffer. Their claim is rejected by the Post Office Committee, and has been so for three years. It will stand here. There is a bill lying on the table that I declined to have referred to the Committee on the Post Office and Post Roads, and asked that it might lie there, to see whether or not I could not get it up on its merits before the Senate. I do not see why fish should be made of one and flesh of another. I am tired of it; I do not think it is right; and I wish in appeal to the Senate against principles of that character. Now, if this proposition here to-day is right, very well; let the money be paid. But to what time does it run? From 1845? How many years, I ask the chairman, does this run, within which we are to settle accounts not authorized by law, and which now require a special order to allow the money to be paid? Will the gentleman state?

Mr. YULEE. When the gentleman is through, I will.

Mr. JOHNSON, of Arkansas. I ask him that question for information.

Mr. YULEE. The bill states that. This gentleman is not now in office. He died many years ago. This relates to the adjustment of his accounts in the Auditor's office.

Mr. JOHNSON, of Arkansas. Can the Senator tell me how far it goes back?

Mr. YULEE. I think these items probably occurred in the last year of the administration of his office.

Mr. JOHNSON, of Arkansas. Can the Senator tell me when that was?

Mr. YULEE. I cannot tell you precisely the year. I think he was the predecessor of Mr. Graham, and went into office in 1845.

Mr. LATHAM. He was in office from 1845 to 1849.

Mr. JOHNSON, of Arkansas. There are four years to go back to 1845, and yet service that is rendered under the Post Office Department can get no relief at all, and of the very same character in the classification it must necessarily be. I do not like this way of acting on these matters. If the principle is to reject those accounts which are not authorized by law, then make it uniform, and apply it to all; but such I have not found to

be the case. This bill, in addition to what I have already read, goes on to provide:

And in addition thereto, the said Auditor shall also allow for the same period such sum as would make the compensation of said Morris equal to the sum of \$3,000 per annum, as provided for by the act of 1845.

I do not understand that. If it was provided for by the act of 1845, why did he not get it? It must be there provided for in some other case by the act of 1845. It is to make a new law, and apply the act of 1845 to it now. That is the whole of this proposition. But further:

And that said several sums so found to be due, shall be paid to the executor or other legal representative of said Morris, out of any money appropriated for the Post Office Department.

Is there anything in regard to this case that sanctifies it as an appeal to justice, and an appeal to equity and right, above other cases of the character I have already stated, which would not justify allowing the discretion is the one case as well as the other in the Post Office Department to settle and pay such amounts of money as may be equitably found due? I know that in the instances of which I spoke, the accounts have been certified to not only by the agent of the Post Office Department on the ground, but by the Governor of the State, who is one of the same class of men with the Senators who are the chairman of the Committee on Finance here. [Mr. HERRICK.] who would resist almost everything—certainly everything that is not within the strictest and most rigid rule of law and economy. Those cases are certified to, and established by the strongest testimony I have ever known or read of, or at least equal to any that I have ever known in any case appealing to the justice of Congress for relief. That is the case in two instances; yet the application is not entertained by the committee. I know that those cases are among those that are appointed to be sacrificed. I shall not say that it is a case, or that the rule be applied to all alike. This bill directs the proper officers "to allow in said amount all sums of money paid out by said Morris for defraying the expenses of said office within said period"—about as you would find the amount paid on account of the city dispatch office.

We are to pass it without any further explanation. I do not think it proper.

Mr. YULEE. The Senator from Arkansas unites totally different cases—cases that belong to different classes. The claims to which he refers, when he speaks of bills from his State, the action of the committee upon which he complains of, are a class of cases in which it is proposed, against the will and against the decision of the Department, to pay for services that they never authorized, and that they are not entitled to receive when performed. This belongs to a different class. This bill relates to an adjustment—

Mr. JOHNSON, of Arkansas. The Senator, I presume, does not understand the cases. He says they are cases in which the Department did not believe the services were rendered, and the Senator must certainly know that they refused to pay anything more than the contract price; and the Senator and his committee decline to suffer the Department, that he says did not believe the services were necessary, to judge whether an allowance for them would be right and equitable and necessary, or not. That is all we ask. There is the bill on the table.

Mr. YULEE. The Senator is mistaken on that point, as the committee gave him a bill for that purpose at the last session in the very case to which he refers. They gave him a bill which would have enabled the Department to pay for what it considered necessary.

Mr. JOHNSON, of Arkansas. If the committee have established a precedent different from what the Senator says, I am not going to say so.

Mr. YULEE. Is not the Senator aware that we gave him such a bill at the last session? Mr. JOHNSON, of Arkansas. I was not aware that they went even to the extent of allowing it at the discretion of the Department, who the Senator says was against the case. That is all the parties ever asked.

Mr. YULEE. The rule on which the committee are acting, in the cases to which the Senator refers, is that they will not force on the Department payment for services which it has not authorized and which do not seem to have been necessarily called for by the public interest. Whenever it is prepared to say or to decide, either by recommending in advance to the committee, or in a bill which the committee may submit to its opinion, that the services, although not authorized, were beneficial to the public, and under the circumstances should be paid for, we are willing that they should be paid for; and upon that footing we are disposed to place the cases to which the Senator from Arkansas refers, and I thought he was satisfied with that view at the last session, which the committee authorized me to report.

Now, sir, in reference to this particular bill, it proposes simply, not the reversal of any decision, but the readjustment of an account upon a principle adopted afterwards by direction of an act of Congress in the case of the successor of this gentleman. The committee yielded to report favorably on the bill which came from the House, for the reason that the Auditor—the officer who is appointed to arrange and adjust the accounts of postmasters according to law—in a letter which he communicated to the committee of the House, regarded it as just, as being in conformity with the principles of settlement directed by an act of Congress for the relief of the successor of this gentleman, Mr. Graham. It is upon that ground that the committee recommend the favorable action of the Senate; because, in the opinion of the auditing officer of the Department, the readjustment of the account is due to justice. The bill comes, therefore, indorsed by the recommendation of the proper officer of the Department, and we give to them the opportunity to do justice according to their views of right—that is all. The letter of the Auditor is another matter, and we need not be troubled for the satisfaction of the Senate. It is not a direct recommendation, but, from its terms, carries with it what the committee considered to have been the indorsement of the auditing officer to the justice of the demand.

Mr. JOHNSON, of Arkansas. The Senator gives me information which I had not before, or if I had, I forgot it, because my action was based on the belief that I was right in the facts which I attempted to state. Now, sir, I am glad to hear the statement the Senator has made; but I should like to make a statement, and then I can find the bill alluded to by him, and look at it. I was of the impression that there was an idea, such as the Senator stated, as to the improper or inequitable character of the application made by the parties to whom I referred, which would perhaps preclude the possibility of any relief to them. As I know, from the manner in which the Senator speaks of those cases, that he has not looked at them with anything like the same view in which they struck me, knowing all the parties who testified as to their case, and the facts of their interest, I shall ask that I may be allowed time to examine as to the facts, and to examine this case also, and see as to the parallel between them. There is no special occasion for passing this bill to-day; and I will ask the privilege of the Senate following the recess, and then, before the adjournment, that I may have an opportunity to examine it.

Mr. YULEE. I will state that it was only at the very pressing and particular urgency of the member of the House representing the district in which this party lives, and on his representation that it was a matter of great consequence to a widow whose circumstances needed immediate relief, that I was induced to ask the presentation of the Senate upon this bill, taking it up out of its order on the Calendar.

Mr. JOHNSON, of Arkansas. I ask that it may lie over until another day. I should like to examine it for that reason.

The PRESIDING OFFICER. This bill was interposed pending another motion, by common consent; and if it be the sense of the Senate, it will be passed over.

The bill was laid aside.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had ordered this day the printing of the following documents:

Message of the President of the United States, in answer to a resolution of the House calling for information in relation to the difficulties on the southwestern frontier—ordered at twelve o'clock and fifty-four minutes, p. m.

Message of the President of the United States, in answer to a resolution of the House calling for information in reference to the imprisonment of an American citizen in the Island of Cuba—ordered at twelve o'clock and fifty-five minutes, p. m.

Letter from the Secretary of War, in answer to a resolution of the House calling for Lieutenant Colonel Roberts's report on the subject of a general reorganization of the militia of the United States—ordered at twelve o'clock and fifty-five minutes, p. m.

HOUSTON BILL.

The PRESIDING OFFICER. Now the question pending before the Senate is the motion of the Senator from Tennessee, to postpone the prior orders, with a view to take up the homestead bill.

Mr. GWIN. I hope the Senator will not press that bill now. There was a bill in progress at the expiration of the morning hour which can be disposed of in a few minutes. If there is any objection to it, I will not urge it; but we progressed in that case and were reading the report, and I think we had better get clear of it.

Mr. JOHNSON, of Tennessee. I suggest to the Senator from California that it was very clearly indicated that that bill could not be disposed of in a few minutes.

The PRESIDING OFFICER. The motion of the Senator from California has been ordered unless the Senator from Tennessee yields. The question is on the motion of the Senator from Tennessee, to postpone the prior orders with a view to take up the homestead bill.

Mr. DOOLITTLE. That motion, as I understand it, includes both the Senate bill and the bill from the House of Representatives; so that the whole subject comes up.

Mr. JOHNSON, of Tennessee. The Senate bill is the one that was under consideration before. I move that we proceed to the consideration of the bill from the House of Representatives before the Senate as the unfinished business.

Mr. DOOLITTLE. I inquire of the Chair whether that motion will bring up for consideration both the Senate bill and the House bill.

The PRESIDING OFFICER. The Chair is not sure of the particulars of the question; as this question was postponed; but the motion of the Senator from Tennessee will bring up the bill that was left unfinished on this subject, and that the Chair is informed was the Senate bill; but the House bill had been moved as an amendment, or the Senate informed that it would be moved as an amendment, to the Senate bill. The Senate bill being before the Senate, on the motion of the Senator from Tennessee, it will be in order to move the House bill as an amendment to it, if it has not been previously disposed of. The question is on the motion of the Senator from Tennessee to take up that bill.

The motion was agreed to.

Mr. WADE. I suppose the question is on the report of the committee who reported these bills—the Committee on Public Lands, who reported back the Senate bill, substituting it for the House bill, I believe. I have never been able to learn what that committee did; because, whenever it is up, there is a question about what was done and what the report was, and I should like to hear it read. I heard the Journal read, which states that such is the condition of things.

Mr. BINGHAM. I understood the Committee on Public Lands to report back the House bill that was referred to them, with an amendment; the amendment substituting the Senate bill for the House bill.

The PRESIDING OFFICER. The Chairman be governed only by the record kept by the Secretary. The Chair understands that the committee has reported back both bills—the Senate bill and the House bill; that the Senate bill was the bill under consideration when the subject of the homestead was last before the Senate, and to which the Senator from North Carolina [Mr. CLINGMAN] had moved an amendment, which was the pending question.

Mr. WADE. Is it in order now to move to substitute the House bill for the Senate bill?

The PRESIDING OFFICER. It is in order at any time to move to strike out the whole or any portion of any bill, and to insert any other matter; but before the question is taken on that motion, which is in fact a substitution of one bill for another, both propositions are open for amendment, for perfecting the bill.

Mr. WADE. I make the motion to strike out all after the enacting clause of the Senate bill, and substitute the House bill, which I send up to the desk.

Mr. CLAY. Permit me to ask whether, if the motion prevails, the substitute will then be the subject of amendment in like manner? I presume it will; but I ask for information, because I propose to offer some amendments.

The PRESIDING OFFICER. Both the original bill, which is in order, to be stricken out, and the substitute—or, in other words, the matter proposed to be inserted—are open to amendment before the question of substitution is taken.

Mr. CLAY. But if that motion prevail and the substitute be adopted, I ask whether it would then be open to amendment?

The PRESIDING OFFICER. If the matter proposed to be inserted be adopted, it will not be open to further amendment. Whatever modifications or amendments may be made, must be made before the question of substitution is taken.

Mr. CLINGMAN. To avoid a difficult question of that kind, I should like to offer the same amendment to the substitute which I offered to the Senate bill.

The PRESIDING OFFICER. It will be in order to offer the same amendment to the original bill and the substitute.

Mr. CLINGMAN. If no one is entitled to the floor, I desire to make that motion. I was of the impression that the Senator from Ohio had not surrendered the floor; and I intended, in that event, to ask for the amendment.

The PRESIDING OFFICER. Before debate is in order, the matter proposed to be inserted by the Senator from Ohio must be read, unless the reading be dispensed with by common consent.

Mr. CLINGMAN. I hope it will be dispensed with, and I am sure my amendment will be the substitute. I will see at what time of the substitute, as soon as I can get it, it ought to come in properly.

Mr. DOOLITTLE. If I understand the position of this question, it is this: The Senate bill is before the Senate, and the Senator from Ohio has moved an amendment; and now I understand the Senator from Ohio to move an amendment to his amendment, which is, to strike out the whole—

The PRESIDING OFFICER. The Senator from Wisconsin misapprehended the position of the question.

Mr. DOOLITTLE. The pending question to the bill was the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. It was. Now, the Senator from Ohio moves to strike out the whole of the original bill after the enacting clause, and insert another bill.

Mr. DOOLITTLE. I understand it to be in order to move an amendment to an amendment.

The PRESIDING OFFICER. I understand that to the point whether it was in order to move to strike out the whole of an amendment after certain words, or after the enacting clause, and insert another proposition, and substitute that in place of the original bill; and it was decided that such a motion was in order. I understand that to be the effect of the amendment of the Senator from Ohio—it is a substitute for the amendment, and then to substitute that for the original bill.

The PRESIDING OFFICER. The Senate bill was before the Senate and under consideration, to which the Senator from North Carolina moved an amendment, not in the form of a substitute for the whole bill, but a modification of the pending bill. This morning, the Senator from Ohio moves to strike out the whole of the original bill, and to insert, in substance, another and a different bill, which is in order. It is not a substitute for the pending amendment moved by the Senator from North Carolina, but a substitute for the whole bill. That is in order. Now, both bills are open to amendment. The question, in the judgment of the Chair, is a very plain and simple one.

Mr. SIMMONS. I should like to inquire if it were not in order, as the Senator from Ohio withdraws his proposition, for me now to move that this bill be laid aside, with a view of taking up the House bill? That would carry this bill and amendment, and we could take up the one that we want to set on. Yes; that is it. I am not that motion, if it is in order, that the Senate bill be laid aside, together with the amendment, in order to take up the House bill.

Mr. CLINGMAN. I inquire whether my motion has not been entertained, and will not be pending, so as to take precedence.

Mr. SIMMONS. You can move to amend the House bill just as well as this, after we take it up.

The PRESIDING OFFICER. The proposition of the Senator from Ohio is not yet fully before the Senate. The first business in order is the reading of the matter proposed to be inserted, unless dispensed with by unanimous consent.

Mr. CLAY. I must ask that the bill be read; because it has never been printed by the Senate, and I have never seen it. I want to learn what it is.

The PRESIDING OFFICER. The matter proposed to be inserted by the Senator from Ohio, in place of the original bill, will be read.

Mr. SLIDELL. That bill is long, and its reading will occupy some time. I suggest to the Senator from North Carolina whether the proposition made by the Senator from Rhode Island is not the better course, to avoid any difficulty on this subject. If the House bill be taken up, then the Senator can offer his amendment. I think that will simplify the matter.

The PRESIDING OFFICER. The Chair will suggest that it will be a more simple process, if a majority so will it, to lay aside the Senate bill and take up the House bill for consideration, which will be open to any modification or amendment.

Mr. PUGH. That is a proposition on which I desire to say a few words strictly within the rules. I prefer the Senate bill to the House bill, and at a proper time I shall give the Senate the reasons why I prefer it. But even if the motion of the colleague should be carried, the House bill for the Senate bill, that would yet be the Senate bill, and would have to go to the House; whereas if we take up the bill passed by the House and consider it—either pass it with or without amendments, then we obtain some decisive action. As it is, I see no advantage in proceeding, day after day, to debate the Senate bill, and send that to the House, when the House has sent us a bill. It seems to me that our debates tend to no conclusion. Therefore, I think the motion of the Senator from Rhode Island is a motion based on common sense. We have a bill from the House embracing the subject-matter. Let us lay aside the Senate bill, and take up the House bill and proceed to its consideration. If the Senator from North Carolina wishes to move any amendment that he is in favor of, let the other Senator wants to offer an amendment, let him move it. But why, after we debate the Senate bill to our hearts' content, and put it on its passage, should we then take up the House bill, and debate that again? It seems to me that the Senate ought to come to some conclusion. Therefore, I hope the motion will be stated and carried, to postpone the consideration of this bill and all prior orders, in order to take up the House bill; and if that be done, I design at some time—I am not prepared to-day—to speak to the question.

Mr. WADE. I have been endeavoring ever since this matter was taken up, to simplify it, by getting at the House bill. When, on the other occasion, it was taken up, I moved to postpone all other orders and take up the House bill.

Mr. PUGH. I am sorry, but the motion seems to have been withdrawn.

Mr. WADE. It met with so many difficulties that I was compelled to withdraw it. It was thought, perhaps, that, complicated as it was, the better way was to try the question as it was presented, and to try to substitute the House bill for the Senate bill, for I had not the power to cast out the Senate bill. Now, if we can do it by common consent, and without debating this question of order eternally, I am willing and anxious to get hold of the House bill. That is altogether the simplest and best way to consider the

subject. I hope it will be done by common consent, that we shall take up the House bill; that that shall be the bill before us, and then the Senate bill may be moved as a substitute for it by those who wish it, or any amendment may be offered. I consent to that.

The PRESIDING OFFICER. The Senator from Ohio withdraws his motion to amend the Senate bill by substituting the House bill, and follows it with a motion to lay the Senate bill on the table for the time being, with a view to take up the House bill. Will he reach the object indicated by his motion at this way?

Mr. WADE. I make that motion.

Mr. JOHNSON, of Tennessee. One single word. It is not very material to me which of the bills is considered first; but perhaps a word of explanation here will be well enough. When the House bill was reported back from the Committee on Public Lands, the Senate bill was under consideration as a special order. Consequently the House bill took its place on the table, and the bill and amendment were ordered to be printed. The Senate bill was considered and left as unfinished business before the Senate. The House bill was taken up before, and, as a matter of course, came up to-day when my motion prevailed. Before the Senator from Ohio withdrew his amendment, the Senate bill was before the Senate, with the House bill offered as an amendment in lieu of it. If we postpone the Senate bill now, all the result will be that the House bill will be before the Senate, and the Senate bill will be offered in lieu of it, as an amendment. So far as I am concerned, it is not material to me. If it meets the approbation of the Senate, I have no objection.

The PRESIDING OFFICER. The Senator from Ohio moves that the Senate bill be postponed, with a view to take up the House bill. That is the simple question before the Senate.

There is no practical importance in this question either way. If the House bill be up, the Senate bill can be moved as an amendment to it. If the Senate bill be up, the House bill can be moved as an amendment, and therefore it is about as broad as it is long. I see no objection to this motion.

Mr. WADE. There is this difference, and the only difference I can see: if we take up the House bill and pass it, it will not have to go back to the House. If we pass the Senate bill, it has to go back to the House as a new proposition. That is the difference.

Mr. GREEN. That does not touch the point I was pressing before the Senate. It is this: that we want to get the sense of the Senate on the passage of a bill on this subject. If we postpone the Senate bill, the House bill is not before the Senate, but the next order standing on the Calendar will come up for consideration; and then it will require another vote to lay aside that order, and all other orders of the Senate, before you can bring up the House bill, unless a majority of the Senate be in favor of it. If we take up the Senate bill now before the Senate, I would prefer that gentlemen move the other as an amendment if they think it the best bill, and then take the choice of the Senate between the two; for we come to that point. It is known to all Senators, that the House bill comes up, if a majority of the Senate be in favor of it, if a majority of the Senate be in favor of it, they will put the Senate bill upon it as an amendment, and it must go back to the House. Thus, this controversy amounts to nothing. We are playing battle-door. It amounts to nothing. We can strike the ball either way; but the result is the same.

Mr. TRUMBULL. I am a little surprised that the Senator from Missouri does not see the point which was made so clearly by the Senator from Ohio. A bill has passed the Senate. It is unknown to the House, and it strikes out the Senate bill, or whether it will prefer its own. Suppose it agree to the House bill: it is a law, and there is an end of it. If we take up the House bill, and pass it, that is an end of it. But suppose we keep at work on the Senate bill, and the Senate prefers the House bill, and strikes out the Senate bill, and substitutes the House bill for it: it is not a law; it has got to go back to the other House.

Mr. GREEN. It is not in either case a law until the President approves it.

Mr. TRUMBULL. I am talking about it so far as Congress is concerned. Does the Senator

mean to intimate that the President is not going to approve of the homestead bill? If he makes a point upon that, that will be another matter; but so far as Congress is concerned, it will become a law, if we concur in the bill the House has passed, as a bill from the House; but if we substitute the bill the House has passed, in lieu of the Senate bill pending before the House, we have not enacted any law; but it has then got to go back to the House, and be re-passed there. Now, it does seem to me to be a very awkward way of doing business.

Mr. GREEN. I think it very palpable that if both Houses concur in a bill, it is no law, not even so far as the two Houses are concerned. It is a manoeuvre to denigrate the concurrence of the two Houses as a law. It is the asset of the two Houses to a proposition—that is all; and to call it a law, to say it is a law qualifiedly, or a law so far as the two Houses are concerned, is not speaking in constitutional language.

Again, if we choose to approve the House bill as an amendment to the Senate bill, it results inevitably, by amending their own bill, that it goes back to them. As a matter of course, it is inevitable. Hence, the question is not, but it is a question whether we take up the one or the other.

We are wasting time to consider the question. I am perfectly willing to take up the House bill. I am perfectly willing to take up the Senate bill. It is a mere matter of propriety; a matter which will result in no good or harm, but it is a question whether we take up the one or the other.

Mr. PUGH. If the question is to be taken without further debate or opposition, by general consent, I will not say anything further; but if it is to be debated, I shall have something further to say.

Mr. JOHNSON, of Arkansas. The Committee on Public Lands had both bills before them. The committee found about five or six points of difference between the two bills. Those points were presented to, and considered at some length by, the committee. The House bill was framed in accordance with the sentiment which is to be found in the Senate, the presumption is that the Senate bill much more truly reflects that which will obtain the sanction of the Senate, than the bill of the House does. Under these circumstances, I certainly have no objection to postponing the House bill.

We shall take up the Senate bill which is already framed. As I understand it, that bill is now before the Senate, and the motion is to postpone it. If we postpone the Senate bill, then, if the committee have reported in accordance with the sentiment of the Senate, still the House bill will have to be remodelled in many points. It will be a labor of no little difficulty. The committee themselves, in recommending and urging the Senate bill, which reflected their belief and opinions in regard to it, know that it will take some time to convert the House bill into the Senate bill; whereas, if we take the Senate bill as it is, we can consider it; the points of difference can be presented, and, if the Senate chooses, the House bill can be inserted as a substitute; but I believe, from what I have seen, that the Senate bill will prevail here much more strongly than the House bill can.

Mr. GREEN. Allow me to inquire whether the bill, as it was originally passed by the House, is now before the Senate in any shape, upon the table, or otherwise?

Mr. PUGH. It is on the Calendar.

Mr. GREEN. Has it not been referred to the committee?

Mr. JOHNSON, of Arkansas. It was referred, and directed to be reported back by the Senator from Tennessee, and I suppose has been.

Mr. GREEN. Without amendment?

Mr. TRUMBULL. With an amendment.

Mr. GREEN. Is it proposed to take it up with the amendment?

Mr. TRUMBULL. Yes.

Mr. JOHNSON, of Arkansas. There were no amendments reported to the House bill.

Mr. COLLAMER. The Senator is mistaken. The committee reported the Senate bill as a substitute for the House bill, and it is now presented with the bill.

Mr. JOHNSON, of Arkansas. That is the present condition of it. It is unnecessary, then, to call the attention of the Senate to the difference of the points which are to be found in the two bills.

Mr. CLINGMAN. As I am against both bills, I have no preference between them in themselves;

Government traffic and speculates in the public lands, and why should not the people?

In view of these facts, I have looked anxiously for a change in some shape; and it is with peculiar gratification that I see the change proposed in the shape of a homestead bill.

The original bill, as reported to the Senate from the House of Representatives, would receive my hearty concurrence. But it seems to have been met by a strong opposition in this body. Our Committee on Public Lands reported in a similar manner, and in essence it has now been compressed into the form of a Senate bill, introduced by the Senator from Tennessee [Mr. JONES]. This bill, while it recognizes the justice of the general principle, appears to me to lack the force and vitality of a practical measure.

This I say with all deference to the gentlemen who have drawn up that proposition in its present form. They have acted upon their own convictions of propriety, and it may be of expediency; but I must repeat that, in my judgment at least, the Senate bill does not reach the real merits of the case; that it does not cover the whole ground, and that it is loaded down with provisions and restrictions which will seriously tend to destroy its efficiency and usefulness before the country.

Some of its restrictions are dilatory, when liberality should be the distinguishing characteristic of such a bill. Some of its provisions would seek to create a distinction between persons and classes; when the real purpose of such a bill should be, to furnish homes for all of our citizens, present and prospective, who are willing to settle upon the public domain. These objections seem to me so obvious, that I am extremely desirous that the Senate should agree to the House bill, or to such amendments as would bring us back to that original proposition. At all events, a full and friendly discussion should be had upon the merits of the whole subject.

I am told that the framers of the Senate bill anticipated serious difficulties; that they judged it necessary to attempt a kind of compromise between the friends and the opponents of the measure; and that they were compelled to draw their proposition in this manner, so as to render it acceptable to all parties. I must confess, that I, for one, did not expect any considerable resistance to be made. The measure of granting free homesteads to actual settlers upon the public lands, I embrace a policy as wise, as just, as I can imagine, that I am at a loss to conceive why it should be steadily and persistently opposed by any leading member of any party. Least of all did I suppose that its defeat would be attempted by a resort to parliamentary tergiversation.

My surprise, therefore, was natural and great, when the Senator from North Carolina [Mr. CURRIE] the other day offered the following amendment:

"Strike out, in the first section, the words 'to enter one quarter of an acre of great and small tracts of land, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivision of the public lands, and after the same shall have been surveyed, and ascertained to lie free, to have issued to him or her, by the Commissioner of Public Lands, a warrant for one hundred and twenty acres of land to be located in the same manner, and that under which the bounty land warrants heretofore issued have been located, on any of the public lands of the United States subject to entry, the applicant is required to make proof, to support of his claim, to such manner and under such regulations as may be prescribed by the Secretary of the Interior; so as to make the section read, 'That any person who is the head of a family, and a citizen of the United States, shall, from and after the passage of this act, be entitled to have issued to him or her, by the Commissioner of Public Lands, a warrant,' &c."

In his speech in defense of this amendment the Senator told us frankly that he was opposed to the whole scheme of giving away the public lands. He could not have said more so, and he showed the strength of his opposition. His amendment is impracticable upon its face; and its only effect would be to defeat and destroy all chances of an operative homestead bill.

The Senator went on to say, that he regarded the measure of granting homes to the actual settlers upon the public lands in precisely the same light with a donation of money from the Federal Treasury. Having assumed this position, he endeavored to deduce that we would commit an act of injustice in limiting the benefit of this grant to those who reside upon the lands; or, in other words, in requiring actual settlement and occupancy as the necessary conditions upon which the grant shall be made.

Thus, he reasoned that the rights of many citizens would be impaired, because many citizens might not choose to avail themselves of a general privilege, common to all. Sir, if the Senator is sincere in his position, if he has really said and his words are his intentions, if he can in this manner do nothing higher or greater than to mislead the minds of money from the Federal Treasury; if he considers a just and meritorious and expeditious movement as a simple expression of charity; if he is so much in the wrong, as to regard the matter as near and narrow prospect; then, sir, I must say that he does not fully understand the principles involved; then, sir, I must believe that he does not altogether comprehend the magnitude of the question; then, sir, I must say, that he does not properly appreciate either the causes or the effects of our proposed policy.

I cannot reply better to the Senator from North Carolina than by quoting from a speech delivered in this body on the 18th of July, 1854, by Hon. LEWIS CASS, then a Senator from Michigan. A somewhat proposition was before the Senate, and was being discussed, and a Senator from Louisiana [Mr. BENJAMIN], still a member of this body, urged very nearly the same objection which has now been presented by the Senator from North Carolina. In reply to it, Mr. Cass said, "I read from the Appendix to the Congressional Globe, Thirty-Third Congress, first session, page 1088:

"The Senator from Louisiana seems to consider this project of granting lands to actual settlers as very unequal and unjust, and that the range of vision is confined to the objection, whatever force it possesses, is just as applicable to all preceding grants to actual settlers as to the proposed one, and, consequently, condemns the separate action upon this subject since the foundation of the Government. But why is it unjust? I confess I listened to the assertion with much surprise. It is unjust because it will not take advantage of it. This, to me, is a strange objection. If a system of policy is honest, just, and equal in itself, and if it is worthy to be adopted, though all may not be willing to accept the advantages it offers. What constitutes the justice of such a measure is its perfect equality; and, consequently, it will not affect one man more than another so well situated in life that they do not need the benefit it holds out. This bill offers grants of land to every man who is willing to settle upon the public lands. It is a man in one of the old States a right to say, I am rich; I do not intend to emigrate, and, therefore, you shall not put me to the test; I will make provision for myself, which is of no use to me. There is neither reason nor constitutional principle in such an objection."

Such was the opinion of LEWIS CASS; and the Senator from North Carolina is not alone in this. His objection is not only ancient and stale, but that it comes to us with the weight of a triumphant refutation upon its head. I repudiate entirely the untenable idea that the grant proposed would be in any sense a charity. Men in power are very fond of telling us that the Government is intended to be a mere charitable institution. "Will they get go a little further, and admit that it is not intended to be a monopolist and a speculator?"

The proposed measure embodies a manifestation of national justice, of national right, and of national wisdom. It is the duty of the Government so to dispose of the public lands—the property of the whole country—as to promote the undoubted interests of the whole country.

Here we have the solution of the problem; and the Senator from North Carolina is left in possession of charity. In my opinion, this Government should acknowledge, formally and officially, the distinct natural truth, that the wild, uncultivated lands of the nation belong, and of right ought to belong, to him who resides upon them, and subdues them, and cultivates them. It is but common principle in equity to which we are giving expression.

The adoption of a wise and liberal homestead bill by Congress would be a virtual abolition of all landed monopoly within the United States, whether land be monopolized by the Government, or by itself, or by any of its citizens. I need scarcely remind the Senate that the monopoly of land by the few as against the many, and the parceling out of public domain in immense tracts among venal capitalists, has been, all over this country, one of the powerful auxiliaries of absolute and despotic power. Thus the monarchies and aristocracies of all ages have been enabled to hold the masses subject to their will; thus millions of the human family have been reduced to penury and degradation, and their rights and their property have been taken from their substance from the common earth, which was intended alike for the rich and for the poor. Ireland, with her great mass of population, having scarcely the means of life, and depending for daily

bread upon squelch and haughty aristocracy—Ireland, the masses of whose people are not masters of ground enough to stand upon—has been frequently cited as an instance of that cruel injustice which most always results from great landed monopolies. Out of her six million inhabitants, not more than one in every six thousand is the owner of even an inch of land, or has any legal right to earn his subsistence from the soil. Here I point to a most indispensable record.

Our present mode of disposing of our lands has a tendency to increase the spirit of monopoly and speculation, by putting up large tracts of land at public auction, and inviting the capitalist to purchase as much of the national domain as he may desire. This practice, if tolerated, may yet become a fruitful source of injury and oppression even in our own free and enlightened country. Even now, with all our vast expanse of territory, labor is outweighed by capital, and the rights of the settler are but slightly regarded when brought into comparison with the money of the speculator. Thus far, the course of the Government has been in a wrong direction, and the sooner it is changed the better. For my part, I am clearly of the conviction that it should adopt a policy far older than the nation itself, and decree that "the land shall be sold on new terms for the benefit of the Government, in its humanity and in its wisdom, to ordain that 'the people go and inherit the land,' and that the public domain should be granted in limited quantities, to every man who is anxious to earn an honorable living by the cultivation of the soil, and who is willing to make a permanent abode, and address itself to the laboring masses of the country; to those who are so often crushed down by the cruel and unequal conflict between capital and labor; to the poor man, who earns his bread from day to day by the sweat of his brow; to him who wishes to leave a home to his children, which fall from the rich man's table to those, I repeat, I would have this proposition addressed.

I would have the Government say to these persons, 'there is yet a vast unsettled domain for your occupancy; make it, then, your duty, to cultivate it, and shall be yours forever.' "And when," as was said by a distinguished member of the House of Representatives a few years ago, "the poor man is put in possession of his portion of this vast domain, and is secured by the strong arm of the law, that he shall never be driven from a home from which not he nor his wife nor his children can be driven, then is he raised above poverty, not only in his possession of the land, but still more by the virtues which he cultivates in his heart which till the soil. Then, too, he no longer ministers to the consumption of wealth by others, as he did when advantage was taken of his homeless condition, and he was compelled to serve for what he could get."

Sir, my objections were against the Senate bill, as supposed, from the course which has been heretofore taken, and from the course which the Government had intended to offer some amendments, for the purpose of removing its objectionable features. In the first place, the Senate bill excludes from the benefit of its provisions all young, unmarried men; it is a provision for the benefit of the old. I do not understand why a bill of this description should be less broad in its application than the present preemption laws. I do not recognize the propriety of abolishing one evil for the mere purpose of substituting another. I certainly regard it as a very unwise, and I might say, unjust, to exclude all unmarried men from the benefits of such a bill. As the Senate bill now stands, they are entirely cut off from all its advantages. The effect of this provision, taken in connection with the clause limiting the operations of the bill to lands subject to entry, would be to exclude almost entirely the early settlers; those who go first into the unpopulated West, and receive its benefits in store for the multitudes that may flock in after the toils and dangers and inconveniences of pioneer life have passed away. Such a restriction would be meted by the most despotic and proprietary and manifest unfairness; and I was surprised to hear the Senator from Ohio, [Mr. PRENTISS], a western man, advocate the Senate bill for this very reason.

He says the emigrate in youth to the western country, to build up for themselves a fortune and a reputation, are the men of all others to whom the most liberal provisions of this act should apply. We need their services. They are, in plain fact,

the vanguard of civilization upon this continent. They penetrate the wild solitudes far beyond the safety and comforts of society. They traverse and explore regions in which, for the time being, families could not reside securely. They pitch their tents, build their houses, break up and improve the soil, and open the broad areas to occupancy and culture. They furnish a more sure and perfect protection to our western frontier than can be given by any of the armed soldiers along the border-line. Coming mostly from the different States of the Union, they bring with them a deep and permanent attachment to the institutions of our country; and, as settlements advance, they organize municipal governments, and lay the foundation of future States. Such are the fruits of their labors and dangers—such are some of their achievements. Why, then, in the name of fairness and of common sense, should this class of active and energetic young men be entirely ignored and cast aside by the Senate bill?

Law, in order to be just, must be equal in their application; and I regard the Senate bill, in the provision of which I speak, as partial, unequal, and unjust.

It may be that the authors of the bill intended that this exclusion of young men without families from the benefits to be conferred should of itself operate as an active encouragement to matrimony among our people. I have no doubt that they agree with me in believing early marriages to be productive of great moral good in a community; but I maintain that the bill, by their prescriptive policy fails of its object, and does not furnish the proper encouragement. If the restrictive clause were to apply only to the sons and daughters of those early pioneers who emigrated many years ago to the frontier, and who have grown, with growing States, into farmers and wealth; if it were to apply only to those children who have inherited from their parents both the spirit of adventure and the frame to sustain hardships—if these were the only persons to be affected, this clause would not be so entirely objectionable. But not only women, but children of the same privations. While the forest is yet to be felled, and the humble cabin is yet to be erected, the great majority of the women of our country are too frail to join in the struggles and hardships of the early settler. Sir, this is the class beyond an immediate benefit. If properly drafted, it will be for the interest of the masses; it will be for the interest of society at large, and of that high morality upon which all society ought to rest. It will advance the cause of suffering humanity everywhere. These are the ends which the guardians of the nation's weal should seek in discharging the high trust reposed in them. Pass through our great cities. See the boys of all ages who swarm around the streets—many of them willing and anxious to labor, but finding nothing for their hands to do. See States exposed to temptations of every kind; day after day looking upon the equipages of wealth with the hungry and cannibal eye of poverty. Who does not wish that these boys might be rescued from the constant strife between vice and virtue, in which vice so often obtains the victory? These are the ends which there is labor for them. Let them be told that they can go to the fertile lands of the West, and conquer a possession from the wilderness by the force of their own exertions.

We shall have less need for the erection of prisons; we have less occasion for the maintenance of houses of refuge. And when the ambition of the settler has been attained; when his task has been accomplished; when the cabin has been built; when the rich earth has begun to yield her abundant fruits; then the young and energetic man, legislating legislation to drive him into matrimony. He will feel for himself the necessity of a partner and a helpmeet in his free home, won by his own toil. Nature legislates in these cases better than man. Rely upon it, sir, that we shall wisely in extending the benefits of the bill to all men.

Now, sir, I come to another objection against the Senate bill. It will operate unjustly as to our foreign population. In this particular it falls far short of the liberality of the preemption law to themselves. On this account, too, I was surprised that the Senator from Ohio should announce that he favored the Senate bill.

Mr. PUGH. The Senator is mistaken. That is a point which I have suggested to the Senator from Tennessee; that the Senate bill escaped my

attention. I wish so amend it in that; but if it will not interrupt the Senator, I will make a suggestion on the point he has just left. The object of confining the Senate bill to heads of families is to prevent fraud, with which the Senator must certainly be familiar under the operations of the preemption act. The Senate bill does not affect the operation of the preemption act, or graduation act, or the special law for Kansas and Nebraska, which confers the Senate bill to heads of families in to prevent fraud, with which the Senator must certainly be familiar under the operations of the preemption law, and they are not even called upon to pay for it until proclamation and public sale is made at the interval of five or six years. Therefore, the effect of the Senate bill is simply to make, not an exclusion, but a distinction between the head of a family and an unmarried man, and precisely that distinction exists in every donation law we have ever adopted—in the Oregon act, the New Mexico act, and the Florida act. The Senate committee have not departed from the principles heretofore adopted.

Mr. WILKINSON. I would say to the Senator that the provision for which I contend is precisely the same as that adopted by the policy of the preemption law. That law extends its privileges to those who are single, present or prospective, married or unmarried; who may be over twenty-one years of age. I do not wish this measure to fall short of the liberality of that law.

Mr. PUGH. I know that; but the preemption law is the law of payment, and that is the reason for it.

Mr. WILKINSON. I do not know that I exactly understand the meaning of the Senator. If he means only that this restriction would have the effect of preventing frauds, I can readily answer him. So far as my experience has gone, young and unmarried men have been found no more efficient in robbing the Government of its lands by fraud than some older men and heads of families. My impression is that their honesty is quite equal to the average honesty of the old men. Perhaps they are more likely to live long enough to become so hardened in iniquity as to enable them to take a preemption oath without foundation for it. Their elders sometimes set the example.

Mr. PUGH. This is the idea: the head of a family who has, or may have his family with him, is to be preferred—I will not say to be preferred—make a bona fide settlement and go upon the land; but in the case of young men, who have no fixed residence, a majority of their settlements in-day, under the preemption law, are colorable. It is an admitted fact that a majority of them are colorable. They merely use the lands to sell them again, and that is the way they get into the hands of speculators. They do not get it at public sale, but get it by colorable pretexts.

Mr. WILKINSON. The Senator strengthens my position. My argument is that the present practice encourages a violation of the law. His objection, I repeat, would apply equally to any married men who might choose to avail themselves of a looseness in the law.

Mr. PUGH. No doubt, in some cases. But I am not arguing that the bill is not yet seen to appreciate the full force of the idea. In advance of settlements, men cannot take their families into the wilderness. They could not endure the necessary hardships. By offering inducements to young men, we shall secure the opening up of the wilderness, the building of cabins, and the planting of first crops. As settlements increase, the facilities for obtaining wives will increase with them.

But to resume. I have said that I object to the Senate bill, because it operates unjustly in regard to our foreign population.

The Senator from Tennessee, [Mr. NICHOLSON], in his recent speech in support of that bill, used the following language:

"The bill passed by the Senate committee, and now before the House, is a bill to amend the provisions, and to that I shall concur my remarks."

"It provides that any person who is the head of a family and who has been in the United States, and whose intention to become a citizen in pursuance of our naturalization laws, shall have the right to enter one quarter section of land, to be designated by the Government, and in exercising this right, such person is to be restricted to those lands that have been surveyed, proclaimed, and offered for sale, and are consequently subject to private entry under existing laws."

With all respect for the Senator, I must go to correct the error in this statement of fact. The

bill does not declare that any person "who shall have filed his intention to become a citizen, in pursuance of our naturalization laws," shall have the right to enter lands under its provisions. And here, too, my complaint; here I find another act of palpable injustice. The first section of the Senate bill is as follows:

"That any person who is the head of a family, and a citizen of the United States, and who has filed his intention to become a citizen, in pursuance of this act, be entitled to enter one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be designated by the Government, and in exercising this right, such person is to be restricted to those divisions of the public lands, and after the same shall have been surveyed."

This section distinctly and expressly limits the application of the bill to the citizens of the United States. It would entirely exclude all other persons who may emigrate to this country from a foreign land after the passage of the bill, until they shall have resided in the United States for five years, and until they shall have become citizens thereof.

Mr. WIGFALL. I ask the Senator, in a word, does he propose to give away the public lands to persons who are not citizens of the United States?

Mr. WILKINSON. I propose to make the bill precisely as broad as the preemption act now is; to give to all persons the same advantages, and may declare their intention to become citizens of the United States. I wish to do nothing more; I believe that it would be unjust to do anything less. Twenty years ago Congress, in the passage of its preemption act, adopted the measure of placing aliens on the same footing as citizens, and encouraging them to become citizens of the United States on an equality (so far as the land laws were concerned) with the native-born citizen. This system was dictated, not only by an exalted sense of national liberty, but also by a wise desire on the part of the Government to invite, foster, and encourage emigration from Europe. I argue that twenty years of beneficial experience should be amply sufficient to confirm in our minds the evident advantages of the established policy. During that time we have been furnished with the most abundant proof of the loyalty of this class of our people. Why should we now begin to make any oppressive restrictions in regard to them?

Who can now pretend to dread their influence? Who can pretend, in the face of a long and convincing experience, to fear that they will become a higher class? But new reason has been discovered that should check the influx of this foreign population? Let us question the record; let us summon history to produce her testimony in regard to our foreign population. There has been no battlefield named Maine to Mexico that is not red with the blood of foreigners shed in defense of American liberty! Wherever our flag has been borne victoriously in battle, there the heart of the foreigner has throbbed beneath its folds! There he has stood shoulder to shoulder with the native-born, hoping the same honors to himself, and struggling for the same ends, and exulting in the same triumphs. Whenever we have conquered new territory from an enemy, his bones lie thickly scattered beneath it.

The Senator from Mississippi, [Mr. Davis], who is now in the Senate, and who is the Secretary of War, can tell, from the annals of his Department, how true that class of our population has been in time of war. The whole cheerless West—indeed, the whole country—can attest how useful they have been in time of peace. The foreign population! Stretching outward and westward from our sea-port towns, bearing the will to toil and the energy to secure success, that population has marched steadily on, with the incessant and irresistible tread of a great destiny. It is the foreign population that has made music in the ax and the ax of the woodman has made music in the solitude; and happy homes have smiled throughout the wilderness. It has plunged into the depths of the marshes; and millions of acres have been reclaimed from sterility and won to cultivation. Every man, woman, and child, in our villages, towns, and cities, in its luminous path.

Wherever American art has triumphed, or American civilization has been clearly established, there you will find the history of our foreign population, not written in perishable or living records, but traced indelibly stamped upon the broad and action, upon the progress and civilization of a mighty national existence. These foreigners who have become citizens—these men who have accomplished so much—have only paved

good will? May we not cherish the fond expectation that no disturbing sectional ideas shall be allowed to corrupt the infancy of a pure measure? It should be eroded in the lap of peace; it should receive its nurture and support from the kindly feelings of all sections of the country; because it is for the common benefit of the whole country.

Standing upon his own soil, the settler rises to the full dignity of manhood. He is independent from the hour in which he becomes the owner of a free farm— independent of everything, except his country and his God. Open up your domain to him; give him a home out of the vast abundance of your lands, and you will have found the surest method for the perpetuation of your Government. You will have satisfied the just ambition of the pioneer, and you will have secured the order in which the pioneer prairie is to be settled.

Mr. PUGH. Mr. President, I have felt it incumbent on me, as one of the Committee on Public Lands, to speak at an early stage of the discussion, because not only Senators, like the Senator from Minnesota, who has just addressed the Senate, but others who have opposed the bill, do not seem to understand the principles on which the majority of the committee are acting. I propose to proceed with the discussion to-day. I should like to have an opportunity of addressing the Senate to-morrow at one o'clock. Before that, I wish to offer an amendment to the committee's proposition.

Mr. CLINGMAN. I want to offer one to the original proposition—merely to renew my amendment, and not to speak on it to-day.

Mr. PUGH. The Senator will be in order. I merely propose to perfect the amendment reported by the committee to the original bill. The amendment is to correct a difficulty which I suggested before. It is, in the sixth section of the Senate amendment, line two, after the word "resident," to insert "or who may hereafter become a resident;" and in the same line to strike out the word "and," at the end of the line, and to substitute the word "but;" and in line one to insert "white" between "any" and "person," so as to make the section read:

Sec. 6. *And be it further enacted*, That if any white person, now a resident, or who may hereafter become a resident, of any one of the States or Territories of the United States; but who, at the time of making such application for the benefit of this act, shall have filed declaration of intention, as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent as provided for in this act, such person shall be placed in equal footing with the native-born citizens of the United States.

Mr. HARLAN. I inquire whether that amendment is now in order?

The PRESIDING OFFICER. (Mr. RIEZ in the chair.) The amendment is not in order, as the amendment of the Senator from Indiana [Mr. Fitch] is now pending. The Chair presumed it was read merely for information.

Mr. PUGH. I will explain to the Senator from Iowa that the pending motion of the committee is to strike out the entire House bill, and insert a substitute. Pending the discussion of the amendments, our practice—which I do not think is a very good practice, but it is our practice—it is in order to amend either the matter proposed to be stricken out or the matter proposed to be inserted. Now the Senator from Indiana proposes to amend the bill so that it is to be stricken out, I propose to amend the part that is to be inserted. Therefore I do not interfere with his amendment.

Mr. HARLAN. I understood the Senator who was occupying the chair at the time the bill was read, to say that he had no objection to amendments pertaining to the House bill; and after that bill was supposed to be perfected, he would then receive amendments to the Senate bill.

Mr. PUGH. The Senator from Vermont is not now in the chair, but it has been the constant practice of the Senate. I have no objection to the order in which the question is put, however.

Mr. HARLAN. My reason for making the inquiry is, that I desire to offer two or three amendments to the first section of the bill, and I do not wish to have the first and second sections of the bill passed over until those amendments are proposed, if it is now in order to amend the Senate bill, or the matter proposed to be substituted.

The PRESIDING OFFICER. The Chair will

state that, in accordance with a decision of a former occupant, the amendment of the Senator from Ohio is not in order.

Mr. PUGH. Then I give notice that I shall offer it at the proper time.

Mr. CLINGMAN. Would not an amendment to strike out a part of the first section, to which the amendment of the Senator from Indiana is offered as a proviso, be in order? If so, I desire to strike out after the word "entitled," in line one.

The PRESIDING OFFICER. The Chair will state that there can be but one amendment before the Senate at the same time. The one offered by the Senator from Indiana has precedence.

Mr. FITCH. I merely wish to allude to the fact, that the Senator from Minnesota based the most of his opposition to my amendment, I believe, on the ground that the reservations provided for in the amendment would prevent the donation, by this bill, of any land within Minnesota; because, said he, although now subject to preemption, is not subject to private sale. In answer to that, I will simply say—what I presume that Senator and his colleague will bear me out in saying—that most of Minnesota is settled by preceptors. The House bill, or any other bill, which proposes to make a law, without restricting it to lands now in the market, would be an act of gross injustice to those preceptors. They have made their selections; they are improving the value of their own and the land immediately contiguous, belonging to the United States; and when they thus improve it, the bill proposes to donate to any one who settles on land beside them, the land which their money and their labor has rendered valuable. You compel the one to pay; to the other you say, "take for nothing; and give it for free." Is this justice? Is it justice to the preceptor?

Mr. WADE. I think the Senator is mistaken in that, as the House bill provides that those who have already preempted land may have the benefit of the bill.

My colleague will recollect it provides that those who have not yet paid shall be included; but it does not provide that those who have paid shall have their money back.

Mr. WADE. That is true. That is another thing. We must begin somewhere. I hope the amendment will not be so carried out. It is objectionable for the reason the Senator from Minnesota has stated. First of all, it confines it, as he has said, to land subject to private entry, and there is very little of that which is of any value at this time. I know very well that, nominally, there are some two hundred million acres in that condition; but in truth and in fact, it is the mere refuse and cullings of the land, and very little of it is valuable. Then as to the restriction to alternate sections, that is certainly subject to the observations made by the Senator from Minnesota. As he says, it is unjust and impolitic to undertake to speculate out of the improvements that the settlers make. I hope the friends of the bill will reject this amendment. I do not wish to argue it.

Mr. PUGH. My colleague is greatly mistaken. Sixty million acres, according to the report of the Secretary of the Interior, have been brought into market within twelve months, of the whole quantity that is now offered for sale. The idea that all the land now subject to private entry is refuse land, is all a pretense. Fifty-nine million acres and a fraction, within the last twelve months, and sixty million within the year before, according to the report of the Land Office, were brought into market. The surveys are going forward every year. Of course, it takes some time, even after the survey, to perfect all the orders of the Department; but vast quantities are coming into market every year; and when once the lands are offered at public sale and not purchased, they immediately become liable to private entry. It is a mistake to assert that this is refuse land. However, if no Senator wishes to speak at large on the bill now, as the majority I propose to make, I will make somewhat on the amendment of the Senator from Indiana, I propose, before we take a vote on it, that the matter may be adjourned until to-morrow at one o'clock, and made the special order.

Mr. HARLAN. I am sure the Senator does not adjourn. I propose it the unfinished business.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Tuesday, April 3, 1860.

The House met at twelve o'clock, Mr. Prayor by the Chaplain, Rev. Thomas H. Strotter.

The Journal of yesterday was read and approved.

SUBLETTE CUT-OFF MASSACRE.

Mr. SCOTT. Yesterday, during my absence, the gentleman from Texas [Mr. REAGAN] made a minority report in reference to the Sublette Cut-Off massacre. I now ask the consent of the House to present the report of the majority of the committee on that subject.

No objection being made, the report was received.

KENTUCKY RESOLUTIONS.

Mr. BURNETT, by unanimous consent, presented the joint resolutions of the Legislature of Kentucky, in favor of granting pensions to all the soldiers engaged in the war of 1812; and in favor of granting to the heirs of volunteers who served in the war of 1812 bounty lands, in like manner, and under the same circumstances as the heirs of those who served in Mexico are now entitled to receive warrants; which were referred to the Committee on Invalid Pensions.

Mr. BURNETT also, by unanimous consent, presented joint resolutions of the Legislature of Kentucky, in favor of the removal of the duty on tobacco in foreign nations; which were referred to the special committee on that subject.

Mr. BURNETT also, by unanimous consent, presented joint resolutions of the Legislature of Kentucky, asking an appropriation by Congress for the enlargement and completion of the Louisville and Portland canal; which were referred to the Committee on Roads and Canals.

Mr. BURNETT also, by unanimous consent, presented joint resolutions of the Legislature of Kentucky, urging upon the treaty-making power of the Government of the United States the necessity of amending the tenth section of our treaty with Great Britain in regard to fugitives from justice, which was ratified in London, on the 13th of October, 1842, by the British minister and American envoy respectively, as to include in its provisions fugitives from service or labor, so held under the Constitution and laws of the United States or of either of the States; which were laid upon the table, and ordered to be printed.

ART COMMISSION.

Mr. TRAIN. I ask the consent of the House to report a bill which I neglected to report yesterday, to define the duties and fix the salaries of the United States Art Commission. It is a matter upon which some legislation must be had; and I merely wish to have the bill printed, so that members may examine it, with a view of calling it up at some future time.

Mr. SMITH, of Virginia. I call for the regular order of business.

Mr. TRAIN. I hope the gentleman will withdraw his call for a minute. I merely desire to have the bill printed.

Mr. MORRIS, of Illinois. I object to that bill.

POLYGOON IN ILLINOIS.

The SPEAKER stated the regular business in order before the House to be the bill reported from the Committee on the Judiciary for the suppression of polygamy; but that on the 2d of the gentleman from Illinois [Mr. McCLERNAND] was entitled to the floor.

Mr. COOPER. Before we go to that business, I ask leave to introduce a joint resolution for the compensation of R. R. Richards, in order that it may be referred to the Committee for the District of Columbia.

Objection was made.

Mr. McCLERNAND. Mr. Speaker, the question before us involves two inquiries: first, whether Congress possesses power under the Constitution to pass the bill under consideration, and, if so, whether it is expedient to pass it. I will first pass it. If my able and astute friend from Louisiana [Mr. TAYLOR] is right in his negation of this power, then the question is at an end, and the committee's bill should be at once rejected.

The ethical and many distinguished friends of Virginia [Mr. Patton] and his eloquent colleague [Mr. MILLER] are right in their affirmation of the power, still the question already stated

send them away, or to repeal their territorial charter, and to merge them in more wholesome and honest States. And how many would I answer, that the substitute I have prepared, and which was offered the other day, when I was absent from the city, for me, and at my instance, by my colleague, [Mr. LOGAN,] will effectually do it.

I propose, sir, by my substitute, to repeal the organic act of the Territory, and to divide the Territory into two parts—making a Territory out of each part, in conjunction with some additions to one of the Territories from Nebraska, Kansas, and the Mexican boundary of the Territory of New Mexico, as given in my substitute, are as follows:

Sec. 2. And it is further enacted, That the district of country which is embraced within the following limits, to wit: beginning at the point where the one hundred and third (103d) meridian intersects the thirty-seventh (37th) parallel of north latitude; thence on said meridian until it intersects the forty-second (42d) parallel of north latitude; thence west on said parallel to the one hundred and sixteenth (116th) parallel of longitude west of Greenwich; thence south on said meridian until it intersects the thirty-seventh (37th) parallel of north latitude; thence on said parallel to the place of beginning, be, and the same is hereby, by the act, organized into a new Territory, to be called the Territory of Jeffersonia; and the provisions of the act for the organization of the Territory of Nebraska, approved March 3, 1854, are hereby declared to be a part of the organic act of the said Territory of Jeffersonia, with the boundaries heretofore said described, as fully as if the said act were hereby enacted, and the provisions of said act are hereby declared to be a part of the organic act of the said Territory of Jeffersonia; and until the Legislature of said Territory shall otherwise provide, the said act of government of said Territory shall be at Denver City.

Sec. 3. And it is further enacted, That the residue of said Territory of Utah, bounded as follows: beginning at a point on the forty-second (42d) parallel of north latitude, where the one hundred and sixteenth (116th) parallel of longitude intersects the same; thence east on said parallel to the thirty-seventh (37th) parallel of north latitude; thence west on said parallel until it intersects the boundary of the Territory of California; thence following the said boundary to the forty-second (42d) parallel of north latitude; thence east on said parallel to the place of beginning, be, and the same is hereby organized into a new Territory, to be called the Territory of Nevada; and the provisions of the act for the organization of the said Territory of Nebraska, approved March 3, 1854, are hereby declared to be a part of the organic act of the said Territory of Nevada, with the boundaries heretofore said described, as fully as if the provisions of said act were hereby enacted, and the provisions of said act are hereby declared to be a part of the organic act of the said Territory of Nevada; and until the Legislature of said Territory shall otherwise provide, the act of government of said Territory shall be at Denver City.

[Mr. McCLERNAND here spread out a map prepared at his instance, at the War Department, showing the boundaries of the Territories proposed by him to be created.]

The arrangement divides the Utah by a line running from south to north through Salt Lake, and supercedes Salt Lake City as the present seat of government, by substituting Denver City as the temporary capital of Jeffersonia, and Genoa as the temporary capital of Nevada. Genoa is a pleasant town, situated on Carson's valley, at the mouth of the South Park, on Carson's river, in the midst of the silver region, which is now drawing so wonderful an emigration from California. And Denver City is the rendezvous for the thousands who have already thronged there, and who will send who will emigrate to the gold region about Pike's Peak this spring.

I am assured by gentlemen well informed upon the subject, that the population of these Territories will be, by the time my substitute could be carried into effect, as low as that of the Territory of the present Mormon population of Utah. There is my friend from Missouri, [Mr. CLARK,] who is better informed on this subject than I am. Will he please to answer to it?

Mr. CLARK, of Missouri. I will give to the House what information I have upon the subject, as one of the members of the Committee on Territories. Members of that committee will justify me in the belief that in the coming summer there will be at least fifty thousand people at Pike's Peak. It is admitted that there are now going to the Territory of Missouri, enough to make the population thirty thousand. The Delegate of that region has been before us, and from what he has stated, and from other sources of information, I am justified in the belief that during the next three months there will be an acquisition of settlers in the Pike's Peak region as will increase its population to fifty thousand souls. What number will permanently reside there gentlemen must decide for themselves. It is known that those who go there for mining purposes principally; some go for agricultural purposes, and some for other purposes.

Mr. SMITH, of Virginia. How many are there now?

Mr. CLARK, of Missouri. From the best information I have at hand, I am of the belief that there are about eight or ten thousand people at Pike's Peak at this time.

Mr. SMITH, of Virginia. There was a speculation like that indulged by the gentleman very early in the month of last year. Talk to me about fifty or sixty thousand people at Pike's Peak! [Laughter.]

Mr. PARROTT. I hope gentlemen will permit me to say a word on the subject.

Mr. CLARK, of Missouri. I would like to say another word on the subject. I am upon the floor by the courtesy of the gentleman from Illinois. The very measure the gentleman is discussing in reference to dividing out the Territory of Utah has been somewhat discussed in the Committee on Territories. I am not, of course, at liberty to discuss what has occurred in that committee. But, sir, I ask the House to allow me to say that dividing out the Territory of Utah is the best way to dispose of this question. I am free to state that it can be done substantially as well as by the gentleman from Illinois. [Mr. McCLERNAND says that this unhappy and deluded people can be put under other jurisdiction, and made subservient to the standard of Christian morality, as well as the legal authority of the Constitution; that the nation of the Constitution can be made to become upon them as to correct the enormities with which they are charged. I believe that it is the only practical way under the Constitution that we can dispose of this question.]

I will make another remark. I understand, under the Constitution, that no man can proceed against criminally, unless he is first indicted by a grand jury, and within the jurisdiction where the person indicted resides. If you give jurisdiction to Utah Territory, of course the grand jury there will be drawn from the people of that Territory. If a man can be indicted by a grand jury that has got to be found before the grand inquest within the jurisdiction. That inquest in Utah would be composed of Mormons, and every sensible man knows that they would not indict a Mormon for the crime of polygamy. If I may say by expression, it is absurd, therefore, to legislate in any way over these people, when such an insurmountable obstacle is interposed to the execution of the law.

Mr. PARROTT. If the gentleman from Illinois will indulge me, I would like to submit a somewhat different estimate of the matter before us. The Pike's Peak, or Jefferson Territory, as it is sometimes called, is chiefly within the limits of the Territory of Kansas, and its people belong to the constituency which I have the honor to represent on this floor. A considerable number of them were entitled to vote at the late election for Delegate in Kansas. Under these circumstances, I was much concerned to know accurately the number of inhabitants, as they would probably turn the scale in case they should take the presidency in the election. The result of my inquiries was, that while the population at the height of the excitement had gone up to fifty thousand, and in the reaction down to five thousand, the permanent and stable portion of the community, when the winter set in, was about ten thousand. I will now estimate, carried out by a comparison of all the information I could obtain from various sources, is not too high, and is, I think, nearly correct. They did not vote with the eastern portion of the Territory, intending to preserve, so to speak, their individuality by making an organization of their own, and ignoring any other, till Congress could act upon their application for a separate organization.

I am friendly to the organization of a Territory in this district of country. It is greatly to be regretted that the carrying out of the measure there will be, speaking within limits, a concession of twenty or thirty thousand people to the numbers already living there. I must be allowed to say, however, that I hope that this will not take place till Kansas is admitted as a State into the Union. The limits prescribed by the Constitution for the admission of a new State leave this country out, and action will then become inevitable. I object to any partition or dismemberment of the Territory as such until that consummation is realized. I protest against the entanglement of our fair proportions. I hope that that act of justice is near at hand.

Legislation for this country will become necessary after the State of Kansas is admitted. Nothing is so important now to all the country to be affected by this legislation as the admission of Kansas.

Mr. SMITH, of Virginia. There is testimony given, and I want rebutting evidence to be given. I do not believe that there are five thousand people in Jeffersonia, and during this very winter they have had to go to Santa Fe and Taos. [Laughter.]

Mr. McCLERNAND. My friend from Virginia is skeptical on many points. He doubts that there will be a large immigration to the Territory. With the Delegate from Kansas I think there will be an immigration there like that which went to California and filled up that far-off region so suddenly and magically. Gold is the incentive to immigrate to Jeffersonia, as it was the incentive to immigrate to California. Like causes will produce like effects.

Mr. SMITH, of Virginia. I differ with the gentleman.

Mr. McCLERNAND. Does the gentleman doubt that gold is the incentive?

Mr. SMITH, of Virginia. That was the object; but Pike's Peak is no California.

Mr. McCLERNAND. We have the gentleman's authority on that point. But was not the gentleman equally inclined to discredit the richness of the mines in California?

Mr. SMITH, of Virginia. I went to California myself, and of course gave the reports concerning it full faith and credit.

Mr. McCLERNAND. As I have already said, the silver mines in the region embracing Carson's Valley are irresistibly attracting a large immigration from California. There is already a considerable population there; and in the course of the present year it will no doubt be greatly increased. Upon the whole, sir, I feel assured that the population of the two proposed Territories, other than Mormons, will soon be numerically sufficient to overrule and correct Mormon abuses and vices—to enforce among them the canons of an approved and Christian morality.

Mr. SMITH, of Virginia. If we have the power to repeal the act organizing Utah, have we not the power to amend it? If we can, then cannot we insert a provision suppressing polygamy?

Mr. McCLERNAND. I will answer the gentleman. What will be the benefit of your legislation—of a legislative prohibition of polygamy—if you prohibit it, unless you intend to enforce it by the Mormons themselves? But I have passed over this ground already, and have not the time or disposition to go over it again.

Under the operation of my substitute, if the Mormons should be unwilling to reform their vices and dissipation, they would probably pass out of our jurisdiction into Mexico or the British territories.

[Here the hammer fell.] Mr. LAMAR obtained the floor, and responded to the question of Mr. CLARK. [His remarks will be published in the Appendix.]

Mr. NOELL. Mr. Speaker, upon mature reflection, I have come to the conclusion that I cannot vote for the bill reported from the Committee on Territories. My objections, however, to that bill are not such as to prevent me from voting against legislation in reference to the domestic institutions of a Territory. I am one of those who hold that Congress may enact, as an original proposition, any law for the people of a Territory which the Territorial Legislature itself can enact. My objection rests upon other grounds, and I will state them before I conclude.

Let me make one or two preliminary remarks. My friend from Mississippi [Mr. LAMAR] has urged the necessity of submitting some remarks which I desire to submit to the consideration of the House from Tennessee [Mr. EYENBROOK] to assert that, when Congress assumes the power to prohibit crime in a Territory, it concedes that it may also prohibit or exclude slavery therefrom. If I understand the theory of the Government upon that point it is this: the reason why Congress cannot exclude slavery, or create an inferior tribunal to do so, has no application to the question of polygamy. The Federal Constitution is a compact between coequal States, and, of necessity, recognizes the validity of all State laws and institutions which do not violate its express provisions. The

Constitution regards all these laws and institutions as valid and right, because made by competent State authorities. Whenever the right attaches to a State under the authority of such a law, whether it be statute law or common law, and the party holding the right passes into a Territory, with the property to which the right has thus attached, it falls immediately under the operation of this protection, and the right attaches and remains under its protection so long as the Federal jurisdiction continues over such Territory.

And this consequence does not flow from the fact that each individual takes with him the local law of the State whence he came, but because he carries the right already vested by law, and which cannot be divested in a Territory while it remains under Federal jurisdiction. This principle may be aptly compared to the general rule regulating contracts. A contract, valid in the State where made, is bound to be respected in every other State. Its validity depends on the *lex loci*. Its enforcement is according to the *lex fori*. It does not follow from this that the party claiming under a contract made in another State carries about with him the law of that State, and that he is with slavery. It being lawful in South Carolina to own slaves, when the master takes his slave thenceforth into a Territory, he does not carry with him the local law of South Carolina, but he carries with him a legal right originating under the laws of South Carolina, and the Federal Constitution recognizes and protects the right. Not so, however, with polygamy. That practice is not lawful in any State. There is no State in the Union where polygamy is tolerated or established by law. I undertake to say, however, Mr. Speaker, that if the laws of any State of the Union recognized, tolerated, or established polygamy, and an individual citizen of that State, under the laws of that State, should marry two, three, or four women, and should carry into one of the common Territories of the United States, and should marry marriage between him and those women, being valid by the laws of the State where the contract of marriage was entered into, there would be no power in this Federal Government to break up that contract or to declare the connection a criminal one. Such a State might exist, and so might because no State of the Union has established the system of polygamy, or is likely to do so.

I therefore repudiate entirely the idea that there is any analogy between the crime of polygamy and the institution of slavery, as it exists in the South. But while I repudiate this, I do not withhold that Congress may enact any law which a Territorial Legislature might enact under authority of Congress, I am opposed to the provisions of this bill, for the reasons which I will proceed now to lay before the House.

In the first place, I say that the practice of this Government has been against this mode of legislation for the organized Territories. I undertake to say that there is a constitutional objection to the way of this kind of legislation, while the organic act of the Territory is in force, and while the power to make local laws is not withdrawn.

We all understand the theory of our Government to be, that all power of making laws was originally in the people themselves. In the absence of written law, the people of a community might assemble together, and make all laws necessary for their security. But when they assembled in convention to frame a State constitution, they delegated the power to make their laws to the legislative department of the State government. While the government thus exists, it is contrary to the practice of all civilized Governments for the people to take back the power of making laws directly to themselves, and to enter into conventions for the purpose of making their own laws. Now, there was a case decided by the supreme court of our country in this point. The Legislature of the State of Missouri passed an act creating a new county; but that act contained a provision leaving it to the people of that county to decide, by vote, whether that law should go into operation or not. The question was carried up to the supreme court, and that tribunal decided that the legislative power of the State had been delegated by the people to the legislative department of the State government, and that, therefore, those same people who had delegated the power could not directly exercise the power

themselves. If that decision be correct, when Congress delegated its power to legislate over matters which concerned the people of these Territories alone, it is in conflict with the principles of all government for Congress to undertake to exercise these powers at the same time, directly and immediately, as proposed by this bill. What would be the condition of things if we were now to act in operation these two law-making machines at the same time over the same Territory, and embracing the same subjects? There would be the Congress of the United States engaged in making laws upon a certain subject to-day, and the Territorial Legislature of Utah engaged in making laws upon the same subject, and these laws coming into conflict with each other. The power of the Territorial Legislature is derived from Congress itself, and here would be the body which has delegated the power, and the body to which the power is delegated, both legislating at the same time, and upon the same subjects. Unutterable confusion and disorder must be the consequence.

But there is another objection. I said, on a former occasion, it was impracticable for the Congress of the United States to legislate with the laws necessary for regulating the domestic concerns of a Territory. If we set out with the idea of correcting all local wrongs in a Territory, we shall have no time for any other kind of business. If we undertake to make laws to punish polygamy, we shall have no time for any other kind of law to exist in a Territory which a Territorial Legislature does not think proper to punish, we shall never see an end of such legislation; and the whole time of this Congress will be taken up with these repeated questions, while the great interests of the country will be neglected. We cannot accomplish such ends as this bill is designed to reach, in this body, by any such means.

But that is not all. What do we know in reference to the wants of a Territory? What do we know of the wants of the United States? The members of Congress upon this floor know how to reach the evil attempted to be reached by this bill? How many members of Congress know what will be the practical operation of this bill, if it passes into a law? I undertake to say, that not one member of Congress can furnish the answer to this effect will be. Some gentlemen suppose that the bill is intended to punish Brigham Young and those who have numerous wives in Utah. I undertake to say that the punishment will fall upon more than upon Brigham Young. If all alike are punished, it will fall equally upon the deluded women who have been induced to go to Utah. They may feel its force, in being deprived of a home for themselves and their children. There is where the punishment will fall; and perhaps Brigham Young would be glad to get rid of some of his old wives. Indeed, no one can know how this bill will operate.

I refer to these things as an illustration of the fact that this body is not competent to legislate in reference to the local concerns of a distant Territory, and that the only mode of legislation which will enable us to perform that duty.

But there is another objection to this bill. We are undertaking, at one single blow, to strike down this system, without looking to the consequences which will follow from it. This Government has already spent three or twenty millions of dollars to keep Utah in subjection. What will be the effect of this bill? I say, that before we pass it, we had better make an appropriation of \$50,000,000 to increase the Army, because you very possibly may have to carry on a war under this bill. I am not one of those who would hesitate to spend millions of dollars to put down a wrong in a practicable and proper manner; but when the effect of this bill will be, not to suppress the institution at which it is aimed, but only to bring down the trouble with that people, I must certainly oppose it.

But, again: the people of Utah, as has been stated here by the gentleman from Illinois, showed a rebellious spirit when in Illinois. They did the same thing when in Missouri. We had to drive them out of Missouri, and the people of Illinois had to drive them out of Illinois. And now they have gone into the mountain passes, and the question is, what shall we do with them? I am willing to vote for the proposition of the gentleman from Illinois, [Mr. McCLELLAND,] for the reason

that it will enable us to get rid of a great evil, and in a way which will not bring these troubles upon the people and the Government. I am willing to vote for the amendment of the gentleman from North Carolina, [Mr. BRAVETT.] Substantially, it is right; though it requires correction in details. I am willing to vote for the proposition of the gentleman from Texas, [Mr. REAGAN.] Indeed, I am ready to vote for any proposition, provided it be not an attempt to introduce into this body direct legislation in reference to the domestic institutions of a Territory.

Mr. BRANCH. I think I understand what the gentleman from Missouri alludes to as a correction in the details of the bill. I think he means that the bill does not provide for compensating the members of the Legislature. I can satisfy the gentleman on that score. My amendment proposes to repeal only two sections of the bill organizing Utah, and all these matters relating to the compensation of members of the Legislature, and to details of that description, stand in the original act organizing the Territory unreppealed. I do not propose to touch them at all. They are all provided for in the sections of the bill organizing Utah, and all these matters relating to the compensation of members of the Legislature, and to details of that description, stand in the original act organizing the Territory unreppealed. I do not propose to touch them at all. They are all provided for in the sections of the bill organizing Utah, and all these matters relating to the compensation of members of the Legislature, and to details of that description, stand in the original act organizing the Territory unreppealed.

Mr. NOELL. I understand the gentleman from North Carolina. The difficulty with me is regard to the matter is, that the proposition does not directly refer to the provision as being applied to the Legislative Council proposed by this amendment. I understand that the gentleman refers to the members of the Legislative Assembly, but no term is used in apply that provision to the new Legislative Council.

Mr. BRANCH. I would say in reply to that, that even if the gentleman from Missouri is correct in this, it is provided for in another way. The Legislature would have the power to any what these details should be, and Congress would make an annual appropriation of a limited amount to pay these expenses, which amount they could not pay otherwise. Hence they could not vote themselves very extravagant pay. In addition to that, if they did vote themselves extravagant pay, or if they passed any other bad laws, the President of the United States and the Senate would remove the members of the Legislature.

Mr. NOELL. I would say to the gentleman from North Carolina that I do not make that such an objection to the proposition as would prevent me from voting for it. I merely made the suggestion, thinking that the objection might be considered. That objection, however, is not very powerful in its influence on my mind. My main objection is to the bill reported by the committee. I regard it as utterly impracticable. The effect of it will not be to put down the crime of polygamy. The evil will still continue, with innumerable difficulties will spring from the law.

I do not hold that the fact that Congress undertook to pass a law punishing crimes in a Territory, brings about the conclusion that Congress might pass a law on any other subject. I understand that Congress has the power to legislate in limited powers. I understand that the Congress of the United States cannot transgress these powers. The right to property in slaves is a right recognized by the Constitution of the United States, and by the constitutions of the different States of the Union; and when that institution passes into the common Territories, the Constitution of the United States protects it. It is unlike this system of polygamy, which is not recognized as an institution in any of the States of the Union. If it were, if an individual, by virtue of the laws of any State of the Union, as I have before remarked, were to be married to three, four, five, or half a dozen women, and if that marriage were valid in the State, and he took them into one of the common Territories of the Union, I believe that would be a crime, and the Federal Government to break up such marital relations, or to punish the individual for which was not a crime where he committed it.

Mr. REAGAN. By the consent of the gentleman from Missouri, I wish to call his attention to a point which would be a serious consideration, and which would seem to make his argument untenable, and to place him and his friends in a wrong position.

Mr. NOELL. I will listen to the gentleman. Mr. REAGAN. There is an assumption in a

former part of the gentleman's speech that the right to have slave property protected in a Territory resulted from the force of the laws of the States from which it may be taken; and that any other insinuation recognized by a State must be protected in a Territory. It has occurred to me, from the course of the Dred Scott decision, as well as from the reasoning of the majority of the court, that the right rests on clauses of the Federal Constitution guaranteeing the security of private vested rights and personal property. All that the authority of the State confers is the original investiture of the title to the property; and then there is the clause of the Federal Constitution concerning personal property and private rights, which secures them against the interference of the Federal Government within the Territories.

Mr. NOELL. The gentleman from Texas has misapprehended the point of my argument, to some extent. I maintain the position which I took; and the remarks that have fallen from the gentleman have not changed my views. I understand that to be a Government of a number of different sovereign States that comprise the whole Confederation; that the theory of the Government is that each is equal to the other, and that, so long as they remain equal partners in the compact, the institutions and rights that are vested by the laws of each one of these States must be respected by the Federal Government in all the common territory that belongs to the Union. I do not regard this as a fundamental doctrine. It rises above the mere positive provisions of the Constitution, and results from the very nature of the compact; and whenever the Federal Government refuses to recognize a Territory a right vested by local State law, it tramples that State with disregard. That is my position. If there were no such provisions in the Constitution as those mentioned by the gentleman from Texas, the mere fact that the States had entered into a Confederacy as equal partners would involve the Federal Government in the principle that the General Government would recognize within the sphere of its jurisdiction the institutions and rights of all of the States; so that, when a man, owning a slave within the limits of a sovereign State by virtue of the laws thereof, passes beyond the limits of that State into the common Territory, which is the common property of all of the States, the Constitution holds that that property is rightfully held, because of the fact that the laws of the State authorized it; and the Constitution requires that it should be protected. There is no mystery of the matter, independently of any express provision of the Constitution.

If that were not the case, I apprehend that none of the States would have entered into the Union at all. It is in such cases precisely as it is under the common law of contracts. It is a well-established principle, that a contract made in one State, if valid by the laws thereof, and if the parties to that contract transfer their domicile to another State, is valid also in that State. Why? Because it is lawful where it is made. The manner of enforcement is that provided for in the law where the remedy is sought; but the validity of the contract is determined by the law where the contract is made. So it is with regard to the rights of property. The Constitution of the United States prohibits, in a very nature, any interference by the Federal Government with the rights of property, whether vested under the laws of Massachusetts or under those of South Carolina. I care not whether every single provision of the Constitution having a direct bearing on the question of slavery were applied to the rights of property recognized by the local laws of each State would exist whenever that property was transferred to a Territory—the common property of all the States. That is my position.

On that view, the question of polygamy and the question of slavery are quite different. My objection to this bill is not founded on the idea that Congress could not, as an original proposition, legislate on the subject of polygamy. It is not founded on the idea that the question of polygamy is beyond the jurisdiction of Congress in a Territory where there has not been any delegation of the powers of local legislation. I recognize the right of Congress to legislate in the Territories on all subjects from which they are not off by the provisions of the Constitution itself.

Now, sir, it may be said that if we do not take at this evil through the act of Congress, we have

no remedy for it. I undertake to say that if the power of legislation in the Territory shall be withdrawn from an elective Legislative Assembly, and delegated to a Legislative Council to be appointed by the President, by and with the advice and consent of the Senate of the United States, located in the country, and familiar with the wants and feelings of the people, looking to the evil that exists there, and supplying a gradual remedy by some slow and certain process, we may be relieved of this difficulty without further trouble in regard to it.

If we undertake to pass this law, we have an elective Legislative Assembly still left in full operation in Utah; and before this statute gets to Utah, if we should undertake to execute it, they would have other laws upon their local statute-book that would require the action of Congress to wipe out. Where is the necessity of passing a direct law upon this subject, and introducing a new subject into Congress, for the purpose of bringing about confusion between the Federal Government and the people of the Territories? Let us rather withdraw from the people of the Territory the right to make these laws, and transfer it to the President, or to any body qualified to exercise it in conformity to the principles of our Government, and so as not to shock the moral sense of the people everywhere. This is the true theory; and if this object can be accomplished by the proposition of the gentleman assisting me, [Mr. CLARKSON,] I hereby propose the position of the gentleman from North Carolina, [Mr. BRANCH,] I am willing to vote for either of them; but I must protest against the inauguration of a new system of legislation for distant Territories. I am not terrified or threatened from supporting this bill by any of the threats held out by the gentleman from Tennessee, [Mr. EVANS,] in the extraordinary speech which he made yesterday. But I cannot vote for it for the reasons which I have stated, because I believe that it would be necessary to accomplish the object which is in view by the passage of this law, and because I desire to have such a radical change in the system of management in Utah as will save us the necessity of all further interference in regard to this or any other mere local questions.

Mr. SPEER. I am willing to vote for this bill reported by the honorable gentleman from Tennessee, [Mr. NELSON,] not because I believe that it will accomplish the object proposed by its conductors, for, in the unfortunate state of things which exist in that Territory, any such legislation which might probably remain in the statute-book; but I propose to vote for it as the best measure that has been presented to the consideration of the House; and that it may stand at least as a protest of the nation against the enormities which now curse and disgrace the Territory of Utah.

I should have been better pleased, far better pleased, if the committee who had this subject in charge had introduced a measure which would have wiped from the statute-book the act creating the territorial government of Utah, and have provided a legislative tribunal, appointed by the President and Senate, and a judicial system that could arraign and punish, and execute the laws; and, sir, I see no constitutional objections in the way of such a proceeding. It is but recently in the history of the legislation of this country that the power of Congress to govern, in all respects, the Territories of the country has been questioned anywhere; and I do not understand now that that power is questioned to govern the Territories, except that certain limitations are laid out or are implied in the Constitution of the United States as restraining the power of Congress in certain cases. Hence I have been not a little astonished to hear gentlemen inquire, in the course of this debate, how, when Congress has once created a territorial government, it is not authorized the election of a legislative Assembly, it can thereafter interfere with it in any respect, or control its legislation; and one gentleman who, I think, has adorned the bench, inquired whether, after Congress has invested a Territorial Assembly with the entire legislative power, it is not forever precluded thereafter from interfering with the operation of that government? Now, a law creating a territorial government is not a contract between the people of the Territory and Congress by which we are bound. Laws are simply the expression of the supreme will of the people through their representative, subject to be

altered, changed, and modified, at the pleasure of the law-making power.

I assert that the power of Congress had never been denied or questioned up to 1850, by any statesman or jurist in the country, to legislate for the Territories upon all the domestic relations, slavery excluded, and it cannot be denied.

You will find that in all the territorial bills passed up to 1850, the power of Congress is expressly reserved to pass upon the legislation of the Territories, and either approve or disapprove it. The creation of a legislative body for a particular Territory or district was merely a convenient mode of doing it, based on the expediency of doing it by direct legislation of Congress.

The very existence of the power to create a territorial government implies, of course, the right to legislate for the Territories. No man can dispute that proposition who has read anything in Blackstone. Now, after we acquired the Territory of Louisiana, gentlemen were probably familiar with the government that was then instituted, and as it was a little different in its features from modern territorial governments, I wish to call the attention of the House to it.

By an act passed, I think, in October, 1803, after the acquisition of that Territory from France, Congress enacted "that all the military, civil, and judicial powers exercised by the existing government of the same, shall be vested in such person or persons, looking to the mode of exercise, as the President shall direct." And that was the form of government that existed for a period of one year over the Territory of Louisiana. All legislative, judicial, and military power in the Territory was vested in persons selected by the President, to be exercised as directed by him. Now, under the machinery of this territorial government of Utah, a judicial tribunal is created, and it is modeled, of course, in accordance with that clause of the Constitution of the United States relating to the obedience of laws to be laid out, is guaranteeing the right of trial by jury, and the protection against trials under criminal law of any persons until indicted by a grand jury. But, sir, this whole system, and indeed the whole theory of our Government, rests upon the assumption that the voluntary obedience of laws is the basis. The moment that voluntary obedience ceases, this machinery is thrown into disorder; your government is at an end, and you have no means of enforcing or protecting any right in civil or social life. And, Mr. SPEER, this is the real point of my speech. I am not speaking [Mr. NELSON,] and all the substitutes and amendments proposed for it, do not reach the difficulty, and never will reach the difficulty, so long as you undertake to carry out this theory in Utah. In my opinion, you have the means of accomplishing your object, but your judicial system will never be adequate to the accomplishment of any such purpose. The right of trial by jury, and the right of requiring that that trial shall be preceded by indictment by the grand jury, are based upon the assumption that the law is to be carried out, and to carry out the law if it lead to an indictment, and that the petty jury will be willing to carry out the law if it lead to a conviction. But do you expect any such result in a community like that in Utah?

Now there is certainly no ground for supposing—and I believe no jurist has ever pretended that the provisions of the Constitution of the United States in relation to the erection of the judiciary system, in which trial by jury, and indictment by a grand jury, are guaranteed to the people of a State, are applicable at all to the Territories of the United States. Nobody holds to that. If it were so, you have been trying and hanging men in violation of the Constitution and laws of the United States for the past fifty years. For if the jury, and the grand jury, in the Territories, are required to be formed after the rule prescribed in the Constitution of the United States, those men who have been tried and hung by the judgment of your territorial courts have been tried and hung in violation of the Constitution; and the judges, jury, and grand juries, in the Territories, are guilty of murder, unless it be true that Congress has full power to create a tribunal or court wholly unlike those tribunals prescribed in the Constitution of the United States for the States.

Now, Mr. SPEAKER, certainly it goes no pleasure to see mixed up in a debate of this descrip-

tion the question involving the rights of slaveholders to carry their slaves into the Territories, and hold them there in spite of the power of Congress. In my judgment, it has nothing to do with this question; but if you will take the last exposition given by the Supreme Court of the United States of the power of Congress over the Territories, you will observe the position assumed in that decision by the learned judges—and whether it is right or wrong I do not propose at this time to argue—you will find that it is based, not upon any want of power on the part of Congress to govern a Territory; not upon the right of Congress to institute such government as they see fit, whether they shall reserve the power of legislation to themselves, or grant it to be exercised by a Legislative Council, or intrust it entirely to the territorial government—all power over that subject rests in the pleasure of Congress, with only the limitations found in the Constitution on the exercise of this power.

Mr. MORRIS, of Illinois. I should like to see whether I understand the position that the gentleman takes. Do I understand him to hold that Congress has entire power over the legislation of a Territory?

Mr. OLIN. Congress possesses all the legislative power that can be exercised under the Constitution.

Mr. MORRIS, of Illinois. What power has Congress to enforce even the organic act of a Territory if the people of a Territory refuse to accept it? I ask the gentleman that question.

Mr. OLIN. I hardly see what that question has to do with the subject. I do not know that I understand the gentleman.

Mr. MORRIS, of Illinois. I repeat the question. Suppose the people of a Territory do not choose to accept it: what power has Congress to enforce it?

Mr. OLIN. The same power that Congress has to enforce any act affecting the Territory. The same power that the government of a State has over the citizens within the limits of a State, and even more; for, according to the decisions of the Supreme Court, as I understand them, Congress has the same power over the people of the Territories, that Congress and a State government combined have over the people of that State.

Mr. MORRIS, of Illinois. Well, sir, what power has a State government to force the people of that State to execute its organic law, if they choose not to do it?

Mr. OLIN. Of what importance is that question?

Mr. MORRIS, of Illinois. The gentleman asks the question, what the importance of that is? I think that is the whole matter. He thinks that Congress has an absolute, unconditional power of legislation over the Territories, and of passing an organic act for a Territory, while the people themselves have no power. Now, it seems to me that it is important, in reference to that assertion—I do not call it an argument—that the gentleman should answer the question, what power this Government has to compel the people of a Territory to accept an organic act, if they choose not to do it? I hold that these organic acts are contracts entered into between the Government and the parties; and that if the people of a Territory do not choose to accept the act we pass, we cannot force them to do it. We have no power within the Government to do it.

Mr. OLIN. Well, Mr. Speaker, this proposition is a most extraordinary one—that the Congress of the United States have really no control over the public domain; have no right to pass any law respecting it; and have no right to prohibit you or me, or any one, from entering upon it or settling upon it.

Why, sir, nobody ever questioned that until this new doctrine of equative sovereignty was introduced. Do we not claim the right to control the public land? Cannot we say how you may go upon it? Cannot we convict trespassers and punish them? Has we not done this over and over again? The gentleman asks me how can we compel a Territory to accept an act we create a territorial government? How can we compel them to accept it? We constitute a territorial government, enact a code of laws, send a Governor, judges, and marshals to enforce the laws, and the people yield obedience to them or resist them. If they resist, the whole power of the General Govern-

ment may be invoked to suppress such resistance; and the only way to avoid accepting the act, would be to quit the Territory. They will quietly march out if they do not accept it, or undergo the penalties of the law.

Mr. MORRIS, of Illinois. I understand the gentleman to say that, if the people of a Territory are not disposed to accept just such an organic act as he may choose to propose, he is in favor of driving them out.

Mr. OLIN. You misunderstand me. Mr. MORRIS, of Illinois. That is the logical deduction from your argument.

Mr. OLIN. I will proceed with my argument. Gentlemen who have perused the decisions of the judges of the Supreme Court in the Dred Scott case, know that not one of the judges denied the power of Congress to exercise legislation with respect to all the relations of life—to exercise legislation on all legitimate subjects of legislation, except where the power is limited by the Constitution. It is undertaken to spell out of the Constitution a limitation on the subject of slavery, upon the ground that the Constitution guarantees the right of property in slaves. It is alleged that, being thus guaranteed by the Constitution, it cannot be affected by any act of Congress. And now, if some ingenious gentleman can spell out of the Constitution, in the same way, some guarantee of the protection and security of adultery and polygamy, we will discover another constitutional limitation on the power of Congress to legislate for the Territories.

Mr. CLARK, of Missouri. I ask the gentleman whether he thinks Congress has the right under the Constitution, to pass a law for the establishment of slavery in a Territory?

Mr. OLIN. I have no doubt Congress has the same power to establish slavery in the Territories that any legislature could have.

Now, one word in reply to the gentleman from Missouri, [Mr. NOELL], who protested against the bill before the House upon the ground that it was initiating a new mode of legislation. It seemed to strike the gentleman that it was something novel in the legislation of this country, that, after Congress had created a territorial government, it should undertake to pass any law affecting the internal concern and policy of that Territory, or even to repeal the law it had passed. If the gentleman will look through the legislation of our country, he will find, during the whole period of our country's history, that Congress has repeatedly interfered in that way, and upon all such occasions that it asserted the right to legislate upon all subjects whatever. The mode adopted for convenience was generally to invest a local tribunal with certain legislative powers; for it was easier for that tribunal than Congress to attend to all the details of local legislation. Nobody ever supposed that, because Congress had delegated such a power, it had not the right to resume it whenever it pleased.

Mr. NOELL. I do not wish to be misunderstood about this matter. I take the ground that it was against the practice for Congress to assume this power to make local laws.

Mr. OLIN. I have said all I desire to say, and cannot say more. I do not propose to enter into any attempt to abrogate the powers of Congress to govern the Territories of the United States. It is a doctrine which has found no favor in this Government down to the unhappy period of the repeal of the Missouri compromise. I wish to enter my protest against this doctrine of popular sovereignty in the Territories. It seems as though God, in His providence, had allowed this modern Sodom to grow up in our midst as a rebuke to the Government for departing from that safe and wise policy of our fathers in the government of the Territories.

Mr. FARNSWORTH. I wish to ask the gentleman from Missouri, [Mr. CLARK], whether in his opinion Congress has the right to establish polygamy, and to protect it in a Territory?

Mr. CLARK, of Missouri. I deny that Congress has the right to establish polygamy or slavery there.

Mr. FARNSWORTH. Or to protect polygamy there?

Mr. CLARK, of Missouri. It has the right to protect property in a Territory that is authorized to hold as property in any of the States from which the people go to a Territory.

Mr. FARNSWORTH. And it has not the right to protect the relation of husband and wife?

Mr. CLARK, of Missouri. Congress has the right to protect all relations and all property in any country belonging to the United States.

Mr. FARNSWORTH. My question was suggested by the question which the gentleman himself propounded.

Mr. CLARK, of Missouri. Polygamy is a relation not authorized by any State of this Union, or anywhere else, that I know of, where decency and good order prevail. [Laughter.]

Mr. FARNSWORTH. Suppose it did exist in one of the States by authority of that State?

Mr. CLARK, of Missouri. That would make the world worse than I suppose it ever will be, and worse, I have no doubt, than this country ever will be, unless, unfortunately, the Republican party gets the ascendancy. [Laughter.]

Mr. FARNSWORTH. This question was suggested by the inquiry propounded by the gentleman from Missouri to the gentleman from New York, in regard to the rights of Congress to protect slavery in the Territories. As slavery embraces adultery and polygamy—is “the sum of all villainies,” as declared by Wesley—it occurred to me that Congress might with as much propriety protect polygamy as slavery.

Mr. JENKINS. Does the gentleman declare that?

Mr. FARNSWORTH. Declare what?

Mr. JENKINS. What you have just stated.

Mr. FARNSWORTH. I do declare that John Wesley said so.

Mr. JENKINS. Does the gentleman concur in that expression of Wesley's?

Mr. FARNSWORTH. I am very much of that opinion.

Mr. JENKINS. If the gentleman declares that, I have a bill.

Mr. FARNSWORTH. I am not in the habit of allowing myself to soil my own garments by descending into cesspools and throwing dirt with a blackguard.

Mr. JENKINS. I cannot receive an insult from you after you have allowed yourself to take one.

Mr. VALLANDIGHAM. Important as this measure is, I do not rise for the purpose of debate; but only to assign the reasons which will govern my vote. If this bill, sir, proposed simply to annul my vote, I would not rise to oppose it. But, sir, which establishes or regulates polygamy, it should receive my cordial support. Even if it provided further, that any one who should attempt to execute any such act after it had thus been annulled—thereby coming within the precedents cited by the gentleman from Missouri, [Mr. LEACH]—it should still have my vote; because the right to disapprove all acts of the Territorial Legislatures of Utah is expressly reserved by Congress in the act organizing that Territory.

By this bill, sir, proposed to go far beyond the mere abrogation of territorial laws. It undertakes, by one sweeping enactment, to declare a certain offense penal, and to punish it in every organized Territory of the United States. Sir, I am not of that number, I never have been of that number, who would propose to give Congress the right to legislate for the Territories. It seems to me that the proposition is too plain for argument. Every organic law is an act of the highest legislation; and there can be no “sovereignty” where the people do not even institute their own governments. I do, indeed, distinctly and emphatically repudiate the insane dogma of a party platform that Congress possesses “sovereign power” over the Territories. Sir, as I read the Constitution, Congress is restricted in all exercise of power by the limitations of that instrument; by the spirit and genius of the Constitution, and by the eternal and immutable principles of justice which are alike obligatory upon individuals and upon States.

I concede, however, I repeat, the power of Congress to organize and to govern the Territories of the United States; and as certain laws have been exercised from the beginning, and as no limitation is to be exercised to this day, as to certain fundamental principles, which are incorporated, usually as restrictions or bills of rights, in our organic territorial acts. Nevertheless, it has equally been the policy, and a calm, extended and impartial review of the legislation of Congress from the beginning will establish the fact—to leave to the

Legislatures of the several Territories the control of their domestic affairs. That principle does not originate, so far as ordinary questions are concerned, with the adjustment measures of 1850, still less with the Kansas-Nebraska bill. It had an earlier origin. It goes back to the beginning of the Government, and, therefore, is recognition in the ordinance of 1787, which ordinances establishing certain fundamental principles and providing for two several grades of territorial government, provides also, that first to the judges and Governors appointed by the President, and afterwards to the Territorial Legislatures, chosen by the people, criminal and civil legislation shall abide. Acts subsequent to the formation of the present Government organized Territories south of the Ohio river, in all respects the same as the territory northwest of that river, except as to the prohibition of slavery.

That, I affirm they, has been the fixed and uniform policy of this Government. It is true, however, that there is no instance of a territorial organization, up to 1854, in which Congress did not recognize to itself the negative right of revising and annulling any laws which the Territories might have might enact. It had been the policy, indeed, as I have said, for Congress to settle in the organic act certain fundamental questions relating to taxation of lands, or other subjects similar in their character, and of legislative jurisdiction, chosen by Congress to legislate directly upon the question of slavery; and eight times between 1789 and 1850, Congress prohibited slavery in the Territories, and seven times in express terms recognized and legislated upon it there as an existing institution. But because of this action, legislation which in 1830 and continuing at intervals for thirty years, endangered finally by its violence, the stability of the Government and the existence of the Union, the former policy of prohibition or recognition, whether determined by a geographical line or otherwise, was liberally abandoned, and the principle of non-intervention, ancient indeed as to other and ordinary subjects of legislation in the Territories, was first applied to the question of slavery in the adjustment measures of 1850. That principle, sir, is distinctly contained in the report made to the Senate by Mr. Clay, from the Committee of thirteen, on the 8th of May in that year—a committee composed of Clay, Webster, Cass, King of Alabama, Douglas, Mason, Bell, Berrien, and some five others of the most distinguished Senators of that day. And that report, sir, is a landmark sentence, indicating the deliberate purpose at that time to extend the principle of non-intervention, which had obtained from the beginning in regard to the ordinary subjects of legislation, from thenceforth forever to the question of slavery in the Territories:

"It is high time that the wounds which (the Wilmot proviso) has inflicted should be healed up and closed. And to avoid in all future time the agitation which must be produced by the conflict of opinion on the slavery question, existing in the Territories, and the evils which have been prohibited as it is in others, the rule principle which declares the decision of Congress to be final, and the exclusive of territorial governments for each newly acquired domain to be maintained from all legislation on the slavery in the Territories, as long as it retains the territorial form of government—leaving it to the people of each Territory, which they have attained to a condition which entitles them to do so." (See the report of the Committee of thirteen, on the 8th of May, 1850, in the House of Representatives, 1849-50, No. 192, p. 5.)

That, sir, as I understand it, is a distinct affirmation of the doctrine of non-intervention and of true popular sovereignty, as applied to the question of slavery in the Territories. It is a principle placed upon the same basis on which, from the beginning of the Government, other objects of legislation were treated; always, to the Constitution, and, previous to 1854, to the right, by Congress, of organizing the territorial laws. And Kansas-Nebraska bill the ancient doctrine and policy of the Government, extended, as I have just said, to the question of slavery by the legislation of 1850, was reaffirmed and made yet more distinct and emphatic by the express recognition of non-intervention in the principle of the compromise measures of that year, and the enactment that the true intent and meaning of the bill was to "leave the people perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

And before we propose to move to rescind this entire policy of the Government. It proposes

not merely to annul a law which the Territorial Legislature of Utah has enacted, but by direct legislation to create a penal offense, and to punish it in every organized Territory of the United States. Sir, the precedents cited by the gentleman from Mississippi (Mr. LAMAR) do not sustain the proposition, when it is viewed in this respect for its policy and judgment as a lawyer. Congress, in both instances, exercised the reserved power of abrogating or disapproving certain acts of the Territorial Legislature of Florida, and provided simply for the punishment of any one who should attempt to enforce those acts, notwithstanding the abrogation. If, as I said a little while ago, the bill now pending had provided only for the annulment by Congress of certain laws of Utah, and had even gone further, and imposed heavy penalties upon any person who should attempt to enforce the acts so annulled, I would, without hesitation, have supported it; but I am not willing to abandon a policy as old as the Government, and to establish a precedent which may so readily be extended to that question which has been so much agitated this whole country for many days.

For, sir, however others may fall away, I will not consent that that policy shall now be abandoned, and that, for the first time for many years, if not from the beginning, this House, upon a question of purely local concern, should undertake to legislate directly for the Territories, and without the intervention of the Territorial Legislature. Sir, I was the slave prohibitionist of this side of the House that, when they have combined and stricken hands with the slave prohibitions of that side of this House, for the purpose of upholding this long-settled principle of non-interference, and of establishing again a precedent for direct congressional legislation for the Territories, verily it will require but one short step further to apply the doctrine to that other of the "main rule of barbarism." "We punish slavery, not as a crime in your Territory, but as a crime in every Territory."

It is very true, sir, that there is a wide gulf separating these two institutions. Slavery has been declared by judicial decision to rest now on its true constitutional basis—as a question of property. That is, it is not a crime in your Territory, but as a question of property. It is only within the last eight or ten years that, in the minds of the people of the South, in the minds of many in the North and West, and finally by judicial decision, it has been established upon its true basis; resting now upon the high sanction of property, and not merely on the more delicate, indeed, but less secure tenure of "a domestic relation."

Sir, I understand the distinction on which the gentleman from Mississippi (Mr. LAMAR) relies. I recognize it. It is founded in fact, and is as high as heaven, and as deep as earth, firm as the everlasting hills. But I tell you, and I tell the gentleman from Virginia, (Mr. MILLSON), that there are millions in the free State who do not understand, and who will not recognize it. They will look to a political abolition, and denounce in us as "the friends of barbarism," both slavery and polygamy. They will point to the record here; to the united votes of the interventionists of the North and South combined in great majority to pass this bill, and exultingly will gloat over it as a precedent to be set in the history of this Government, of direct legislation for the first time in a matter of purely local concern over organized Territories, ignoring, utterly, the delegation by Congress in every organic act for half a century, and especially in the very act of organizing the several Territories, to which it is the obligation of the power, through their Territorial Legislatures, to enact laws upon all the rightful subjects of legislation.

Mr. MILLSON. Why does the gentleman say that this policy is now for the first time to be set in the history of the Government, when I have shown that, from the very first year of the Government down to the present time, almost every crime conceivable, except bigamy, has been punished by Congress in the Territories?

Mr. VALLANDIGHAM. And so, too, have crimes in the United States. In every State, in this

Union there sits a doer, or will sit within the next six months, a United States crime, a criminal crime and offenses against the Federal Government. If the gentleman will look at the act organizing the Territory of Florida in 1822, he will find, instead of the general clauses, now inserted in the later organic acts, extending to the Territory organic acts in all laws and ordinances of the United States are specifically enumerated; and first in the list is the very crime act of 1790, to which he so exultingly refers. It is made applicable to the Territory in the same manner that it applies to the States. But why is this, if, as he maintains, the act itself, by its very terms was meant to extend from the beginning to every Territory?

And I beg leave to remind him, also, that in the Kansas-Nebraska bill the fugitive slave law is expressly extended to the Territories of Kansas and Nebraska, in connection with other laws of the United States; and all this because doubts have been expressed whether any of the statutes of the United States apply to the Territories unless by express provision.

Sir, I do not read the act of 1790 as the gentleman reads it. I do not understand the section which he quoted as including the organized Territories of the United States. Neither do I regard the acts cited by the gentleman from Mississippi, (Mr. LAMAR), as precedents sustaining his position, because they are not precedents for repealing certain laws and ordinances of the Territorial Legislature, and then provide that whosoever shall undertake to enforce any of the laws or ordinances so repealed shall be punished by fine and imprisonment.

Believing, sir, that this measure proposes a reversal of the policy of the Government and of the Democratic party, and that it is a direct and distinct repudiation of the great doctrine of non-intervention, in accordance with which, as a matter of expediency, and of compromise, we have tolerated certain questions of territorial policy shall be delegated to the inhabitants of each Territory, subject to the restrictions of the Constitution, I voted to lay this bill upon the table; and shall continue to vote against it to the last.

Mr. TILLOTSON. Mr. Speaker, it has become apparent in the progress of this debate that there is at least one question on which the representatives of all portions of the country may agree. Every member from every section of the Union is ready to assert the odious criminality of polygamy. It is so certain, and so generally acknowledged, that there is at least one subject on which there is no sectionalism, in relation to which we have not heard the Representatives of North Carolina boasting that their people are much better than those of Massachusetts, nor the Representatives of the State of New York boasting that their people are better than those of Mississippi.

There is really now one practical question before us for our decision; and, sir, in my remarks upon it, I shall not treat it as an abstraction. I shall not treat it as a question of expediency or legal technicality. Polygamy is an existing fact; and as an existing fact, while I agree with members from every part of the country in denouncing it, I will so act as to insure its most speedy extermination. It is this fact, sir, which began to-day or yesterday, or some week or some month ago, from the zeal which is manifested here, that it never was heard of till the beginning of this session of Congress.

But, sir, some thirteen years ago, one Brigham Young, a shrewd and selfish and unscrupulous adventurer, led certain Mormons from Illinois, or from Missouri, across what was then called the great American desert, by a long and wearisome journey, to the basin of the Great Salt Lake. Poor, deluded, ignorant fanatics were his followers, who, from having no religion, or a gross and false one, by the theories of the Smith, and had joined the ranks of the Latter Day Saints. From time to time there have been accessions to their number. Year after year they have come from Wales and Scotland, from England and Germany, and a few from France, and they have begun to grow in number, so that they attained their highest number some two years since, and now have begun to decline in strength, consolidation, and numbers. During these thirteen years, we have had a Whig Administration; we have had two Democratic Administrations; and at no time have they been able to suppress the organization of this House;

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the States of the Union. I tell you, we cannot afford to spend the time of this nation in quarreling about these provinces, when the Constitution does not know. The Constitution knows nothing less than a State; and why should we be ever quarreling about Territories? Sir, I am so much a popular sovereignty man, that I deny that Congress, by no argument, bestow sovereignty upon the people of a Territory.

Mr. SMITH, of Virginia. Let me ask the gentleman a question. The gentleman says that the Constitution does not recognize anything else than a State. Then, what does he think of that clause of the Constitution which gives to Congress the power to dispose of the territory and other property of the United States?

Mr. THAYER. I ought to have said as a political community. The Constitution speaks of territory as property, as land; but, sir, as a political community, it is governing less than a State. Hereafter, as a member of Congress, I will know nothing less than a State. I am opposed even to granting permission to any Territory to make any laws, or to manage its own affairs in its own way.

Mr. SMITH, of Virginia. I want to ask another question. If Congress has no power over the territory of the United States, except as property—not as a political community—then Congress has no power over the people of a Territory.

Mr. THAYER. Exactly, sir. It may be that, under the construction of the Constitution which has obtained, Congress would really be decided to have the same right to govern the people that George III. had to govern these colonies. I deny that Congress now ever has any right to govern American citizens in the Territories. To be explicit: if Congress has that right, where did it get it? Congress is the servant, and not the king of the people. The people, Mr. Speaker, in the Territories, are king. There is no other. Nobody has any authority but the people. If Congress can dispense sovereignty, certainly Congress has either acquired that sovereignty or has created it. Nobody believes that Congress creates sovereignty. If Congress acquires it, then when and where did it acquire it? Even the Church of Rome pretends to be a reservoir of what it has and what it dispenses. When that Church sells indulgences, it declares that it only sells the superabundant merit of the saints, so that men that are not as good as they ought to be may have their deficiencies made up by men who are better than they need to be. [Laughter.] I would like to know where this superabundant sovereignty comes from, that Congress can dispense it. Only think what a reservoir of sovereignty this Congress must be, that has dispensed sovereignty to twenty sovereign States since the formation of the Government, and has never had any sovereignty itself, except what it must have acquired from the sovereign people of this country.

No, sir; this thing is a mistake. Its worse—it is a fiction; it is a fallacy. The gentleman from Alabama, [Mr. CREVIER,] the other day, wondered if what he supposed, by what legendman, that which is to-day public land becomes to-morrow a sovereignty. Public land does not become a sovereignty. Land never becomes a sovereignty. Men are the sovereigns. If there is unoccupied public land to-day, and to-morrow there is a State there, I assure you that somebody has gone there—some citizen, who is himself so much above property that he alone is of more consequence than all the public land that this Government ever did or ever will possess. He, sir, is the sovereign; and you disrobe him of his sovereignty because he has crossed a line and gone into a Territory. By what power, by what law, Congress being his servant—by what law can it do it? By just as good authority your coachman, sir, might put on your hands and head and command you to get into the box and take the whip in hand, while he takes a seat inside the carriage.

But, sir, if the possession of land confers sovereignty, and if the sale of land implies the power to

govern, I would like to know whether the selling of the products of the land does not give the right to govern the people? I would like to know whether the doctrine that the party, whether the Government or an individual, who sells land, thereby acquires the right to govern the purchasers of the land, is any more ridiculous than the assumption that the grain dealer who sells corn, the sheep dealer who sells sheep, the cattle dealer who sells cattle, thereby acquires the right to govern his customers? Land is nothing but property. The fiction, that the possession of land gives sovereignty and the right to govern people who are upon it, is a part of the old feudal system.

We have everywhere connected with the fibers of this Government some of the relics of ancient tyranny. When William the Conqueror invaded and subdued England he proclaimed that the fee of all the land on the island was in himself, and he parceled it out amongst his retainers. Holding possession of the land, he then proclaimed that all the men who lived upon it were his slaves. And from the old feudal system we derive this ancient, this fallacious idea, that the possession of land by this Government gives it the power to govern anybody who shall buy the land. I have no sympathy with this ancient system, and I detest it. I shall detest it always, and use my influence against it.

Mr. SPEAKER, while I advocate these views, the amendment I propose commits no man who may vote for it to think; for that amendment neither affirms nor denies the power of Congress to legislate hereafter for these land districts which are thereby constituted. I hope I have succeeded in showing that the bill which is proposed will not accomplish the purpose which it professes to have in view. I hope I have succeeded in showing that the bill is not a necessary evil, and that it is to be accomplished these results. I might have spoken of the complications which this territorial policy is ever imposing upon the Government, and of the dangerous consolidation of power to which these complications inevitably lead. A Republic cannot stand so fully governed as this. Whenever it has attempted to do it, the history of the world has shown that it has not only failed, but it has been overthrown by that policy. The policy of acquiring and of governing provinces creates a necessity for an army and a navy. It is to make the President of the United States, to all intents and purposes, a king; and I am, therefore, for abolishing this policy as soon as may be.

You remember, sir, that it was upon this very mission of acquiring and governing provinces, that Caesar was in Gaul, when, returning, he crossed the Rubicon and overthrew the liberties of his country. Similar to that has been the history of every Republic which has attempted to exercise non-resident jurisdiction—that has attempted to acquire and govern provincial dependencies. While we have sought to annex provinces, we have lost the right time, I protest against the acquisition of territory, to be governed or sold by Congress. I am for simplifying the operations of the Government in respect to the Territories. We have the land to sell. Let us provide for selling it; let us not burden the Government with the people. Let the people take care of themselves. They are the sovereigns. Congress is their servant.

Mr. KEITT. I will trouble the House but a moment in explaining my opinion of this bill. I do not mean to run off on sentimental idealities, which I would not recommend at all.

I wish to treat this matter practically, and to decide upon it as a thing of legislation, and not as a sentimental theory. Then, sir, first, what are we called upon to do; secondly, what power have we to do it; and thirdly, how shall we do it? Now, Rubicon and the other gentlemen pursue. To prohibit polygamy in the Territory of Utah. I ask those gentlemen, where is the proof that polygamy exists in Utah? and I pause for an answer from any gentleman who has been urging this bill.

Mr. PRYOR. Does the gentleman doubt the fact?

Mr. KEITT. I want to know the fact, in my official character as a Federal legislator. I cannot

be asked to exercise a great and delicate power upon a mere fugitive rumor.

Mr. PRYOR. I will satisfy the gentleman by stating that the Delegate from Utah [Mr. HOOPER] admitted the fact in our presence yesterday.

Mr. KEITT. He is no witness here; nor do I understand that he admitted the fact.

Mr. MALLORY. I ask the gentleman if he intends to occupy the ground, that before we will pass a law against any crime we must have evidence before us that the crime exists?

Mr. KEITT. That is another question altogether. I am inquiring of those gentlemen whether, in the pursuit of a sentimental theory, they are ingrafting an act upon the statute-book? If so, I will examine that. I understood those gentlemen to invite the attention of Congress, and to invoke our interposition, to prohibit an institution which they said was existing, and I asked for the proof of its existence, and I have not heard of it. I am asking those gentlemen who advocate this bill, whether or not we have a right to express a theoretical, sentimental opinion upon it? I want to know where I stand. I want to know whether you are asking me to put into the statute-book a sentiment, upon a theory, or whether you are asking me to put upon the statute-book an act which strikes at an existing institution. Does it exist?

Mr. STANTON. I would inquire of the gentleman whether it is upon the statute-book of South Carolina an act prohibiting bigamy?

Mr. KEITT. What has that to do with this matter?

Mr. STANTON. That is all we propose to do for Utah.

Mr. KEITT. I am asking what the law of Utah is, and the gentleman asks me what the law of South Carolina is. Are we called upon to legislate for South Carolina? I am asking for the record of a Territory, and the gentleman asks me for the record of a State.

Mr. MALLORY. With the permission of the gentleman from South Carolina, if he propounds a serious inquiry—

Mr. KEITT. I do; I want to know the fact.

Mr. MALLORY. I tell the gentleman that we know this fact by tradition; by the current literature of the day; by history; by the thousand means by which we obtain information upon any and every subject. And I now ask the gentleman from South Carolina if he doubts the existence of this practice in the Territory of Utah?

Mr. KEITT. I am here in my official character, to proceed upon the record and not upon newspaper rumors, nor upon tradition nor upon gossip.

Mr. MALLORY. I will then refer my friend from South Carolina to the representative from Utah.

Mr. KEITT. Has he made any statement which is in evidence before the House?

Mr. MALLORY. I will, with the permission of the gentleman from South Carolina, ask the Delegate from Utah if polygamy is not practiced in the Territory of Utah?

Mr. KEITT. I want to get at the facts.

Mr. NELSON. If the gentleman will yield, I will answer the question. I ask the Clerk to read the third section of an ordinance incorporating the Church of Jesus Christ of Latter-day Saints in Utah, as found in the "Acts, Resolutions, and Memorials of the Annual Sessions of the Legislative Assembly of the Territory of Utah."

The Clerk read as follows:
"§ 3. And it is further ordained, That, as said Church holds the constitution and rights to communion with all civil and religious communities, to worship God according to the dictates of conscience; to reverence communion agreements; to be true to their covenants and marriage covenants; to be obedient to the laws of the land; to be true to the principles of justice, and to be true to the security and full enjoyment of all blessings and privileges embodied in the relation of husband and wife; and it is also declared that said Church does, and shall, possess and enjoy continually the power and authority, in and of itself, to originate, promulgate, and establish, rules, regulations, ordinances, laws, customs, and ceremonies; for the good order, safety, government, preservation, and control of said Church, and for the protection, and to the peace of all offices, relative to fellowship, according to

use if there cannot be some time fixed for closing the debate upon this question.

Mr. WASHBURN, Illinois. Let us know when we are to leave the vote.

Mr. GROW. Let some time be fixed when the previous question shall be called.

Mr. KEITT. I suppose that we cannot go on to-night; and I confess that I should like to make a few remarks upon this subject to-morrow morning, for about ten minutes only.

Mr. JOHN COCHRANE. Many members wish to speak.

Mr. STANTON. I suggest to the gentleman from New York that he should withdraw his motion at a moment when we may see if some agreement cannot be made.

Mr. GROW. If there is to be no agreement, I hope the motion to adjourn will be voted down.

Mr. JOHN COCHRANE. What time is proposed?

Mr. STANTON. Say two o'clock to-morrow. Several MEMBERS. Oh, no. Say four o'clock. Mr. JOHN COCHRANE. Well, say four o'clock.

Mr. GROW. Three o'clock to-morrow will be long enough. If you are going to let every gentleman speak who desires to be heard upon this question, you will not get a vote for a month.

Mr. MORRIS, of Illinois. I want to say to gentlemen opposite that no agreement can be made upon this side of the House; and I hope they will not venture to press a vote upon this question at that early period.

Mr. GROW. I desire to give notice that, unless some agreement can be made, on the first opportunity that I can get the floor I shall call the previous question on the bill. We upon this side have taken very little part in this debate.

Mr. MORRIS, of Illinois. The gentleman from Pennsylvania had better leave the calling of the previous question to the gentleman from Tennessee, who reported the bill.

Mr. GROW. I have left it for two days. There are other questions as important as this.

Mr. MORRIS, of Illinois. There is no use in attempting to force an agreement in opposition to the wishes of so many members.

Mr. GROW. Our side has taken very little part in this discussion.

Mr. MORRIS, of Illinois. We wish you would. We want to draw you out, and get you to define your position.

Mr. GROW. We will define it by our votes. Mr. SHERMAN. I demand the yeas and nays on this motion adjourn.

The yeas and nays were ordered.

Mr. MORRILL. Before the calling of the roll is commenced, I presume that an agreement can be made which will be satisfactory to all sides of the House. I suppose that it will be the wish of the House to have this question disposed of to-morrow. If we postpone the ordering of the main question till four o'clock, of course we shall have to adjourn till the next day to take the several votes that will have to be taken on this bill. Now, if the yeas and nays are ordered, we shall take the vote at three o'clock to-morrow, I presume that will meet with the assent of the House on all sides except, perhaps, that of those who still want to speak upon the subject.

Mr. MORRIS, of Illinois. I desire to say for myself, in reply to the gentleman from Vermont, that I can assent to no understanding of that kind. I want this bill to be discussed fully and fairly, and I repeat that I hope gentlemen will not attempt to force a vote upon it to-morrow.

Mr. BURNETT. I would suggest to the gentleman from New York that he should withdraw the calling of the roll, that the gentleman from Tennessee, who has the bill in charge, can certainly get the floor and call the previous question whenever he may think it right and proper to do so.

Mr. MORRIS, of Pennsylvania. I ask the gentleman from Tennessee if he would not be willing to call the previous question to-morrow at two o'clock? He would have then an hour in which to close the debate, and the House could take the several votes upon the bill before adjourning at midnight of to-night.

Mr. NELSON. After ascertaining the opinions of many of the members as to the period when this debate should close, I have to state, in reply to the gentleman from Pennsylvania, that I will call the previous question at three o'clock to-

morrow. That will leave me an hour to close debate upon my part, and there will then be ample time for the House to vote upon the bill before adjourning.

Mr. GROW. I hope now the call for the yeas and nays will be withdrawn.

Mr. BRANCH. If the previous question is to be called to-morrow at three o'clock, I would suggest that, until that time, the speaker be confined to thirty minutes each. Of course, I do not apply that rule to the gentleman from Tennessee, who reported the bill; but there are many gentlemen who would like to be heard.

Several MEMBERS. Make it twenty minutes.

The SPEAKER. If there be no objection, the Chair will consider it the wish of the House that the debate shall be limited to twenty-minutes speeches.

Mr. GOOCH. I object to twenty minutes.

The SPEAKER. The Chair will then propound the question on thirty minutes.

Mr. MORRIS, of Illinois. I object.

The SPEAKER. There then can be no arrangement.

Mr. GROW. I again appeal to the gentleman from Ohio to withdraw the call for the yeas and nays.

Mr. JOHN COCHRANE. For the purpose of relieving the House from the necessity of having the roll called, for the yeas and nays have been already ordered, I will withdraw the motion to adjourn.

The SPEAKER. The gentleman from New York withdraws the motion to adjourn.

Mr. JOHN COCHRANE. I now renew the motion.

The motion was agreed to; and thereupon (at two minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, April 4, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate, the correspondence between the President and the Attorney General, on the subject of the legal proceedings and condition of affairs in that Territory; which was ordered to lie on the table; and a motion by Mr. Peon to print the message was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. THOMSON presented joint resolutions of the Legislature of the State of New Jersey, in favor of the passage of an act by Congress by which the public domain shall be granted, in quantities of not more than one half, nor less than one quarter of a section, free of charge to each actual settler thereupon; which were referred to the Committee on Land and ordered to be printed.

He also presented joint resolutions of the Legislature of the State of New Jersey, relative to the removal of obstructions in the River Delaware; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented joint resolutions of the Legislature of the State of New Jersey, concerning the establishment of a Government foundry in that State; which were referred to the Committee on Military Affairs and Militia, and ordered to be printed.

He also presented resolutions of the Legislature of the State of New Jersey, in favor of the improvement of the navigable waters on the Atlantic coast; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented resolutions of the Legislature of the State of New Jersey, concerning the establishment of a Government foundry in that State; which were referred to the Committee on Military Affairs and Militia, and ordered to be printed.

He also presented a paper in favor of establishing a mail route from Bordentown to Brown's Mills, in Burlington county, New Jersey; which was referred to the Committee on the Post Office and Post Roads.

Mr. TEN EYCK. I have received similar resolutions from the State of New Jersey to those

which have been presented by my honorable colleague. I desire to present them also at the same time; and in relation to the resolution respecting the public lands, inasmuch as that matter is now before the Senate, and these resolutions are similar in effect to the House homestead bill, I ask, out of respect to the State of New Jersey, that they may be read.

The Secretary read, as follows:

State of New Jersey.

Joint resolutions relative to public lands.

Whereas it is expedient that the public lands of the United States should be held for the equal benefit, in limited quantities, of all equal persons to be willing to settle upon and cultivate the same; and whereas, also, it is the true policy of American institutions that the great mass of the American people should be identified in interest with the soil, by the unconditional ownership of a reasonable, but limited, amount thereof: Therefore,

1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That our Senators and Representatives in Congress be, and they hereby are, requested to use all honorable means to procure the passage of an act by the Congress of the United States by which the public domain shall be granted, in quantities of not more than one half, nor less than one quarter of a section, free of charge to each actual settler thereupon, and the title to the same confirmed to him upon his filing, in the office of the Surveyor-General, a certificate of his title, as aforesaid; provided, however, that the act be so guarded as not to defeat or interfere with the rights of persons to whom land warrants have been lawfully granted for services under the Government of the United States.

2. *And be it resolved*, That the Governor of this State is hereby requested to cause to be printed and distributed to each of our Senators and Representatives in Congress, that the same may be presented to the national Legislature, for their consideration.

Approved March 29, 1860.

The resolutions were ordered to be printed.

Mr. GWIN. I have been requested by General Duff Green to present a memorial in favor of building a Pacific railroad. Inasmuch as that question will, I hope, come up in a very short time for consideration, I move to lay this memorial on the table, and that it be printed. It contains a great deal of valuable information.

Mr. CLAY. I do not like to oppose the motion, but it seems to me that would be a considerable volume. I think it had better go to the Committee on Printing.

The VICE PRESIDENT. The motion will go to that committee.

Mr. KING presented the memorial of Anthony F. Navarre and William M. Rice, agents of the Potawatomi Indians, praying that the Commissioner of Indian Affairs be required to furnish them with a statement of the condition of their affairs; which was referred to the Committee on Indian Affairs.

Mr. PUGH presented a petition of citizens of Cleveland, Ohio, praying the enactment of a uniform bankrupt law; which was referred to the Committee on the Judiciary.

Mr. HARLAN presented a resolution of the Legislature of Iowa, in favor of the establishment of a mail route, with tri-weekly service, from Cedar Rapids, in Linn county, via Toledo, Butterfield, LeGrand, Marshalltown, Marietta, and Nevada, to Booneboro, in Boone county, in that State; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. POWELL presented a joint resolution of the Legislature of Kentucky, instructing its Senators and requesting its Representatives strongly to urge upon the treaty-making power of the Government of the United States the necessity of amending the tenth section of the treaty with Great Britain in regard to fugitives from justice, which was ratified in London, on the 13th day of October, 1842, by the British minister and American envoy, respectively, as to include in its provisions fugitives from justice or the necessity of holding under the Constitution and laws of the United States, or of either of the States; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also presented resolutions of the Legislature of Kentucky, in reference to pensioning the soldiers of the war of 1812; which were referred to the Committee on Pensions, and ordered to be printed.

He also presented resolutions of the Legislature of Kentucky, in reference to the enlargement of the Louisville and Portland canal; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented resolutions of the Legislature of Kentucky, in relation to the duty on to-

bases; which were referred to the Committee on Foreign Relations, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. FITZPATRICK, from the Committee on Military Affairs and Militia, to whom was referred the petition of G. W. Lawrence, praying remuneration for moneys expended and losses sustained, while in the military service of the United States, during the war with Mexico, submitted an adverse report.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of Charles Hays, praying Congress to pass a law changing the name of the schooner Emma, a foreign vessel, and for her enrollment, &c., submitted an adverse report.

Mr. PUGH, The Committee on the Judiciary, to whom was referred a memorial of members of the bar and officers of the court for the second judicial district of the United States territorial court for Utah, praying that the salary of the judge for that district may be increased, and the bill (S. No. 305) amendatory of the act entitled "An act to establish a territorial government for Utah," approved September 2, 1850, have instructed me to report the bill without amendment. I give notice that I shall call up the bill at an early day for the consideration of the Senate.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 369) for the protection of the fisheries upon the Potomac river, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. KING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 370) for the relief of the Potawatamie nation of Indiana; which was read twice by its title, and referred to the Committee on Indian Affairs.

BILL RECOMMENDED.

Mr. BROWN. Yesterday morning, by direction of the Committee on the District of Columbia, I made an adverse report on the bill appropriating a certain sum of money for the construction of the Little Falls bridge. Since then some members of the Committee think there may have been possibly some mistake about it. I ask, therefore, that it be taken from the table of the Senate, and recommended to the Committee on the District of Columbia.

The motion was agreed to; and it was

Ordered, That the bill (S. No. 309) to reimburse the corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge, be recommended to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of **Mr. KING**, it was

Ordered, That the memorial of Philip S. Solomon, and their associates, praying the privilege of constructing a horse-railway in Georgetown and Washington, presented on the 31st ultimo, be referred to the Committee on the District of Columbia.

On motion of **Mr. PUGH**, it was

Ordered, That the petition of citizens of Washington, in relation to lighting Four-and-half street, on the site of the Senate, be referred to the Committee on the District of Columbia.

On motion of **Mr. PUGH**, it was

Ordered, That the petition and papers of J. B. Williams, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of **Mr. NICHOLSON**, it was

Ordered, That the heirs of Thomas Hazard leave to withdraw their petitions and papers.

RIGHTS OF NATURALIZED CITIZENS.

Mr. SUMNER. I offer the following resolution, and ask for its present consideration:

Resolved, That the President of the United States be requested, if in his opinion not inconsistent with the public interest, to furnish to the Senate copies of all correspondence not heretofore called for, relating to the claim of any foreign Government to the military services of naturalized American citizens.

It is supplementary to a resolution already passed on the motion of the Senator from Ohio, [Mr. PUGH].

The resolution was considered by unanimous consent, and agreed to.

ROBERT H. MORRIS.

Mr. YULEE. If there be no further morning business, I move that the bill which was before

the Senate yesterday, for the relief of the legal representatives of Robert H. Morris, be taken up and acted on finally.

Mr. BIGLER. I hope the Senator from Florida will allow me to take up a small private bill.

Mr. YULEE. That is precisely what I am proposing to do myself.

Mr. BIGLER. This is a case of a peculiar character.

Mr. YULEE. So is this, and it will be disposed of in a moment.

Mr. BIGLER. There is an urgency for this bill.

Mr. YULEE. So there is for mine.

The VICE PRESIDENT. The Senator from Florida moves to take up the bill (H. R. No. 242) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York.

Mr. YULEE. I hope my friend from Arkansas has made the examination which he desired.

Mr. GREEN. He is not in.

The motion of **Mr. YULEE** was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 242) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York.

Mr. GREEN. The Senator from Arkansas seemed to take an interest in this case.

Mr. YULEE. As I said yesterday, the bill is honest, and the Committee considered a recommendation from the auditing department.

Mr. JOHNSON, of Arkansas. I opposed the bill yesterday; but I find that the statement which the Senator from Florida then made in regard to it was correct, and I have nothing to say. I find that his action previously differed from what I supposed it to have been. I had thought the action of his committee in this instance was different from its dealing with other cases heretofore. I chose, therefore, to arrest the proceeding. I find that I was in error in regard to it, and of course I withdraw any remarks I have made in opposition. I think there is some justice and equity in this claim; but I do not know that there is to the extent the committee think, but still I shall make no opposition.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SAMUEL J. HENSLY.

The VICE PRESIDENT. The business next in order is the bill for the relief of Samuel J. Hensley, left unfinished yesterday morning.

Mr. CRITTENDEN. I hope that will be proceeded with.

Mr. BIGLER. The bill No. 229, on the files of the Senate, is one that I am satisfied will not occupy five minutes.

Mr. GWIN. Let this be finished.

Mr. CRITTENDEN. This is the unfinished business.

Mr. BIGLER. Well, I yield.

The VICE PRESIDENT. The bill (S. No. 240) for the relief of Samuel J. Hensley is before the Senate, as in Committee of the Whole. The Secretary was yesterday engaged in reading the report, which he will continue.

Mr. CRITTENDEN. The reading of the report was desired by the Senator from Virginia, [Mr. HENRY] who is not here. Unless the reading is desired, I think we might dispense with it.

Mr. SLIDELL. I should like to hear it read. I know nothing of the case. It is a large amount. I am ignorant of it.

The VICE PRESIDENT. The Secretary will continue where he left off yesterday morning.

The Secretary proceeded with the reading of the report.

Mr. CLARK. I doubt whether the further reading of that report will be useful. I think the rest of it is in regard to the finding of particular facts with reference to the contracts. The principles have already been developed, as far as it has been.

Mr. SLIDELL. I desired to hear the report read, not from any disposition to embarrass the bill. I want it disposed of to-day; but it involves a very considerable amount, and I am not willing that it should be passed without a knowledge of the circumstances.

Mr. CLARK. I do not object to the further reading of the report if anybody wants to hear it.

The VICE PRESIDENT. The rule provides that if an objection be made to the reading of a paper, the question must be put to the Senate.

Mr. SLIDELL. I will dispense with the reading of the remainder of the report if the Court of Claims recommended the payment of the specific sum. That is the point I want to know.

Mr. CLARK. I will say that the Court of Claims has examined the facts as to the quantity delivered, and fixed the amount to which the claimant was entitled.

Mr. SLIDELL. Has the Court of Claims passed on the specific sum?

Mr. CLARK. Yes; this is the specific sum found by them to be due.

Mr. SLIDELL. Then let the Clerk read the latter paragraph of the report.

The Secretary read the concluding paragraph of the report.

Mr. CLARK. I think that paragraph does not furnish, perhaps, the information the Senator wanted; but I will say that the claim was for something like nineteen hundred head of cattle. The bill is upon the owners of the schooner, twelve hundred head of cattle, and recommended payment for twelve hundred only.

Mr. SLIDELL. At a fixed price?

Mr. CLARK. Yes, sir, at a specific price, which the report found to be payable.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by **Mr. HAYES**, Chief Clerk, announced that the House had ordered yesterday, April 3, 1860, the printing of the following documents:

Letter from the Secretary of State, communicating a copy of papers in reference to the fine which was levied upon the owners of the schooner Elizabeth Mary—ordered at twelve o'clock and nineteen minutes, p. m.

Resolution of the Commonwealth of Kentucky, in reference to the enlargement of the Louisville and Nashville—ordered at twelve o'clock and eighteen minutes, p. m.

Resolution of the Commonwealth of Kentucky, in reference to the pensioning of the soldiers of the war of 1812—ordered at twelve o'clock and eighteen minutes, p. m.

Resolution of the Commonwealth of Kentucky, in reference to the duty on tobacco—ordered at twelve o'clock and eighteen minutes, p. m.

Resolution of the Commonwealth of Kentucky, relating to treaties for the surrender of fugitives from labor—ordered at twelve o'clock and eighteen minutes, p. m.

The message further announced that the House had this day ordered the printing of the following documents:

Joint resolutions of the State of New Jersey, relating to the removal of obstructions in the Delaware river.

Also, joint resolutions relative to public lands.

Also, joint resolutions concerning duties on imported merchandise.

Also, joint resolutions for the improvement of navigable waters of the Atlantic coast.

Also, joint resolutions concerning the establishment of a Government fund in the State of New Jersey—all of which were ordered at twelve o'clock and seven minutes, p. m.

WILLIAM MEDILL.

Mr. BIGLER. I move that the Senate—

The VICE PRESIDENT. The Chair will state the question before the Senate. The business next in order will be the joint resolutions introduced yesterday by the Senator from Missouri, [Mr. GREEK].

Mr. BIGLER. I move to postpone all prior orders, and take up bill No. 229 on the files of the Senate.

Mr. GREEN. I hope that my joint resolution will be preferred. Such a thing has never been refused in any instance since I have been in the Senate. When a bill or joint resolution has been introduced by common consent for the purpose of reference, whatever it may contain, right or wrong, good or bad, its reference has never been refused; and therefore I object to the Sen-

ator's motion, and hope he will withdraw it until this matter shall be disposed of. I hope the same courtesy will be extended to me that has been extended to every Senator in this body.

Mr. BIGLER. Certainly it would be no violation of courtesy to make a motion to postpone. Mr. GREEN. But I wish you to withdraw it simply for the purpose of allowing the reference of my joint resolutions.

Mr. BIGLER. If I were satisfied that the matter would be disposed of without discussion, I would withdraw my motion, of course.

Mr. GREEN. It will be disposed of by a reference.

Mr. BIGLER. I withdraw my motion for the present.

THE VICE PRESIDENT. The question is on the motion of the Senator from Missouri, to refer the joint resolutions (S. No. 22) concerning the First Comptroller of the Treasury, William Medill, to a select committee of five.

Mr. SAULSBURY. I move to refer them to the Committee on the Post Office and Post Roads. I have every disposition to extend courtesy to the Senator from Missouri; but having read something in connection with this case, and as the resolutions are a reflection on a meritorious officer, who has only, in the discharge of his duty, done what the American Government is required to do. The States has said that he ought to do, I do not like even to vote for a reference of the resolutions, as the very reference implies a censure; but still, I make the motion to refer them to the Committee on the Post Office and Post Roads.

Mr. YULE. I hope the Senator will substitute, for that committee, the Committee on the Judiciary. If the matter goes to any standing committee, it appropriately belongs to the Judiciary Committee; because the subject of the resolutions is the contract of the United States, which the Post Office Committee has nothing to do.

Mr. SAULSBURY. The whole question arises out of a contract made by the Postmaster General with certain men to carry the mails. The claim which these men set up against the Government and from which they allege to be an abrogation of that contract.

Mr. GREEN. Do not debate the merits of it. This is not the time for that.

Mr. SAULSBURY. I only mention that fact to show that, if there be any standing committee of this body to whom the reference should be made, the Committee on the Post Office and Post Roads is the appropriate committee.

Mr. GREEN. The subject ought not to go to the Post Office Committee, because it is not business that belongs to them. It is with reference to the execution of a law. It ought not to go to the Judiciary Committee, because that committee—I am one of the members of it—always and uniformly refuse to decide abstract questions.

Where legislation is required, they will do it. Where a relation is to be established, or a judicial action, they will act upon; but these mere abstract questions they do not desire to touch, and will not, but will report that these questions do not belong to them; and it was with deference to the Judiciary Committee and the Committee on the Post Office and Post Roads, that I moved for a select committee. It is a question that involves nobody until the report is made and a judgment is pronounced by the Senate. This mere reference amounts to nothing. In every case in this body since I have been a member, when a joint resolution or bill has been introduced for the purpose of reference, I have never heard a question raised by any Senator, nor a single objection, except in this one instance; and why it is, I do not comprehend. Let the truth come out; let the facts be developed; let the controversy be introduced in this question, and then the Senate can decide and the public can judge.

But here, when I ask to introduce a resolution, unanimous consent being given, and it is introduced, read the first and second time, and then a motion is made to refer it to a select committee, controversy springs up such as I have never seen before, and the merits of the thing proposed to be referred are to be inquired into before the facts are developed. I object to it. I think it is very unkind treatment. I think it is doing no harm anybody to let the facts come out. Let the truth be developed; let the country judge, and let the Senate understand. I know that the Ju-

diary Committee will not investigate this subject. I know that they will say it does not belong to them. I know it by similar cases that have been referred to them before. I know that it does not belong to the Post Office Committee. It is a question not pertaining to the postal service; it is an independent question. Now, such being the case, ought it not to go to a select committee, and ought I to be refused the poor privilege of having an investigation, simply because it is an officer of the Government whose conduct is to be investigated?

Mr. SAULSBURY. I wish to say to the Senator from Missouri, that my objection arises from no want of courtesy to him, but it arises from this fact: I have read the correspondence on this subject. I believe the resolutions, the very presentation of them here, is calculated to injure this gentleman, who, in my judgment, has faithfully discharged his duty. But the proposition of the Senator from Missouri is a novel one. What is it? Certain persons have a private claim, as I understand, against this Government for a breach of their contract. It is referred to this officer to ascertain whether they have sustained a damage, and to assess that damage. He reports adversely to their claim; he makes that report under the written opinion of the Attorney General of the United States, who is called upon by the Postmaster General to give his opinion. He has made his report conformable to the opinion of the highest law officer of this country; and, because he has done this, in the exercise of his duty, he is arraigned before the Senate of the United States by resolutions reflecting upon his official character, and expressing, as I understand, the opinion that he ought to be removed from office. Private claimants against this Government, because the officer, acting under the opinion of the Attorney General of the United States, reports adversely to their claim, come here and ask the Senate of the United States to entertain propositions reflecting upon the integrity of such officer. If it had not been for the very great respect which I have for the Senator from Missouri, I would have moved an indefinite postponement of the resolutions, or that they be postponed until the 5th of March next. I refrained from doing that, because I wish to do no discourtesy to him; but I do say, that as this claim does arise out of an alleged breach of contract for carrying the mail, the Post Office Committee is the proper committee to which the reference should be made.

Mr. GREEN. The Senator does not state the case correctly. Originally it was just in the position which he now states. Originally it was a claim growing out of what they alleged to be a breach of contract; but Congress passed a law, stating that the contract having been made and abrogated, the First Comptroller of the Treasury should assess the damage. Therefore, the making of the contract and its abrogation are facts affirmed by the law. Whether any damage was sustained or not, I do not know. I do not know whether it is one dollar, or one hundred, or one hundred thousand dollars. That is a question I have nothing at all to do with; but the Comptroller says there was no contract, no abrogation; and as the Senator from Delaware chooses to say that these questions improperly—for this is not the time for them—I must repeat what he states.

Mr. PUGH. Will the Senator allow me to make a remark?

Mr. PUGH. Yes. These resolutions were offered yesterday. The day before yesterday Colonel Medill returned to Ohio with some of his relatives, very ill. I have had no opportunity to see him. He is a gentleman of high character, never appearing before me as a petitioner, and I do not know whether he did or not—there will not be found to be a stain on his character. I can give that assurance with perfect confidence from my long acquaintance with him. I do not know anything about this claim; but certainly in this case I feel that it is one of my constituents, to ask that resolutions calling his conduct in question be over until I can obtain some explanation. I can-

not obtain it from him, because he is sick and has gone off.

Mr. GREEN. I can reply to the Senator from Ohio—

Mr. PUGH. I will call it up if you fix a day for it.

Mr. GREEN. Mr. Medill was not gone when these resolutions were offered.

Mr. PUGH. They were offered yesterday.

Mr. GREEN. He did not go until after they were offered. I know what I say, and no man can contradict it.

Mr. PUGH. I only state what I was told yesterday in the Senate Chamber. I came here before the resolutions were offered. He has been ill, at all events.

Mr. GREEN. Now sit still, and I will tell you the balance. Before he left, a copy of these resolutions was sent to him, and he read it. I know what I say, and no man can contradict that. No person is taken by surprise. This has been a straightforward, fair-dealing process from the beginning up to the present period of time. When these resolutions were prepared—and I put them into the shape which I thought least objectionable—a copy was sent and delivered to him. It was delivered to him before he left. They were introduced in the Senate before he left; and he left yesterday evening as I am informed, and he was shown to him before he left, and he knew all about it.

Now, I will not prejudice the case. Although the Senator from Delaware says the Attorney General bolstered them up, I say that the opinion of two Attorneys General is directly to the contrary. It is a question of law, and a question affecting the dignity and power of Congress. When the Senate and House of Representatives, the Executive approving, declare a fact, and assert a certain rule for the purpose of adjudicating a case, I deny the right of any officer to set at defiance Congress and the Executive, and all. I want the law executed. As to the amount of damage, I have not one word to say. It may be no damage. It is to vindicate a principle that I am acting. I do not know either one of these parties, and never saw one of them, and never expect to see one of them, but I maintain that when Congress passes a law, and it is approved by the Executive, no one officer of this Government has a right to disregard it and do as he pleases. I am not violating the Constitution. As I said before, I will not prejudice the case; and I only say this much in answer to what the Senator from Delaware has said. He went improperly, as I think, into the merits of the case, referring to certain matters involved in the case. All I ask is, that the subject be referred; that it be investigated. I know it is a case worthy of investigation; and, having asked an investigation, it is possible that the Senate will deny the investigation?

THE VICE PRESIDENT. The Senator from Missouri will rise if he is desirous of the Chair to call up the special order at this hour.

Mr. BAYARD. I ask leave of the Senate to make a very short statement in relation to this matter. It will take me not more than ten minutes, certainly, and I think it is a case in which I should be permitted to do so. I will promise to close when I have to say in ten minutes.

Mr. GREEN. I make no objection, if the Senate will then take a vote; otherwise, I will object.

THE VICE PRESIDENT. The Chair hears no objection.

Mr. FITCH. The understanding which the Senator from Missouri wishes to have cannot be had, because I design to offer a substitute for his resolutions.

THE VICE PRESIDENT. The Senator from Delaware needs unanimous consent to make a few remarks.

Mr. GREEN. I shall object, unless we have an understanding.

Mr. GRIMES. I shall object, unless there is a right to reply.

Mr. BAYARD. I have a right to move to postpone the previous business to continue this discussion for ten minutes.

THE VICE PRESIDENT. The special order for to-day is a bill in addition to "An act to secure the progress of the usual arts;" but the act to secure noninterference to actual settlers on the public domain, being the unfinished business of yesterday, takes precedence. The Senator from

Delaware moves to postpone the special orders with a view to continue for ten minutes the further consideration of the resolutions of the Senator from Missouri. The question is on that motion.

The motion was agreed to; there being, on a division—yeas 23, nays 16.

Mr. BAYARD. I do not purpose to enter into the merits of the case, as the honorable Senator from Missouri has done in part, or, as I did not hear the previous part of the debate, others may have done. I will state as to Mr. Medill, that the only interest I feel in him—I do not know him personally—I feel that he originally came from my own State, and here there a high character when he left it. I have not heard of him since. But that is not the point of my objection to these resolutions and their reference to any committee. Mr. Medill had notice, I have no doubt, that these resolutions would be offered. He considered it as a threat to him. He was previously advised by his physician that it was essential to his health that he should entirely abstain from all business, having been laboring under an attack of disease for three or four weeks previous, which was sympathetically actually affecting the mind. He had determined and made all his arrangements to go, when this notice was given to him the day previous. He went before these resolutions were offered, as I understand, at six o'clock yesterday morning, and the resolutions were offered yesterday after the meeting of the Senate. So much for that.

But the objection to these resolutions—the objection even to their reference—which appears on their face, in, that they place the Senate in an improper position. Take every allegation there to be true—that a law of Congress was passed; that certain construction was given to it, which the honorable member says, in the judgment of the Senate, was wrong. Suppose it was: what is that any reason for the resolutions that follow it—that we should turn ourselves into an accusatory body; that we should interfere with the rights of the President as regards his relations to Congress? If it is proper that we, who are to sit as judges in cases of impeachment, should take such action as this, and commit ourselves to resolutions accusing and condemning a public officer on our own inquiry, and requesting him to resign from office? Is that a proper course on the part of the Senate? Is it due to the organization of the body and the system of our Government, or is it consistent with it? There is no charge of fraud. There is the charge that he misconstrued a law; that he construed it differently from what the honorable Senator from Missouri says it ought to be construed. Well, sir, it is the fact, undoubtedly, that he construed it on the written opinion of the Attorney General of the United States. It may be wrong. Concede his construction to be wrong; is that a reason for Congress passing these resolutions, or even sending them to a committee? Is it within our province, because a public officer may make an erroneous decision on the construction of a law, to ensure him by the vote of the Senate, and request the President to remove him? Those are the propositions in the resolutions. If it is not, will you not the Senate say that it is not a subject for reference to a committee, and that we should lay it on the table? On the face of it, without inquiry into the facts, supposing the facts to be true, that the decision was so made, supposing the decision to be palpably erroneous in the judgment of a majority of the Senate, does it justify this proceeding? I will say here that I looked at that question a year ago, when the opinion of the Attorney General was published, and I think it a rather doubtful question. I am inclined to think the Attorney General is right, and I will say he is; but I rather incline to think he is—in his construction of the law. I may be wrong. I may change that opinion on a more full investigation, for I only read the opinion, and it seemed to be not an unreasonable one; and, on the other hand, the Comptroller, acting on his own opinion, having decided that there were no damages, because the contract was not approved by the Postmaster General, we are to pass a resolution censuring him for his conduct, and another saying that he ought to be removed.

I think this system of action on public officers is not within the intent and purpose of the Constitution. I think that if they have done wrong in the per-

formance of their duties, impeachment is what is to be resorted to; not this course of action. I like to keep the several departments—executive, judicial, and legislative—separate from each other. I have no opinion on the propriety of the action of Mr. Medill as a matter of law, whether he was right or whether he was wrong; and I do not understand the resolutions to charge him with improper motives; but if they did, I think that would be a matter for more necessary discussion. It should spring from the House of Representatives; and it must embody the Attorney General also, as well as the Comptroller, for they both stand in precisely the same position as regards this question; and if so, we may be called upon to sit here as judges under our oaths for the purpose of determining the guilt or innocence of the public officer. Is it right, then, that by these resolutions we should beforehand commit our minds as to a question on which we may have hereafter judicially to act? I think not. I think, therefore, on the face of the resolutions, without reference for one instant to the question whether the decision was right or wrong, whether the remedy ought to have been given or not, this is not the proper mode to put the party on his trial; and therefore the resolutions ought to be laid on the table. I think, I will add, that the action of the Comptroller, if it is right or wrong, was done in August, 1857; and there was no complaint made here, or any motion made to attack and arraign that officer for his decision, for a period of more than eighteen months; and he is incurring no censure or disgrace, known to have existed for two weeks previous to the introduction of these resolutions, it would seem somewhat hard that resolutions which do go to the character and to the standing of the man, which seek to deprive him of the office which he is in, should be introduced into the Senate, should be called up and referred to a committee for investigation when the party is not here to be heard. I submit to the Senate, for these considerations, that the resolutions, at least for the present, should lie on the table; and I make that motion.

Mr. GREEN. I hope the Senator will not take that course to cut off all possible debate.

Mr. BAYARD. I will not prevent the honorable Senator from discussing it as much as he pleases.

Mr. GREEN. I move the further postponement of the special order for ten minutes.

Mr. PUGH. I hope that will not be done.

Mr. GREEN. I have not yielded the floor.

Mr. PUGH. Then I object to that motion.

Mr. GREEN. You may object to the motion after I get through. I have the floor now.

Mr. PUGH. The Senator has not the floor to debate it. It is not a debatable motion.

Mr. GREEN. I have the floor; and, until I yield it, he has no privilege to speak.

Mr. PUGH. I have the floor. (Mr. Fitzpatrick in the chair.) It is moved and seconded that the Senate postpone the consideration of all previous orders, to consider this subject for ten minutes further.

Mr. BENJAMIN. I object to that; because, if the President is to be continued in discussion, I should want to move an amendment to the resolutions, and I should want time to prepare it. My objection to the resolutions, I will say in a word, is that they assume certain facts, and therefore I—

Mr. GREEN. I object to his discussing the resolutions. He shall not do it. It is not in order, and he knows it.

Mr. BENJAMIN. I do not permit any gentleman to tell me I shall not do a thing on this floor.

Mr. GREEN. Well, I object to it; and I call on the Presiding Officer to enforce the rule.

Mr. BENJAMIN. Very well; address yourself to the Presiding Officer.

Mr. GREEN. I do, sir.

The PRESIDING OFFICER. Does the Senator from Missouri raise a distinct question of order?

Mr. GREEN. I do; that he shall not discuss the merits of the question on this motion?

The PRESIDING OFFICER. It is not in order to discuss the merits of the question; but it is in order to say the reasons why the Senator should or should not yield to the motion of the Senator from Missouri.

Mr. WADE. Is anything before the Senate?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. BENJAMIN. I was going on to say, until I was interrupted, in a manner somewhat discourteous, at all events, that I was unwilling that these resolutions should be postponed for ten minutes only; because it would not give time to dispose of them as I think they ought to be disposed of; that I should have an amendment to offer, which should have time to prepare. These were the reasons which I was about giving when I was interrupted, in a manner of which I leave the Senate to judge.

Mr. GREEN. I have no objection to such reasons as those; but when he undertakes to discuss the merits of the resolutions, I will object; for he, as well as myself and the Presiding Officer, knows it to be out of order.

The motion to postpone was not agreed to.

Mr. GREEN. I ask unanimous consent to order my resolutions to be printed.

The PRESIDING OFFICER. That motion goes to the Committee on Printing.

Mr. GREEN. No, sir. I mean the resolutions I offered.

Mr. FITCH. I wish to carry with that order a motion to print an amendment which I intend to offer.

Mr. GREEN. I have no objection. The motion to print was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President.

An act (S. No. 81) for the relief of Elizabeth M. Cooke, widow of Major James H. Cooke, late marshal of the district of Texas; and

An act (S. No. 302) in relation to the return of undelivered letters in the Post Office.

HOUSEBUILT BILL.

Mr. WADE. I move to take up the house-built bill.

The PRESIDING OFFICER. That is the business now before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 280) to exempt homesteads to actual settlers on the public lands.

Mr. PUGH. Mr. President, the substitute proposed by the Senator from Tennessee (Mr. JOHNSON) is only the bill reported by the Committee on Public Lands—of which he and I are both members—during the last Congress, as well as at an early period of this session. It aims to establish a general policy in respect to the disposition of our public domain; not a new policy, as I conceive, but an ancient policy enlarged in its application; not a policy adverse to the principles of our Federal Constitution, or the reserved rights of the States, but in faithful accordance with the one and the other; not a policy intended or calculated to waste the landed property of the Government, or impair its revenue from that source, but, in fact, to enhance the usefulness of the former and to increase the revenue of the latter.

The substitute—or as I call it, the Senate bill—proposes to grant one hundred and sixty acres, by a regular subdivision and alternate sections, from the public lands hitherto surveyed, or which may hereafter be surveyed, and subject to sale at private entry, to any citizen of the United States, being the head of a family, who will settle upon the tract so granted and cultivate it for a term of five years.

My colleague (Mr. WADE) has mentioned several particulars in which he prefers the original House bill. I reserve with him as to one of them, and shall endeavor to amend the Senate bill accordingly; but I differ as to all the rest.

I agree that no distinction ought to be made between persons of alien birth, now residents in the United States, and persons who may hereafter be admitted to citizenship, or regularly declare their intention to become citizens. Both classes ought to be included; and why that was not done by the Senate bill originally, or by some amendment from the Committee on Public Lands, I confess myself unable to say.

Three other objections of my colleague are contained in a single paragraph of his speech:

"In the next place, the Senate bill confines the benefits

of its provisions in lands of families. The House bill gives the land not only to heads of families, but to any person who is twenty-one years old, who will make a declaration, and become a citizen before he receives his patent from the Government. The Senate bill confines the persons to lands that are subject to private entry. The House bill gives the preference for the preemption to the heads of families, and also subjects to preemption, and also makes the benefits to all such as have already preempted land, but have not paid for the same completely within this time."

It is true that the act of September 4, 1841, section ten, allows a right of preemption to married men, "over the age of twenty-one years," being citizens, as well as to the heads of families; and also extends that right to all lands which have been surveyed, and not specially reserved before, no less than subsequent, to such lands being offered at public sale, but there are two particulars in which the act of 1841 is very intemperate, and ought not to be imitated. They have been fruitful sources of fraud and perjury; have opened the door to most reprehensible monopolies; and have, in one and the same instant, deprived the actual settler, deprived the Government of nearly all its revenue from the public lands, and involved it in the utmost extravagance of expenditures.

Unmarried men seldom have any fixed residence; and their settlements on the public domain, at the majority of cases, are of the casual kind, intended to secure the lands at a nominal price, in order to sell them at an advance to mere speculators. This evil is greatly increased by the provision which authorizes them to settle upon lands not yet offered to public sale; because, as unmarried men are not required, almost in company with the surveyors, and before the heads of families, in order to select the best lands and make such slight improvements as will entitle them to the privilege of preemption. The speculators do not care to wait until public sales, but select the best lands. They find it more advantageous to purchase claims for preemption upon lands which have thus been selected in advance of sales, or even of any advertisement. Consequently, while the income of the Government has steadily declined, actual settlements have not been promoted, and monopolies of the public domain, based on frauds and perjuries, have increased to an alarming degree.

The act of September 4, 1841, is the first which authorized future preemptions. The former acts were retrospective, and only confirmed settlements made before their respective dates of enactment for a number of years. Congress ought to have foreseen that such an extension of the principle, throwing aside all safeguards, would immediately induce the most shameless frauds, as well as the most corrupt speculations. Accordingly, in less than two years, by the act of March 3, 1843, provision was made to investigate some of these frauds, and an attempt to prevent their recurrence. (Statutes at Large, vol. 5, p. 619.) That attempt was but partially successful; and since it has been a member of the Committee on Public Lands, for now almost five years, no subject has been more frequently and anxiously considered than the adoption of some plan to avoid the evil of sham settlements under the preemption act. I believe that its operation ought to be limited to heads of families, or, at least, to lands which have been offered at public sale; and, so believing, I wish to restrain the homestead bill in those two particulars. Otherwise—and I warn its friends before-hand—it will become a terrible engine of mischief and corruption.

In the report of the Secretary of the Interior, of December 1, 1859, I find this paragraph:

"The advantages and profits arising from the first settlement of a new country ought to be enjoyed by the early settlers. They have peculiar hardships and privations to undergo, and the Government should encourage them. The law does not contemplate that they shall have any competition, except from other actual settlers, in selecting the best lands for settlement. It is not the intention of the law to deprive the settler of the privilege of purchasing a homestead until he has settled on the land. It is the reason to be that the withholding of lands from a public offering, and consequently from private entry, has often proved prejudicial to the Government, and has been a source of great loss, and has been a source of great loss, and has been a source of great loss."

How great this temptation to fraud is, may be inferred from the fact that, in many instances, lands which have been entered at \$1 25 per acre, have been sold in twelve months after entry from ten to one hundred dollars per acre."

The graduation act of August 4, 1854, was an enlargement of the principles of the preemption act, and was immediately followed by enormous and shameless frauds. I refer, in confirmation,

to the act of March 3, 1857, Statutes at Large, volume 11, page 185. The Secretary of the Interior said in his report of December 2, 1858:

"It is believed that the graduation law will continue to prove a fruitful source of fraud and annoyance, unless some change is made in its terms. Congress should require proof of settlement prior to graduation, and should limit the entry, or should release the purchaser from the conditions now imposed."

And the Commissioner of the General Land Office, in his report for the same year, says:

"From the passage of the act of August 4, 1854, up to the close of the fiscal year ending June 30, 1858, 168,324 acres have been sold at the various graduated rates. Of these, 105,060, and about one-third, were sold at the rate of twelve and a half cents per acre. And of the whole quantity, over 6,527,491 acres, or more than one third, were sold at the rate of twelve and a half cents per acre."

"We have reason to believe that a very considerable portion, if not the greater portion, of the entries for settlement and cultivation have been made by unscrupulous individuals in contravention of the law, and bought up by speculators, who are trying to Congress for the confirmation of the law, by the passage of the act of March 3, 1857, dispensing with the proof of settlement and cultivation."

To force the act from the editors of evasion and fraud, and to confer its wise and beneficent provisions to the exclusive benefit of the actual settler and cultivator of the land, the Government should require proof of settlement and cultivation to be made, and proof of that fact produced in every instance before the entry of the land, and the same is required in the act of March 3, 1857, and the condition of settlement and cultivation be required altogether.

"The graduation law was never designed to interfere with the regular sales under the general law, but merely to limit the sale of the lands to actual settlers and cultivators; and its operation should be confined, as far as practicable, to that class of persons; and, in my opinion, this can only be done by legislative action."

Another consideration deserves to be noticed. The head of a family who fixes his residence upon the public domain must not only struggle for his own subsistence, but for the subsistence of his wife and children. These are the attachments which bind him to the land, which stimulate his toil and industry, and induce him to bestow pains and make more useful improvements. Such improvements enhance, proportionally, the value of all other lands in the neighborhood to which the Government retains title, and furnish a reason for discriminating between his case and the case of temporary or trifling improvements, by an unmarried man.

Again: to allow the selection of homesteads upon lands which have been surveyed but never advertised for sale, in the first place, to offer inducements not to purchase or settle upon lands already surveyed, and after entry, and to offer those lands, from year to year, under the provisions of the graduation act; and, in the second place, to compel the continuance of our present extravagant system for surveying the public lands. It is not because of deficiency in the lands before surveyed and liable to purchase, or location, or preemption, but merely that speculators may be enabled to press forward into the prairie or the wilderness, and under cover of fraudulent preemption, appropriate the best portions of our public domain, that we are called upon, year after year, to enlarge the expenditures for surveying lands and for increasing the number of land offices and land officers. I am tired of opposing and exposing such extravagances; but if you will listen to nothing else, Senators, listen to this: here in the Indian wars, with their enormous drafts on the Treasury, and even more enormous sums stipulated by the treaties which ensue. We expend millions to induce our people to rush into the Indian country, surveying lands which are not required for sale or settlement, but only for speculation—thus driving the Indians from their homes to theft or starvation. We then expend millions to pay soldiers and militiamen for killing as many of these Indians as possible, and finally expend other millions, by sham treaties, to civilize the survivors, and to give the kind assistance of Indian traders, furnishing them weapons with which to destroy our people, and whisky with which to destroy themselves.

On the 30th of September, 1859, as the Secretary of the Interior informs us, there were eighty million acres subject to private entry, and fifty million acres already entered, and twenty million acres surveyed and ready for market. I assume that sixty million acres at least will be liable to occupation, as homesteads under the Senate bill—a quantity sufficient for all the homesteads demanded here, for,

in addition to those acquired under the preemption and graduation acts, during the next twenty-five years."

As to the proposition of the House, which my colleague specially commended—that those who have already made claims for preemption, but have neglected to pay for the lands claimed at the price fixed by the preemption act, should be discharged from all indebtedness, on what reasonable pretext can that be defended? Why not also refund the money heretofore paid by pre-emptors? Why not refund to every purchaser, small and great, the whole amount of his purchase money? Why not give to every landowner a bounty land warrant the lands which they have located, and the price of their warrants besides? Sir, it is an extravagant proposition, and utterly destitute of merit. We do not propose, by the Senate bill, to touch or otherwise interfere with the preemption or the graduation law, but to keep always in mind the principle of those laws, namely, that an advantage to the actual settler (within certain limits) will result in advantage to the Government as a landed proprietor. That principle is one from which no compromise with the United States, we are at liberty to depart; inasmuch as the public lands have been ceded to or purchased by the Federal Government for an especial purpose—not as property, to be dispensed for benevolent, or religious, or educational objects, but primarily and chiefly for the revenue, and as immediately connected with that, the encouragement of new colonies, Territories and States within our present boundaries.

For these reasons, also, the Senate bill confines the choice of homesteads to the alternate (uncumbered) sections of a township, four families to settle together upon adjacent farms, but reserving the even numbered sections for school purposes, (as in the case of section sixteen), or other special selections, or else to the operation of the preemption and graduation acts. The effect will be to bring the even numbered sections into market, and enable the Government to dispose of them at an earlier period and at better prices than if no homesteads had ever been granted. It must be remembered that the graduation act reduces the price of lands, from thirty to five cents per acre, subject to sale; so that the Senate bill is, in effect, a wise measure of revenue, as well as a measure for the colonization of our public domain.

And now, Mr. President, having explained the reasons which induced the Committee on Public Lands to propose the Senate bill, and to amend it, in four of the particulars specified by my colleague, I proceed to the general question debated by others.

It has been our constant practice, ever since the 3d of September, 1788, when the Congress met, to report two thousand acres, in Ohio, to the Society of United Brethren, for propagating the Gospel among the heathen, to donate a portion of the public lands, by alternate sections or otherwise, with a view to the enlargement of the residue. This was done by the act of August 2, 1827, granting to the State of Indiana the alternate sections for five sections in width, along the route of a proposed canal from the Wabash river to Lake Erie, and the act of May 24, 1828, granting to the State of Ohio a like quantity of lands along the route of the Miami extension canal, and five hundred thousand acres in addition. Such grants were not considered as gratuities by the Federal Government to the States I have mentioned, but as the contributions of a land proprietor towards improvements which would enhance the value of its remaining estate.

And so, by the act of September 20, 1850, Congress granted to Illinois, Mississippi, and Alabama, the alternate section for six sections in width, (being two million five hundred and ninety-five thousand and fifty-three acres) and in the construction of two railroads from Galena and Chicago to the mouth of the Ohio river, and one railroad thence to the city of Mobile, Mr. Claykey tells us, in his Political Text-Book, that the grant to Missouri for railroads, under the act of June 10, 1852, embraced one million acres in the construction of two railroads from St. Louis and St. Charles to the mouth of the Ohio river, and one railroad thence to the city of Mobile, Mr. Claykey tells us, in his Political Text-Book, that the grant to Missouri for railroads, under the act of June 10, 1852, embraced one million acres in the construction of two railroads from St. Louis and St. Charles to the mouth of the Ohio river, and one railroad thence to the city of Mobile, Mr. Claykey tells us, in his 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passed by the Thirty-fourth Congress, there have been donated to Iowa, Alabama, Florida, Louisiana, Wisconsin, Michigan, Mississippi, and Minnesota, for like purposes, between fifteen and twenty million acres.

Nor has the utility of such grants been abandoned, even at this session, as several Senators who have signified themselves in opposition to the present measure. I hold in my hand Senate bill No. 122, "to establish a communication by railroad and telegraph between the Atlantic States and California, and for other purposes," introduced by the Senator from Texas. [Mr. Wigfall,] and now upon the Calendar. I ask the Secretary to read me the first two sections of that bill.

The Secretary read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to aid in the construction of a railroad and telegraph line from the Mississippi river to the western boundary of Texas, and from thence to the Pacific ocean, there is hereby granted, on the terms and conditions hereinafter mentioned, to the Southern Pacific Railroad Company, chartered by the State of Texas, of which J. Edgar Thompson of Pennsylvania, Vernon K. Stevenson, Samuel Tate, and Joshua Foxworth of Tennessee are directors, and John P. Buckley, William H. Clement of Ohio, John P. King of Georgia, Charles T. Follard of Alabama, William C. Shreve of Mississippi, John L. McLean of Kentucky, John H. Seward and S. M. Barlow of New York, R. W. Loughery, Jason C. Wilson, W. T. Stewart, Robinson, and others of Texas, are directors, their associates, successors, and assigns, every alternate section of land, to the amount of three alternate sections per mile on either side of said railroad and telegraph line, from the Mississippi river to the Rocky Mountains, parallel of north latitude, to the eastern boundary of the State of Texas, and every alternate section of land, to the amount of twenty-five alternate sections per mile on each side of said railroad and telegraph line, from the western boundary of Texas, on the most eligible route to the eastern boundary of California, in the direction to San Francisco, and from thence, to the amount of six alternate sections per mile on each side of said railroad and telegraph line, on the most eligible route to the Pacific ocean, at or near San Francisco. And this road shall pass over the Rocky Mountain also south of the thirty-third parallel of north latitude.

SEC. 2. And be it further enacted, That, to insure the construction of a railroad and telegraph line from the Missouri river, commencing at the mouth of the Missouri river, on the north latitude, and thence on the most eligible route to the Pacific ocean, crossing the Rocky Mountains north of the thirty-third (33) parallel of north latitude, there is hereby made, upon the terms aforesaid, to William H. Swift of Massachusetts, Erasmus Corning of New York, W. W. Case of Massachusetts, and others of Ohio, Thomas A. Morris of Indiana, Benjamin H. Latrobe of Maryland, William B. Ogden of Illinois, Charles E. Mason of Iowa, J. S. Wood of Kentucky, John H. Seward, John How, Robert Campbell, and A. S. Mitchell of Missouri, and their associates, successors, and assigns, every alternate section of land, to the amount of three alternate sections per mile on each side of said railroad and telegraph line, for the distance of five hundred miles from the western boundary of the State of Iowa, and from thence on the most eligible route towards the line now selected therefor over the Rocky Mountains; and from the end of said five hundred miles, to the amount of twenty-five alternate sections per mile on each side thereof, on the most direct eligible route to the eastern boundary of the State of California, in the direction to San Francisco, and from said eastern boundary, to the amount of six alternate sections per mile on each side of said railroad and telegraph line, on the most direct eligible route to the Pacific ocean, at or near San Francisco, with a branch and telegraph from the western practicable point to said main railroad, to the mouth of the Missouri river, at or near its mouth, or to Puget sound; so as to aid in constructing which, a like grant of lands to said company for the amount of six alternate sections per mile on each side of said railroad and telegraph line is hereby made.

Mr. PUGH. Now I ask the Secretary to read that portion of the fourth section which I have marked.

The Secretary read, as follows:

And in all cases where the United States have disposed of any of the alternate sections granted by this act, or for any other reason cannot convey title thereto, or where the same shall be conveyed by the United States to any other authority, (and his decision shall be approved by the Secretary of the Interior,) or where the same shall be mineral lands in California, (which are heretofore on the list of the operations of this act,) the deficiency shall be made up by other sections from the several appropriated public lands belonging to the United States, in the order of the several objections apply. And the alternate sections granted by this act shall be in all cases made up of the lands designated by said authority: *Provided,* That so soon as this act is passed and accepted by the companies undertaking to build the railroads, it shall be the duty of the President of the United States to cause the public lands for forty miles on each side of so much of said roads as the companies shall indicate to be the most eligible route, and the occupation until the lands shall have been surveyed and the alternate sections selected, as provided for in this act.

In addition to all these grants, the seventh section of the same bill provides for a loan of \$750,000,000, upon almost indefinite terms of repayment, in aid of the railroad and telegraph lines then theretofore contemplated. Will the Senator from

Texas inform us whereabouts in the Constitution of the United States, as interpreted by itself, or with the aid of his detailed narrative of the events which preceded or accompanied the separation of the thirteen colonies from the dominion of the British Crown, whereof it is a part, to be introduced by or under the authority of the resolutions of 1798 and 1799, or by Mr. Madison's report, he discovered that the Federal Government had any more authority to provide railroads and telegraphs in Louisiana and California and Oregon, as well as in the Territories, than it has to bestow lands upon the landless, or secure homes for the homeless?

Mr. WIGFALL. With the permission of the Senator, I will ask the caption and the parts of the first and second sections of the bill which I have marked, be read, and I will then explain very briefly.

The Secretary read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to insure the safe, certain, and speedy transportation by railroad of mail, troops, munitions of war, military and naval stores between the Atlantic States and California, and for other purposes.

That, to insure the safe, certain, and speedy transportation of mail, troops, munitions of war, military and naval stores, from the Mississippi river to the Pacific ocean, there is hereby granted, on the terms and conditions hereinafter mentioned, to the Southern Pacific Railroad Company, chartered by the State of Texas, of which J. Edgar Thompson of Pennsylvania, Vernon K. Stevenson, Samuel Tate, and Joshua Foxworth of Tennessee are directors, and John P. Buckley, William H. Clement of Ohio, John P. King of Georgia, Charles T. Follard of Alabama, William C. Shreve of Mississippi, John L. McLean of Kentucky, John H. Seward and S. M. Barlow of New York, R. W. Loughery, Jason C. Wilson, W. T. Stewart, Robinson, and others of Texas, are directors, their associates, successors, and assigns, every alternate section of land, to the amount of three alternate sections per mile on either side of said railroad and telegraph line, from the Mississippi river to the Rocky Mountains, parallel of north latitude, to the eastern boundary of the State of Texas, and every alternate section of land, to the amount of twenty-five alternate sections per mile on each side of said railroad and telegraph line, from the western boundary of Texas, on the most eligible route to the eastern boundary of California, in the direction to San Francisco, and from thence, to the amount of six alternate sections per mile on each side of said railroad and telegraph line, on the most eligible route to the Pacific ocean, at or near San Francisco. And this road shall pass over the Rocky Mountain also south of the thirty-third parallel of north latitude.

SEC. 2. And be it further enacted, That, to insure the safe, certain, and speedy transportation of mail, troops, munitions of war, military and naval stores, from the Missouri river, commencing at the mouth of the Missouri river, on the north latitude, and thence on the most eligible route to the Pacific ocean, crossing the Rocky Mountains north of the thirty-third (33) parallel of north latitude, there is hereby made, upon the terms aforesaid, to William H. Swift of Massachusetts, Erasmus Corning of New York, W. W. Case of Massachusetts, and others of Ohio, Thomas A. Morris of Indiana, Benjamin H. Latrobe of Maryland, William B. Ogden of Illinois, Charles E. Mason of Iowa, J. S. Wood of Kentucky, John H. Seward, John How, Robert Campbell, and A. S. Mitchell of Missouri, and their associates, successors, and assigns, every alternate section of land, to the amount of three alternate sections per mile on each side of said railroad and telegraph line, for the distance of five hundred miles from the western boundary of the State of Iowa, and from thence on the most eligible route towards the line now selected therefor over the Rocky Mountains; and from the end of said five hundred miles, to the amount of twenty-five alternate sections per mile on each side thereof, on the most direct eligible route to the eastern boundary of the State of California, in the direction to San Francisco, and from said eastern boundary, to the amount of six alternate sections per mile on each side of said railroad and telegraph line, on the most direct eligible route to the Pacific ocean, at or near San Francisco, with a branch and telegraph from the western practicable point to said main railroad, to the mouth of the Missouri river, at or near its mouth, or to Puget sound; so as to aid in constructing which, a like grant of lands to said company for the amount of six alternate sections per mile on each side of said railroad and telegraph line is hereby made.

Mr. WIGFALL. With the permission of the Senator from Ohio, I beg leave to say that I stated that the first clause of that bill which I introduced, and three clauses of which he has read, I did not intend myself to support. The bill was drawn rather with a view to substance than to form. The provisions of that bill are contained in the amended bill which I hold in my hand, and from which I have just been reading. I have just been reading. I will not at this time go into any argument upon the question. It is enough for me to say now, in order to put myself right upon the record, that I do not believe that the Federal Government has any power to carry on any system of internal improvements, either general or otherwise. I do believe that the Federal Government has the right to establish post offices and post roads, and, under that power, to make provision for transporting the mails. I believe that the Government has the right to keep up an army and a Navy—I do not pretend to quote the words of the Constitution—to construct forts, navy-yards, and dock-yards, and other necessary buildings for this purpose, on such land as may be acquired by the Federal Government from the States. I believe that the Federal Government, having the right to transport the mails, charging, of course, those who derive the benefit by the reception of letters and printed matter through the mails, has also the right to transport munitions of war and naval and military stores when necessary; and that it is right to make contracts for the transporting of mails and naval and military stores. It is in reference to these particular matters that this bill is drawn; and I think when it comes up for consideration, I shall be able to show that it is obnoxious to none of the objections which can be made to it, and that it is right to make contracts for the transporting of mails and naval and military stores, and have heretofore been introduced. At least, if I do not show—and so show that this bill no loop or hinge to hang a doubt on—that shall bear no doubt—not encourage or admit the doctrine of the right to carry on internal improvements on the part of the Federal Government, or give away lands without consideration, then I pledge myself to vote against it.

With that explanation, and thanking the Senator for his kindness in allowing me to make the statement, I will not venture to further upon his time, nor upon that of the Senate.

Mr. PUGH. I do not understand that the grants of land contained in that substitute are different from the grants which were read from the Secretary's desk.

Mr. WIGFALL. They are not.

Mr. PUGH. The only difference, then, between the bills, consists in the preamble which the Senator has added to the substitute. That preamble recites that these grants of lands for the construction of railroads are made to insure the safe, certain, and speedy transportation of the mails, troops, munitions of war, military and

naval stores, from the Mississippi river to the Pacific ocean. Is it necessary for either one of those purposes to construct a railroad?

Mr. WIGFALL. I think so.

Mr. PUGH. Why, sir, they are transported now without a railroad. You have now three overland routes.

Mr. WIGFALL. But at a greater cost.

Mr. PUGH. Yes, sir. Then, the same argument authorizes the Government to charter a line of steamboats on the Mississippi river to carry the mail. It is a degree of laxity of construction in which my friend from Texas exceeds any of the Republican Senators on this floor. If on the mere pretext that you can transport the mails, troops, and munitions of war, better by a railroad than under the present system, you may launch the Government into the expenditure of money and grants of land for a railroad, I say it exceeds in latitudinarian construction of the Constitution anything that the Federalists ever dreamed of. There is no defense for the bill upon that ground. It cannot be defended there. It must stand upon the other proposition, namely: that the construction of railroads and telegraphs through the public domain will enhance the value of the public domain; that it is in our interest, as a landed proprietor, to give away a part for this purpose in order to get a larger whole back again. This is strict construction! That is according to the resolutions of 1798 and 1799! I think the Senator will find it difficult to get this bill on that platform.

Mr. WIGFALL. With that ground I do not deal. The Senator accuses me, but I did not stand the Senator previously. That bill has a twofold operation, and it is double in its provisions. I do not intend to go into any argument now, of course; but I wish merely to put myself right on the record. I am glad to hear the Senator say that he is a lawyer, and that he has the temper, the fairness, and, I will add, with the good sense which he is doing. He seems to have some rational views upon the subject; and if I shall differ with him, it will be because we differ upon questions of reason any conclusions, after he has heard me. I have no objection to the Government for land donations to a railroad company, upon the principle that the Government is, as he says, the landed proprietor, having the legal title to the lands, the States being the *cestui que trusts*, and the Government being the trustee. The Government sections upon that ground; and upon that ground, if authority (which I do not generally call upon) were necessary, I at least could fall back upon one whose reputation for strict construction has been well established. I mean Mr. Calhoun, of South Carolina. The other provisions of the bill to which I alluded, as to the mail transportation and the munitions of war, is a money donation; and the bill provides for money donations upon the ground that the Government has a right, in making a contract, to pay either cash, or in kind, or in land, or in any other advance, as it may make its best bargain.

Mr. PUGH. In that regard there is no difference between the Senator from Texas and myself. I was about to call his attention to the fact that, in addition to the donations of land, proposed by the bill, there is a donation of money on very indefinite credit; but still I agree with him so far as payment for services performed, either in carrying the mail or the transportation of munitions of war, is concerned, it is purely at the option of Government to pay advance for a year, or a series of years. On that basis I have no objection to the principle of his bill; but the object which I had in view in citing the bill—which in that particular is the same in both—is to show that the Government of the United States had admitted the right of the land proprietor, and would give a portion of the land with a view to the enhancement of the residue; and that that policy, commencing at the earliest time, had been continued down to this very session; that the benefit of that policy had inured to all the States of the Union, to the southern as well as to the northern States.

The homestead bill designs, also, to enhance the value of that portion of the public domain reserved from its operation.

As to doubling the price of the reserved section, as the Senator has just proposed, by his railroad bill, that does not affect the principle of such

grants. It is merely a question what degree of advantage the Government will stipulate, and whether that advantage shall be immediate or remote. The principle is, that something shall be given, freely, with a view to the enhancement of that which is not given; and it holds as completely, although not in so immediate a degree, in the case of grants scattered over the whole domain, at the pleasure of the settlers, as it does in the case of grants confined to alternate sections.

Mr. WIGFALL. I will draw the Senator's attention—I know as ready a blaster as he is, is not to be drawn—to some important particulars in these bills drawn. Will he state to me the amount of land proposed to be donated to each individual?

Mr. PUGH. One hundred and sixty acres—a quarter section.

Mr. WIGFALL. In this bill there are six sections given for railroad purposes, and the alternate six sections reserved to the Government. In one instance a railroad is to be built directly through the country—six sections reserved alternately—and after the road has been built, and the country has been settled, in consequence of the building of the road, we may rationally conclude that the land will actually be increased in value. But, if you cut it up into quarter sections of one hundred and sixty acres each, and individuals speculate about, and act upon, where they please, and select the important quarter sections in a prairie country, picking a single spring and a small bit of timber, what will be the result? The Senator has traversed through prairie country, and knows the character of it. I can take six certificates, of one hundred and sixty acres each and destroy utterly the value of any league of land in the United States in a prairie country, by selecting important locations upon water courses or springs or small bits of timber. You may utterly destroy the value of the land that has been built, and give a donation of six sections, taken in a block, and leave the other six sections, those advantages against the Government are not secured to the settlers. Then, again, there is a vast difference in this particular—and whilst I run up, as the Senator is patient, I will state it—where a road is built through the country and it becomes open for settlement and sale, sections of six in a block are left open for sale on the part of the Government, and the other six sections—

Mr. PUGH. Sections in a block. You are mistaken. You only reserve the alternate sections for six sections in depth.

Mr. WIGFALL. I will read it:

Every alternate section of land, to the amount of six sections per mile, on each side of the railroad line.

I was speaking of a block of these quarter sections. By my bill, a block of one mile square will be left for sale, and one occupied. The railroad company will have a block for sale; that railroad company without means, and therefore willing to sell and anxious to sell. The Government will hold the rest back, and when they are assigning to settle will move into the country that is about being developed and that is improving, and they will draw good neighbors with them. But to whom will land be given according to the provisions of the constitutional bill? Men who buy one hundred and sixty acres of land are to settle on alternate quarter sections, leaving one hundred and sixty acres between each of them? Why, sir, I undertake to say, that of the entire population of the United States—I mean the agricultural population—will find a very small proportion of those who till the soil who are going to settle in a country that was settled by such a population as this bill proposes to settle on the public domain. Men who are going to cultivate public land usually want more than one hundred and sixty acres.

Mr. PUGH. There is no provision that they shall not buy it, if they choose. They can buy as much as they please.

Mr. WIGFALL. But the bill is intended to provide for those who cannot buy.

Mr. PUGH. You will be intended to provide for everybody, whether they can or cannot buy.

Mr. WIGFALL. The Senator from Minnesota said yesterday it was for those who were not able to buy.

Mr. PUGH. That is not my view of it.

Mr. WIGFALL. I will go further—

Mr. PUGH. It is undoubtedly true that in particular districts of country, not only in prairie, but in the case of a mountain defile, the party who has the choice in advance of all others may so make his choice as to destroy comparatively the value of all the rest. That happens in other instances. That will happen under the Senator's railroad bill. If the spring be within the section that belongs to the railroad, what use would it be for us to double the price of the reserved sections?

If the spring be on the sections reserved, what benefit does the railroad company receive? There, beside that, how does the Senator expect the railroad company or the Government to derive the slightest benefit, either from the section that is given or the section which is reserved, until he can persuade the actual settler to go there? I hear a great deal about the value of the public domain. I stated this morning, on the authority of the Secretary of the Interior, that there were eighty million acres now subject to private entry. It sounds large—eighty million acres—but it is not worth eighty cents, unless you can sell it to some one else. It is not worth a cent. All you can do is not worth anything until you get a man upon it to cultivate it. That brings it into market. That is why the railroad company want the land. They will build the road there, and sell the land to the actual settler. That is what the Government doubles the price of the reserved sections, where the railroad company has stipulated settlement, the Government thinks it can take advantage of the necessity of the actual settler, and compel him to pay double price. There is no benefit in principle to be derived from this. There is merely a difference in the method of applying the principle, and perhaps, in some instances, a difference in degree.

But, in his railroad bill, the Senator adopts and acts upon this very proposition of mine. He proposes to reserve the Government sections to alternate sections to bestow upon the routes of the two roads, or the section be condemned as worthless, or be mineral land, "the deficiency shall be made up by other sections"—and these need not be alternate sections, from the nearest inappropriate section, if handy. Now, if the Government will derive only an incidental, remote, and even contingent advantage from such grants; they are not upon the line of the railroads, and no alternate sections are to be reserved, or prices to be advanced, or compensation to be made.

Shall I turn the Senator's constitutional argument against himself? Let us hear what he said:

"This Government was established for the purpose of securing liberty to ourselves and to our posterity, and it was vested with certain powers which are to be exercised in the name and for the benefit and the good of the States; and if this Government has a right to acquire territory, not beyond what has a right to acquire territory by taxation, the money of that territory (if property) is the legal title vested in the Government, but the States being the actual grantees, and they having the equitable title, and this Government cannot distribute or distribute either the money or the territory (that is the land) except for Federal purposes, and it is not the duty of the Government to establish a money establishment. I deny that it has a right to distribute land or money among the individuals of the United States, and that there is any duty to give land to the people of the United States. I believe that there are thirty-three different sovereign independent nations confederated together, and that we have established a Federal Government, of which we are a part."

To all that, Mr. President, I fully agree. The difference between the Senator and myself is in the application of it to particular cases. He seems to believe that the Constitution is very elastic, and can be stretched a great way, when we come to the case of railroads and telegraphs; that the property of the Federal Government, acquired by Federal taxation and held strictly for Federal purposes, can, in taxation with \$70,000,000 of money, raised by like taxation, be donated to the use of individuals, and that the Government can give it to corporations in the Southern Pacific Railroad Company, or to the use of William H. Swift, of Massachusetts, and his associates, in a company for constructing a railroad across the Rocky Mountains north and south, thirty-fourth parallel of north latitude, but that to bestow one acre of land on a much land upon any other individual who may desire to cultivate it, and thereby improve the adjacent public domain, would be an open breach of the Constitution, and a denunciation from democratic principles. The Senator from Tennessee (Mr. Johnson) must be dealt with summarily, for what he has proposed; but the Sen-

tor from Texas, notwithstanding the enormity of his bill, is henceforth to carry the standard of our faith.

I agree that the public lands are public property; but in the disposition of them, whether in the States or in the Territories, the Constitution has expressly conferred on Congress all the discretion of a landed proprietor. I know that discretion may be, as it often has been, abused by Congress. There is no remedy for that; it is an infirmity of all human government.

That Congress, in its discretion, has frequently granted lands for an inadequate price, or no price at all, in order to enhance the value of remaining lands, and this for other objects than the construction of railroads, telegraphs, or canals, is a fact of which every Senator must be more or less aware.

Thus, on the 3d of March, 1817—[call the attention of my friend from Alabama [Mr. CLAY]—an act was passed "to act apart and dispose of certain lands for the encouragement of the cultivation of the vine and olive." (Statutes at Large, vol. 3, p. 374.) That reserved four contiguous townships, each of six miles square, in Mississippi Territory, (now the State of Alabama,) from public or private sale, under the general laws then in force, and authorized the Secretary of the Treasury to contract for their sale, at the rate of one dollar per acre, to be paid for within one year from the date of the contract, to certain emigrants from France, stipulating "for such conditions of settlement, and cultivation of the vine and other vegetable productions as may to him appear reasonable." If it be to be supposed that any emigrants were to pay for the lands at the general price then established by law, I answer, that the terms of payment were extremely liberal, and such as never had been granted to any other class of purchasers. The principle, therefore, is the same.

We have now an act approved March 2d, 1844, commonly called the town-site law. (Statutes at Large, vol. 5, p. 657.) That authorizes the corporate authorities of any town established on the public domain, or, if the town be not incorporated, the judges of the county court, to enter three sections of land, to be sold for the benefit of the site, in trust for the inhabitants of the town, at \$1 25 per acre. To be sure, as in the last case, a payment is required here; but then it is a payment of the minimum price, without preliminary advertisement, offering to sell, and in exclusion of all other purchasers.

We have also the act of March 2, 1849, granting to the State of Louisiana, and aid "in constructing the necessary levees to drain and reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands which may be or are found unfit for cultivation." (Statutes at Large, vol. 9, p. 352, 353.) The benefits of this act were extended to the State of Arkansas, and all other States then admitted, by the act of September 28, 1850. (Statutes at Large, vol. 9, p. 515, 520.) That act, too, has been further extended to Minnesota and Oregon, by an act passed unanimously at the present session. No compensation is reserved to the Federal Government directly for such grants. The proceeds are to be applied exclusively to the construction of levees and drains, which will enhance the value of remaining lands.

The grants already approved of this character, excluding Minnesota and Oregon, embrace more than forty million acres.

Another act, approved March 3, 1855, declares, "That each contract, made, or to be made, in carrying mail through any of the Territories west of the Mississippi, shall have the privilege of occupying stations, at the rate of one cent of its length for every mile of route on which it carries a mail, and shall have a preemption right therein, within the time which shall be brought into market, to the end of its length and every acre may be taken rentlessly, and to include his improvement; but no such preemption right shall extend to any pass in a mountain, or other defile." (Statutes at Large, vol. 10, p. 654.)

The act of 3d of March, 1857, providing for the overland mails between California and the Mississippi, declares, "That the contractors shall have the right of preemption to three hundred and twenty acres of any land not then (at the time of making the contract) disposed of or reserved, at each point necessary for a station, or for any other uses (from each other) and provided that no mineral land shall be thus preempted." (Statutes at Large, vol. 11, p. 654.)

Here are grants of double and even quadruple

the extent allowed by law in other cases of pre-emption; but the object of them, whether wisely or unwisely designed, is to induce the establishment of stations, at intervals of ten or twenty miles, along the overland post-roads, and thus promote the colonization and settlement of the public domain.

There is an act of February 17, 1815, "for the relief of the inhabitants of the late State of New Madrid, in the Missouri Territory, who suffered by earthquakes," (Statutes at Large, vol. 3, pp. 211, 212,) the principle of which I do not clearly distinguish. It provides that any persons owning lands in New Madrid county, according to the limits, on the 10th of November, 1812, "whose lands have been materially injured by earthquakes," shall be authorized to locate the same quantity of public land, subject to sale elsewhere in Missouri Territory, without price or reward. Here is an eleemosynary donation, upon which not merely the Senator from Texas, but the Senator from Missouri, (Mr. GREEN,) can fasten an abundance of constitutional criticism.

Mr. POLK. I did not understand a word the Senator used. He said they should be allowed to locate the same quantity of land.

Mr. PUGH. Without price or reward.

Mr. POLK. It was an exchange of land. The United States got the land that was injured by that earthquake in place of the land that was entered by the certificate that the recorder of land titles was authorized to issue.

Mr. PUGH. They gave up the land that was injured by earthquake, because it was of no value. They got the good land, and gave up that which was destroyed. I say it was an eleemosynary grant. I acknowledge it, but it is an exception.

Mr. WIGFALL. I beg to ask the Senator, for I know he is a fair man, whether he means to say I voted for that bill?

Mr. PUGH. No; but I state that to show what the course of the Government has been. I believe the Senator from Missouri will be brought out in saying that a large portion of the land in Missouri has been located on New Madrid certificates. A great many cases of litigation have grown out of them, I know.

Mr. POLK. I wish to say that the litigation has been in vast disproportion to the quantity of land entered. The quantity of land entered under that act was not very great, for it was confined to New Madrid.

Mr. PUGH. I did not suppose the lands so entered were very great, compared with the area of so large a State as Missouri. I do not mean that my friend from Texas voted for the bill, but I mean this: when he says, and others say, that this hatched bill revolutionizes the policy of the Government in relation to the public lands, I mean to show that it introduces a new principle. They tell us that it is some extravagance that is to overwhelm us, to destroy the public revenue, and to alter the whole course of events in this country. I have shown him that this very principle, in all forms of application, has been the guiding principle of our early public lands, from the very earliest day until the present time.

But, sir, if there be any case in which the Constitution allows us to exercise a liberal discretion, as proprietor of the public lands, it is not in the case of railroads to be granted, especially when there are to be controlled by corporations—but in the case of the actual settler. This results from the fact, that Congress can only acquire land, by treaty or otherwise, for particular purposes; and in regard to cessions from individual States or foreign nations, the same rule is observed. Therefore, there is a paramount duty imposed on Congress by the Constitution to dispose of such lands, not as property alone, but with a view to the formation of States and their admission into the Union. The right to dispose of the lands, whether for purposes of revenue or otherwise, may be exercised in subjection to this paramount idea. This truly defines the *raison d'être* of which the Federal Government is trustee, and of which the people of all the States are thus, and not otherwise, to become the beneficiaries.

I know the Senator from Texas has little respect for judicial decisions; but he will pardon me, I trust, in quoting two or three brief, pungent, and very decisive sentences:

"There is certainly no power given by the Constitution

to the Federal Government to establish or maintain colonies bordering on the United States, or at a distance, to be ruled and governed at its own pleasure; nor to enlarge its territorial limits in any way, except by the admission of new States."

Again:

"The power to expand the territory of the United States by the admission of new States is plainly given; and, in the construction of this power by the departments of the Government, it has been held to authorize the acquisition of territory, not fit for admission at the time, but to be admitted as soon as its population and situation would entitle it to admission. It is acquired to become a State, and not to be sold as a colony, and governed by Congress with absolute authority."

That is from the opinion of Chief Justice Taney in *Dred Scott's* case, and affords a complete answer to the argument of the Senator from Tennessee (Mr. NICHOLSON) in support of this bill.

Mr. WIGFALL. I agree to what the Senator has read, with a qualification.

Mr. PUGH. Far less is it acquired merely to the land property, in the disposal of which the Government acts as speculator in land. The high and guiding principle of the whole is, that the Territory is acquired hereafter to become a State, and it never can become a State without people. Therefore I repeat, that in disposing of the public lands with a view to revenue or bounty, protection to the actual settler and the colonization of the public domain rises above every other consideration, and Congress is bound by the Constitution so to legislate.

The encouragement of the actual settler has always been a prime object in every act relating to acquiring and disposing of the public domain; not merely, as in the case of canals, railroads, and other local improvements, by the grant of alternate sections, but by larger donations, and without interest, price of adjacent or reserved lands.

That by the act of March 3, 1823, section second, every person, being the head of a family or twenty-one years of age, who had become an actual settler upon lands within the Louisiana Territory, prior to the treaty of cession, was confirmed in title to his settlement. (Statutes at Large, vol. 2, pp. 325, 326.)

And so, by the act of March 3, 1823, all claims for lands between the Rio Hondo and the Sabine river, "founded on occupation, habitation, and cultivation, prior to the treaty of February 22, 1821," Spain, were ordered to be confirmed. (Statutes at Large, vol. 3, p. 337.)

When I referred to these cases some time ago, the Senator from Alabama (Mr. CLAY) declared that in his State, at least, and the State of Mississippi, no similar grants had been made. The bill is precisely in error, as he will ascertain by reference to the act of March 3, 1823, sections one and two. (Statutes at Large, vol. 2, pp. 229, 230.) A like provision was made in Florida by the act of May 26, 1824. (Statutes at Large, vol. 4, p. 47.)

It may be said these were the confirmations and settlements previously made—but what then? They were settlements without title, and for which nothing ever had been, or ever was to be paid. The principle is exactly the same. But, sir, I have taken pains to make decisive instances. Here is the act of August 4, 1842, the first section of which provides:

"Be it enacted by the Senate and House of Representatives of the United States of America, That any person, being the head of a family, or single man over eighteen years of age, able to bear arms, who has made, or shall within one year from and after the passage of this act, make an actual settlement on a portion of the public lands within the limits of the line dividing lands number nine and ten south, and east of the base line, shall be entitled to one quarter section of said land, on the following conditions and stipulations:

"First, That said settler shall obtain from the register of the district in which the land is situated, a permit describing, as particularly as may be practicable, the place where his or her settlement is to be made; provided, That no part of the land shall be located in Florida at the time of the passage of this act, who shall be the owner of one hundred and sixty acres of land at the time he is required to make, shall be entitled to a permit from the register.

"Second, That said settler shall reside in the Territory of Florida, and shall so continue to do, until he has resided one year, and to take his grant on any public land south of that township.

"Third, That said settler shall erect thereon a house fit for habitation of man, and shall clear, enclose, and cultivate at least five acres of said land, and reside thereon for the period of four years next following the first year after the date of his permit, or he or she shall so long live.

"Fourth, That such settler shall, within one year after the said four years shall have expired, and before the expiration of the year and date of the same by the United States, prove,

before such tribunal and in such manner and form as shall be prescribed by law, that he or she has complied with the conditions of the act, and that he or she is entitled to the land; and, with the approval of the President, the fact that the settlement had been commenced, and the particular quantity of section upon which he or she is entitled to receive the settler shall, within six months after the expiration of five years from the date of his permit, prove, in like manner, the fact that he or she has complied with the conditions of the act, and that he or she is entitled to the land; and, in the second and third conditions heretofore prescribed; whereupon, and not until then, a patent shall issue to said settler for the land so claimed.

The Secretary of the Interior tells us that a signal failure resulted from this act, and refers us to his report of December, 1858, in testimony of the fact. Well, sir, here is what he said in that report:

"The grant of land under the act for the armed occupation of Florida, passed August 4, 1842, has resulted in two hundred thousand acres. The eagerness of settlers to avail themselves of the benefits of this grant is shown by the issuance of letters patent and twenty-one years of one hundred and sixty acres each, which amounted in the aggregate to two hundred and eleven thousand three hundred and sixty acres.

"In the year 1854, a supplemental act was passed, substituting cash payments for the condition of continued residence; and under the original and supplemental acts one hundred and sixteen claims had been finally approved and patented, amounting to eighteen thousand five hundred and thirty acres.

"On the 1st of July, 1849, another act was passed for the relief of those to whom permits may be granted, dispensing with the condition of residence on the land. This act required the employment of an agent for the adjustment of the claims of cases, and it appears that two hundred and eighty-two claims were made under this act, amounting to forty-five thousand two hundred and eighty acres. From the foregoing statement it will be seen that various cases, amounting to nine thousand three hundred and twenty-four and five, if any, of these will ever be earned into patents under the act of August 4, 1842, and the claims which have been absolutely forfeited and canceled, amounting to one hundred and thirty-eight thousand four hundred acres. From the foregoing statement it will be perceived that only about one-twelfth of the whole area proposed to be granted has been secured finally to claimants under the act of 1842, and that the balance of the area was paid for; that not one-fourth has been finally secured under the relieving act of 1849, and that more than two-thirds has been lost forever to the Government."

Really, on this statement, I see no case of "failure" at all. The permits were asked without knowing the character of the lands to be occupied; those who retained their settlements, in all probability, had the best lands; the rest had poor lands, or lands subject to be overflowed, which they were obliged to abandon, and driven away in consequence of Indian warfare.

The Secretary does not even begin to prove by such a history that donations of this character are less acceptable to settlers than sales at \$1 25 per acre. Doubtless, in many cases, the settlers in Florida preferred to receive their lands after a settlement of two years; but this certainly was because the lands had become valuable, even by reason of so brief a settlement, and therefore would be sold at an advance on the minimum price fixed by law. It will be so, in many cases, under the homestead bill.

The Secretary does not tell us how much of these one hundred and thirty-eight thousand four hundred acres abandoned, or never settled, has been sold since the act of June 15, 1844, or the act of July 1, 1850. But, yet, under the latter act, when sold at \$1 25 per acre, there is a pretty nothing in his argument. The probability is that every man has gone to the State of Florida under the grant of swamp or overflowed lands.

I cite next the grants to actual settlers, or those who might become actual settlers, in Oregon Territory, embracing the present Territory of Washington as well as the State of Oregon. These are contained in sections four and five of an act approved September 27, 1850, Statutes at Large, volume nine, pages 497, 498. Those sections are in these words:

"Sec. 4. And be it further enacted, That there shall be, and hereby is, granted by every white settler or occupant of the public lands, American half-breed Indians included, above the line of eighteen years, and under the line of the United States, or having made a declaration according to law of his intention to become a citizen, or who shall have been admitted to the benefits of the laws of the United States, before the 1st day of December, 1850, now residing in said Territory, or who shall become a resident thereof on or before the 1st day of December, 1850, and who shall have been a resident of the same for three consecutive years, and shall otherwise conform to the provisions of this act, the quantity of one half section of land, or less, to be selected by the settler, if a single man, and if a married man, or if he shall become married within one year from the 1st day of December, 1850, the quantity of one section of land, or less, to be selected by him to himself and the other half to his wife, to be held by her to be her own right; and the surveyor general shall divide the land, and the original and true copy of the title and sale of the same by the United States, prove,

tion in this report, we add the consideration that it is their labor alone which gives real value to the lands, and that the proceeds arising from their sales are distributed chiefly among States which had not sold their lands, and which had also enjoyed the undivided and unimpaired benefit from the sale of their own lands, it cannot be expected that new States will remain long in the hands of the Government, after the payment of the public debt. To avert the consequences which may be apprehended from this course, we put an end forever to the sale of the public lands in relation to this subject, and to afford to every American citizen of enterprise the opportunity of securing an independent livelihood, it seems to me, that the only policy is the idea of raising a future revenue out of the public lands."

Sir, it was not even the Democracy of John C. Calhoun, to whom the Senator from Texas has referred as a bright example of Democratic faith and consistency. In his speech of February 7, 1837, Mr. Calhoun said, in support of his bill to donate all the public lands to the States in which they were respectively situated, on their paying to the General Government twenty-five per cent. of the proceeds:

"He thought, therefore, that, instead of attempting to redress any longer what must eventually happen, it would be better for all concerned that Congress should yield at once to the force of circumstances, and cede the public domain. Its objects in this measure would be to terminate the evils. He wished to break down the vassalage of the new States. He desired that this Government should cease to hold the relation of landlord."

And again he said, in the same speech:

"I saw clearly it was time to cut off this vast source of patronage and power, and to place the Senators and Representatives from the new States on an equality with those from the old, by withdrawing from them the power and patronage which they now possess. The Senator from Massachusetts objects to the term, and desires that Congress exercise any language concerning the States. I acknowledge that the epithet is strong; perhaps too harsh. I used it to express the strong degree of independence of the new States in this Government, whose power and patronage are ramified over the whole surface, and whose domains constitute so large a portion of their territory. I certainly did not asseverate that the Senator from Massachusetts, or any other, would deny the existence of this dependence, or the local control of the Government within their limits. Can any State be said to be free from dependence on a government when that government has the disposition of a large portion of its domain? Is it no hardship that the citizens of the new States should be compelled to travel vast distances to buy lands in this place, and to wait our tardy justice, or will Congress, by placing the public lands—a subject, in its own nature the most local of subjects, which ought to be controlled by the local authorities of the States? I ask him if he would be willing to see Massachusetts placed in the same relation to this Government as the new States? It would not destroy its independence? I ask him if it must not give a great and controlling influence wherever it exists? Through the influence of the Senator from Massachusetts this Government pervades the whole territory of the new States; and their citizens become claimants in your doors, without other security than the honor of the Government, any man that all this is incompatible with the sovereignty of those States; but I do not say it is derogation of their sovereignty."—*Calhoun's Works*, vol. 3, pp. 645, 646.

And does my friend from Texas, assuming to be a peculiar believer in the reserved rights of the States, oppose a policy which endeavors to carry out the views expressed by Mr. Calhoun, to release the grasp of this Federal Government over the new States, the greater portion of whose lands are controlled, and over which they possess so great an influence? I say, with Mr. Calhoun, in its derogation of their sovereignty; and that it is the duty of every man who maintains the reserved rights of the States to use every lawful effort to increase the power and influence of the Federal Government in those States.

Mr. President, there have been several other objections made by the Secretary of the Interior and others. It is objected that the passage of this bill will destroy or greatly reduce the revenue of the Federal Government from the public lands. I answer, this cannot be so. The Secretary should have in mind that, under the graduation act, the value of the public land subject to private entry is depreciated from time to time; and, therefore, any measure which tends to bring the public lands into market and sale in advance of the usual period saves them from depreciation, and increases the revenue of the graduation act. Then, in the next place, if the Secretary of the Interior has told us the truth, as I presume he has, the revenue has now entirely failed, except from lands subject to the graduation act. Here is his report to your very session:

"It will be seen that the cash receipts from the public lands have been less than anticipated in any last annual report, although the number of acres sold does not fall short of the calculation the Secretary has made. This, which, by a long continuance in market, have graduated the prices by virtue of the act of August 4, 1854, have been sold for cash. These lands at the minimum at \$1 25 per acre have

been entered almost exclusively with military bounty land warrants; and although large quantities of fresh lands have been brought into market by protraction, less money in proportion to the amount of land sold has been received from sales than at any previous period."

Then let us hear no more from the Secretary of the Interior about the destruction of revenue from the public land. It is destroyed already, and destroyed by that very system of bounty land warrants which he eulogizes in his annual report. But, sir, in fact, the adoption of this bill will improve other sources of Federal revenue, particularly that derived from duties on imports. I choose to substitute for my own argument on this point, the argument of one of the greatest statesmen, in my opinion, that ever lived, and mean Edmund Burke. In Mr. Burke's famous speech on economical reform, delivered February 11, 1780, he used this language, in advocacy of a proposition to sell the Crown lands:

"The revenue to be obtained from the sale of the forest lands and rights will not be so considerable, I believe, as many people have imagined; and I conceive it would be to leave us exposed to the caprice of the market, and to the whims of chance, according to their caprices, the purchase of objects, whereas the expense of that purchase may be so great, that it may be expected to be so great, that I, I can well swear, might give room for parity in the disposal. In my opinion, it would be the best of the two, rather than to consider that the revenue of the Crown might be established, which would take away all sort of unjust and corrupt partiality. The principal revenue which we really receive from these sources is not to be derived from the improvement and population of the kingdom; which never can happen without producing an improvement in the agriculture, and the better of the Crown than the rents of the best landed estates which it can hold."

—*Burke's Works*, vol. 3, p. 306.

Every word of this language is applicable to the public lands of the United States. I would, however, that the preceptor will complain. What force? Has not the Secretary of the Interior endeavored to persuade us, in his annual report, that the donors of land in Washington and Oregon and Florida were anxious, at the expiration of two years, to pay for their lands at \$1 25 an acre, rather than to get them for nothing? If so, there is nothing to prevent any settler, under the operation of the homestead act, from converting his location into a settlement, under the preemption law, at any time. The very same affidavit which would be required to require the purchase of the benefit of the homestead bill, brings him directly within the provisions of the preemption law; and instead of giving the preemptor any cause of complaint, it offers him the alternative of obtaining the land free of cost upon a settlement of five years, or by paying for it at \$1 25 at any time short of that period.

It is said finally by the Secretary that it interferes with the bounty land system. I hope so. I hope to see the end of that system. Now, four years ago, in this Senate Chamber, I gave my opinion, derived from observation and experience, as to the effect of that system on the discharged soldier. Where these warrants were given in pursuance of the contract of enlistment, there it was a debt on the part of the Government. It may be that the Government might expect it would be so, to the advantage to the soldier. It is none. It was an injury to him. After having been in the military service in a foreign country twelve or eighteen months, when all his old habits of life had been forgotten, the Government of the United States discharged him, provided him with a warrant, which he was brought, and instead of furnishing him with money with which his wants could be satisfied during the course of three or six months, or any less period in which he might regain the habits of civil life, he was furnished with a discharge, and told to seek his way to the Commissioner of the General Land Office he might hope in the course of two or three years to get a bounty land warrant and be able to locate it in some of the new States or Territories, whether he was old enough to go. The consequence was that they sold their discharge at three or four dollars each, many of them, in which the discharge of the soldier was sold for five dollars; and those who purchased them, in defiance of the acts of Congress, came here in the course of two or three years, and they covered up the selling pressure put down through a bill to legalize all their purchases, and make the warrants valid in the hands of the assignees; and thus the whole purpose and object of the bounty land law, so far as the soldier was concerned, were overturned. You gave the soldier the poor privilege of locating his warrant

through the General Land Office, because he could have lost one. After you had made down assignable, the assignee came here, and in one case, which is within the knowledge of the Committee on Public Lands, one assignee, representing a company, located more than forty thousand acres of land through the General Land Office, interfering with the local courts, and making a large number of settlements, until to-day there is not a more monstrous job in any department of this Government than the location of bounty land warrants by the assignee through the General Land Office. The Senator has passed a bill this session to abolish it, and through the House Committee on Public Lands have reported it favorably. God only knows what will be the result.

But, sir, this being the effect of the system as to the soldier, whereby he got no benefit, what shall I say to the ceaseless retrogressive gratuitous grants to soldiers in the war with England, and to soldiers engaged in the Indian wars? How many of them have located the warrants? In there any man who, in the flush of youth, fought with the British along the Canada line, and then located a warrant, and then, when he was old, in his old age, or after the 3d of March, 1853, migrated to Iowa or Minnesota, there to enter his one hundred and sixty acres? It all went to the speculator. The market was glutted by the warrants that the soldiers had for sale. They, too, went to the speculator, and they were sold in parcels, located in large, compact bodies, until, as the Secretary of the Interior himself tells you, they have made an end to all the Government revenue from land at \$1 25 an acre. I do not dwell on the arguments which I might adduce to show the unconstitutionality of such a system, believing, as I think, to be a mere largess; but what does the Secretary tell us as to the amount we have already given? Are we never to be satisfied with the system of bounty land warrants? I learn, from his report of December, 1855, a year ago, that:

"Under the various acts of Congress of 1847, 1850, 1852, and 1853,"

"and this is entirely independent of the grants of land that were made to revolutionary soldiers, or their heirs, or those that were promised to the soldiers of the war of 1812 and their heirs—

"there have been issued five hundred and sixteen thousand and thirty-five million seven hundred and thirty-one thousand eight hundred and ninety acres of land, and to soldiers."

And now let any Senator reflect what must be the effect of a system like this on the new States. It is a hard enough, when the pioneers have left their homes in the old States; none out into the prairie or the wilderness, struggling against the savage and against the wild beast; when their improvements are small; when the taxation upon them is onerous for the support of their Government; that speculators, assignees of bounty land warrants, hold millions of acres of unimproved lands, and continue to hold them, year after year, paying little or none of the taxes, until by the industry of the actual settler those lands have been made valuable? I say the system in question has made the new States, in the greatest outrage that was ever committed by the Federal Government, under the pretense of rewarding the old soldier, to plunder and lay waste the new States. If you owe the old soldier a debt, pay it out of the Treasury; let Congress do so equally with the States, but do not satisfy your generosity at the expense of the hardy pioneers of the West.

Besides, sir, the system is the parent of the most abominable fraud. The Secretary has told us this. I need no witness for it but himself. He refers to the case of a man who had located, in every case of these bounty land warrants, the lands which have been finally issued under them have been double, treble, quadruple, what was represented to Congress at the time it was enacted. He said:

"The same man, which has heretofore been paid under the various preemption and bounty land acts for the encroachments of those who advanced their encroachments, and who have been able to do so, to the great injury of the honest settler, has now been found out. What has made it so? Not merely misadventure."

lation, but absolute and positive fraud. Here is what he says:

"I have the greatest confidence in the watchfulness and integrity of the officers who have heretofore had the direct management of the pension bureau, the development of the frauds which have been made in this office is astounding. During the last year fraudulent bounty land claims, amounting in the aggregate to about one hundred and seventy thousand acres, were made out, investigated and exposed. Previous investigation had brought to light a fraudulent issue of about two hundred and twenty five acres. Four of the persons who were made out to have been convicted and sentenced during the last year; one, against whom the proof was conclusive, escaped punishment under the statute limiting proceedings to two years from the commission of the offense; and thirteen others have been regularly indicted, and are awaiting their trials. The evidence and testimony which these impostors have presented, proved, and successfully procured their cures, have equalled anything recorded in the annals of crime. In some cases they have even taken upon their immediate Representatives in Congress, and made them the vehicles of conducting their correspondence for establishing their fraudulent claims. They are generally a class of men who have managed to maintain respectable names in the community in which they live; so that nothing but the most convincing proof, furnished from the records of the office, can satisfy the juries of their guilt. Public justice and the fair reputation of the Government alike demand that these offenders should be brought to condign punishment."

But, yet, with his own sentence of condemnation upon the system which has been thus fruitful of frauds unparalleled in the annals of crime, the Secretary of the Interior implores us not to pass the homestead bill, for fear it will destroy the bounty land warrants! Mr. President, when I have considered the bill, and when I have seen [Mr. JOHNSON] was added to the Committee on Public Lands at the first of December, 1857, I cannot express the sensation of relief to myself personally. I had been a member of that committee at that time for two years. Singly and alone in the committee, and alone along the Senate floor, I resisted the extravagant grants to railroad corporations, until finally I begged my political friends to relieve me from a duty so oppressive. At that time, too, we were pressed by a proposition to issue vast quantities of land to corporations, and to open up under the pretense of endowing agricultural colleges. We had barely escaped a similar scheme for the endowment of asylums for the insane. The great bounty land act of 1855, which was the chief sin of all, was in full operation, even to its supply of land for the insane. In the year 1856, and it did really seem to me that, between railroads and insane asylums, and agricultural colleges and bounty lands, there would not be left a foot of the continent on which the actual settler could any longer go; and it was for the purpose of cutting up this monstrous bill, that I begged the Senator from Tennessee to introduce and press his homestead bill.

To be sure, further examination has induced me, as one of the committee, to recommend many limitations and conditions which bars not many altogether acceptable to other friends of the bill; and I believe the Senator from Minnesota [Mr. WILLIAMSON] left us in doubt finally whether he would or would not vote for the bill in case the Senate amendments were adopted. Sir, it is better to err on the side of caution than to provide for the premature act and the graduation bill. Let us put the homestead act into operation with all the safeguards which caution can suggest. If it proves well, if it answers our expectation, there will be time enough to remove these safeguards, which we put of about a century ago, to provide for the future. There will be time enough to extend the benefit of it to unmarried men, to extend its operation to lands not subject to private entry. All that can come in due season; but it is the principle which I esteem of more importance than all the rest. It is for the Congress to declare, on the part of the United States, that the mere sitting of this Government shall be no longer the plunder ground of the lobbyists who beset this Capitol; that it shall not endow colleges, asylums, nor schools, anywhere but upon the very spot where the land itself is; that it shall go into the coffers of no railroad corporation, while it is to raise the price of the land to every humble purchaser, and thus deprive him of the bread which he would otherwise put into the mouths of his wife and children. Sir, if we can establish this principle, even if no individual ever took advantage of it, the mere sitting of this Capitol—the mere driving out from this temple, with the whips of scorn, those who have so long gathered here for the purpose of fastening their schemes on the public domain—will, in the purification of the Gov-

ernment alone, be of infinitely more importance than any bill that has been proposed since I have held the honor to be a member of the Senate."

Sir, I deprecate all attempts of gentlemen on either side of this Chamber to give this discussion a partisan or a sectional turn. If my Democracy is not sufficiently well tested to stand me against the accusation of any other gentleman who chooses to put it in this way, then, sir, let me take the credit of itself. It is very certain that, until this session, and, I believe, until the Senator from Texas suggested it, I never heard it suggested that there was a party issue involved in this bill. The first men who reported it to Congress were Democrats. It passed the same Democratic House of Representatives which enacted the Kansas-Nebraska bill, and in the same session; and I think it had passed before, at a time when the Senator from Tennessee was a member of that House.

Mr. JOHNSON, of Tennessee. It passed in the Legislature in which they lived; so that nothing but the most convincing proof, furnished from the records of the office, can satisfy the juries of their guilt. Public justice and the fair reputation of the Government alike demand that these offenders should be brought to condign punishment."

Mr. PUGH. "So that it is rather late in the day for my friend from Texas to introduce new tests into the party; and for one, I choose to adhere to the policy declared by General Jackson, Mr. Calhoun, for whom I have no respect, with the Senator. Neither do I want to be suggested by the Senator from Tennessee who spoke the other day, [Mr. NICHOLS,] how the effect of the homestead bill can be either to increase or discourage the settlement of slaveholding communities. I am sure how it is to injure any party."

Mr. WIGFALL. If the Senator from Ohio will allow me to explain, I may just as well do it in a few words now. I surely never intended to bring in question his Democracy, or the Democracy of any gentleman on this floor. I said that the question did involve, in my apprehension, some great constitutional questions, such as the power of the Government; and that under that phase of the question, it must necessarily (as almost every question which arises here) be a test of political orthodoxy. For instance, there are two parties, as the Senator will admit, in this country, and always have been, differing from each other as to their mode of construing the Constitution and administering the Government. If the parties do not differ upon that, then both are political heresies. If the parties differ, I said that this question, as it occurred to me, must be a party question. It involves the power of the Government over the public domain; and that again involves the question as to what sort of a Government we are living under; and that, the character and construction of the Constitution. Thus far I did say it was a party question, and no further. There is no one that would render more justice to the Senator from Ohio than I would, for the good service he has done the principles of the Democratic party in defending a strict construction of the Federal Constitution.

Mr. PUGH. I am very much obliged to my friend for the compliment; and under his disclaimer I have no further observations to make on that point. I was about to say, that I could not but be gratified by the introduction of this bill, so disastrous to the slaveholding States, or to Territories in which slaveholders might desire to be. In the first place, as to that large class of people, the non-slaveholders, it would occur to me that if they received this grant of one hundred and sixty acres without being compelled to pay for it, they might invent the small surplus of their funds, whatever it might be, in the purchase of negroes. [Laughter.]

Mr. WIGFALL. Ninety-nine out of a hundred of them own land already.

Mr. PUGH. Well, they are not all that land if they receive our farm for nothing; and they can invest the proceeds of their other farm in the negro business, as far as the act is concerned. If there be any particular advantages in a man's owning negroes, I should think it rather advanced for the act to be introduced; but it will have no effect on that question.

Mr. WIGFALL. I will simply say to the Senator, that one hundred and sixty acres is not enough to work a negro.

Mr. PUGH. Very well; then he can buy the additional sections. We do not provide that he shall have only one hundred and sixty acres. We give him that much.

Mr. WIGFALL. Will the Senator add one hundred and sixty acres for every negro he owns?

Mr. PUGH. If he has a negro, he ought to be able to buy an additional one hundred and sixty acres.

Mr. WIGFALL. Then you admit it is providing for those who cannot buy?

Mr. PUGH. Those who cannot buy and those who can—both of them. Those who already have lands, by receiving this grant free of cost, can appropriate it in any way they see fit, or they can, if they choose to go into the business of buying slaves, they will have more funds for the purpose. I think the great majority of the settlers will not do anything of the sort.

However, Mr. President, it was probably out of the usual time for me to make any reference to that matter. I have only said what I have in regard to it to dispel the alarm of my friend from Texas. I really do not think the homestead bill will have the slightest effect either to retard or extend the jurisdiction of slavery. Nor do I believe furthermore that all the acts of Congress which have been passed from the days of the ordinance of 1787 down to this present hour, contained, I think, in about eleven volumes of statutes, more or less, have ever had the effect of extending the jurisdiction of slavery one hair's breadth; and for that reason I have said as I have thought, as still think, that the less we bring that question into sectional and congressional discussion, the better.

As I said at the outset, it is the object of this bill to understand it, to adopt a policy for the disposition of the public domain. We are at present without a policy; or it is a plunder policy for railroad companies, for agricultural colleges, for the assignees of bounty land warrants. The object of this bill is to include the whole of them, and transfer the sale of the public land we have to sell, limiting it to actual settlers.

Mr. MASON. To give it away.

Mr. PUGH. No, sir; not give it away, no more than you give it away, as I have shown, under every other statute. There is an ample remedy to the Government in the increase of value of all the adjacent lands. I thank the Senate for the kind attention they have given to me.

Mr. WIGFALL. Mr. President, having been alluded to particularly by the Senator from Ohio, and having been charged with making any reference to this question, I do not feel that it would be entirely out of place for me to answer so much of his speech as shall occur to me objectionable to criticism, during the brief period I shall occupy the attention of the Senate.

The Senator has charged me with inconsistency. Well, possibly so; but those who live in glass houses ought not to throw stones. The Senator, if I recollect aright—and I beg that he will correct me if I do not—some time during the first half of his speech, in alluding to preemption settlers, objected to the whole policy, on two distinct grounds; one was that it induced men to go into unsettled and unsurveyed territory, trespass upon Indian rights, get involved in difficulties with the Indians, and then involve the Government in the expense of the preemption policy; and the other was, in the words of Indian treaties, and that again by the appointment of Indian agents, who were to kill the Indians off with whiskey. That was his objection to the preemption policy.

Mr. PUGH. The Senator must not say I objected to the preemption policy. I addressed it. I said that particular feature of the preemption law precipitated this pressure into the public domain beyond what the general policy of the law designed; that it was one of the particular defects in the bill, and therefore we had omitted it in this case.

Mr. WIGFALL. Then, in one case, he objects to the preemption policy, because it extends the settlements and involves us in difficulty with the Indians. Then he goes, in the very next breath, to the homestead policy on the ground that it will involve the State policy of our settlements, and throw into the Indian country a body of hardy frontiersmen who will prevent the Government from the expense of carrying on Indian wars, by conducting them themselves.

Mr. PUGH. I do not recollect anything of that sort in my speech.

Mr. WIGFALL. If you will look to the speech you will see it. Well, Mr. President, so far as that question is concerned, I take the Senator up on another ground. He admits the Sen-

fullest extent my construction of the Constitution. He admits to the fullest extent that there is no such community as the American people. He admits that we are citizens of the different States; and that this Government is a landholder for the benefit of the particular States whose agent it is. He admits that the Government is to deal with that land as a trustee for the benefit of the *several* *qui trusts*. If that be true—

Mr. PUGH. Did I understand me to know that the Government is a landholder for the benefit of the public lands in trust for the States, as so many corporations, to realize for the States as much money as possible out of them?

Mr. WIGFALL. No, sir.

Mr. PUGH. I said the trust of the Federal Government was to administer the public domain as that while we derive revenue from it to some extent, it should also be open to cultivation and settlement with a view to the admission of new States into the Union. That was the trust—no trust for the States themselves.

Mr. WIGFALL. I understood the Senator subsequently to qualify the statement or admission, and add to it that, in addition to being a landholder for the benefit of the *several* *qui trusts*, it had another purpose to perform; and that was, to induce settlement for the benefit of the particular States. These were the qualifications that he made. Now, sir, it is possible that the Senator, before we get through with this debate, may persuade me that I cannot vote for my donations to railroads. I hope that I shall be able to persuade him that he cannot vote for a land-stead bill. I have already reversed the story of the two Yankees who were locked up in a room together, and made twenty-five dollars out of each other by swapping coats. [Laughter.] We shall lose—I my railroad bill and he his homestead bill—the operation, and I shall be very much content to follow even the railroad, if thereby I can defeat this bill. I wanted, in reply to the Senator's comments on my own consistency, to show, and I will now proceed to do so directly, that land donations to railroad companies and land donations to paupers are two very distinct propositions.

Mr. PUGH. The Senator does not call this a bill of donations to paupers. The only proposition I have heard of that sort is the one introduced by the Senator from North Carolina, [Mr. CLINGMAN.] This is a proposition to donate to the actual settler. He proposes to donate to the pauper.

Mr. WIGFALL. Mr. President—

Mr. CLINGMAN. I hope the Senator will allow me to say that the Senator from Ohio is wholly mistaken. My proposition gives to every citizen of the United States, whether he be pauper or not, his warrant, and I take it for granted that it cannot be affirmed that every man in America who is a citizen is a pauper.

Mr. PUGH. The Senator does not require them to move on the land and settle it, and therefore I say his is a general division of the public property.

Mr. CLINGMAN. It is an equal division of public property among all the owners. He proposes to appropriate the public property to the expense of those who, having nothing to do therein to home, may choose to go and take possession of it. If either set are to be called paupers, I presume it is those men who have nothing to keep them at home and who can afford to emigrate to this property and use it.

Mr. WIGFALL. I intended to draw the attention of the Senator from Ohio particularly to some important differences between these two propositions. In the first place, a donation to a railroad company, with which company a contract is made to transport not only arms and munitions of war but naval stores, and the mails, can be so framed as to perform a double purpose: first, by inducing the building of the road, to increase the price of the alternate sections which are left; and secondly, as a consideration for the benefit which the company will derive from the alternate sections which will be sold, to induce the company to undertake to carry the mails, munitions of war, and naval and military supplies at a lower rate than you could otherwise induce them to do; thus using the public domain in payment of the expenses of the transportation of the munitions of war, of naval and military stores, and the mails. Now, sir, if my bill is not framed with that object; if the donation of land is too large; or if the

amount of money to be paid is too large, they can both be diminished when the bill comes up for passage and is under consideration by this House.

I say, then, that there is nothing unconstitutional in the idea, there is nothing objectionable in the view which I take upon this subject, that the land donation first operates no loss to the Government; because, by reserving the alternate sections, the increased price will reimburse the Government for the land which is donated, and in the next place, the land and money may be so graduated together as to be considered as part payment of the services to be rendered by the company. But can this homestead bill be in any manner so framed as to produce these two results? What is it that the homestead settler is to do for the Government? That is what I want to hear. How is the value of the Government land to be increased? I ask the Senator's attention to that particular point. I have read neither of these bills; but in the discussion I have a general idea, and I judge that I am not mistaken as to the general character of them. One of them I have never deemed it necessary to consider—the House bill; the other, supported by men of the Senator's character, I have considered, and I have considered carefully. I have read it, but I have read it with a purpose to give every alternate section of one hundred and sixty acres—that is, the one fourth of a mile square—to every man who will settle upon the alternate section.

Mr. PUGH. The alternate quarter section.—I first asked that; but the Senator from Arkansas, [Mr. JOHNSON,] who was more familiar with settlements even than I am, suggested that it would be an improvement to let four settlers come together and make a neighborhood, and therefore this bill was amended so as to say that particular numbered sections should be given to settlement under this bill, and not others. That leaves four settlements on a section.

Mr. GREEN. Is that the House bill, or the Senate amendment?

Mr. PUGH. It is the Senate amendment. I think the odd numbered sections are subject to this bill, and the even numbered sections where ever they occur (and they will include section sixteen, or the school section) will not be open to settlement under it. They may be settled under the other bill.

Mr. WIGFALL. Very well. I will ask the Senator from Ohio, what amount of land by the bill is set aside so to be settled upon?

Mr. PUGH. None; because we put it upon the ground that it is a policy for the colonization of the public domain. Whenever that section occurs, the settler may settle upon it.

Mr. WIGFALL. I will ask the Senator, whether the surveyed or unsurveyed lands are subject?

Mr. PUGH. Only the surveyed lands which have been offered at public sale and not purchased.

Mr. WIGFALL. Precisely so; that is just what I judged. Then, Mr. President, the proposition is, that this Government shall incur the expense of surveying the public domain. In the first place, the Federal Government has incurred the expense of purchasing, either with blood or money, the public domain; and it is not the blood that I complain of, but the money that we have paid for the blood. It is the pork and bread and the eight dollars a month that have been taken out of the Treasury to keep an Army in the field to conquer this territory; and then afterwards the money that is taken from the public Treasury to consummate treaties by which this public domain has been acquired. Now, sir, the public domain having been acquired and paid for by the Government, I think it is not reasonable to calculate of, but I judge not less really, if you take all matters into consideration, than one dollar an acre, without the expenses of survey, and of the land if it is—that is an estimate I have seen—

Mr. PUGH. I think, if the Senator will pardon me, the Senator from Tennessee, that comes to me—there was an estimate made by the Secretary of the Interior under Mr. Fillmore's Administration, that the price then received for the public land had more than paid for all that had ever been expended on it.

Mr. WIGFALL. This land is then to be surveyed and this expense to be continued and kept up, and those parties are to settle upon it, and yet

it is no donation! Oh no! Of course not! A man goes and settles on the public domain, gets possession of it, keeps possession of it, the fee passes from the Government to him, and the Senator, because he can only settle on every alternate section? Who is going to settle on the other alternate section and pay for it? I ask the Senator not to deceive himself, or suppose that others are to be deceived. I am satisfied that the wish has been uttered by the thought, that the Senator would not attempt to use an argument here which he himself did not believe was legitimate; that he would not attempt to palm off sophisms on a body of the respectability and that has the amount of brains that this body has; but I ask him seriously how it is that this Government is not making a donation—when and where he expects ever to sell another acre of land as long as parties can go and settle on every alternate quarter section?

Mr. PUGH. The Senator seems to suppose that the mere giving of one hundred and sixty acres, upon condition of settlement for five years, will exclude every other sort of purchase. The Secretary of the Interior has told us, and I adverted to the statement many times, that in a large number of cases the settler prefers to pay \$1 25 an acre rather than to be compelled to remain on the same land for five years, and the operation of the law in Oregon, and every other place where it has been applied, shows that granting a part as a donation has in no case interfered with the sale. It has not diminished the revenue of the Government.

Mr. WIGFALL. That is all very clear—that a man who can go and settle on one hundred and sixty acres of land—a man who is going to be a bona fide settler—would rather pay \$1 25 than have it for nothing. I am entirely satisfied with the argument.

Mr. PUGH. No, sir. I say in some cases. You settle the odd numbered sections by actual settlers under the homestead bill. The alternate section—the even numbered section—is in market, liable to sale at private entry.

Mr. WIGFALL. I am entirely satisfied.

Mr. PUGH. Then the same parties, if they choose, or are able, or other parties, may enter that section, and will enter it; and in many cases where the settler is offered a large advance for his property, he would rather come forward and pay \$1 25, and not the price of the land, than to have it may sell. That is the motive for them, in many cases, to have title at once, at the price of \$1 25, rather than be compelled to remain five years; because they have an offer to sell the land to some person at an advance.

Mr. WIGFALL. I am entirely satisfied.

Mr. GREEN. Will the Senator allow me one moment? I should like to know how this can be called properly a homestead bill, when, after five years, the land granted is subject to the State laws, and not the United States law? It is to be subject to operation under the law of the State, the moment the title is vested; and to call it a homestead bill before the State acquires it, and when the title divests, is a contradiction.

Mr. WIGFALL. The Senator from Ohio does not apply the law, he goes to the edge of the State, and the Senator from Tennessee, and the Senator from Ohio will admit to be a misnomer. I state that I am satisfied with the argument of the Senator from Ohio; but I happen not to believe that the class of population who are going to move into the public domain upon an inducement of one hundred and sixty acres, are going to abandon their settlement and pay for another one hundred and sixty acres. I just happen not to believe it. And then, again, I do not think that those who have originated this matter apprehend that such will be the result. I have stated the Senator to say that. I was going to explain that this could not come under the rule which was laid down by the Senator himself, that the Government had not the power to give away the land, unless, by giving it away, the Government increased the price of the land and thereby increased the revenue of the Government by this homestead bill, by giving one hundred and sixty acres of land to every one who will settle upon it and remain upon it for five years, you stop at once the sale of the public lands. Such is my argument.

Mr. GREEN. Will the Senator allow me a moment?

Mr. WIGFALL. Yes, sir.

Mr. GREEN. I do not wish to interrupt his argument; but this is called a homestead bill. It makes it popular in the public mind. Now, to be a homestead, it must be sacred as home. I suggest whether Congress, the moment it parts with the title, can exempt it from execution, sale, and alienation.

Mr. PUGH. Does the Senator suppose there can be no homestead unless it is exempted from execution?

Mr. GREEN. I say there can be no homestead unless it is exempted from execution.

Mr. PUGH. I think we all have homesteads in our States, but they can be sold.

Mr. GREEN. I beg leave to request the Senator to keep his seat. I say that it belongs to the States to make homesteads, not to the Federal Government. The Federal Government may give away money and land to the individual, but it cannot make a free homestead in the proper sense, nobody can do it but the States; and if Congress should attempt to exempt it from execution, it would be void; for the moment the title passed out of the United States to the individual, it would be subject to the State laws. How do you make a homestead exempt, then, from execution, except by State laws?

Mr. PUGH. The bill does not propose to exempt it from execution. I call a homestead the place where a man who is poor, and who has no money, is necessary to exempt it from execution to make it a homestead.

Mr. WIGFALL. Then I judge that, by the consent of the Senator from Ohio and the Senator from Missouri, we may call this a bill to provide homes for the homeless, except to make it under an execution and transfer without the consent of the wife, instead of a homestead bill.

Mr. GREEN. That is it.

Mr. WIGFALL. And in that view I will discuss the bill. I have noticed that these railroad donations are predicated on one idea; and that was, that the Government was not actually making a donation, and that it was not squandering the public domain; but that, by donating alternate sections, it was remunerated by the increased price of the alternate sections, which would be sold. And this bill has no such feature as that. It proposes to give one hundred and sixty acres to every man who will go and settle on the alternate quarter section; and as the settlement is continuous, and there is no use provided when one shall not have time to go and settle without paying, and as the Government has to survey and incur all the expenses of acquiring and surveying, the time will never come when another acre of land will be sold by this Government. This is, therefore, an entire abandonment of the public domain as a source of revenue, and it will be a continual expense upon the Federal Treasury; in the first place, the Government being called upon to furnish homes for the homeless, and in the next place, to run to the immense expense of keeping up land offices for the purpose of having their homes surveyed out there. Instead of a source of revenue, the public domain will become a constant source of expense to the Government. Hence it is better, in every view, to give them \$150 at once; or, if you choose to rate the public lands at \$1.50, to give each man \$20 at once, and be done with it, provided you can get that class of population to give a receipt in full against the Government, and bind themselves never again to come here and ask any further donations. If you can do that, I am willing to give them the \$200 and quit, to get rid of them.

Now, having, at least to my own satisfaction, shown that there is some difference between supporting a bill to make grants of land to a railroad company, for carrying the mails and munitions of war and naval and military stores, and furnishing homes to the homeless, I will now return to alternate sections to be bought by actual settlers from the Government, when the railroad company shall have sold out their alternate sections, or when they shall ask higher prices than the Government does—having shown that that does not diminish the power of the Government from a source of income, and that the other does, I, being satisfied of these facts, can vote for one bill, and not for the other.

Mr. PUGH. Will the Senator allow me to call his attention, as I did before, to the fact of his own departure from his own doctrine—the very point of

departure that I recollect my friend Judge Butler used to comment upon? He has provided in his bill that wherever the Government has no alternate sections to bestow, you may go off an indefinite distance. For instance, in the State of Louisiana, (for his bill extends from the Mississippi river to the eastern boundary of Texas,) you may go through lands that have been sold by the Government; and not having any alternate section to bestow, the Senator makes up that defect out of the whole quantity of public lands, where he neither reserves an alternate section nor doles out the public lands to the individual. What is that? For if he strikes that feature out of his railroad bill, I can tell him that those who are demanding the grant would not ask for it at all, because that is the chief element of all the railroad grants.

Mr. WIGFALL. I have two answers to make to what the Senator says; first, that the bill may be amended, and that stricken out—

Mr. PUGH. Then, I tell him, they will not want it.

Mr. WIGFALL. If that be not expedient, I say to him as I said before—as he would have heard if he had listened to me instead of listening to the Senator from Tennessee, (Mr. JOHNSON,) whose conversation I cannot doubt is very interesting, but it causes me to travel over the ground two or three times. On what principle does he demand the price to be paid in advance for the transportation of the mails, munitions of war, military and naval stores; that the whole bill is predicated on the idea of a contract made by the Government with certain parties who are to render a certain service to the Government? There is the important difference between the two measures; and upon that I predicate it. If he can show me that it is an iniquitous contract; that the companies are getting more land or more money than the Government ought to pay, I will vote against my own bill. If he will show that there is anything in that bill inconsistent with the principles which I here avow—and these are the principles which I really entertain—I will vote against the bill; but I do insist that there is no similarity between the two propositions. That, however.

Now, sir, there is another important distinction between the two propositions—the one that I have introduced and the one that the Senator from Tennessee says he introduced, though I believe Felix Grundy McConnell was the author of it. The one that I have introduced is this: That, however, is a question which I leave Alabama and Tennessee to speak about.

Mr. JOHNSON, of Tennessee. All that I have to say in that connection is, that I do not care who is the author of this measure; but I will inform the Senator from Texas that he has been informed wrongly.

Mr. WIGFALL. I was told so this morning by an Abolitionist. He might have been desirous of claiming the credit for his State; and doubtless the Senator knows.

Mr. JOHNSON, of Tennessee. An Abolitionist once before stated it in the Senate, and he was shown then that he had fallen into an inaccuracy, and had made a statement which the record did not sustain.

Mr. WIGFALL. Were I an Abolitionist, I should be glad that it were so. (Laughter.) But to go on with my argument, if argument it can be called. I have stated the difference between these measures. I was about to state that there is another important difference, and that is in the whole character of the measures; the tone, the look, the motive, the feeling; the sentiment that induces them. One is a measure that a Government might undertake to carry out—I mean a Government that deserves the name of a Government; the other is one which, in my humble judgment, no Government would undertake. One looks to contracts for the performance of great public services that are indispensable; the other looks to providing for pauperism. I know it is popular to talk about poor men, but I tell you that poverty is a crime. A man who is poor has sinned, (laughter.) There is a screw loose somewhere. (Laughter.) The Senator from Ohio laughs. I will prove it.

Mr. PUGH. My observation of late years is, that those who have sinned the most generally get rich the fastest in this country. (Laughter.)

Mr. WIGFALL. I think not. I think virtue

is not always its own reward; but it is very frequently rewarded.

Mr. GREEN. Will the Senator allow me to propose an amendment that I intend to offer, so as to have it printed?

Mr. WIGFALL. Yes, sir.

Mr. GREEN. I present an amendment, and give notice that I shall offer it hereafter. I ask that it be read and printed.

The Secretary read the amendment; which is to strike out all after the enacting clause, and insert: That the provisions of all the existing preemption laws be, and shall be, strictly, extended by the terms of the act to the space of two years; and that if, at or before the termination of the two years, the preceptor shall elect to pay for any land outside of such quarter section, the balance not paid shall be subject to private entry according to existing laws.

Mr. GREEN. I will make one remark in explanation. This proposition is to extend the time of payment to the preceptor for two years. It is a homestead for two years instead of five. In the next place, if he cannot pay for one hundred and sixty acres of land, he may pay for forty, or eighty, according to his ability.

Mr. WIGFALL. I will not be diverted from the train of my remarks by the amendment which has been introduced. I say, Mr. President, that poverty is a crime; and I shall move to amend this bill by calling it a bill to encourage crime, and to provide for the punishment of crime, and to violate the Constitution of the United States, and bankrupt the Treasury. I said before that I knew it was very fashionable to talk about poor people. It is supposed that a man makes himself poor by being about poor people, and that the friends of the poor must be the enemies of the country—brogans and wool lands, and all that sort of thing. Whenever I fail to render some other evidence of my capacity to represent

my portion of the people of the United States of America, I feel that I am doing wrong. I do not intend to prejudice, I hope that I shall pass from public life into retirement. What is poverty? Could you call any man poor who has capital? Hardly. What is capital? It is that which will bring money. Who are the capitalists of the country? The rich. They are the capitalists of the country. How do men live? Sir, I trust in God that I have as little respect for that class of society who are the *fruges consumere nati*—those who are born to eat, to sleep, and to die—as any man who ever lived. Who, sir, are the capitalists of the country? The rich. They are the capitalists of the country. It is not, thank God, in this country restricted to that class who happen to be born rich, and who therefore have the ability to do nothing. That is not the class; but the man who, either by his brains or by his strong arms can make a living and force it—collects the debt the world owes him, rendering service to the world—he is a capitalist; and when you find such a man, he does not ask you to furnish him a home. He would not take it if you would give it to him. He goes into the wild West and buys one, or perhaps one, if he needs it, where he will make the way for himself. That class of the community are respectable. That class of the community make always good citizens. When a State is composed of that class of citizens, it is a respectable State. These men are not poor, though they possess but little of the way of the world.

You, sir, (Mr. FITZPATRICK in the chair,) or any other Senator I see here, may, by long and deliberate study, have so thoroughly imbued yourselves with the principles of the law, that your mere opinion passes for law. You enter into the profession; you are employed; it is known that when you give an opinion or argue a case it is gained already. You may have an income of \$100,000 a year; yet you may own no house, you may scarcely have a new suit of clothes in a year. Are you not a capitalist? Ah! you a poor man, and I a capitalist. You say, "What if you may have none of it; you may gamble it off at a 'hell' you may dispense it in charity, you may throw it to the dogs. I care not what you do with it. Are you not a capitalist? You are selling your lands, you are levying contribution on the community; you are doing that which is of value to them, and you are paid for it. Are you not a capitalist? The man who, by his skill, can make a watch, and invent machinery, is a capitalist. Though he owns no land, and no negroes, no broad acres, he is a capitalist. The man who is willing to take his spade and go into the ditch,

and throw out the dirt, is a capitalist; his labor is worth money, and he can at any time walk into the streets and highways and byways, asking a living, and the world will recognize his right to a living, and give it to him. That man wants to free home for the homeless; that class does not come here with thousands of dollars.

But, sir, this bill does not intend to provide for these men. It intends to provide for a set of men who either cannot or will not make a living, and who are unwilling to take the hazards of the law to steal, and would, rather than starve, log or go to the poor-house. It is a pauper bill—that is what it is, and nothing else.

Mr. PUGH. I suggest to the Senator that I think there are very few of the class of people whom he calls paupers that would get the benefit of this bill. I suppose, by pauper he means the poor man.

Mr. WIGFALL. I so consider it.

Mr. PUGH. Nobody will ever take the benefit of this bill but the laborer. A man who does not want to work will be the last man. You could as well, with the Army of the United States, drive him on a homestead. He would not go there. He would stay about the cities and towns, and steal, as the Senator says. The man who will go, will be what he calls the capitalist; that is, the man who has capital in his bones and muscles. He will go to work. The laborer, the other class never will go. If you gave them a thousand acres in Minnesota, they would not go there after it.

Mr. WIGFALL. I have seen something of the capitalists I have been speaking of. They are as proud as any man in the land. They will send their children to poor schools; they do not go into poor-houses; they have as great an aversion to that crime of pauperism as the millionaire. I have seen something of them, and I have lived amongst them. No, sir; this bill is to provide for those who inhabit the purgatory of London, and the Five Points of New York; "tattered prodigals," as "ragged as Lazarus in the painted cloth," the "cankers of a calm world and a long peace;" "revolted tapsters and hostlers trade-fallen." These are the men to be provided for, and gentlemen suppose they will make themselves popular by bringing in a bill to provide for the poor. The greatest mistake that any man ever made in these United States was in supposing that the people have no sense. [Laughter.] The worst paying trade that any man ever followed was that of demagogues. The man who does what is right, and goes before the people and defends his position, will always be mistaken. I have great confidence in juries. I never have yet seen a jury that I would not rather talk to than a judge. If my cause was right, they would understand it, and their verdict you might rely upon. I have great confidence in the wisdom and virtue and intelligence of the people—not vagabondism or pauperism.

Some allusion was made by the Senator from Ohio to the non-slaveholders of the South. I tell him the non-slaveholders of the South are as proud a race as ever trod the green earth.

Mr. PUGH. The Senator did not understand me as calling that in question.

Mr. WIGFALL. I did not understand that you spoke disparagingly.

Mr. PUGH. I said, so far from being injurious to the slaveholding States in regard to that class of population, the bill would be very valuable and even valuable to the slaveholder. On the contrary, I have warm sympathies with that people, because the great body of my constituents are non-slaveholders. I do not believe I have a slaveholder among them.

Mr. WIGFALL. I am sorry for it, for a few of them would add considerably. [Laughter.] "A hell-leaven leaveneth the whole lump." [Laughter.] The non-slaveholders of the South, nineteen times out of a hundred, are landholders. This bill is not intended to provide for them. No one supposes it is intended to provide for them. The Senator from Tennessee [Mr. NICOLSON] admits that it is not, in substance. He admits that the effect of the bill is to free-soil the territory of the United States; but he says, in defense of himself as a southern man, that to that complexion it must come at last; and really it is a matter of very little consequence whether it is to-day or to-morrow. I have said I happen to feel as Jack Falstaff

did in a battle in which he did not distinguish himself for his courage. Honest Jack said, it was true he owed God a death, but it was not due yet, and he was loth to pay it before it was due. [Laughter.] It may be coming to that complexion; I know not; but I shall not, by any vote of mine, hasten the catastrophe. I have said to-day is the evil thereof. Now, does this hasten the catastrophe, or does it not?

There is a new idea that has been introduced here by several Senators. The Senator from Ohio has countenanced it, and I was rather shocked that he did. It is that this Government has a double duty imposed on it: first as a landholder; and he takes issue entirely with the Senator from Minnesota [Mr. WILKINSON] on that subject, who considers the Government as a sort of great land speculator who, as he says, goes into market here and there to defend the people out of their money by selling land. He says it is in duty bound to furnish land to the landless; and he put on to the broad ground of donation. He said the Senator from Ohio take very different views. The Senator from Tennessee, though, suggested the idea the other day that this Government owed a double duty to the States: first to act as their trustee, and sell out the lands and make money by them; and, in the next place, to induce settlement and the formation of new States.

Now, Mr. President, if this Government be a Government instituted by the States, if this Government be the agent of the States, I want to know when and where and how that duty has devolved upon it of forming new partners; or, if it does devolve on it, whether this Government is also not bound to the States in this particular as to the disposal of the partners? What sort of a State would the Senator from Tennessee form under this misnamed homestead bill? What kind of a State would it be that was settled by a parcel of men who were not able to buy one hundred and one acre of land, who had no money to buy one hundred and sixty acres of land, who would not go upon the public domain if you were to give them two, or three, or four, or five years to pay it in? [A parcel of paupers; the outpourings of the hell of London, and the hell-hounds to go there and settle on alternate quarterly auctions and have a sufficient number beheadminded into the Union, ninety-three thousand and some odd; and when they have their ninety-three thousand population and are admitted into the Union, with such a population, should not the Senator from Tennessee, Senators; I should like to see the member that would represent them in the other House: I should like really to see the man who wore the emerald elected by such a set, and being themselves of them. I should like to see their Legislature. Great God! it would be a sight to behold! [Laughter.] Are we, the representatives of the States of the Union, to make provision for filling up the Territories of the United States with a population taken, as I have said, from the purgatories of London and the Five Points of New York, and provide for men who are unwilling to provide for themselves?

Why, sir, the curse of God is upon the class who are intended to be provided for by this bill. It is the declaration of Divine justice and wisdom that "he who will not provide for his own family is worse than the infidel;" and I have said before that poverty is a crime, and I say that God has declared so. A man who has intellect, and who has energy, and who line character, may become poor; but you see that man struggling against adversity, he sits out at the corner of the street with a hat, and asks no aid. If he is wanting in one of the elements of manhood, moral character, he may put on a mask and meet you upon the road and say, "stand and deliver;" and before God I would have more respect for the man that says so than for the man that says, "stand and deliver;" for the man that says so has the boldness of manhood, he has not honesty of character. If he is too worthless to work, he is at least ashamed to beg. The miserable mendicant has lost even the sense of shame. He has "sounded the base string of humility," and he has no honor for his race.

This bill, then, is objectionable because it is pandering to a false sentiment; it is objectionable because it is creating a false sentiment; because it is encouraging a false and demoralizing sentiment. But the Senator from Ohio has quoted John C. Calhoun on this. I say to the Senator that I am glad to

know, and I long suspected the fact, that he was in the habit of consulting that oracle of wisdom; and if he will introduce the bill that John C. Calhoun introduced when that speech was made which he has quoted, I will join him in voting for it. I am willing to give the lands to the States. The entire domain should be in the States. This Government should have its land offices and its patronage broken up. Let the lands be under the disposition of the States. But did Mr. Calhoun agree or propose to give away even to the States? No; he proposed they should return at least twenty-five per cent. of the proceeds.

Mr. PUGH. Only twenty-five per cent.; and the argument was the same argument by which this bill is supported.

Mr. WIGFALL. But he proposed that we should get nothing. The bill which has been introduced here into the Senate proposes not only that we shall get nothing, but that we shall pay the expenses of getting nothing. [Laughter.] We shall not only give away the land to vagabondism, but shall pay vagabondism for taking the land; it is very objectionable. It cuts off a source of income, and yet does not destroy Government patronage.

Mr. WILKINSON. I should like to ask the Senator a question.

Mr. WIGFALL. Certainly.

Mr. WILKINSON. Is it, whether the State of Texas has not given away her lands; not only to her own citizens, but to foreigners?

Mr. WIGFALL. Foreigners! That is more objectionable still.

Mr. WILKINSON. I ask you whether the State of Texas has not done so?

Mr. WIGFALL. Thank you for that word. I will speak to that in a moment. I want to finish what I was saying to the Senator from Ohio. I say that, in reference to Mr. Calhoun, I have not read his speech lately, nor his bill or report; but I know the general character of them. It was to give to the States the lands, and throw on them the expense of surveying those lands, and recurring to the Federal Government a certain percentage of the gross or net profits, I care not which. As to the vast eminent domain in the States, where I ought to be, it was to break up the patronage of the Government; and I wish the Senator had read also another paragraph, I think from that same speech, but I could not find it, though I looked for it, whilst he was speaking. It was that the Government should have no more to do with the bill was to cut the throat of demagogism. He said that the public lands had become a means of corrupting not only the Government but the people, and that men who had no other merit were presenting themselves as candidates for the Presidency; indirectly bribing the people before the public, by offering to donate these lands to pauperism. I do not pretend to quote the language.

Mr. PUGH. Mr. President—

Mr. WIGFALL. I do not mean it for you, Mr. PUGH. No; but what the Senator refers to, I have never called in question. I have said precisely such a proposition as the Senator from North Carolina has offered. What Mr. Calhoun called demagogism was this: telling the people of the States that the proceeds of the public lands should be divided among them; and I agree that was demagogism. It was to grant to the States a proposition as the Senator from North Carolina has made.

Mr. WIGFALL. Well, sir, now I will go on. The Senator from Minnesota has drawn my attention to foreigners. I did not hear him distinctly, but I heard the word "foreigners." He has drawn my attention to this matter of foreigners.

Mr. WILKINSON. The question I proposed was, whether Texas had not given away lands to foreigners, not only to her own citizens, but to foreigners?

Mr. WIGFALL. Yes, sir; and she had a right to do it.

Mr. WILKINSON. Exactly.

Mr. WIGFALL. I have a right to do with my own land as I please for my own good, and to put it in a hell, if I choose; I have a right to squander it; I have a right to give it to missionary societies, or for publishing the Bible, or do whatever I please with that which is my own. But the Senator from Minnesota seems not to be able to draw the distinction between the State of Texas,

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a political community, that conquered the land that she is giving away, who can deal with her own as she sees fit—can she not draw the distinction between a State government in which the sovereignty vests, and a miserable one-horse concern here in Washington, that is administering a few, not granted, but delegated powers, that the States have intrusted it to administer, under the general impression of what they honestly administer the trust. [Laughter.] Why, sir, this is a monstrous matter of immorality, as well as schism in political knowledge.

Mr. WILKINSON. My question was directed to this point. I understood the Senator to attack the whole system as giving away lands to paupers. That was the idea.

Mr. WIGFALL. Yes, sir.

Mr. WILKINSON. Not on the legal question. Mr. WIGFALL. Well, I say Texas has a right to indulge her vanity. [Laughter.] She has not done just exactly what you suppose; but if she had, she had a right to do with her own what she saw fit. If she chose to dispense her means in charity, she had a right to do it.

Mr. WILKINSON. I will ask the Senator another question. Was that policy a good one in Texas? Has it worked well for the State?

Mr. WIGFALL. I have discussed that question often in Texas; and having the Senator from Ohio, who is worthy of any gentleman's steel, immediately in my mind's eye, I prefer to go on with him. That giving the public lands not only to the inhabitants of the purlieus of London and the Five Points, but to the pauperism of all continental Europe. The Senator from Minnesota delivered a eulogy on foreigners. He must have been an old Deceit, and fought the Know Nothings. I do not know. If he was, he is on the wrong side of the Chamber. But I should judge, from the eulogies he delivered in reference to the foreigners who had carried our flag—for he speaks with a degree of enthusiasm with which I have never seen a man speak of a foreigner—that he was writing upon Democracy—that he was with us then. I do not know whether the Senator was one of us then, or not. He does not answer.

Mr. WILKINSON. I can say that I was not; and I am very sorry for it.

Mr. WIGFALL. I think the foreign population, then, would be very much surprised to hear your eulogies, and not thank you much for them. As to foreigners—

Mr. PUGH. I dislike to interrupt the Senator; but I hope he will allow me to ask a question, as he is devoting himself to me, he says.

Mr. WIGFALL. Certainly.

Mr. PUGH. I think the Senator has not answered the Senator from Minnesota fairly. Perhaps I am not proper judge. I understand the Senator—waiting the question of the right of the Federal Government to dispose of the lands—to say that a grant of land to actual settlers by those who have the right to grant them is a premium to pauperism. Now I ask the question, has Texas given a premium to pauperism? Has the policy of Texas and other States, for many of the States adopted it—in point of fact and experience had any such result as the Senator supposes? If it has not, then the Senator is in error, and I tell him it is in error. What he calls paupers will be on the other side of the Chamber, and go there. As I said before, the whole Army of the United States could not drive the people of whom he speaks on to the public domain. They will not go. I call his attention to the fact that he has said that part of his argument is concerned, it is answered by the experience of only of Texas, but of Tennessee and other States.

Mr. WIGFALL. The clock admonishes me that I had as well go on. [Laughter.] For the satisfaction of the two Senators, I will answer the Senator though I do not desire to. I understand Texas has never pursued the policy contemplated by the bill. Those who had conquered the territory and held it by the best of all titles—the title of the sword—made a large land donation to themselves

—that is, to those who were in Texas at the date of the declaration of independence. Again they made a donation to those who had fought at San Jacinto. Subsequently, when they needed soldiers, they offered lands to those who would move into the Republic. Some colony contracts were made during the days of the Republic. Since annexation, we have made no donations of land. It has been sold at a fair price; and we have, as a consequence, a population who, having paid for their freeholds, feel like free men. Nor have we suffered from the population obtained under our colony contracts. They have proved to be worthy and industrious citizens; but they were not introduced by New England emigrant aid companies. A policy that is good for a new State engaged in war and needing men, may be bad when the circumstances change. But this is not a question of policy; it is a question of power. I deny the power of this Government to give away the public domain.

This Federal Government, having certain political powers, can, of course, exercise them, but no others; and I propose to go on, and discuss these matters, somewhat after the manner of the Senator from Ohio, and follow his up to the hilt. The Senator from Minnesota brought my attention particularly to this matter of foreigners, and I will say to him, in a few words, that I have as little prejudice against foreigners as anybody. I think, nevertheless, that this Government has a positive power for foreigners, and especially has this Federal Government not the right to put in a Territory, that now belongs to the States, a parcel of men who can form a State constitution before there is a citizen there residing. The Senator from Minnesota objects to the present bill because it has not a qualification of that sort.

His proposition is to give to every foreigner who will come here before he is naturalized, one hundred and sixty acres of land; and these people are, according to the views of the Senator from Ohio, [Mr. Nicholson], "Native-born Americans." The Constitution, and we may have ninety-three thousand inhabitants in one of the Territories with a State constitution and not a citizen of the United States there. Why, sir, they may form State constitutions, but they cannot be represented. On any objection to their proposition in that there is not a single one of that population who could represent them in the Senate of the United States. They might have to import a citizen, native or naturalized, in order to represent them here. When a man comes from Europe to this country to measure his is in quest, of citizenship; because he wishes to be entitled to that which he can gain by the sweat of his brow; because he wants light taxes; because he wants open jury trials, and to be faced by his accuser, to get rid of all these protections; because he wants a State constitution, and he is enjoying civil liberty in this country—when such a man comes here, and has remained here for five years, and has his certificate of naturalization in his pocket, I am disposed to allow him to vote, and I am disposed to allow him to hold any office except those which the Constitution of the United States prohibits him from holding. That is my view. The special and particular friend of the foreigners, sitting over on the other side, from Minnesota, would deprive these men of these rights, but he would give each one of them one hundred and sixty acres of land.

Mr. WILKINSON. I wish the Senator would repeat that last remark.

Mr. WIGFALL. I do not think I could. [Laughter.]

Mr. WILKINSON. I understood him to say that he would deprive the foreigner of the right of voting.

Mr. WIGFALL. I understood you to say you had been a Know Nothing, or one of the Americans, as they are called.

Mr. WILKINSON. You understood me very erroneously. I never was a Know Nothing.

Mr. WIGFALL. I understood you to say so. You are singularly unhappy in making yourself understood.

Mr. WILKINSON. You asked me if I had been a Democrat, and I said no. I think the Senator himself is a Democrat.

Mr. WIGFALL. It may be so. [Laughter.] Mr. President, these foreigners are to be brought in here, and to be settled upon these lands. I understand all that. This is not a party question, of course, nor is the Republican do not intend to appeal to the German population, they do not intend to appeal to the Irish; they do not intend to appeal to the men that they have been persecuting and making war on, and say, "we were your friends, and would have given you one hundred and sixty acres, but these Democrats would not vote for it!" Oh, no; no party purpose in this, no electioneering! I understand that very well. Why, sir, it is an electioneering trick; and I am sorry that any gentleman on this side of the Senate should have been drawn into it, or been caught by it. Naturalized citizens are not to be caught with such chaff. I am willing, when a man from a foreign nation comes here and becomes a citizen, to treat him as a citizen; but I am not willing to give away the public domain to men who do not owe allegiance to this Government, to men who have not sacrificed their services to our Governments. I am not willing to pass a bill which provides for one class of society, and for one alone.

Mr. PUGH. Does the Senator suppose that any person can get land under this bill without being naturalized? Is not every proposition it is expressed. He is never to have a patent or title until he has been naturalized. It is so in both bills—the House bill and the Senate bill.

Mr. WIGFALL. Are both bills the same?

Mr. PUGH. Both bills are the same.

Mr. WIGFALL. Then I misunderstand the bill from the remarks of the Senator from Minnesota, because he discussed it with that view, and objected to the Senate bill because he said that it did not give the land to foreigners.

Mr. PUGH. Both bills provide that those who are now here, although not citizens, may make a declaration of intention, and finally acquire a title. I agree with the Senator from Minnesota that that is an unnecessary distinction, and I propose to agree to the House bill in that regard, and provide that citizens make a declaration under the naturalization law of his intention to become a citizen may settle; but he never gets a title until he is a citizen. He may stay there fifty years, but never can get a patent or any right of ownership until he becomes a citizen. Therefore, it is not given land to foreigners. It is not given to them until they become citizens.

Mr. WIGFALL. On this subject the Senator from Tennessee [Mr. Nicholson] and the Senator from Ohio took the same view of the duty of the Government. They said it was to give it power for two purposes: one as a landholder, and the other for filling up and admitting new States. I have simply to say that it is to me a new view of the Constitution, and more extraordinary than the views of John Taylor of Caroline. I read with much instruction and pleasure his New Views of the Constitution once; but the new views that have been given here, I have not received with quite as much. The Senator from Tennessee adds that we may give away the lands which have been acquired since the time of the Constitution, and that we are not bound to use them as a Federal fund. He says the Dred Scott case decides that. I am not going to discuss the Dred Scott case.

The Constitution says that the Congress of the United States shall have the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Now the Senator from Tennessee says that that is very good constitutional law so far as concerns the Territory which was owned by the Government at the time the Constitution was adopted; but he says it cannot apply to any territory acquired afterwards. I ask him if it can apply to any property acquired afterwards; and

that I should like to know what he calls property? Here is the Constitution of the United States; that says Congress shall have power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." He says that that applies to the territory which belonged to the United States at the time of the adoption of the Constitution, but does not apply to any territory acquired subsequently. If, then, it does not apply to any property. Hence the Congress of the United States may give away, not only the public lands acquired afterwards, but the public money and this Capitol under which this was acquired after the Constitution was ratified; and for that he quotes the *Dred Scott* decision. I think that those judges "had better look to it." If they are to be quoted for doctrine of that sort, they will be brought into disrepute. As Mrs. Doll Toss-sheet said, when ancient Pistol was introduced to her as captain: "a captain! these villainous will make the word 'captain' as odious as the word 'occupy,' which was an excellent good word before it was ill-used; therefore, captains had need to look to it." If the Supreme Court is to be quoted here for doctrine of that sort, say these Federal judges had better look to it, because there is a palpable absurdity on the face of the proposition, which must stagger every man who looks to it. The Constitution says:

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

Now, says the Senator from Tennessee, "Congress having the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States," he says that means belonging now, at the time of the ratification of the Constitution, and therefore all the territory which then belonged to the United States is a Federal fund, and cannot be given away; but the territory acquired afterwards is not Federal; it is really a fund, and may be given away. If this is true as to the "territory," I say it is also true as to the "other property;" and every dollar in money or property, every fort, magazine, navy-yard, dock-yard, or other public building, that has been acquired, and all have been acquired by the latter clause, since the Constitution was adopted—may be given away by the Federal Government; it is not Federal property. This clause applies only to that which was owned by the States at the time of the adoption of the Constitution. That sort of argument, it seems to me, will not do; and if the homestead bill cannot be defended on other grounds, it must be abandoned.

The homestead bill is defended on many grounds. The Senator from Ohio puts it on constitutional grounds; and the only objection I have to his argument—which is a very good one—is, that it does not fit the case. He admits that the Government cannot give away lands; and if he could only persuade me that those alternate sections would increase the price of the other alternate sections, I could have no ground for my objection; but I cannot comprehend how it is that, whilst the country is divided up into quarter sections, and every man has a right to go and settle on every alternate quarter section he sees fit, any one is ever going to buy one.

I believe it will result not only in cutting off that source of revenue from the Government, but that it will also result in leaving, as it must, the expense of the land office, the cost of the land purchases upon the Government, and this will end to what? Increased tariff taxation; and for that I have no desire.

The Senator from Ohio has denounced the soldiers' bounty land bill. I am willing to join him in the denunciation. He says it was not according to the contract; that these men who had enlisted or volunteered, had taken a consideration, and that when that was paid, there was an end of the contract. I think so.

Mr. PUGH. There were some cases of contract, and I excepted those from that statement. I referred to such acts as that of 1855, which proposed to give responsibility to the public lands, which were no part of the contract of enlistment. Those were the cases.

Mr. WIGFALL. Precisely.

Mr. PUGH. If the Senator will allow me, I will state that, in 1847, with a view to encourage

enlistments in the regular Army during a time of war, there was a promise given to those who enlisted that they should have a bounty in land. That I hold to be a contract, although I think it was an injurious system. It was a debt; but the other case—the old soldiers' bill of 1855—I say was a mere plundering of the public Treasury.

Mr. WIGFALL. I did not say that the Senator from Ohio. I understood him distinctly—and I suppose had so explained it—that these land donations were objectionable because they gave additional compensation after the service had been performed. But, sir, they have been passed, and the law now stands; there have been soldiers in the hands of others, those who purchased them; and they are in the hands also of some who have not sold. I say that this bill, if it passes, does this wrong: it violates a contract that is now subsisting. It is not necessary for the Government to have given land to those disbanded soldiers for their services; they had been paid, and there was an end of the matter; but as the Government has given them land, and as, on the faith of that donation, persons have purchased, I care not if it is a contract, and why then, when the Government has purchased for a valuable consideration; and now, to give away the public domain to anybody who will settle upon it, is a breach of the contract between the Government and those purchasers who bought upon the faith of the Government that they would not get something of value. Of course, no man will buy one of these warrants when he can go and settle upon one hundred and sixty acres for nothing. It does this further wrong: you talk of the poor; here is the widow or orphan of the soldier who was entitled to this land warrant, and the law now says that he must wait until the Government comes and asks the poor pittance of the land warrant which the Government has given for her husband's services, she gets it, and what is it worth? To whom can she sell it? The public domain is to be all distributed among those who cannot get anything of value. It is a wrong to the widow and orphan therefore.

Mr. PUGH. Does the Senator suppose this bill prevents the location of land warrants?

Mr. WIGFALL. No, sir; I do not suppose

Mr. PUGH. They can locate it just exactly as much as before. We give what we promised—the right to locate so many acres.

Mr. WIGFALL. You give a widow a land warrant because her husband died in battle; she is entitled to move there, and she cannot move there, and then you say to her, "Go and settle on the land." Will anybody buy her warrant? It is mockery of the living; it is a fraud on the dead. It is an outrage on the widows and orphans with whom this Government has made, whether rightfully or not, a contract; and it has no right to violate it. We have given them these warrants for services, and we have no right now to come in and say this donation shall be utterly valueless, by the declaration that anybody can go and settle on the land for nothing.

Mr. PUGH. I do not think the Senator should hold that a bill to reduce the price of the public land—such as the graduation act—was a violation of the contract.

Mr. WIGFALL. I would vote against it if it were so, but we are not considering that now. This Government has done hundreds of things that I am opposed to. I am not committed to the defunding of the Government. It is more, sir—it is a fraud on the tax payers; it is cutting off an important source of the revenue of this country, thus throwing on us the necessity of increasing our taxes. It is throwing upon the Government of discord into the country. These lands having been acquired by the Federal Government, either by donation at the time of its inauguration, or since by purchase or conquest; and being a Federal fund, I think this Government has no right to utterly and wholly overlook its character as a trustee for the States to give them away; yet may by donation, if it does not diminish the value of the land, encourage settlement; but, so far as I am concerned, I have no particular desire to settle these lands. The Senator says that he does not see that our interests are involved in settling up that country. Why? Are we not strong enough? When the thirteen colonies first confederated together and then established this Government, the time was when it was good policy to induce set-

tlements; when it was good policy to acquire Florida; when it was good policy to open the mouths of the Mississippi. These things were good policy then, and other acquisitions might have been good policy. I believe it would be good policy to acquire Cuba; but why this haste, this indecent haste? The Senator from Ohio said, in the portion of his speech, that he had better "hasten slowly." I think that old Horatian maxim he quoted, *festina lente*, is the wisest thing that has ever been written, or could ever be acted upon.

Now, as to this other grave, sentimental sentiment that he has quoted, as he said, from some philosopher, of making two blades of grass grow where one grew before, I will only say that this philosopher figures in Gulliver's Travels, according to my recollection. His philosopher in Gulliver said that the man who could make two blades of grass where one grew before was only wiser and better than the politicians. That was all he said. There was nothing about land donations in it.

The Senator from Minnesota, who made a squawking, unvergent speech yesterday, called the attention of the Senate solemnly to this example set by two Governments—Peru and Colombia. Now, sir, I have heard a great deal of Peru. The Persian Government is an old one. I believe it began about five hundred years before Christ; and I believe Mr. Xenophon may have read something or other about it once. The laws of the Persians and the Medes together were, I am told, never changed or to be changed. Its territories have somewhat, by the interposition of Russia, I believe, been changed. But it is a most extraordinary thing that the Persian Government should be held up to the American Senate as an example worthy to be followed—an *effete*, worn-out Government, twenty-five hundred years old, with an Asiatic population, a despotism from the time it was first inaugurated to the present day. The Senator from Minnesota says that the Persian people and the American Senate as worthy of being followed.

The Senator also alluded to Colombia. Well, sir, I believe that country is not on the map. There is no such country as Colombia. It cannot be found on any map, and is introduced as an example for a map, and got the last one, and looked for it there, but could not find it; and I have not had time since to look it up. That country, if I recollect aright, was once somewhere or other in South America, but I do not know where. I do not think it is the aid of an Irish regiment he kept his men among the Indians for a while. He died, and the day after he died—or maybe the year after—the Government died also; and the wisdom and the policy of this Government, that now lives and is not to be found even upon a school atlas, is brought up here as an example to be followed by the American Senate! I judge that Senator prepared his speech elaborately—for it was written out—and if he could find but two Governments who had acted on this "land to the landless" and "bounty to the soldier" system, he would have Peru and the other Colombia, I think the precedents are wanting. Those are not such as I would follow, at least.

Mr. President, I have touched upon some of the prominent points of the Senator from Ohio's argument, and I will not detain the Senate longer. It is useless to talk about this as a sectional question. It is a known fact, in the first place, that the two parties in this country differ from each other as to their construction of the Constitution of the United States. The Democratic party professes to attach to it a strict construction, and that man who votes, whether myself or anybody else, against a strict, legitimate, and fair construction of the Constitution, is no Democrat. I am not disposed to read anybody out of the party; I make no charge of any wrongs against any one. If I should unfortunately advocate, or even introduce a measure here, and it is shown that it is not a measure that we, the Congress of the United States, have a right to pass, I will abandon it.

There is a sectional question, what is to be the effect of this bill? Do gentlemen intend to hasten the catastrophe? Years ago the suggestion of altering the Constitution by a vote of States was made. As long as the States were about equally balanced, and there was no danger of altering the Consti-

tution and destroying the institution, the civilization, and the property of one section, this excitement merely was smoldering. It has now burst out and is burning fiercely; and yet a policy is introduced here by which, with the aid of emigrant aid societies from Massachusetts—and they are ready to incorporate them at any time—an immense influx of European immigrants can be drawn into the northwestern Territories, and new States admitted;—then comes the proposition to get the Constitution—the abolition slavery in the States. I have spoken of that already, in reply to what was said by the Senator from Tennessee, and I have stated that I am not disposed, at least, to hasten that thing. Southern men take this view; they look upon it in this way, but it is clear that there is a determination to take just exactly such means as will fill up, with a free-soil population, these Territories, and make new States so rapidly that, under the forms of law, we can be defeated.

Now, if the professions of unionism and devotion to this country be sincere on the other side of the Senate Chamber, I think they should at least pause in this matter. Who do you want to provide for? Why offer these lands? Why not give them to the States, and let them do as they please? Why not leave the lands to the States, and let them be dealt with hereafter as the emergency may arise? I am perfectly willing to cut off the patronage of this Government. I am willing to give the lands to the States. Let them deal with them as they please; say any percentage whatever to get out of the question and keep it out of the presidential canvass and cause it to cease to be a sectional question.

But I am not willing to pass a bill here which excludes every slaveholder from moving into a Territory; because no man who owns slaves is going to move on one hundred and sixty acres. We have no pauper population at the South, and I thank God for it. Those who do not own slaves, I land, or are respectable, industrious mechanics, attached to their homes and the institutions of their particular section. They are not going to move off. The only effect of the bill is to fill that country with paupers. We are under no obligation to provide for your paupers. We are under no obligation to provide for the pauperism of Europe. We are under no obligation whatever to the new States composed of such population, and I am utterly opposed to it; and I believe that the effect of this thing will be to fill up that Territory with a prejudiced, sectional, fanatical population, that will send member after member to this body to agitate, agitate, agitate, and keep up the sectional question, until you put the feather upon the camel's back.

The Senator from Massachusetts [Mr. Wilson] I see is considering what I am saying; he has no affection for foreigners, nor has his State. There is a provision for foreigners who are not naturalized. In his State, an American citizen is not permitted to vote, if he is of foreign birth, until he has resided two years after he has become a citizen. The whole object of this thing is sectionalism. It is to fill the Territory. Mr. Wilson has said, in 1844 I believe, passing resolutions and sent them here, urging the alteration of the Constitution, and depriving us of our three fifths representation, which he knew perfectly well, and everybody knows, never can be altered. He continued the agitation, and came on with it; she has organized a society to fill up Kansas with a free-soil population. Having kept that up until Kansas has ceased to bleed or freedom to shriek, now comes in this homestead bill, and this is to be passed; and I tell you, when it is passed, it will be the same to me as if it were passed in your mind that you dream not of.

Southern men may vote for it, and suppose they can go home and defend themselves. Possibly so. I cannot vote for it; but I intend to fight it in every manner, shape, and form in which it can be prevented. I will resist it, I will oppose it, I will move to amend it; and I trust in God, if all these things shall fail, the President of the United States at last will have the nerve to exercise his veto upon a measure that seems to me so fraught with evil.

Mr. JOHNSON, of Tennessee. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 4, 1860.

The House met at twelve o'clock, Mr. Prayer by the Chaplain, Rev. THOMAS H. STOCKTON. The Journal of yesterday was read and approved.

NEW JERSEY RESOLUTIONS.

Mr. ADRIN, by unanimous consent, presented joint resolutions from the Legislature of the State of New Jersey; which were laid on the table, as follows:

1. Relative to the removal of obstructions in the river Delaware.
2. Relative to the public lands.
3. Concerning the duties on imported merchandise.
4. For the improvement of navigable waters on the Atlantic coast.
5. Concerning the establishment of a national foundry in the State of New Jersey.

R. B. RICHARDS.

Mr. COOPER, by unanimous consent, introduced a joint resolution for the compensation of Rev. R. R. Richards, late chaplain of the United States penitentiary, for his salary up to the 30th June, 1857; which was read a first and second time, and referred to the Committee for the District of Columbia.

KATE D. TAYLOR.

On motion of Mr. MOORE, of Kentucky, a bill (S. No. 250) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P. Taylor, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

CODIFICATION OF THE REVENUE LAWS.

Mr. JOIN COCHRANE, I will state that the bill of the House (No. 31) for the codification of the revenue laws was made the special order for to-day, and would probably come up next in order after the bill now pending, reported from the Committee on the Judiciary, has been disposed of. Owing, however, to the number of amendments proposed by merchants and others from New York and elsewhere, it will be necessary to postpone this bill further. I ask that the House will postpone it until the second Tuesday in May next, when it may probably be taken up and disposed of.

No objection being made, the bill was accordingly postponed.

STEWART M'GOWAN.

On motion of Mr. SIMMS, of the bill (S. No. 219) for the relief of Stewart McGowan, was, by unanimous consent, taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

MILITARY ACADEMY BILL.

Mr. STANTON. I ask the unanimous consent of the House to report, from the Committee on Military Affairs, a bill for the support of the Military Academy, with the Senate amendments, and to have it made a special order in the Congressional Calendar. The Committee on Military Affairs unanimously recommend that the first amendment of the Senate, in relation to a small appropriation for West Point, be concurred in. I am instructed by a bare majority of the committee to recommend a non-concurrence in the Senate amendment in relation to the Texas regiment. I move that the bill be referred to the Committee of the Whole on the state of the Union, and made a special order for Tuesday next.

Mr. MORRILL. I object.

Mr. CURTIS. I hope the gentleman from Vermont will withdraw his objection. It is a matter of importance to the people on the frontier, that they should know whether they are to have the support of the Federal Government or not. I will say further, that, as a member of the Committee on Military Affairs, I should certainly have voted in favor of this amendment of the Senate if the President of the United States or the Secretary of War had, in their communications to this House, said that they considered such a force necessary. In response to the resolution of this House, passed upon my motion calling for information as to what was necessary to protect the people of Texas, I expected to find a distinct avowal from the Executive that we did or did not want volunteers. But, on looking over the report, I find that the

Secretary of War and the President of the United States have studiously avoided any expression of opinion upon the subject. In a matter of this kind, there is necessarily to take a delicate responsibility. It is said by the Governor that the present force is not adequate. The Executive replies by sending copies of orders which move more regular force to the frontier. Texas says this kind of force will not do. The Executive should decide this last necessity to take a delicate responsibility is needed, I am for the appropriation; but I want the unequivocal answer of the Executive, who can best judge of the requisite force. To interpose aid to Texas is unquestionably a duty of Government; but to raise a regiment of volunteers without the call of either the President or Secretary of War, who will have their direction and command, would seem to me a dangerous precedent for this department of Government. An Executive is presumed to know best the amount of force required to execute the laws, and that department must take the responsibility to distinctly decide the matter.

Mr. REAGAN. I hope there will be no objection to this bill being made the special order.

Mr. STANTON. It is certainly material, as the gentleman from Vermont will agree, that the people of Texas should know where the House is to pass this amendment or not. For myself, I am opposed to the amendment; but I think it is due to right and justice, due to fair play, that the House should act upon the amendment, and act promptly.

Mr. MORRILL. I object.

The SPEAKER. The bill will then be referred to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I understand that the bill has been made the special order of the Committee of the Whole on the state of the Union. Now, I submit that it is in order to move that this bill—being an appropriation bill—shall be made the special order in committee, and that it may be decided by a majority vote. I understand that to be the effect of one of our new rules which we have adopted.

The SPEAKER. The Chair supposes the gentleman is correct, if the bill has been received. Does the Chair understand the gentleman from Vermont to object to the reception of the bill, or to its being made a special order?

Mr. MORRILL. I have no objection to the bill being received and referred to the Committee of the Whole on the state of the Union, if it is not made a special order.

Mr. SHERMAN. The rules of the House require that every bill making an appropriation shall be first considered in a Committee of the Whole House. I suppose, of course, therefore, this bill, if received, must go to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. It must go there, of course. Mr. SHERMAN. Yes; well; but I object to its being made the special order.

Mr. STANTON. I know of no reason why it is not in order to move that it be made a special order.

Mr. SHERMAN. I made the same motion the other day, and a single objection prevented its being put to the House. I wish merely that we shall proceed according to the rules. I hope it may be so, but I do not understand that the Senate amendments to an appropriation bill may be made a special order by a majority vote.

The SPEAKER. The Chair will direct that the rule having reference to the subject be read.

The Clerk read the rule, as follows:

"The House may, at any time, by a vote of a majority of the members present, make any of the general appropriation bills a special order."

Mr. REAGAN. If gentlemen knew that the people on the frontier of Texas were daily being murdered, and that their property was daily being stolen, I think they would consent to let action be taken in the House upon this subject. Defeat the bill if you wish, but let the people of Texas know whether they are to have any hope of protection to their lives and property from the Federal Government or not.

Mr. HOUSTON. I suppose—and in this I agree with the gentleman from Ohio—who is in this debate of the Committee of the Whole on the state of the Union—that the House cannot by a majority vote make a bill a special order as a general proposition. But a special rule was adopted, as I under-

stand, at the instance of the gentleman from Ohio himself, making it in order to move that an appropriation bill be made a special order in committee, which motion may be carried by a majority vote.

THE SPEAKER. The Chair so decides.

Mr. SHERMAN. This is not an appropriation bill. The question is on a Senate amendment, which has nothing to do with the original bill at all.

Mr. HOUSTON. I desire that the gentleman shall understand me. The final action of the House upon the bill itself depends upon the amendment; because, if the amendment of the Senate is not acted on, the bill itself is lost. The purpose for which the rule was adopted was, that the appropriation bills should be acted upon as soon as possible; and this amendment of the Senate, being now attached to the bill, becomes a part of it, so far as the purpose of the rule is concerned, because, unless the amendment is acted on, the bill cannot be passed. Hence the same reason, the same propriety, and the same necessity which should make an appropriation bill a special order, apply with equal force to making Senate amendments to an appropriation bill also a special order.

Mr. SHERMAN. It is well to settle this matter right, and we might as well have a vote upon it. The House has passed a bill making appropriations for the support of the Military Academy appropriating two, three, or four hundred thousand dollars. The Senate has placed upon it a proposition which has no connection at all with the Military Academy, appropriating over a million dollars for a regiment down in Texas. Now, I do not know whether a regiment is needed there or not. I do not know whether the regular troops are there or not. They may be there, acting for the protection of the people on the frontier, and there may be need of this regiment.

Mr. HOUSTON. That will all be considered when we come to discuss the Senate amendment in committee.

Mr. SHERMAN. Just wait a minute, and I will conclude what I have to say. The Senate has tumbled this bill down with this amendment, and I say that it is better that it should not be acted on at all, and that another bill should be reported and passed for the support of the Military Academy, than that the whole business of the House should be blocked up and loaded down by such amendments upon the part of the Senate. If this practice is to be established, the Senate's amendments to appropriation bills, as well as the bills themselves, are to be made special orders, you put the whole business of the House under the control of the Senate. They may put whatever measures they choose upon our bills, and force us to consider them as special orders. I put to gentlemen on the other side of the House, suppose the Senate had placed upon the bill which we passed the other day for the support of the Army, a bill to establish a number of Territories, or for anything else, having no connection at all with the subject-matter of the bill itself: a majority of the House, if this practice be adopted, may make the amendment of the Senate a special order; and thus all the business of the House may be blocked up and controlled by the Senate. I say it is not right, it is not fair, and I insist that the House shall not establish such a practice.

Mr. REAGAN. Then the people of Texas are to be left the satisfaction of knowing that they are to be robbed and murdered, in accordance with the rules of the House of Representatives.

Mr. BRANCH. I rise to a question in order. I submit that the Chair may decide this question, and decide it precisely in accordance with what was the understanding of the House in the adoption of the rule. No debate is in order, unless some gentleman appeals from the decision of the Chair.

THE SPEAKER. It is the opinion of the Chair that he cannot with any propriety discriminate in reference to any particular section or amendment to a bill. The character of the bill itself is what should be ascertained, and the Chair thinks a motion to make this bill a special order is in order under an express rule of the House.

Mr. SHERMAN. The question before the House is, whether this is to be made a special order; and that question is debatable.

THE SPEAKER. The question of priority of business is not debatable.

Mr. MAYNARD. How does this question come before the House?

THE SPEAKER. It came before the House by unanimous consent.

Mr. MAYNARD. I call for the regular order of business.

THE SPEAKER. When this was introduced there was no objection.

Mr. MORRILL. I appeal to the gentleman from Ohio not to interpose objection. I withdrew my objection solely on the ground that this should not be a special order.

Mr. SHERMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 77, nays 84; as follows:

YEAS—Messrs. Adams, Alden, Thomas L. Anderson, Anshutz, Bartholomew, Baker, Bunker, Bushnell, Butler, Butlerfield, Carey, Carter, Case, Coffey, Crawford, Dawes, Deland, Durell, Dunn, Edgerton, Edwards, Eliot, Ely, Etheridge, Fernald, Gilmer, Gooch, Graham, Grover, Hall, Heinicke, Bickham, Howard, Buschman, Junkin, Kenyon, Klingner, H. W. Leach, Lee, Longueville, Lovejoy, McKim, Mr. K. M. Mendenhall, Johnson, T. Moore, Mosher, Morrill, Nixon, Olin, Palmer, Ferry, Pettit, Porter, Potter, Pott, Pryor, Rice, Reilly, Seranion, Sherman, Spaulding, Spenser, Stevens, William Stewart, Stokes, Stratton, Thayer, Thayer, Thompson, Train, Trimble, Vandever, Van Wyck, Verree, Wadsworth, Watson, Caldwell, C. Washburn, Edith C. Washburn, Grant Washburn, Wells, Wilson, Windom, and Woodruff—84.

NAYS—Messrs. Aldrich, Atley, William C. Anderson, Armstrong, Babbalanza, Bayless, Bullard, Burdette, Butterfield, Carey, Carter, Case, Coffey, Crawford, Dawes, Deland, Durell, Dunn, Edgerton, Edwards, Eliot, Ely, Etheridge, Fernald, Gilmer, Gooch, Graham, Grover, Hall, Heinicke, Bickham, Howard, Buschman, Junkin, Kenyon, Klingner, H. W. Leach, Lee, Longueville, Lovejoy, McKim, Mr. K. M. Mendenhall, Johnson, T. Moore, Mosher, Morrill, Nixon, Olin, Palmer, Ferry, Pettit, Porter, Potter, Pott, Pryor, Rice, Reilly, Seranion, Sherman, Spaulding, Spenser, Stevens, William Stewart, Stokes, Stratton, Thayer, Thayer, Thompson, Train, Trimble, Vandever, Van Wyck, Verree, Wadsworth, Watson, Caldwell, C. Washburn, Edith C. Washburn, Grant Washburn, Wells, Wilson, Windom, and Woodruff—84.

So the House refused to make the bill a special order.

During the vote,

Mr. FERRY stated that he had paired with **Mr. MACLAY**.

Mr. GARTRELL stated that he had been detained at home by illness for several days, and had been paired with **Mr. LAYNE**. The pair still continued.

Mr. YANCE stated that his colleague, **Mr. LEACH**, was compelled to leave the city on important business.

Mr. STRATTON stated that **Mr. WHITELEY** was paired with **Mr. McPHERSON**.

Mr. BRANCH stated that his colleague, **Mr. REYER**, was detained at his room by illness.

Mr. FLORENCE, not being within the bar when his name was called, asked leave to vote.

Objection was made.

Mr. FLORENCE stated that he would have voted in the affirmative.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by **Mr. HICKS**, its Chief Clerk, informing the House that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 41) concerning appeals and writs or error;

An act (No. 5) to supply vacancies in certain offices;

An act (No. 340) to carry into effect a convention between the United States and the Republic of Paraguay.

Also, that the President of the United States had informed the Senate that he had approved and signed an act (S. No. 347) for the relief of **Mary E. Casor**.

Mr. MORRIS, of Illinois. I call for the regular order of business.

POLYGAMY IN UTAH.

THE SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 7) to punish and prevent the practice of polygamy in the Territories of the United States, and other purposes. The first section of the bill is in the act of the Legislative Assembly of the Territory of Utah; on which the gentleman from South Carolina [**Mr. KITT**] is entitled to the floor.

Mr. KITT addressed the House in opposition to the bill. [His remarks will be published in the Appendix.]

Mr. GOOCH. **Mr. Speaker**, I send to the Clerk's desk an amendment which I desire to indicate, and I ask that it may be read.

The Clerk read, as follows:

Sec. 1. Be it enacted, That every person who shall, in the Territory of Utah, be guilty of adultery, shall be punished by imprisonment not more than three years, or by fine not more than five hundred dollars, and when the crime is committed by a married woman and the man who is married, the man shall be deemed guilty of adultery, and be liable to the same punishment.

Sec. 2. Be it further enacted, That any person who has a former husband or wife living, shall in said Territory marry any other person or persons, or shall in said Territory continue to cohabit with such person or persons, or wife, he or she shall be deemed guilty of the crime of polygamy, and shall be punished by imprisonment not more than five years, or by fine not exceeding one thousand dollars.

Sec. 3. Be it further enacted, That if any man or woman not being lawfully married to another shall in said Territory lawfully and lawfully associate and cohabit together, or if any man or woman, married or unmarried, shall in said Territory be guilty of open and gross lewdness, exceeding three years, or by fine not exceeding five hundred dollars.

Sec. 4. Be it further enacted, That if any person shall in said Territory commit fornication with any single woman, each of whom shall be at least 16 years of age, and more than one year, or by fine not exceeding one hundred dollars.

Mr. MAYNARD. Before the gentleman from Massachusetts proceeds with his remarks, I wish to make a proposition to the House, which I believe will be concurred in, as there are very many gentlemen who desire to participate in this debate, and who cannot do so because the time will be occupied by such remarks as to be quite limited. My proposition is, that after the gentleman from Massachusetts shall have presented his views at such length, under the rule, as he may choose, no member shall speak more than twenty minutes.

THE SPEAKER. That can be done only by unanimous consent.

Mr. REAGAN objected.

Mr. GOOCH. It seems to be concurred on all sides of the House that polygamy, admitted to exist in the Territory of Utah, is a crime, or, rather, a misdemeanor, which is prohibited by law, and is punished by law. It is, sir, an evil which corrupts the morals of the community, pollutes the blood, and confounds all title to property.

Now, there are before this House some four methods, proposed for reaching and providing a remedy for this evil. The first method is reported from the Committee on the Judiciary. The amendment which I have submitted does not differ in its general principles from the bill of the committee, but only in its details; and so far as its applicability to Utah is concerned, it differs in no important particular from the bill. I propose to make more effectually, by specific definition and detail, the object sought by the committee. The amendment I have proposed does not apply to any Territory except the Territory of Utah; and as I go on I will point out to the House why I have made this limitation in my amendment.

Mr. COX. I did not distinctly hear the amendment of the gentleman read; and I would like to ask the gentleman a question or two explanatory of it. I do not understand whether your amendment reaches the crime of adultery committed in the Territory of Kansas, where, if I understand one hundred and twenty divorces were granted in one year on account of the practice of free-love principles. I want also to know whether your amendment will cover the Indians in the Territories of the United States, who now, in Minnesota and other Territories, are living in bigamy and polygamy?

Mr. GOOCH. If the gentleman from Ohio had listened to me, instead of interrogating me, he would already have understood that my amendment reaches only to the Territory of Utah.

Mr. COX. I wanted an explanation of it.

Mr. GOOCH. The first proposition before the House is the bill of the Judiciary Committee. I agree with the general provisions of that bill. I believe that this Government has the power, and that it is its duty, to use that power, to enact laws making polygamy a crime in the Territory of Utah, and provide an adequate punishment for their infraction. And, sir, I was not a little surprised when my colleague [**Mr. THAYER**] yesterday made use of the following language:

"Now there seems, as I said before, to be a feeling in this House not to know the enormity of the crime which is accounted for only on the supposition that polygamy never was heard of till to-day. There is a space, sir, of morality,

or a proxy, or a proxy, or something that seems to import certain results from the exercise of voting, as of voting *en masse*, against polygamy at all stages." And now, sir, there is most intense and manifest that something that is voted—needed, and does not exist—polygamy in Utah. West of all, it appears that this act of voting would seem to satisfy some consciences, even though this vote should involve the existence of the Territory as a free institution. It would seem to satisfy some consciences—I will not call them stupid, or sluggish, or dead—that they vote against polygamy.

I had supposed that every man knew that there was a deep-seated conviction from one end of the land to the other that polygamy, admitted as it is to exist in the Territory of Utah, should be made a crime by Congress, and punished as such. I had supposed that no political party, that no section of the country, maintained any peculiar views or ideas in reference to this matter; but that by general and common consent it was understood to be the duty of Congress to legislate in reference to this question. And that is the reason why I apprehend this matter is before the House, and that is the reason why gentlemen who have spoken upon this subject have spoken as though they had feeling upon it.

Mr. BARKSDALE. I understand the gentleman from Massachusetts to take the position that Congress has no right to exclude polygamy in the Territories of the United States. Now, I desire to know if he finds power, under the same clause of the Constitution, to exclude slavery from the Territories?

Mr. GOOCH. I had hoped that one question could be introduced into this Hall and discussed without the introduction of the subject of slavery; and I am glad that this side of the House thus far has participated in the discussion of this question upon its merits, without once alluding to the subject of slavery. I am glad that the Republican party is not responsible for that much of the discussion of slavery which has arisen upon this bill.

Mr. BARKSDALE. Mr. Speaker—

Mr. GOOCH. I decline to yield further for the purpose of giving gentlemen an opportunity of reference to this subject-matter, and in reference to all subject-matters of legislation before this House, I will legislate respecting them upon their merits; and if such legislation makes in favor of the institution of slavery, the gentleman from Mississippi and the gentleman from Tennessee will be the ones that make against the institution of slavery, that gentleman and his friends must take the consequences. Sufficient for this discussion is it for us to know, or to believe, that the Constitution of the United States authorizes us to punish polygamy in the Territory of Utah, and that the Republican demands such legislation. The gentleman from Mississippi seems to want to know my peculiar belief in reference to this matter of the power of Congress over slavery in the Territories. He knows where I stand in reference to the institution of slavery, and I know where he stands; and I propose to him, for the purpose of this discussion, that we let that question drop and so far as we participate in this discussion we will not introduce the question of slavery.

Mr. BARKSDALE. The gentleman from Tennessee, [Mr. EYENBARGER], who is in favor of this bill, introduced that subject in his remarks on this bill, and it was the burden of his song. The gentleman from New York, [Mr. OLIX], also discussed the subject of every law in respect which he made yesterday. But I believe that the gentleman who has addressed the House for the last two days has referred directly to the question of slavery; and besides, it is involved in the bill.

Thus much in vindication of myself for asking the question, and desiring, in good faith, of knowing it, in the same clause of the Constitution from which he derives the authority of Congress to exclude polygamy from a Territory, he does not also find the authority of Congress to exclude slavery in the Territories? So far as I am concerned, I see no difference between the question of crime in a Territory and excluding property from a Territory. But I desire to know what position the gentleman occupies upon that question.

Mr. GOOCH. In reference to the gentleman from Tennessee, [Mr. EYENBARGER], and those associated with me, we are in favor of the bill. He discusses the questions which come before this House as he chooses. He does not belong to my political party, nor to my section of the country. He comes from the same section of the

country to which the gentleman from Mississippi belongs. He comes from a slaveholding community, and he felt it his duty to introduce the subject of slavery into his discussion of this question.

But, sir, the gentleman from New York [Mr. OLIX] introduced it only in reply to an interrogatory put to him by that side of the House; and I am glad that he could not do so without introducing the subject, because the interrogatory of itself referred to it. But I repeat, that thus far, on this side of the House, the question of slavery has not been drawn into this discussion.

Mr. BARKSDALE. Then the gentleman from Massachusetts answers my question.

Mr. GOOCH. In reply to the gentleman, I will tell him this: that I do believe that under the Constitution of the United States we have the power to prohibit slavery in the Territories. And when we have that question before the House, I will tell him what source I believe that power to be derived. But it conflicts with my present purpose to go into the discussion of that question at this time. I rose for the purpose of discussing the bill before the House, and not for the purpose of making a speech on the institution of slavery. I am glad that the Republican side of the House will carry out the same policy that it has begun with reference to this question, and discuss it on its merits. If it makes for the institution of slavery, in the decision at which the House may arrive, let slavery have the benefit of it; and if it makes against it, slavery must take the consequences.

Now, I was saying that it seems to be agreed, as a general thing, on both sides of the House, that Congress has power to legislate against the crime or practice of polygamy in the Territories. The gentleman from Mississippi [Mr. LAMAR] asserts the same thing for that side of the House. Now, the bill of the Judiciary Committee is, it seems to me, a bold and straightforward proposition. It undertakes to control this matter in a straightforward manner, in the Constitution, on the principle that in the organization of a Territory we say to the people there: "You may govern yourselves, but you must do it on this condition: that you shall govern yourselves properly; that you shall exercise the powers which we give to you in a manner as it should be required for the accomplishment of the purposes that should be accomplished by a Government; and when you fail to do that we reserve to ourselves the right to take back the power that we have given to you. And as we reserve the right to take back the whole, we reserve the right to take back any part or portion of it that we please."

I will not discuss the question of this power any further, because it seems to be conceded. I grant that it is an important question for discussion; but it has been discussed, and there has been no very great difference of opinion in regard to it. It has been demonstrated to the House that it has been the practice and policy of the Government, from its foundation, to exercise such sets of power over the Territories; and that, it seems to me, is the only way to use in the discussion of this question. The amendment of the gentleman from North Carolina provides for the appointment of a Council of thirteen men of the Territory, who shall enact the laws that are to govern the people of the Territory. My objection to that is, that I do not believe that the laws thus enacted would be regarded of that force and effect, or would be of that validity, in the Territory, that the legislation of Congress would carry with it in regard to this matter. If I understand the gentleman from Tennessee to be in favor of putting the hands of these thirteen men the whole legislation of the Territory; whereas we propose to legislate only on this subject-matter, on which it is apparent to the country and to the world that legislation is required at our hands.

Now, we come next to the amendment of the gentleman from Illinois, [Mr. LEAH], and, sir, I have serious objections to his amendment. The first objection that I state to it, is this: It proposes to divide these people into two sections. Half of them are to be associated with the people of Pike's Peak, and the other half is to be associated with the people of Carson Valley—putting one into the Territory of Jefferson, and the other into the Territory of Nevada. Now, sir, in the first place, it seems to me that there is an in-

superable objection to this amendment, from the very geographical position of this people. While with the amendment of the gentleman from Illinois and the amendment of my colleague, [Mr. THAYER], who proposes to repeal the organic act and establish two land districts—one at Carson Valley and the other at Pike's Peak—seem to go on the principle that the Mormons are in the immediate vicinity of my colleague, [Mr. THAYER], who proposes to repeal the organic act and establish two land districts—one at Carson Valley and the other at Pike's Peak—seem to go on the principle that the Mormons are in the immediate vicinity of my colleague, [Mr. THAYER], who proposes to repeal the organic act and establish two land districts—one at Carson Valley and the other at Pike's Peak. We are told, sir, that their legislation is to be the sole legislation; that they are to legislate for the annihilation of polygamy in Utah, and that that will be the legislation of the people of the vicinity.

Let us look a moment at the character and condition of the people at Carson Valley and Pike's Peak. What are they? Organized communities? people who have all the means and appliances and experience necessary to make and enforce laws? By no means. It is known that these people are that, of the people who have recently gone there, a very great proportion went not intending to remain. They are only there temporarily, and intending to return again to their homes. The people at one point are fifteen or twenty miles from the Mormon population, and at the other point ten or twelve days' journey. In the one case, they have to traverse a wilderness and desert, and in the other they have to traverse an unoccupied and unsettled region of mountain and wilderness.

Now, what can be the idea of the man who proposes that this Government shall evade this responsibility, and put it on the people of these two infant settlements to do what my colleague [Mr. THAYER] said yesterday Congress did not even dare to do or propose to do? Is there any probability that these people will be able to do what these miners at Pike's Peak will leave their own business and avocations, and go to work and make laws against polygamy, and then go over to Salt Lake City, a journey of twelve days, for the purpose of enforcing such laws? And that, in the amendment of my colleague, [Mr. THAYER], without even the aid of a territorial government, but through the potency of two land districts. It seems to me that there never was a proposition made which carried on its face its utter futility, more than the proposition to divide these Mormons to the government of these two infant settlements. What is the condition of these people? They themselves need the fostering and protecting hand of the General Government; and yet we propose to give over to them to settle the most difficult question that this Government has ever, perhaps, had thrust upon it.

One word now as to the policy of this Government in relation to the Territories. What has it been?

Mr. THAYER. My colleague asserts that he is unable to show these two infant settlements in Carson Valley and Pike's Peak will be able to govern the Mormon population of Utah; and also, that he is unable to see why we should impose the burden of that government on these two infant settlements. I will answer my colleague that the Delegates from both these proposed Territories of districts assured me that the people of each of them are entirely willing to take this responsibility. They inform me further that the Mormons, in great numbers, are traveling towards Pike's Peak and towards Carson Valley, for the purpose of joining the miners in their works at those two localities.

Mr. GOOCH. I understand very well the condition of these Delegates from these two proposed Territories. They are exceedingly anxious to obtain territory for themselves, and are willing to do anything that may be required for the purpose of securing their organization; but my information from them differs somewhat from that obtained by my colleague. In conversation with one of them this morning, he told me that they did not desire to be associated with the people of the Mormon population. The Delegate from the other Territory told me they were willing to take the Mormons if required. I said to him, "I have no doubt, when you take them, you will let them

alone." Now, sir, I understand the position of these Delegates to be just this: they want nothing to do with this Mormon question, but they tell us that if we impose it upon them as a condition of their organization, they will take the Mormons rather than not to have their Territories organized. But, sir, what is it proposed they shall do? Why, just nothing at all.

Mr. HOOPER. The gentleman from the gentleman from Massachusetts, I will remark that the information which the gentleman from Massachusetts [Mr. THAYER] says he has received from the Delegates from Nevada and Jefferson differs materially from the statements they have made to me. I understand that they are unwilling that the Territory of Utah proper shall be included within their limits. They are willing that a sufficient portion shall be taken from the western portion of the Territory of Utah—say to one hundred and fourteen degrees—to form the Territory of Nevada, and that they are willing to extend on the east to the one hundred and seventh or one hundred and eighth parallels of longitude, for the Territory of Jefferson. I understand that they would unhesitatingly not concur in the proposition made by the gentleman from Massachusetts, [Mr. THAYER].

Mr. THAYER. If my colleague will allow me, I will say further upon this subject that there need be no impugning of the veracity of these Delegates, for, as I understand it, there are two persons claiming to be Delegates. These are the persons who proposed Territories. I presume, therefore, the difference in the statements made arises from the fact that different statements have been made by different persons claiming to represent the same Territory.

Mr. GOOCH. I do not propose, so far as I am concerned, to impeach the veracity of these Delegates. I admitted that they might have expressed the opinions which my colleague has stated; and I gave the reason why they were willing to accede to such an arrangement. Now, sir, it is not for me to say, that they should be tried and punished for bigamy, that they should be tried and punished for the territorial laws which they may enact, to undertake to eradicate this evil, nor seek to accomplish the same through the novel agency of land districts.

Mr. McCLERNAND. With the permission of the gentleman from Massachusetts, I wish to make one remark. The gentleman objects to the practicability of my scheme, upon the ground that it will not be within the power of the people of Pike's Peak to go to the Salt Lake valley and suppress polygamy. That is the objection to my scheme. If, however, it should be within the power of the people about Pike's Peak to bring the Mormons about Salt Lake down to Denver City, the seat of government for the proposed Territory, the case would be different. In that case, the people of Pike's Peak would not have to go to Salt Lake to punish polygamy, but might bring the polygamists down to Denver City, and punish them there.

Mr. GOOCH. I agree with the gentleman precisely, that if the Mormons will voluntarily go down to Pike's Peak, in order to be tried and punished for bigamy, the people at Pike's Peak may, perhaps, try and punish them. The gentleman's whole theory seems to be predicated—and I admit the suggestion is a valuable one, if the Mormons would only adopt it—upon the idea that the population of Salt Lake City will voluntarily go down to Denver City, or some other point that may be designated in Jefferson Territory, for trial and punishment. I must confess that the gentleman's plan is based upon the assumption that, however guilty these people may be, they are obedient to the most law-abiding people on the face of the earth.

Mr. McCLERNAND. The gentleman certainly cannot be serious in his interpretation of my remarks. He has too much intelligence to take this House as believing that the assumed polygamists in the Salt Lake valley would voluntarily go down to Denver City and submit to punishment.

Mr. GOOCH. The gentleman did not say exactly that; but I was endeavoring to show that his scheme could only be carried out upon that assumption.

Mr. McCLERNAND. I desire to say to the gentleman, that I propose that those who commit crime in the Salt Lake City shall be brought down to Denver City by process of court. Now, Mr.

Speaker, I wish, before I take my seat, to make one further remark. The gentleman from Massachusetts objects to my scheme, upon the ground that it is impracticable. Will he be so kind as to condescend to inform us how and in what respect the scheme proposed by the Committee on the Judiciary is practicable? Will he please inform us how he proposes to indict a polygamist by a process of law? He proposes to indict how he proposes to convict a man of polygamy by a jury composed of polygamists?

Mr. GOOCH. I do not propose precisely at this point to answer the gentleman's interjectory. I can understand very well that the gentleman would like to draw me off from the position which I was stating. I am now discussing the practicability of the scheme proposed by the gentleman from Illinois. What does the gentleman propose to do? He says he proposes to bring the polygamists of Salt Lake City down to Denver City by process of law. Does he suppose the ten thousand miners are going down from Pike's Peak to Salt Lake City, for the purpose of enforcing the warrant, precept, or whatever the officer may have? How many men does he suppose will go down there to enforce the warrant? A journey of twelve or fifteen days' travel through a wilderness country—for the purpose of bringing these Mormons to Denver City for trial? How many men does he suppose it will require to enforce a process of law against a man charged with the crime of polygamy in Salt Lake City? How many men does he suppose it will require to bring them to Denver City? I should like to know that.

Mr. McCLERNAND. Does the gentleman wish an answer?

Mr. GOOCH. Yes, sir, I should like very much to have an answer.

Mr. McCLERNAND. I suppose it would require just the same number—no, not so many as it would require to punish a man in Salt Lake City for polygamy, under the committee bill which the gentleman proposes to pass.

Mr. GOOCH. I accept the answer of the gentleman. Now, sir, it seems to me that nothing further need be said in relation to this question, than to show that the proposition of the gentleman from Illinois, [Mr. McCLERNAND], and that the proposition of my colleague, [Mr. THAYER], are equally absurd. I desire to say that the proposition of the gentleman from Illinois is entirely impracticable, and that the proposition of the suppression of the crime of polygamy in this Territory. The geographical position of the three localities is such as upon the very face of the map shows it cannot be done. Why, sir, Salt Lake is further from Pike's Peak than Chicago is from New York. The localities are further apart than North Carolina is from Massachusetts; and yet who would think for a moment of legislating within the State of Massachusetts for the people of North Carolina, even if we had the constitutional power to do it, and especially the people of North Carolina were under a system of church government, banded together for the purposes against which we propose to legislate?

Why, it seems to me that the people of my State would have to go to New York to suppress bigamy, for the purpose of making capture of prisoners in North Carolina and carrying them home to Massachusetts to be tried.

Now, in reference to the bill of the Judiciary Committee, and in answer to the gentleman, I will say that I think one desirable feature of the amendment which I propose to the bill of the Judiciary Committee is that which provides, by a law of this Government, against the commission of this crime in that Territory. Now, sir, what are the facts? I understand that to-day, even among the Mormons of the great Salt Lake area, there are men who have but one wife as there are who have a plurality of wives. I understand further, that this section of the country which is occupied by the Mormons is one which will invite immigration. Again, polygamy is publicly proclaimed to the world as the right of the Mormon Church, being but about eight years old, I believe that the day will come when there will begin to spring up in that community itself, among those who have not indulged in polygamy, and among those who may come in, and among those who may grow there, a feeling of abhorrence to it, and that I believe it is going to require a very great amount of external power to enforce the law within that community. But still further: if that external power be necessary, we all agree that it belongs

to somebody to furnish it, and to provide a law against this crime, to punish those who violate it. If it belongs to anybody to legislate this Government, and not to an infant Territory situated at Pike's Peak and at Carson Valley.

I was about speaking of the relation which, in my judgment, a Territory held to this Government, to consider that Government stands in the relation of guardian to all the Territories; that it is the duty of the General Government to provide a government for these Territories; to enact laws for them; and, when they have reached a stage of maturity in which they are capable of instituting certain acts of legislation for themselves, it is good policy—and an experienced legislator would so—to authorize them to act for themselves. When they fail to govern themselves as they should, I believe we should adopt the same policy that a judicious parent pursues with reference to his child. He permits that child to regulate and govern his own conduct so long as he applies wholesome and salutary rules to himself; but when he fails to do that, the parent again resumes the exercise of control over his own offspring.

And what is the position which the Territories hold towards us in another point of view? My colleague from Massachusetts [Mr. THAYER] spoke of them as colonies, and in that connection alluded to colonies which other countries have held. It was said here the other day that Canada was a Territory of England, and that, if the policy of England continued the same as it is at present, she would continue to be a colony for a hundred or a thousand years to come. If we had any such colonial policy as that, I would agree with my colleague in condemning it. But I do not understand that we have any such colonial policy as that. We do not propose to hold any region of country as a colony, or to retain it in that position. We only propose to give such region aid up to a certain point, and then to give additional assistance in the new government until it shall reach the first stage of manhood, when we will admit it as a State upon an equality with all the other States of the Union.

My colleague spoke of giving sovereignty to a colony. I agree with him that a more absurd idea than that of giving sovereignty upon a colony, or upon a State, or upon any other community, never entered the head of man. The object and purpose of this Government was not to make sovereignty or to destroy sovereignty. It is a Government of checks and balances.

My colleague [Mr. THAYER] said that my colleague to say that I stated in my remarks yesterday that Congress could confer sovereignty.

Mr. GOOCH. No, sir; the gentleman misunderstood my remarks. I stated that I agreed with my colleague in saying that a more absurd idea never entered the head of any human being than that there was anything of sovereignty in this Government, or that this Government was instituted to destroy sovereignty, or to create it. I said that this is a Government of checks and balances. The gentleman stated that if we wanted sovereignty we must have it, and that the people must go back of that. I say that the people themselves, before they can exercise the acts of sovereignty, must annul their laws and their Constitution. As long as the Constitution exists, the people cannot exercise sovereign power. They are in authority over and above the people, and they must govern themselves in subjection to that power. They can exercise sovereignty only when they have annulled their laws and annulled their Constitution.

Mr. BLANCH. I would like to ask the gentleman from Massachusetts whether he believes in the following sentence, which I read from the Republican platform adopted at Philadelphia in 1856:

Resolved, That the Constitution confers on Congress sovereign power over the Territories of the United States for their government; and that, in the exercise of this power, it is both the right and duty of Congress to prohibit in the Territories those twin relics of barbarism—polygamy and slavery.

Mr. GOOCH. In reference to the exercise of sovereign power, I say I believe Congress has power to legislate upon all matters which are not legislation under the Constitution; but that that exercise of power must be in subjection to the Constitution of the United States.

In relation to the other branch of the resolution—

the "twain relics of barbarism"—I apprehend that I have case of the twain here, whether the other exists or not. It is conceded upon all sides that we have here one relic of barbarism; and that it is our duty to suppress it.

Mr. BRANCH. The gentleman does not apprehend the point of my question. I did not propose to him to say whether or not he believed in slavery. My question was, whether he believed that the Constitution confers upon Congress sovereign power over the Territories of the United States for their government? I understood him to deny that this Government was sovereign.

Mr. GOOCH. I am not in full power over the Territories, subject only to the Constitution. I believe they have control of all legitimate subjects of legislation; but that in all their legislation for the Territories they must act in accordance with, and not in conflict with, any principle or provision of the Constitution.

Mr. BRANCH. Does the gentleman believe that Congress possesses no sovereign power over the Territories?

Mr. GOOCH. I believe it possesses full power, with the limitation I mentioned. If the gentleman has any other opinion, let him state it. At the Republican convention, and had been drawing up that resolution, I would have used the word "sovereign." I would answer, I would not. But I point out here the precise sense in which the word is used in common parlance, and as it is used by the Republican party. I do not understand that the Republican party ever proposed to pass any act of legislation for a Territory or a State, or any other place whatever, which should be in conflict with the Constitution of the United States.

Mr. THAYER. I would like to ask my colleague, Mr. Speaker, what kind of sovereignty he would prefer—that under which the people of Egypt were controlled by Pharaoh, based on corn, or that by which the people of a Territory would be controlled, based upon land?

Mr. GOOCH. Mr. Speaker, as I do not recognize either sovereignty, I do not see how I can answer my colleague's question.

Mr. MAYNARD. I would like to ask the gentleman from Massachusetts a single question upon this branch, which he has been discussing. Is that the term "sovereignty" and "sovereign power" are terms which we all know have technical significations given to them by publicists—writers on general law. I would like to know whether he thinks there is such a power in this Government; that is, a power which is not in the States?

Mr. GOOCH. If I wanted to find sovereignty in this Government, I should say that I could not find it. If I wanted to find sovereignty in the people who inhabit this country, I would say to them: "When you have stricken down your Constitution, when you have repealed all your laws, when you acknowledge no earthly power or authority as above and binding on you, and when you declare that you have the right to do what you choose, then you will have sovereignty, but not till then."

Mr. BARKSDALE. Under the limitation of the Constitution, to which you have referred, do you believe that Congress has authority to prohibit polygamy in the Territories, and to abolish slavery?

Mr. GOOCH. The gentleman from Mississippi is coming right back to his original question. I thought we had settled that, and that there was a truce to that question, for the purpose of this discussion.

Mr. BARKSDALE. The gentleman from Massachusetts refused at that time to answer my question, but it is now connected with the argument he is making. I desire to know from him, then, if, under the limitation of the Constitution to which he has referred, he believes that Congress can prevent polygamy and slavery in the Territories, as provided in this platform?

Mr. GOOCH. I have been arguing all along that Congress has the power to prohibit polygamy; and I have made a terrible mistake if the gentleman from Mississippi has not ascertained that fact yet. With reference to the institution of slavery, I told the gentleman, when he wanted to know my belief, that I did believe that Congress had the power to prohibit slavery in a Territory. And I told him, still further, that whenever the question was legitimately before the House, I would discuss it with him, if he desired. But I said to him then,

and I say to him now, that it is not connected with the matter now under consideration, and that I desired that the question of slavery should not be brought in now, in connection with the crime of polygamy.

Mr. BARKSDALE. Slavery and polygamy are connected in the platform of your party, as well as in the platform of the "twain relics of barbarism." That was the reason that I asked the question.

Mr. GOOCH. When I make a speech on the Philadelphia platform, or on any other platform of my party, I will discuss that question. But I do not feel under any obligation to discuss it every time I get up in the House, because the gentleman tells me that there are articles of that kind in the platform of my party. I might tell the gentleman that, in my judgment, there was squatter sovereignty in the last platform of his own party; and I might insist upon it every time he arises in the House, that he should discuss that question.

Mr. MAYNARD. The question which I just now propounded to the gentleman from Massachusetts was a practical question; but I intended to follow it up with the additional inquiry, whether he regards the Constitution of the United States as the representative of sovereignty in this country, or whether he believes that the people have that power, above and superior to and higher than the Constitution? The gentleman will see the pertinency and tendency of the question, and will answer it accordingly.

Mr. GOOCH. I have no doubt that the people have power beyond the Constitution. But what kind of power is it? It is a revolutionary power. It is a right to destroy their constitution and form of government, and to create another in its place. Does the gentleman from Massachusetts does not want to know from me, whether the Constitution of the United States has absorbed all the power of the people. Nobody understands that; no man dreams it. They have every power themselves, excepting what they have expressly delegated to Congress.

Mr. MAYNARD. The gentleman from Massachusetts understands that the right of revolution, or the power of revolution, is not a right or a power in the Government, but is simply a reserved natural right to destroy the Government and establish another. The question I am now posing was with reference to the Government as it now exists. The question was, whether the Constitution is the ultimate residuary power, or whether there is a sovereignty over and above the Constitution.

Mr. GOOCH. Mr. Speaker, I apprehend that no man ever contended that the Constitution was a residuum of power. I never understood so. I always supposed that what was in the Constitution was expressly put there, and what was not in the Constitution belonged to the people of all the States. I supposed there could be no difference of opinion between the gentleman from Tennessee and myself in reference to this matter. I am sure he could not have inferred, from any remark that I have made, that the Constitution had the right of accepting those that were expressly granted to it. Now, what I did say was this: that the people themselves were not sovereign; that they could not have sovereign power, so long as they acknowledged the binding force of the Constitution. I say with reference to that sovereignty is, that there is nothing above it; that there is nothing that can control it. It may will that it please, and what it wills it may do. There is no power and no provision to restrain it. When the people of a country have thrown off all checks, they come together and act in a sovereign capacity in deciding what shall be done.

We all know that a man, individually and in respect to some things, has sovereign power; that is, there is no power above him with regard to some particular things. What he wills, he may do; he can do, no man can do, or no man can resist against. Some may designate that as sovereign power; but I did not propose to descend into any such particulars. One word with reference to what is to be the policy of this Government. My colleague, [Mr. THAYER,] speaking of the General Government, says:

"I deny that he is now, or ever had, any moral right to govern American citizens in the Territories."

Now, what is the fact? What has been the practice of the Government? Why, sir, it has been the practice of the Government to legislate

for the Territories in every relation, from its very inception to the present moment; and when my colleague says this Government has no moral power, I submit that he makes a greater reflection on all the past action of this Government, on the men who founded it, on the men who have administered it up to the present time, then it seemed to me possible to make. If they have not the moral power, I apprehend they have not the legal power. I apprehend that my colleague will not contend that any Government can do legally that which is immoral. I apprehend that if, in any instance, I have established that certain things would be immoral, I have it beyond the just power of legislation. I do not believe that there is a gentleman here who will rise in his place, and say that the Government has any legitimate power to pass acts which may be valid as acts of legislation, and yet be immoral in their character. I do not believe there is any lawyer in the House who would, for a moment, maintain any such doctrine. Now, sir, it seems to me, that before I had laid down any such proposition, before I had announced it in this House, I should have said myself well that I could not be mistaken in referring to it.

I should want, I think, the concurrence of other judgments than my own before I was ready to place myself in opposition to the practice and policy of the Government, in opposition to the settled course of all good men who have ever administered the Government.

But, sir, my colleague asserts that we do not intend to enforce this bill which is now before us from the Judiciary Committee, should it become a law. I know not why he makes such an assertion, so far as I am concerned, and I do not understand the feeling of those who support this bill, they are prepared to enact it into a law; and having enacted it into a law, they are ready to treat this law as they do all other laws, and to use all the power and force of the Government necessary to enforce it. And if all the force and power of the Government are not sufficient to accomplish that object, so far as this matter is concerned, the Government is simply impotent, and not able to carry out its own acts.

I do not understand that there is any man here who claims that there is any measure of legislation which this Congress has the right to adopt, which it has not the power to enforce; and I do not believe that there are any members of this House who are going to take the position to-day that there are certain laws, provisions, or enactments upon which we have the right to legislate, yet that we have not the power to enforce our laws.

Now, what is the proposition of my colleague? How does he propose to remedy this evil? Why, sir, he proposes to let the people go into these Territories without any legislation whatever, and with nothing but the machinery of a land district to restrain them! If this proposition had come from the Delegate from Utah, I think I should have understood it; I think I should have known what it meant; I think I should have seen the wisdom of it; but coming from my colleague, I do not understand it or see the wisdom of it. He proposes that there shall be no legislation at all in these Territories. Is not that precisely what the Mormons ask?

Mr. THAYER. Will my colleague yield to me for a moment?

Mr. GOOCH. Yes, sir.

Mr. THAYER. My colleague assures the House that, if my proposition had come from the Delegate from Utah, he should have understood it. Let me say to my colleague that a gentleman has informed me this morning that the Delegate from Utah says, "Pass anything but THAYER's proposition."

Mr. GOOCH. Well, I do not know what the Delegate from Utah may have said; but I think it would be very strange if the Delegate from Utah said that proposition would be the very best one for his church which this House could possibly pass.

Mr. HOOPER. I think the gentleman from Massachusetts misunderstands the wishes of my constituents. They do not ask any legislation by Congress on this subject. They desire to be left as they are, under the present organic law. They do not wish to be left without any government or Legislature, in a state of anarchy.

Mr. GOOCH. The gentleman says that he

thinks I mistake the position of his constituents, and that they do not want any legislation. I do not know. I do not profess to understand precisely what they do wish in this matter. But I will only say just what they please me that what they have endeavored to do was to seek a position where it would be hard for external legislation to reach them, to a certain extent; and I had supposed that what they asked was to be let alone in the enjoyment of their own institutions, with the right to do just what they please.

Mr. HOOPER. I would say to the gentleman that the Mormons sought their present home in the Rocky Mountains, not from choice, but from necessity.

Mr. GOOCH. What is the proposition of my colleague? Why, it has all the objectionable features of the proposition of the gentleman from Illinois has, and it has some others. It says to these people: "Go into these Territories and establish just such institutions as you please; this Government declares beforehand that it will not interfere with you, that it has no moral right to interfere with you; you may establish just such institutions as you please and may live and grow up in the enjoyment of them, and there is no power on earth which has any moral right to interfere with you or your institutions." I would ask what any denomination has to say to what I understand the Mormons to be would desire other than that? if it is not precisely what they want? If there are any similar denominations existing in other lands where they are interfered with at all by the local laws, it seems to me that the very best plan for them to pursue would be to find an asylum in some one of our Territories, free of restraint under the land district system of my colleague. Why, a hundred or a thousand men, according to that theory, might go into a Territory, bind themselves together by just such organizations as they chose, and say to the outside world, "We will not permit another man to enter here," and yet the Government would have no right to lay hands on them; no moral right to legislate for them, and they might remain there in possession of that Territory and control it as they chose. It seems to me that this is precisely the point to which my colleague's proposition leads, and that the result of it would be, if carried out, that communities would grow up in the Territories which never, by any possibility, would be in a situation to be taken into consideration and admitted on States upon an equality with the other States. I think that this proposition to leave a Territory to govern itself, without organic law or Legislature, or court, or executive, is an utter desertion of the principles upon which this Government has thus far acted, and of the policy which it has pursued; and I trust that it will be the last principle which the Government will ever adopt.

I hold that there is nothing more beautiful in our system of Government than the fact that, possessing or acquiring territory, we can say to the people of our new land, or to the outside world, if you choose, "Go into it and take possession of it; we will aid you in your government until you reach a certain point of maturity, and when we believe that you are capable of governing yourselves, we will then let you try the experiment; we will then let you clear and pass your own laws, and we will pay all your expenses; and if you conduct yourselves properly, if you violate no principle of our Constitution, if you establish institutions in harmony with our institutions, we will not interfere with you; you may go on thus in your territorial condition, and when you shall have reached a point where it is desirable for you and for us, we will receive you into the Union with us, and put you, in every respect, upon an equality with us." I say that I regard that as one of the most beautiful features of our institutions, and I say that it is one of the last that I would be willing to see stricken down or deserted.

Mr. SIMMS obtained the floor.

ENROLLED BILLS.

Mr. THEAKER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same: An act for the relief of Elizabeth M. Cocks, widow of the late Major James H. Cocks, late marshal for the district of Texas; and

An act in relation to the return of undelivered letters in the post office.

POLYANMY—AGAIN.

Mr. SIMMS then proceeded to address the House for an hour, upon the question before the House. [His remarks will be published in the Appendix.]

Mr. NELSON. I move the previous question on the pending amendments.

[Cries of "Oh, no!" "No!"]

Mr. PHELPS. I call for tellers.

Mr. BRANCH. I rise to a privileged question. The gentleman from Tennessee, I understand, calls the previous question on the whole bill.

Mr. BINGHAM. No; on the pending amendments. He said so expressly.

Mr. BRANCH. Well, under that new rule, the gentleman from Tennessee has a right to call the previous question on a pending amendment.

The SPEAKER *pro tempore*. (Mr. DAWES in the chair.) On all the pending amendments.

Mr. BRANCH. On a single pending amendment at once; and after the previous question is ordered, no call of the House is in order. I wish to give notice now, that when the previous question shall have been sustained, I will, under the rules of the House, as the mover of an amendment, claim the privilege of occupying one hour in defense of it.

Mr. REAGAN. I wish to know if the amendment which I offered is recognized as being one of the pending amendments?

Mr. WASHBURN, of Maine. I desire to know whether the previous question has been called on the bill?

The SPEAKER *pro tempore*. The previous question has been called on the pending amendment.

Mr. WASHBURN, of Maine. I call the previous question on the bill.

Mr. GROW. I understood the gentleman from Tennessee to call it on the bill and amendments.

The SPEAKER *pro tempore*. The gentleman from Tennessee will state his motion.

Mr. NELSON. I state that I call the previous question on the bill and pending amendments.

Mr. REAGAN. I wish to know if my amendment is one of the pending amendments?

Mr. BRANCH. Let us know whether the previous question is called on the bill or on the pending amendments?

The SPEAKER *pro tempore*. The question is, will the House second the previous question on the bill and pending amendments?

Mr. BRANCH. Dear Sir, hold that, if the previous question be sustained, all other amendments will be cut off, except those two that are pending?

The SPEAKER *pro tempore*. The Chair so understands it.

Mr. BRANCH. Then I hope the previous question will not be sustained.

Mr. LOGAN. I desire to know from the Chair whether or not, if the previous question be sustained, those who have offered amendments will have a right to discuss them?

Mr. WASHBURN, of Maine. Of course not; and I object to debate.

The SPEAKER *pro tempore*. No debate will be in order.

Mr. LOGAN. Then I wish to make one statement. It is this: the floor has been farmed out to different persons; and members have not been recognized when they rose and addressed the Speaker. Gentlemen who desired to speak have been excluded and prevented. [Loud calls to order.]

Mr. REAGAN. I ask for information, and I appeal to the Speaker to give it to me, for I am entitled to it; and I am not to be put down in this sort of way. I want to know if my amendment is one of the pending amendments?

The SPEAKER *pro tempore*. The Chair is informed that the amendment of the gentleman from Tennessee is not in.

Mr. REAGAN. Then, as I offered it and supposed that it would be so regarded, I ask that it be recognized as a pending amendment.

Mr. BINGHAM. I object to anything of the kind.

Mr. BRANCH. I call the previous question on the pending amendment, under the new rule; which call will take precedence of the demand for the

previous question on the bill and all the amendments.

Mr. WASHBURN, of Maine. I call the previous question on the bill and amendments.

Mr. McCLELLAND. The gentleman from Tennessee [Mr. NELSON] has done that already.

The SPEAKER *pro tempore*. The pending question is on the demand of the gentleman from Tennessee for the previous question on the bill and amendments; on which the Chair will order tellers, and appoint Messrs. TRAIN and PHELPS to act as tellers.

Mr. BRANCH. Does the Chair decide that I cannot call the previous question on the pending amendment?

The SPEAKER *pro tempore*. The Chair understands that the motion for the previous question on the bill and amendments takes precedence of the motion of the gentleman from North Carolina for the previous question upon the pending amendment.

Mr. CURRY. I ask that the bill and all the pending amendments may be reported to the House.

[Cries of "Too late; the House is dividing."] The House has not yet commenced to divide.

The SPEAKER *pro tempore*. They can be read by unanimous consent.

Mr. WASHBURN, of Maine, and others, objected.

Mr. CURRY. Well, then, I make a point of order. The point of order which I make—and I do it in good faith, because I really do not know what amendments are pending—is, that before the House commences to divide, I have a right to have the bill and the pending amendments reported.

The SPEAKER *pro tempore*. The bill and the pending amendments have already been read once; and no member of the House, as the Chair understands it, has a right to demand, as a matter of right, that they shall be read again.

Mr. REAGAN. Before the previous question is seconded, I wish my amendment to be considered as one of the pending amendments.

The SPEAKER *pro tempore*. It can be entertained only by unanimous consent.

Mr. BINGHAM. I object.

Mr. BARKSDALE. I take it that there will be no objection to having the bill and amendments read.

Mr. WASHBURN, of Maine. I object to it.

Mr. MAYNARD. I hope that by general consent, as this is a bill that will undoubtedly pass the—

Mr. FLORENCE. I object to debate.

The SPEAKER *pro tempore*. No debate is in order.

Mr. MAYNARD. I hope that, by general consent, the House will allow all the amendments which have been indicated to be considered as before the House, and to be voted on. [Cries of "Object!"]

Mr. MORRIS, of Illinois. I desire to know whether the Chair has decided that it is not the right of the gentleman from Alabama [Mr. CRAW] to call for the reading of the bill and amendments?

The SPEAKER *pro tempore*. It is not in order at this time.

Mr. MORRIS, of Illinois. From that decision of the Chair I take on appeal.

Mr. WASHBURN, of Maine. I move to lay the appeal upon the table.

Mr. MORRIS, of Illinois. I call for the yeas and nays on that motion.

Mr. PHELPS. I think this whole difficulty can be obviated. Gentlemen only desire to know what amendments are pending. If the Chair will indicate by the names of the movers the amendments pending, the whole difficulty will probably be removed. I am sure that many of the many amendments have been offered or indicated, that we really do not know what the pending amendments are.

Mr. MORRIS, of Illinois. I desire to know whether gentlemen upon the other side of the House are willing that the bill and the amendments shall be read?

Mr. PHELPS. Only the amendments. We do not want the bill read.

The SPEAKER *pro tempore*. The pending amendments are as follows: first, the amendment of the gentleman from Tennessee [Mr. NELSON] to which the gentleman from North Carolina [Mr. BRANCH] has offered his as an amendment.

Mr. BRANCH. No, sir; the gentleman from Tennessee offered his amendment two days after mine was offered.

Mr. REAGAN. I offered a separate and independent amendment, and had it read; and I do not understand how it is that it is not before the House.

Mr. BINGHAM. It was read for information only.

The SPEAKER *pro tempore*. The Chair was in error. The gentleman from Tennessee offered his as an amendment to the text of the bill, having a right to perfect the text before a vote is taken on the amendment of the gentleman from North Carolina.

Mr. MORRIS, of Illinois. Do I understand the Chair as having reversed his decision, and ordered the amendments to be reported to the House? If so, of course I withdraw my appeal.

The SPEAKER *pro tempore*. The Chair does not know what the gentleman from Illinois understands. The Chair has reversed none of its decisions.

Mr. MORRIS, of Illinois. I withdraw my appeal, understanding that the gentleman opposite are willing that the amendments shall be read.

Mr. GROW. They can be read when we come to vote upon them.

The SPEAKER *pro tempore*. The amendment of the gentleman from Tennessee [Mr. NELSON] is, to strike out of the original bill all after the word "persons," in the third line, down to the end of the ninth line, and insert in lieu thereof the following:

Being married, shall, during the life of the former husband or wife, marry another person in any Territory of the United States, or other place—except the District of Columbia—where which the United States possess exclusive jurisdiction, or, if the marriage with such other person take place elsewhere, shall thereafter live or cohabit with such other person in such Territory, or other place over which the United States possess exclusive jurisdiction, the former husband or wife being alive, her, his, or they, so offending, shall, on conviction, &c.

The gentleman from North Carolina proposes a substitute for the bill.

Mr. BRANCH. I dislike to create any confusion while the question is being stated, but the Chair misunderstands my proposition. My proposition is to strike out the first section of the bill only, and insert what the Chair is about to have read.

The SPEAKER *pro tempore*. The gentleman from Tennessee then offers an amendment to the first section before the question is taken on striking out. The gentleman from North Carolina proposes to strike out the first section and insert other matter. It is in order to perfect the action before the question is taken on striking out and inserting.

Mr. McCLERNAND. I wish to ask one question. My amendment was moved before the gentleman from Tennessee moved his amendment. Will the Chair be good enough to give priority to the amendment of the gentleman from Tennessee?

The SPEAKER *pro tempore*. The Chair understands the gentleman's amendment to be a substitute for the whole bill, and the vote upon it is taken on the question of the amendments are disposed of. The first amendment is the amendment of the gentleman from Tennessee, because it proposes to perfect the first section. The second is the amendment of the gentleman from North Carolina, because it proposes to strike out the first section and insert another. After that comes the amendment of the gentleman from Illinois, who proposes to strike out all the sections, and insert others.

Mr. THAYER. Will it be in order for me now to offer my amendment?

The SPEAKER *pro tempore*. It is in order at this time.

Mr. THAYER. Will it be in order at any time during the voting?

Mr. MILLSON. Before the previous question is seconded, I ask for a separate vote on the preamble.

The SPEAKER *pro tempore*. A separate vote will be taken on the preamble.

Mr. THAYER. I ask this Chair if it will be in order, at any time during the voting, provided that the previous question be sustained, to offer my amendment?

The SPEAKER *pro tempore*. It will not be in order, if the previous question shall be sustained by the House on the bill and the amendments.

Mr. THAYER. Then to vote to sustain the previous question is to refuse a vote upon my amendment.

Mr. WINSLOW. I suggest that it will be perfectly in order for the gentleman from Massachusetts to offer his as an amendment to the amendment of the gentleman from Illinois, if the gentleman from Tennessee will permit it to be done now, before the previous question is called. Mr. GOOCH. I propose this: that, by general consent, a vote be allowed upon all the amendments which have been indicated and read at the Clerk's desk, with the understanding that there shall be no call of the yeas and nays on any amendments, excepting those which are regularly pending. I understand that the gentleman who reported the bill is willing to assent to that proposition, and to allow a vote upon all the amendments which have been indicated.

The SPEAKER *pro tempore*. It can only be done by unanimous consent.

Mr. WASHBURN, of Illinois. I object to everything out of order.

Mr. REAGAN. Would it be in order for me now to move to lay the whole subject upon the table?

The SPEAKER *pro tempore*. It would be in order.

Mr. REAGAN. I make that motion, then, as gentlemen are determined not to allow amendments to be voted on.

Mr. FLORENCE. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. MILLSON. I wish to make a proposition to the House, to save time. [Cries of "Order" and "Call the roll!"] I am opposed to the amendment of the gentleman from Texas. [Loud cries of "Order!"]

The SPEAKER *pro tempore*. Debate is not in order.

Mr. REAGAN. As gentlemen around me urge the withdrawal of my motion, I lay the whole subject on the table. I will withdraw it, although I do not think I ought to do so.

The House divided; and the tellers reported—ayeas one hundred and one, a further count being demanded.

Mr. GROW. The previous question was seconded; and the question recurred, "Shall the main question be now put?"

Mr. MAYNARD. What will be the effect of refusing to order the main question?

The SPEAKER. The effect will be the same as if the previous question had not been seconded.

Mr. MAYNARD. I hope, then, it will not be ordered. I call the yeas and nays upon it.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 75; as follows: Adams, Adams, Aldrich, William C. Anderson, Ashley, Babbin, Beale, Bingham, Bliss, Binks, Boster, Branson, Brewster, Briggs, Buchanan, Burlingame, Butterfield, Campbell, Carey, Carter, Case, Coffey, Curtis, H. Winter Davis, Dawson, Delano, Doolittle, Dunn, Edgerly, Edwards, Egan, E. Edwards, Farnsworth, Felt, Fisher, French, Gilmer, Groce, Graham, Gross, Gurley, Hale, Hall, J. Morrison Harris, Haskins, Helmick, Hill, Hix, Hodge, Humphreys, Hutchins, Jenkins, Francis W. Kellogg, William Kellogg, Kenyon, Kilgore, Killinger, DeWitt C. Leach, Low, Longmeyer, Lovjoy, Marvin, McKee, McKim, McMillen, Morris, Edgar, Wm. F. Morris, Morse, Nelson, Nyce, Otis, Palmer, Perry, Pettit, Porter, Potter, Potts, Price, Rice, Christopher Robinson, Boyce, Schwartz, Sherman, Sedgwick, Sherman, Spaulding, Steiner, Stanton, Stevens, William Stewart, Stokes, Stratton, Thayer, Thompson, Tilden, Trimble, Vandever, Van Wyck, Verker, Washburn, Watson, Cadwalader C. Washburn, John Washburn, Israel Washburn, Webster, Wells, Wilson, Woodman, Woodman.

YEAS—Messrs. Allen, Thomas L. Anderson, Ashmun, Barksdale, Barr, Barrett, Bockel, Bonham, Boutwell, Boyce, Bragg, Brewster, Burnett, Butler, Calkins, Clark, Clifton, Cobb, John Cochrane, Cooper, Cox, James Craig, Crawford, Carl, De Jarnette, Dimmick, Florence, Hardman, J. Harris, Hattie, Hutton, Hawkins, Himes, Holman, Houston, Howard, Jackson, Jenkins, Jones, Kellie, Lamm, Logan, Love, Charles D. Martin, Eliot B. Martin, McQuinn, McQuinn, McQuinn, McQuinn, McQuinn, Montgomery, Byrdman Moore, Isaac N. Morris, Niblack, North, Fredrick, Phelps, Gages, Reagan, Rippe, James C. Robinson, Scott, Sumner, Sutherland, Taylor, H. Smith, Stillworth, Sturgeon, James A. Stewart, Taylor, Thayer, Thomas, Valandigham, Vance, Winslow, and Woodman.

So the main question was ordered to be now put.

During the call of the roll,

Mr. FRANK stated that Mr. COMBING was quite indisposed, and had paired for the day with Mr. STEVENS.

Mr. HOLMAN stated that Mr. DAVIS, of Indiana, had paired with Mr. LEONIS.

Mr. LEAH stated that Mr. DAVIS, of Mississippi, had paired with Mr. MORRIS.

Mr. DE JARNETTE stated that Mr. LEAH had paired with Mr. CRAWFORD.

Mr. MALLORY stated that he had paired off, all votes connected with this question, with Mr. HAMILTON.

Mr. SMITH, of North Carolina, said he had been requested to state that Mr. DAVIDSON was detained from the House by indisposition.

Mr. BOULIGNY stated that his colleague, Mr. LANDREW, was confined to his room by indisposition.

Mr. JONES stated that his colleague, Mr. GARRETT, being unwell, had retired from the Hall, and had paired with Mr. IATINE.

Mr. HINDMAN said that if he had been within the bar when his name was called, he should have voted "no."

Mr. ENGLISH made a similar statement.

Mr. NELSON, having reported the bill, took the floor to close the debate.

Mr. MORRILL. Having introduced this bill, I have naturally felt some solicitude in reference to its fate. I have struggled for a long time to get it before the House.

Mr. BRANCH. I rise to a question of order. I ask by what right the gentleman from Vermont is upon the floor.

Mr. MORRILL. The gentleman has yielded me the floor for ten minutes.

Mr. BRANCH. Has the gentleman from Tennessee the right to yield the floor after the main question has been ordered?

The SPEAKER *pro tempore*. It can only be done by unanimous consent.

Mr. BRANCH. Well, sir, inasmuch as the gentleman from Vermont, I believe, voted for the previous question, which cut the balance of us off from discussion, I do not think we should assent to this arrangement.

The SPEAKER *pro tempore*. Does the gentleman object?

Mr. BRANCH. Unless the rest of us can have a chance, I object.

Mr. STEVENS, of Maryland. If the gentleman from Vermont speaks in the time of the gentleman from Tennessee, I do not see what objection there can be.

Mr. MORRILL. I appeal to the gentleman from North Carolina to withdraw his objection. I only wish to occupy the floor for a few minutes.

Mr. BRANCH. I would be willing to withdraw my objection, but there are other gentlemen who object.

Mr. BARKSDALE. There are several amendments to be voted on, upon which, I take it, the yeas and nays will be called. I suggest, therefore, that inasmuch as the gentleman from Tennessee [Mr. NELSON] will occupy an hour in closing the debate, it be understood that there shall be no vote taken to-night.

Mr. GROW. I object to any such arrangement.

Mr. BARKSDALE. I then ask the gentleman to give way for a motion that the House adjourn. It is now four o'clock, the usual hour of adjournment. [Cries of "No!" "No!" and "Yes!"]

Mr. NELSON. So far as I am concerned, I will submit entirely to the will of the House, and for the purpose of ascertaining the desire of the House, I will give way for the motion.

Mr. BARKSDALE. I move, then, that the House adjourn.

The motion was not agreed to.

Mr. BARKSDALE. Now I ask that it may be the understanding that no vote shall be taken this evening.

Mr. GROW. The gentleman from Tennessee is entitled to the floor, and I insist that he shall not be beaten out of it.

Mr. BARKSDALE. The gentleman from Tennessee is quite able to take care of himself.

Mr. GROW. An objection is in order.

Mr. BARR. I understand that the Delegate from Utah wishes to be heard upon this subject.

I think no arrangement should be made that will deprive him of that privilege.

Mr. NELSON proceeded to address the committee in support of the bill. [His remarks will be published in the Appendix.]

While Mr. NELSON was speaking, Mr. BARKSDALE said: I ask the gentleman from Tennessee to yield to me, that I may move an adjournment. There is so much confusion and disorder in the Hall, that it is almost impossible for the gentleman to proceed. Besides, a number of gentlemen are forced to leave, who desire very much to hear him.

Mr. NELSON. I will yield to the gentleman for that purpose.

Mr. BARKSDALE. I move that the House do now adjourn.

The motion was agreed to; and thereupon, (at twenty-five minutes to five o'clock, p. m.), the House adjourned.

IN SENATE.

Thursday, April 5, 1860.

Prayer by the Chaplain, Rev. Dr. GRADLEY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. FOSTER. I have received, and been requested to present to the Senate, nineteen memorials, praying for the discontinuance of the spirit ration from the sailors of the Navy. These memorials are very numerously signed, having nearly seven hundred signatures. They owe their origin, I believe, to a convention of chaplains, ministers of mariners' churches, and others interested in the welfare of seamen, held at New York in the month of November last, recommending the adoption of such a rule in the service. I notice the names of officers of the highest grade in our service attached to these memorials; men of great distinction, of high character, and of long experience. The names of officers of lower grades, petty officers, and seamen in large numbers, are also attached to these memorials. A former Secretary of the Navy has heretofore recommended this measure; and it seems to me that its adoption would do more to raise the character of seamen, and to promote the efficiency of the service, than any one thing we could do. To maintain discipline on board our ships would be much easier, and cases of insubordination much rarer. The abolition of the spirit ration should have preceded, not followed, the abolition of corporal punishment.

These petitions propose to make each man his allowance in money, in lieu of the spirit ration; so that the men will be gainers in every respect. I consider the subject one of great importance, and I trust that these memorials will receive the favorable consideration of the Committee on Naval Affairs, to whom I move their reference.

The motion was agreed to.

Mr. HAMMOND presented the petition of Lieutenant A. F. Warley, of the United States Navy, praying relief from the consequence of a sentence of a court-martial which was referred to the Committee on Naval Affairs.

Mr. YULEE presented the petition of T. J. M. Richardson and Thomas Ross, executors of Samuel B. Richardson, praying payment for fifteen days' service performed by S. B. Richardson as a member of the Senate during the session of the Legislature Council of the Territory of Florida, for the year 1845; which was referred to the Committee on Territories.

Mr. KENNEDY presented the petition of the Baltimore and Ohio Railroad Company, for authority to extend the Washington branch of their road to the Potomac river and across the same, by means of the pile structure connected with the Long Bridge; which was referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HALE, it was Ordered, That the petition of Nancy Reed, widow of Lord Reed, a soldier in the Revolution, praying a pension, on the files of the Senate, be referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the petition of the settlers on the Fort Atkinson military reservation and Old Indian Agency, praying the right of preemption, submitted a report, accompanied by a bill (S. No. 371) for the relief of certain settlers

in the State of Iowa. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the report of the Court of Claims on the petition of Eliza E. Ogden, submitted a report, accompanied by a bill (S. No. 374) for the relief of Mrs. Eliza E. Ogden. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William P. Howkay, praying compensation for his services, and for certain inventions, adopted by the Government, in ship-building, submitted a report, accompanied by a bill (S. No. 373) for the relief of William P. Howkay. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. BRAGG, from the Committee on Public Lands, to whom was referred the memorial of Citizens of Texas, praying the establishment of a port of entry at Sabine Pass, in that State, submitted a report, and asked to be discharged from its further consideration; which was agreed to, the power to grant all the relief necessary being already vested in the Secretary of the Treasury by an existing law.

Mr. TRUMBULL, from the Committee on Patents and the Patent Office, to whom was referred the petition of Banerott Woodcock, praying an extension of his patent for an improvement in the construction of the plow, submitted an adverse report.

Mr. FITZPATRICK, from the Committee on Military Affairs and Militia, to whom was referred the memorial of Major Benjamin Alvord, a member of the United States Army, praying that the proper accounting officers of the Treasury be authorized to credit him with \$14,000 of the public funds, lost by the shipwreck of the steamship Northern, on the 6th of January, 1860, submitted a report, accompanied by a bill (S. No. 372) for the relief of Major Benjamin Alvord, paymaster of the United States Army; which was read, and passed to a second reading.

Mr. FITCH, from the Committee on Printing, to whom was referred the motion to print the memorial of Duff Green, president of the Sabine and Rio Grande Railroad Company, in the State of Texas, praying such enlargement of the powers and privileges of that company as will enable them to extend their road to the Pacific, at or near Mazatlan, reported in favor of printing the usual number, and the report was agreed to.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred a memorial of the Mayor and Council of the city of Baton Rouge, Louisiana, praying the confirmation of a certain claim, submitted a report, accompanied by a bill (S. No. 378) to relinquish the title of the United States to certain lands occupying the city of Baton Rouge, in Louisiana. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Joseph McHenry, praying to be allowed to relocate certain warrants for land granted the late Marquis de la Fayette, of which he is the assignee, submitted a report, accompanied by a bill (S. No. 380) to amend an act entitled "An act to authorize a relocation of lands," passed April 18, 44, and granted by Congress General La Fayette, approved February 26, 1845. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Daniel Whitney, for the issue of patents for certain land at Green Bay, Wisconsin, in favor of parties to whom said land was confirmed, under the act of February 21, 1823, by commissioners appointed under that act, submitted a report, accompanied by a bill (S. No. 379) for the relief of Daniel Whitney. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Daniel Whitney, for the issue of patents for certain land at Green Bay, Wisconsin, in favor of parties to whom said land was confirmed, under the act of February 21, 1823, by commissioners appointed under that act, submitted a report, accompanied by a bill (S. No. 379) for the relief of Daniel Whitney. The bill was read, and passed to a second reading; and the report was ordered to be printed.

R. R. RICHARDS.

Mr. HARLAN. I ask the unanimous consent of the Senate to offer a joint resolution for the relief of Rev. R. R. Richards, chaplain to the United States penitentiary at the District of Columbia, and ask the Senate to take it up for action.

The joint resolution (S. No. 24) for the relief of Rev. R. R. Richards, chaplain to the United States penitentiary in the District of Columbia, was read the first and second time by unanimous consent, and the Secretary read the title of the Whole. It proposes to appropriate \$300 for Mr. Richards' salary for the half year ending June 30, 1857.

Mr. HIGLER. It is all right.

Mr. HAMLIN. I move that the joint resolution be referred to the Committee on the District of Columbia.

Mr. BROWN. I do not think it is worth while to refer it. The Committee on the District of Columbia considered it and brought it into the Senate during the last Congress, and it was unanimously passed after debate here. The whole matter was inquired into, and the Government owes this man \$300. It is a small sum.

Mr. HIGLER. The facts can be stated in a few moments. This man was appointed chaplain of the penitentiary, and performed the duty, and has not been paid. The Secretary of the Interior at one time raised a question, because Mr. Richards at the time acted as clerk; but he subsequently abandoned that objection, and the case stands free of difficulty. Mr. Richards performed the duties, and the law allows him, and I hope the joint resolution will be passed. It has heretofore passed the Senate; certainly once, if not twice.

Mr. HAMLIN. I withdraw my motion. The joint resolution was reported to the Senate without amendment, and was engaged for a third reading, read the third time, and passed.

CONTRACTS OF THE WAR DEPARTMENT.

Mr. WILSON. I submit the following resolution, and ask for its present consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire what contracts, if any, have been entered into by the War Department, or by any other department of the Government, for the use of the public buildings; whether such contracts were made after public advertisement, or otherwise; the amount of iron contracts, and the terms of payment, and whether, or under what authority of law said contracts have been entered into, either by the War Department, or any other or agent thereof. Also, that said committee inquire what contracts have been entered into by the War Department for shot or shells, and iron castings; or what orders have been given by that Department, or by any officer thereof, whether civil or military, for shot or shells, and iron castings; how such orders or contracts were obtained; under what authority the orders were issued or the contracts made; whether by public advertisement in public market, or by other purchase; the reasons for issuing such orders or making such contracts; the necessity for making the expenditure; and if due regard has been had therein to the public interest, and the economy of the Government, to send for persons and papers, with leave to report at any time.

Mr. YULEE. I object to the consideration of the resolution.

The VICE PRESIDENT. It will lie over.

ANGELINA C. BOWMAN.

Mr. HIGLER. I ask the Senate to consider a bill which I have repeatedly attempted to take up, on which I hope the Senate will now concur. It is the bill (S. No. 223) for the relief of Angelina C. Bowman, widow of Francis L. Bowman, late captain in the United States Army.

The motion was agreed to; and the bill was read a first and second time, as in Committee of the Whole. It provides for placing Mrs. Bowman's name upon the pension roll, at the rate of thirty dollars per month, from the 13th of January, 1859, to continue for life.

Mr. HIGLER. I will explain the merits of this bill very briefly. It is in relation to a bill which passed at the last session. It passed the Senate at a very late hour, and was lost, on a slight amendment, between the two Houses. Mrs. Bowman was the wife of the late Francis L. Bowman, who was a major of volunteers in the Mexican war, and, after the war, he was in the service of the Government, acquired a disease there which ultimately destroyed his life. He was afterwards appointed

captain in the Army, and stationed at Fort Simcoe, in the Territory of Washington. After being there in that position for about seven or eight months, he showed indications of insanity; and it was finally determined that it was necessary to remove him from the fort. He was started with an escort to take him from Fort Simcoe to the Dalles. On the way, for the reason that the escort was inefficient, or, at least, not sufficiently vigilant, Captain Bowman escaped from the men who had him in charge, in one of his fits of insanity. After some three days' pursuit, his body was found tangled by wild beasts. Mrs. Bowman was at the Dalles at the time, and her family helplessness cost her some seven hundred dollars to remove the remains of her unfortunate husband to his residence in the State of Pennsylvania. She was enabled to do this by the generosity of the officers and men of the Army. She has asked Congress first to pay her back the money which she expended, and which was furnished to her by the soldiers, in order that she might return it. This the committee decline to do; but the evidence being satisfactory that Captain Bowman acquired the disease while in the service of his country, and that he afterwards lost his life for want of proper care on the part of the escort that had him in charge when his mind was deranged, they have reported that Mrs. Bowman is entitled to a pension; and I hope the bill will pass.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LAKE COMMERCE.

Mr. CHANDLER. The Committee on Commerce, to whom was referred a petition of merchants of Detroit, Michigan, praying an extension to the lake commerce of the same limits to the liability of ship-owners and others as is in force on the ocean, have unanimously directed me to report a bill in accordance with the prayer of the petitioners; and I ask for its present consideration. It merely extends to the lake commerce the limitations which have for years existed on the ocean.

By unanimous consent, the bill (S. No. 375) to extend the provisions of an act approved March 3, 1851, entitled "An act to limit the liability of ship-owners and for other purposes," to the lakes, was read twice, considered as in committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PORT OF ENTRY.

Mr. CLAY. The Committee on Commerce, to whom was referred the joint resolution of the House of Representatives (No. 26) constituting Macon, Georgia, a port of entry for the time being, for the purposes therein specified and for other purposes, have instructed me to report it back, and recommend its passage. It is a matter of local interest, to which I presume no objection whatever will be interposed; and I trust it will be acted on now.

There being no objection, the Senate, as in committee of the Whole, proceeded to consider the joint resolution (H. R. No. 26) constituting Macon, Georgia, a port of entry for the time being, for the purposes therein specified and for other purposes.

The preamble sets forth that it is in contemplation, by the cotton planters' convention of the State of Georgia, to institute and hold a fair, in the month of December, in the city of Macon, in the State of Georgia; and that it is contemplated by a foreign association to exhibit their goods at such fair; and as Macon is neither a port of entry nor delivery, articles imported for exhibition at such fair cannot, under existing laws, be exempted from duty, though exported again when withdrawn from exhibition; therefore, it is proposed to enact that Macon, Georgia, be constituted a port of entry, so far and to such extent as to authorize the Secretary of the Treasury, at his discretion, to extend thereto all existing revenue laws prevailing at ports of entry, and applicable to both the warehouses, to the landing of goods, wares, and merchandise, and exportation of the same; but the force and effect of this provision is to ascertain only to importations made for the purposes exclusively therein recited, and for exportations of the same so having been exhibited, and at such time or times before, during,

and after the fair, as shall, in the judgment of the Secretary of the Treasury, seem reasonable for those purposes.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RELATIONS OF STATES.

Mr. CHESNUT. I ask the Senate to allow me to take up, for the purpose of moving to make them a special order, the resolutions of the Senators from Mississippi, [Mr. Davis.] I move that they be taken up, and made the special order for Monday, at half past one o'clock, when I shall ask the indulgence of the Senate to address them on the subject.

The motion was agreed to; and the resolutions were made the special order for Monday next, at half past one o'clock.

BILLS INTRODUCED.

Mr. BIGLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 372) for the relief of Gottlieb Scherer; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 377) to authorize the Baltimore and Ohio Railroad Company to extend the Washington branch of their road to the Potomac river, and across the same, by an extension of the present structure known as the Long Bridge, for the purpose of connecting with the regular railroads at that point, which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

WILLIAM B. SHUBRICK.

Mr. HAMMOND. I move to take up the Senate bill, (No. 295,) which will pass the Senate, I think, at once, without the slightest debate.

The motion was agreed to; and the bill (S. No. 295) for the relief of William B. Shubrick, was read the second time, and considered as in committee of the Whole. It provides for the allowance to Captain William B. Shubrick, United States Navy, in the settlement of his accounts, the sum of \$1,550, paid by his order, while in command of the cutter "H. P. Henshaw," at La Reintre, translator and interpreter in the public service.

Mr. POLK. I ask the Senator from South Carolina whether the money was actually paid by Commodore Shubrick for services rendered.

Mr. HAMMOND. Yes, sir.

Mr. POLK. Cash out of his pocket?

Mr. HAMMOND. Yes, sir; cash out of his own pocket, but not allowed him by the Government, and for very valuable services, which I can explain in a moment, if any Senator desires.

Mr. POLK. I only desire to know if the Senator is satisfied that the services were necessary?

Mr. HAMMOND. Yes, sir.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EMBASSY FROM JAPAN.

Mr. MASON. I ask the Senate to take up for consideration the joint resolution reported from the committee on Foreign Relations a few days since, making an appropriation for the expenses of the embassy from Japan. It will arrive here within the next two or three weeks—the time is uncertain—and if the appropriation is made, it is proper the Government should know it, in order to make the necessary preparations.

The motion was agreed to; and the joint resolution (S. R. No. 23) in regard to the minister from Japan, was read a second time, and considered as in committee of the Whole.

It proposes to appropriate \$50,000 to defray the expenses of the embassy and suite, constituting the Japanese embassy expected to arrive in the United States, to be expended under the direction of the Secretary of State.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TERRITORIAL COURTS.

Mr. GREEN. I ask the Senate to take up the bill (S. No. 18) concerning courts in the Territories, reported by the Senator from Delaware,

[Mr. BAYARD,] from the Committee on the Judiciary. He requested me to make the motion. It is a mere formal matter.

The motion was agreed to; and the bill (S. No. 148) concerning courts in the Territories, was read a second time, and considered as in committee of the Whole.

Mr. GREEN. The Secretary has either read the bill incorrectly, or it is not printed correctly. The bill, as intended to be reported by the committee, was to give a right of appeal in all cases.

Mr. BENJAMIN. It gives jurisdiction and provides for an appeal to the district courts of the United States where the amount exceeds \$200.

Mr. GREEN. No, sir; it gives an appeal in all cases, and I want the jurisdiction limited to \$200.

Mr. BENJAMIN. The committee reported to give jurisdiction, providing an appeal to the district court where the sum exceeds \$200.

Mr. GREEN. The Senator is mistaken. The committee recommended that the jurisdiction should be limited to \$200, with the right of appeal. I move so to amend it.

The VICE PRESIDENT. The amendment of the Senator from Missouri is in line eight, to strike out the word "exceeds," and insert "does not exceed," so that it will read, "where the amount in controversy, exclusive of costs, does not exceed \$200."

Mr. GREEN. That is it.

Mr. BENJAMIN. I think the Senator from Missouri will find that he is in error as to the reading of the bill.

The VICE PRESIDENT. The Secretary will read the bill again.

The Secretary read the bill, as follows:

Be it enacted, &c., That the Legislative Assemblies of the respective Territories are hereby authorized to confer on the probate courts civil jurisdiction in suits between residents only of the Territory where the suit is brought concurrent with the district courts; subject, however, where the amount in controversy, exclusive of costs, exceeds \$200 to an appeal in all cases to the district court for a trial de novo, and from thence to the supreme court of the proper Territory, as in such cases. Provided, That no civil jurisdiction in criminal cases shall be conferred upon said probate courts, or exercised by them.

Mr. GREEN. I submit to the Senator from Missouri that if the bill be amended as he proposes, the probate courts will have jurisdiction concurrent with the district court, and in cases where the amount does not exceed \$200, there will be appeal to the district court; but in all cases where it exceeds \$200, there will be no appeal. That is the effect of his amendment.

Mr. GREEN. I will explain to the Senator. Under the decision of the supreme court of Kansas it is held—and I think properly held—that the probate court has no civil jurisdiction whatever. It is a probate court; in other words, it is a court to administer estates, to appoint guardians, &c., but it has no civil jurisdiction to try any case.

We want to give it to them because the district court has twelve hundred cases on the docket, and the district court judge cannot possibly discharge all the duties; the number of them are in very small cases. The object of this bill is to enable the Territorial Legislature to give the probate courts what the law organizing the Territory does not give them—a little civil jurisdiction; but we want to limit it to \$200, so that an appeal may be taken.

Mr. GRIMES. I understand that perfectly. The object of the Senator is to give jurisdiction to judges of probate where the amount involved in the controversy does not exceed \$200; but that is not what he attains by the amendment he proposes to incorporate in the bill. As the bill will stand with the amendment of the Senator from Missouri, the probate courts will have unlimited jurisdiction, coextensive with the district court; but in cases where the amount involved does not exceed \$200, there will be an appeal to the district court; where the amount involved exceeds \$200, there will be no appeal. That is the amendment.

Mr. GREEN. I think the Senator is mistaken. My only purpose is this—

Mr. BENJAMIN. Will the Senator allow me to say a word this time?

Mr. GREEN. Certainly.

Mr. BENJAMIN. If he will go and look to the bill as he proposes to amend it, he will find that he has done exactly the contrary of what he intends. I am questioning of the amendment.

Mr. GREEN. I ask for the reading of it again.

THE VICE PRESIDENT. The Secretary will read the bill as it is proposed to be amended by the Senator from Missouri.

THE SECRETARY. The bill, if amended as proposed, will read:

That the Legislative Assemblies of the respective Territories are hereby authorized to confer on the probate courts civil jurisdiction in suits between residents only of the Territory where the suit is brought, concurrent with the district courts; subject, however, where the amount in controversy, exclusive of costs, does not exceed \$200, to an appeal in all cases to the district court for a trial de novo, &c.

MR. GREEN. That will do; I am satisfied with that.

MR. COLLAMER. I apprehend that the point of difference between the gentlemen depends on the manner of punctuation and the cadence with which the language is read. It may mean that the probate courts are to have the concurrent jurisdiction with the district court in all cases, and that the restriction as to amount qualifies the right of appeal. If so, I have objections. My desire is, that the jurisdiction shall be confined to \$200, and with the right of appeal in all cases.

MR. GREEN. That is right.

MR. COLLAMER. But the query is, whether it so reads now. The jurisdiction might be \$200, with an appeal in all cases. I ask the Secretary to read it once more.

THE VICE PRESIDENT. The Chair understood that to be the suggestion of the Senator from Missouri.

MR. COLLAMER. That is what he desires; but the question is, whether that is accomplished. **THE VICE PRESIDENT.** It is not for the Chair to say whether the bill means that.

MR. COLLAMER. That is the point of dispute among us; whether it does or not.

THE VICE PRESIDENT. The bill, as proposed to be amended, will be read again.

The Secretary again read the bill, as proposed to be amended.

MR. COLLAMER. The clause as to amount qualifies the appeal, but not the jurisdiction.

MR. GREEN. I know I am right, and the Senator from Vermont is not. The object is to limit the jurisdiction to \$200, with the right to an appeal.

MR. COLLAMER. But the bill does not do it.

MR. GREEN. It does not do it in the present shape. I therefore move the amendment to limit the jurisdiction to \$200, with a right of appeal.

THE VICE PRESIDENT. The Senator moves that amendment?

MR. GREEN. Yes, sir.

THE VICE PRESIDENT. The Senator from Missouri moves to amend the bill by inserting in line eight, after the word "dollars," "and subject," so that it will read, "where the amount in controversy, exclusive of cost, does not exceed \$200, and subject to an appeal," &c.

The amendment was agreed to.

MR. BENJAMIN. The bill is not right now. It is impossible for us to legislate in this way without looking at the language. I move that the bill be laid aside informally for a few moments, in order that the Senator from Missouri may look at it himself, and make the amendment required.

MR. GREEN. I have no objection.

THE VICE PRESIDENT. That course will be pursued if there be no objection.

MR. GREEN subsequently said: I now move to take up the bill which was informally laid aside. I propose so to amend it as to make it read:

Be it enacted, &c., That the Legislative Assemblies of the respective Territories are hereby authorized to confer on the probate courts civil jurisdiction in suits between residents only of the Territory where the suit is brought, concurrent with the district courts, in cases where the amount in controversy, exclusive of costs, does not exceed \$200, subject to an appeal in all cases to the district court for a trial de novo, and from thence to the supreme court of the proper Territory in all other cases; Provided, That in all cases jurisdiction in criminal cases shall be conferred upon the said probate courts, or exercised by them.

THE VICE PRESIDENT. The bill will be amended in this form, if there be no objection.

The Chair hears no objection.

The bill was reported to the Senate, and the amendment was concurred in, and the bill ordered to be engrossed and read a third time. It was read the third time, and passed.

THOMAS L. DISHARON.

On motion of Mr. POLK, the bill (S. No. 356) for the relief of Thomas L. Disharon, of St.

Louis county, Missouri, was read the second time, and considered as in Committee of the Whole.

Thomas L. Disharon having in good faith purchased and paid for, and having in his possession, four bounty land warrants for one hundred and sixty acres each, issued under the act of Congress of February 11, 1847, and numbered as follows: No. 44575, No. 44568, No. 44567, and No. 44561, the bill proposes to confirm his title, and to authorize him to locate, design, and dispose of them in the manner and form prescribed by the act of 1847, as if the warrants had been issued to him.

MR. POLK. I will state to the Senate that this bill passed this body during the last Congress upon a motion of the Committee on Private Land Claims. It has been again favorably reported to this Congress by the Committee on Private Land Claims of this body, and that committee this year embodied a former favorable report of the Committee on Private Land Claims of the House of Representatives, a member of the Senate Committee on Private Land Claims, I am satisfied the bill is just and proper.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

INDIAN APPROPRIATION BILL.

MR. HUNTER. It will be recollected that we laid over the Indian appropriation bill, to be taken up at one o'clock. I am desirous to take it up, but I do not want to interfere with the precedence which the homestead bill has; but if the Senator from Tennessee [Mr. JOHNSON] will agree to it, by the general consent of the Senate we can lay that bill aside informally until the Indian appropriation bill shall be disposed of. Then his bill will resume its regular order on the Calendar.

MR. JOHNSON, of Tennessee. I presume there will be no difficulty about it, if the Senator's bill can be passed in a few minutes.

MR. HUNTER. I move, then, by general consent, that we take up the Indian appropriation bill.

MR. WADE. I inquire whether we are to spend the day on that bill?

MR. HUNTER. I cannot tell. It may, perhaps, be one or two, but I do not know. I do not know what amendments the Committee on Indian Affairs may have; but I will say that I shall dispose of the bill as soon as we can. The Senator knows we do not interpose it for delay. We are already anxious to get along with the appropriation bills. The other bill will come up immediately afterwards.

MR. WADE. It appears to me that we had better get through with one bill at a time. The homestead bill is under consideration, and I hope we shall be able to take a vote on it to-day; but at all events, if it goes over to-day, it goes over until next Tuesday; because to-morrow is private bill day, Saturday is devoted to District business, and there is a special order for Monday, on which a Senator has the floor. I think the friends of the homestead bill ought to stand by it until we go through with it. I shall ask for the yeas and nays on the question whether we shall take up this bill or go on with the homestead bill.

THE VICE PRESIDENT. The Chair will state that he has not yet arrived for calling up the special order.

MR. HUNTER. Is the Indian bill the special order at one o'clock?

THE VICE PRESIDENT. The homestead bill, being the unfinished business of yesterday, comes up at one o'clock.

MR. HUNTER. In order to test the question, I move to postpone all prior orders for the purpose of taking up the Indian appropriation bill. Let the Senate decide. I should like to know their determination. I am responsible for pushing the appropriation bills as far as I can. If the Senate decide against me, let them do so.

MR. WADE. I hope the friends of the homestead bill will stand by it and I call for the yeas and nays on the motion.

MR. JOHNSON, of Tennessee. I suggest to the Senator from Virginia that he call for the yeas for him to make a motion to postpone all the prior orders. The homestead bill does not come up as the unfinished business until one o'clock. Let him make a motion to take up the Indian appropri-

tion bill; let it be taken up; and then, if we need that discussion is likely to arise, we can lay it aside, and go on with the homestead bill.

MR. HUNTER. Then, the Senator will not call for the yeas and nays, simply move to take up the Indian appropriation bill.

THE VICE PRESIDENT. The Chair will, of course, call up the special order at one o'clock. Are the yeas and nays demanded on this last motion?

MR. WADE. No, sir.

THE VICE PRESIDENT. The question is on the motion of the Senator from Virginia, to take up the Indian appropriation bill.

The motion was agreed to; and the consideration of the bill (H. No. 115) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1861, was resumed, as in Committee of the Whole.

MR. HUNTER. The amendments reported by the Committee on Finance have been disposed of. I now offer one which was not ready when the bill was last under consideration. It is an amendment to carry out treaty stipulations, to pay a second installment of \$100,000, which was provided for by various tribes in Washington and Oregon.

Pence.—For second of five installments to be paid to them or expended for their benefit, commencing with the year in which the sum of \$250,000 was appropriated for their future hours, per second article treaty 12th March, 1855, \$125,000.

For school and maintenance of the establishment and maintenance of one or more manual-labor schools, under the direction of the President, per second article treaty 12th March, 1855, \$250,000.

For second of ten installments, or during the pleasure of the President, to be expended in furnishing said Indians with seeds and assistance in agricultural and mechanical pursuits, including the working of the mill provided for in the first part of this article, as the Secretary of the Interior may determine, per second article treaty 12th March, 1855, \$250,000.

For second of ten installments for the establishment and support of an agricultural and industrial school, and to provide said school with a suitable instructor or instructors, per fourth article treaty 25th January, 1855, \$200,000.

For second of twenty installments for the establishment and support of a smith and carpenter's shop, and to furnish them with necessary tools and materials, per fifth article treaty 25th January, 1855, \$200,000.

For second of twenty installments for the employment of a blacksmith, cooper, farmer, and physician who shall furnish medicines for the sick, per fourth article treaty 25th January, 1855, \$200,000.

Makah Treaty.—For second installment on \$20,000, under the direction of the President, per fifth article treaty 21st January, 1855, \$20,000.

For second of twenty installments for the support of an agricultural and industrial school, and for pay of teachers, per eleventh article treaty 21st January, 1855, \$20,000.

For second of twenty installments for the support of a smith and carpenter's shop, and to provide the necessary tools, materials, per eleventh article treaty 21st January, 1855, \$20,000.

For second of twenty installments for the employment of a blacksmith, cooper, farmer, and physician who shall furnish medicines for the sick, per eleventh article treaty 21st January, 1855, \$20,000.

Walla-Walla and Nez Percé Tribes.—For second installment of \$50,000, for the erection of buildings on the reservations, fencing and opening farms, per third article treaty 18th June, 1855, \$50,000.

For second of five installments of \$8,000, under the direction of the President, per second article treaty 9th June, 1855, \$8,000.

For second of twenty installments for the purchase of all necessary mill fixtures and mechanical tools, medicines and hospital stores, books and stationery for the tribes, and furniture for the employes, per fourth article treaty 25th June, 1855, \$20,000.

For second of twenty installments for the pay and subsistence of one superintendent of farming operations, one farmer, one cooper, one blacksmith, one carpenter, one millwright, one physician, and two teachers, per fourth article treaty 9th June, 1855, \$7,500.

For second of twenty installments for the pay of each of the head chiefs of the Walla-Walla, Cayuse, and Umatilla bands the sum of \$500 per annum, per fifth article treaty 9th June, 1855, \$2,500.

For second of twenty installments for salary for the sum of \$100-per-month-mox, per fifth article treaty 9th June, 1855, \$2,000.

Yakima Nation.—For second of five installments for beneficial objects, at the discretion of the President, per fourth article treaty 25th January, 1855, \$10,000.

For second of twenty installments for the support of two schools, one of which is to be an agricultural and industrial school, keeping in stock and school books, and for purchasing suitable furniture, tools, and stationery, per fifth article treaty 9th June, 1855, \$2,500.

For second of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty 9th June, 1855, \$2,500.

For second of twenty installments for the employment of a cooper, a blacksmith, a diomist's, gunsmith's, carpenter's shop, and wagon and plow-maker's shops, and

for providing necessary tools therefor, per fifth article treaty 18th June, 1855, \$60,000.

For second of twenty installments for the employment of one superintendent of farming and two farmers, two blacksmiths, one tin-smith, one cooper, one wagon and plow-maker, per fifth article treaty 18th June, 1855, \$60,000.

For second of twenty installments for keeping in repair saws and flouring mills, and for furnishing the necessary tools and fixtures, per fifth article treaty 18th June, 1855, \$60,000.

For second of twenty installments for keeping in repair the hospital, and providing the necessary medicines and fixtures therefor, per fifth article treaty 18th June, 1855, \$60,000.

For second of twenty installments for the pay of a physician, per fifth article treaty 18th June, 1855, \$1,000; for the second of twenty installments for keeping in repair the buildings required for the various employes, per fifth article treaty 18th June, 1855, \$300.

For second of twenty installments for the salary of such person as the said confederated tribes and bands of Indians may select to be their head chief, per fifth article treaty 18th June, 1855, \$200.

New Peru Indians.—For second of five installments for beneficial objects, at the discretion of the President, per fourth article treaty 11th June, 1855, \$10,000.

For second of twenty installments for the support of two teachers, per fifth article treaty 11th June, 1855, \$200.

For second of twenty installments for keeping in repair suitable learning, books, and stationery, per fifth article treaty 11th June, 1855, \$200.

For second of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty 11th June, 1855, \$1,000.

For second of twenty installments for keeping in repair blacksmiths', tin-smiths', gunsmiths', carpenter's and wagon maker's shops, and for providing necessary tools therefor, per fifth article treaty 11th June, 1855, \$500.

For second of twenty installments for the employment of one superintendent of farming, and two farmers, two millers, two blacksmiths, one tin-smith, one cooper, one wagon and plow-maker, per fifth article treaty 11th June, 1855, \$60,000.

For second of twenty installments for keeping in repair saws and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty 11th June, 1855, \$60,000.

For second of twenty installments for keeping in repair the hospital and providing the necessary medicines and fixtures therefor, per fifth article treaty 11th June, 1855, \$60,000.

For second of twenty installments for pay of a physician, per fifth article treaty, 11th June, 1855, \$1,000.

For second of twenty installments for keeping in repair the buildings required for the various employes, and for providing the necessary furniture therefor, per fifth article treaty 11th June, 1855, \$300.

For second of twenty installments for the salary of such person as the tribe may select to be their head chief, per fifth article treaty 11th June, 1855, \$200.

Flatheads and other confederated tribes.—For second of installment for \$10,000 for beneficial objects, at the discretion of the President, per fourth article treaty 16th June, 1855, \$60,000.

For second of twenty installments for the support of an agricultural and industrial school, for providing suitable buildings, and providing suitable furniture, books and stationery, per fifth article treaty 16th June, 1855, \$300.

For second of twenty installments for keeping in repair suitable instructors therefor, per fifth article treaty 16th June, 1855, \$100.

For second of twenty installments for keeping in repair blacksmiths', tin, and gunsmiths', carpenter's, and wagon and plow-maker's shops, and providing necessary tools therefor, per fifth article treaty 16th June, 1855, \$500.

For second of twenty installments for the employment of two farmers, two millers, one blacksmith, one tin-smith, one cooper, one wagon and plow-maker, per fifth article treaty 16th June, 1855, \$60,000.

For second of twenty installments for keeping in repair saws and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty 16th June, 1855, \$60,000.

For second of twenty installments for keeping in repair the hospital, and providing the necessary medicines and fixtures therefor, per fifth article treaty 16th June, 1855, \$60,000.

For second of twenty installments for pay of a physician, per fifth article treaty 16th June, 1855, \$1,000.

For second of twenty installments for keeping in repair the buildings required for the various employes, per fifth article treaty 16th June, 1855, \$300.

For second of twenty installments for the salary of such person as the confederated bands may select to be their head chief, per fifth article treaty 16th June, 1855, \$200.

Confederated tribes and bands in Middle Oregon.—For second of five installments of \$8,000 for beneficial objects, at the discretion of the President, per second article treaty 25th June, 1855, \$2,000.

For second of five installments for pay and subsistence of one blacksmith, one tin-smith, one cooper, one wagon maker, per fourth article treaty 25th June, 1855, \$3,500.

For second of twenty installments for pay and subsistence of one physician, one surveyor, one interpreter, one superintendent of farming operations, and one school-teacher, per fourth article treaty 25th June, 1855, \$5,000.

For second of twenty installments for keeping in repair suitable buildings, and for purchasing medicines, mechanical tools, medicine and hospital stores, books and stationery for schools, and furniture for employes, per fourth article treaty 25th June, 1855, \$300.

For second of twenty installments for payment of salary to the head chief of said confederated bands, per fourth article treaty 25th June, 1855, \$200.

Maid Indians.—For second of ten installments for keeping in repair saws and flouring mills and for the pay of such employes, the head chief, and the superintendent of all affairs by all the confederated bands, per second article treaty 25th June, 1855, \$1,000.

For second of five installments (in addition to the installments specified in the treaty of 5th November 1854) for the Unquips and Catoquips of Unquipp valley) for furnishing iron and steel and other materials for the smith and tin smith, for the cooper, for the wagon maker, and for the necessary mechanics, per second article treaty 21st December, 1855, \$1,500.

For second of five installments for the pay of a carpenter and joiner, to aid in erecting buildings and making furniture for said Indians, and to furnish tools in said service, per second article treaty 21st December, 1855, \$1,500.

For second of five installments for the pay of an additional farmer, per second article treaty 21st December, 1855, \$1,500.

Quay-wah and Quik-ah-ah Indians.—For second of five installments of \$25,000, for beneficial objects, under the direction of the President, per fourth article treaty 21st January, 1856, \$7,000.

For second of twenty installments for the support of an agricultural and industrial school, and for pay of suitable instructors, per tenth article treaty 21st January, 1856, \$2,000.

For second of twenty installments for support of smiths' and carpenter's shops, and to provide the necessary tools therefor, per tenth article treaty 21st January, 1856, \$2,000.

For second of twenty installments for support of smiths' and carpenter's shops, and to provide the necessary tools therefor, per tenth article treaty 21st January, 1856, \$2,000.

For second of twenty installments for the employment of a blacksmith, carpenter, and farmer, and a physician who shall furnish medicine for the sick, per tenth article treaty 21st January, 1856, \$2,000.

St. Killeau.—For second of installment for \$60,000, under the direction of the President, per fifth article treaty 21st January, 1856, \$2,000.

For second of twenty installments for the support of an agricultural and industrial school, per fifth article treaty 21st January, 1856, \$2,000.

For second of twenty installments for the employment of a blacksmith, carpenter, farmer, and a physician who shall furnish medicine for the sick, per eleventh article treaty 21st January, 1856, \$2,000.

I will say that the amendment if precisely according to treaty stipulations. It was left out by the House of Representatives. I will give the reason, and the Senate may determine. This morning, according to treaty stipulations, in the next fiscal year, but the House committee left it out until it could be ascertained whether they might not dispense with the appropriation now, and postpone it until next winter; but the Interior Department would be paid for the next winter; and, as we have to appropriate it, the Finance Committee sees no reason why we should not appropriate it for the service of the next year now at the regular time, instead of the next winter in a deficiency bill. The Committee on Finance recommends the appropriation; and it is strictly according to treaty stipulations.

The amendment was agreed to.

Mr. LATHAM. I offer an amendment which I submitted yesterday, and which the Senate then ordered to be printed, to insert after line nine hundred and twenty-five:

Provided, That in the event the State of California will, by an act of its Legislature, agree to take charge of and maintain within the State the Indians now within her jurisdiction, to the satisfaction of the President, and relieve the United States from all liability or responsibility connected with the same for the period of twenty years, the sum of \$50,000 to be appropriated for the purpose of the President of the Interior is authorized to draw on the United States Treasury in favor of the State treasurer of California for such sum as may be required for the purpose of the President of the Interior to take possession of the reservations and Government property thereon: *Provided,* The property of the United States Government in the State of California shall be used for the use of the Indians: *Provided also,* The President reserves the right to take control of said Indians, and terminate the same in the event the State of California shall not take care of and maintain said Indians, or the Governor of California does not annually report to the Secretary of the Interior all matters relating to their condition.

THE VICE PRESIDENT. The Chair will inquire of the Senator from California if this comes from a committee?

Mr. LATHAM. I will state that it was before the Committee on Indian Affairs, and was reported by me; and I was requested to present it, but not as the act of the committee. It is not often, Mr. President, that my State appears before this body preaching economy. This is one of the instances, and I trust the Senate will encourage this disposition of the representatives of the people of California. The Indians in California have been a constant source of trouble; not only to the people of the State, but to the General Government. I am sorry to make the confession that the amount expended by the General Government for the same since 1846, as reported by the Secretary of the Interior, has not proved of advantage, and that their condition now is discreditable to the General Government, as well as to the people of that State. The main reason for this arises from the fact that we are so remote from the seat of Gen-

eral Government that when the officers who have charge and control of the Indians communicate to the Government here it is three and frequently five months (on account of distance and a multiplicity of business before the Department) until they receive orders or instructions according to the necessities which may arise.

THE VICE PRESIDENT. The Chair must ask the Senator from California to pause. The hour of one o'clock having arrived, the Chair calls up the homestead bill, which was the unfinished business of yesterday.

Mr. HUNTER. If the Senators will not agree to let me carry this bill, I must, under my motto to postpone all prior affairs, for the purpose of considering the Indian appropriation bill.

Mr. WADE. I hope not.

Mr. LATHAM. I hope the Senator from Ohio will at least allow this amendment to be considered. It will take but a short time.

Mr. JOHNSON, of Tennessee. I hope that, by general consent, the special order will be postponed for a few minutes, to allow the Senator from California to conclude his remarks.

Mr. LATHAM. I shall occupy but a very few minutes.

Mr. WADE. Very well; I will consent to allow the Senator to go on.

THE VICE PRESIDENT. It is moved to postpone the special order, to enable the Senator from California to conclude his remarks. To this course the Chair bears no objection.

Mr. LATHAM. The Indians in California, since 1850, when the General Government took the control of them, have cost on an average \$150,000 a year, and that, too, exclusive of what it has cost to carry on the Indian war. In one instance, the General Government has assumed nearly a million dollars of that indebtedness, and there are still some six hundred thousand dollars or seven hundred thousand dollars of bonds of the State of California outstanding, for which there is no prospect of being repaid by the General Government. One source of these wars arises from the fact, as is the case in all frontier States, that there are certain parties who want to speculate out of the Government, and they get up these parties for the purpose of bringing large bills against the General Government. An investigation which is now going on in the Legislature of the State of California shows a most deplorable state of affairs in one or two of the counties where there have been Indian wars, and where they have been gotten up for the purpose of speculating out of the State, and against the policy of the General Government.

Now, if Congress will give the control of the Indians to the State of California, we can manage them. Whenever the Indians themselves get to understand, and whenever the people who are engaged in getting up these wars understand, that the State of California, through its Legislature, has control of them; that the Legislature can send its committees directly among the people and find out whether the wars are justified or not; that the Indians will be really glad, if you will find that you will have no more trouble from this prolific cause; you will have no more of these Indian wars, and the Indians themselves will be well cared for and maintained.

The Government has four reservations there, and the Secretary of the Interior says only one out of these four reservations is properly managed. He also says:

"The other three are conducted in a manner discreditable to the Government."

I beg to show the Senate the previous cost of the Indians in California, as follows:

"For holding treaties with Indian tribes, \$50,000; for salary of superintendent of Indian affairs in California, \$20,000; for per perquisites and perquisites of the superintendent, \$10,000; for traveling expenses of the superintendent and attendants, \$1,500; for clerk to superintendent, \$1,000; for interpreter, \$1,000; for post and postage for the superintendent's office, \$500; pay of interpreters, \$2,500; furniture for superintendent's office, \$500; flag and stationery among Indian tribes, \$200; general incidental expenses of Indian service in California, \$2,500; preservation of peace with Indians in California, \$100,000; for the purchase of land for the Indians in California, \$1,100,000; for pay of third Indian agents, \$75,000; pay of three sub-agents, \$27,000; pay of physicians, \$10,000; for the purchase of land for the Indians on the reservations in California, \$130,000; and Indian service, (a general appropriation), \$1,000,000. The grand total of your Indian expenses, in California, up to and including this fiscal year, is, \$1,727,699 06."

You have got a superintendent, you have got three Indian agents, and three sub-agents, all deriving their authority from the General Government, and each independent, in a certain degree, of the other. If a sub-agent sees fit to disregard the authority of the superintendent, the superintendent has no power to remove him, and is compelled to report here; and the result is that from day to ninety days are consumed, and all this to the disparagement and injury of the public service.

The appropriation bill which is now before this body appropriates \$50,000 for the removal of Indians alone, and in addition there is a provision to pay your employes, three Indian agents, \$3,000 each, and three sub-agents at \$1,500 each, and a superintendent at \$4,000. In addition to that, you have to furnish these Indians with subsistence—you must give them blankets, &c.—so that you swell up the bill to about one hundred or one hundred and fifty thousand dollars necessarily.

Now, if Congress will give to the State of California, with such restrictions as it deems just and proper, the right to carry out the purposes and objects of this amendment, and an annual appropriation of \$50,000, we will agree to take the charge and control of the Indians and remove them from the Government of all California therewith. The Indians in California occupy a somewhat different position from that which they occupy in any other portion of the Confederacy. We have no Indian treaties there. The Indians are not recognized as having any rights, and we do not treat them as predatory in their character, or connected with the missions at the time of the acquisition of the State. It is the duty of the Government, however, to take care of them. They amount in number, it is supposed, to about sixty thousand; and so long as the Government continues the present system, it will find that it will fail of its purpose, and that these Indians will be a source of taxation, amounting to about a hundred or a hundred and fifty thousand dollars per annum. These are the main features. I do not now feel like occupying the attention of the Senate, but will have more to say when I hear the objections. I sincerely hope that the amendment will be adopted, because I know it will be satisfactory to the people of the State, and that in the end the Government will find itself benefited.

Mr. HUNTER. Does the gentleman propose to dispend with these agencies, or are we to pay agents?

Mr. LATHAM. Dispend with them all.

The VICE PRESIDENT. The Chair will refer to the Senator from Virginia, to whom no motion consent extended only to the speech of the Senator from California, and the Chair must now call up the bill which is the special order.

Mr. HUNTER. Now, I submit my motion.

Mr. WADE. Let us have it understood which bill is under consideration.

The VICE PRESIDENT. The homestead bill. The Chair calls up the homestead bill, the unfinished business of yesterday, at this hour. The Senator from Virginia moves to postpone it and all other orders, with a view to continue the Indian appropriation bill.

Mr. WADE. On that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I suppose it is well understood, without calling for the yeas and nays to it, that this is to amount to a defeat of the homestead bill. It is precisely the way it was defeated at the last Congress. We were never able to get a direct vote upon it. The Senator from Virginia repeatedly antagonized appropriation bills with amendments, and I think it was a mistake to do so. If a majority of the Senate are opposed to the homestead bill, of course they will postpone it; or if they prefer not to meet the issue directly, they will be able, if a majority combine together, to defeat it by indirectness; but if it has a majority of the Senate in favor of it, they will stick to it. We can never pass it—and all its friends ought to understand that—if we suffer it to be pushed aside by the appropriation and other bills. There is time enough to pass the Indian appropriation bill. The Senator from Ohio is not the other way, but that he would antagonize the bill against every measure until he could get a direct vote upon it. Now, sir, I do trust that no Senator, who is disposed to vote for the homestead bill, will allow it to be pushed aside by any other measure.

Mr. HUNTER. The gentleman supposes I am calling up an appropriation bill to defeat the homestead bill. He is mistaken. I am calling it up to pass the bill. I am against the homestead bill, but still I am not seeking to defeat it by indirectness; nor am I aware that there are any here who desire to do so. It is for the Senate to say whether they will put aside all the appropriations or to consider the homestead bill. I feel it to be my duty to have the decision of the Senate upon it.

Mr. GWIN. I believe that if this motion had not been made, we should have got through the Indian appropriation bill by this time. I do not think there will be twenty minutes' discussion, unless there is on the amendment offered by my colleague. There is but one more amendment to offer, and the bill will be disposed of.

Mr. PUGH. I should like to ask a question of the chairman of the Finance Committee. If the Finance Committee are prepared to accept the amendment of the Senator from California, I am willing to postpone the homestead bill for half an hour and dispose of the Indian bill. I am favorably impressed with the amendment, but if the committee are opposed to it, and in the event I should be called to debate, I think I had better leave it over a few days, and let us consider it; but if there is to be any debate on that amendment, or on the Indian appropriation bill, I wish to take up the homestead. If the Finance Committee will accept the amendment, and the bill is ready for passage, I think it is a very great improvement, and I am willing then to lay the homestead bill aside for half an hour for that purpose.

Mr. GWIN. I do not see any opposition manifested to the amendment offered by my colleague. As a member of that committee, I am opposed to it.

Mr. PUGH. I understand the chairman is opposed to it.

Mr. HUNTER. I must consider amendments when they come up. I must be a faithful opposer to the amendment, but I must not lose sight of considering the propositions that are offered. Senators will vote as they think right between these bills. If they take up the Indian bill, I hope they will give it all the time that is due to the subject, as my opponent will take long. As I am not willing to commit myself, I do not know what debate may spring up on the amendment.

Mr. GRIMES. It seems to me, then, that is one reason why this matter should be postponed, in order to give the Senator from Virginia time to examine the subject. He will be put upon his feet, and he will have to put his opinion on the subject in the Senate and the country; and I am anxious to know whether he does entertain the opinion that this Government has the power, and if it has the power, whether it is proper for the Government to farm out to the different States of the Union the power and privilege of taking care of the Indians within their respective jurisdictions. That is an additional reason why the question should be postponed, in order that the Senator from Virginia may have an opportunity to examine the subject, and then enlighten the Senate and the country with his opinion on the subject. It is a very important subject.

Mr. WADE. Is it in order to debate the merits of these two propositions on a motion to postpone?

The VICE PRESIDENT. The Chair will state, as that question has been raised several times this session, that during the last Congress it was distinctly determined by a vote of the body that it was not in order to debate the merits of a proposition upon a question in reference to the propriety of postponing it. The Chair is therefore limited to remarks to suggestions or reasons why one piece of business should be taken up in preference to another, the object of the Senate apparently being to dispense with long speeches on the merits when it was simply a question of what bill should be taken up. The Chair has no authority to be governed by that decision of the Senate.

Mr. WADE. I hope the friends of the homestead bill will stand by the bill until we can dispose of it; and I do not think it will take a great while to do it. For my part, I will not postpone it for any other bill.

Mr. JOHNSON, of Tennessee. The other day, when the Indian appropriation bill was called up, it was pressed upon the consideration of the Senate as being important that it should pass; and

that it was in a condition to be passed at once. The issue was made then; and all prior orders were postponed. But after the bill was taken up, and considered a considerable length of time, the chairman, and others interested in that bill, discovered that they were not prepared to go on with it; and themselves asked a postponement of it until to-day. We see that there are indications that the bill will be postponed again, and that arguments are offered; and some are to be offered that are not yet matured. It seems to me they have furnished the Senate with no good reason why the bill should go over; and we should consider the matter that has been before the Senate and before the country for two or three years—the homestead bill—until it be disposed of.

Mr. SEBASTIAN. I only rise for the purpose of correcting the statement of facts made by the Senator from Tennessee, which I am confident he misapprehends. It was on my motion, that the Indian appropriation bill was postponed before. It is true that the chairman of the Committee on Finance was not prepared at that time to present all his amendments, but he is now prepared to discharge that duty. The Committee on Indian Affairs has proposed a bill, and I am confident, which I am satisfied would have been disposed of by this time if the bill had been suffered to be further discussed. So far as I know, there is no disposition among Senators on this side to antagonize this bill with the favorite project of the friends of the homestead bill. I am confident that the test of fidelity as between opposing measures is presented to the Senate now, when I think it is entirely uncalled for, and unwarranted, even by any imaginary necessity. I would ask my friend from Ohio to withdraw his proposition to make a test vote on Tuesday afternoon, and postpone for a short time, and without displacing the priority in the order of business of the homestead bill, allow it to be passed by, by general consent, for half an hour or an hour. I think that at that time we shall have accomplished at least the transaction of one piece of business before the Senate.

Mr. HUNTER. If the Senator will allow me, I think we had better take a test vote. Let us know whether we are to go on with the appropriation bill, or go on with the homestead bill. It will be a great accommodation to the Senate. I do not wish to press these measures against the sense of the Senate, after I know what it is. ["Vote."]

Mr. SEBASTIAN. I have no objection to withdraw my proposition; but I thought it would accommodate all sides, and I thought it would be desirable to make that test, I do not desire to interpose as a peace-maker between the parties. I withdraw the suggestion I made.

Mr. BIGLER. I desire to say that, on the subject of the homestead bill, I have paired off with the Senator from Indiana. [Mr. BRIGGS.] I discover that this motion concerns the success of the measure. I therefore shall not vote; nor shall I vote, for that reason, on any subsequent motion in relation to it.

Mr. JOHNSON, of Arkansas. I desire to know the basis of the test—between what measures, and on what ground.

The VICE PRESIDENT. It is moved and seconded to postpone the homestead bill and continue the consideration of the Indian appropriation bill. This is the question now pending.

Mr. JOHNSON of Arkansas. Do gentlemen mean that the test is whether we are in favor of passing the homestead bill or not, or is it meant as between that and the appropriation bill, which shall have precedence in our consideration? It seems to me we are using a grand pretext to keep the homestead bill out of the way, and to keep the appropriation bill. There is, however, undoubtedly an unusual anxiety here in regard to the homestead bill. The homestead bill has not been fought by delays here, that I know of. I know it could have been kept in the Committee on Public Lands for many months, and it would not have been kept there at all. It was permitted to come forward promptly. It has not met with that kind of opposition here which insinuation seems to throw on this side of the House; and I trust that those on this side of the House and on any other side of the House, who are opposed to the measure, will receive it with that kind of spirit which I think it is certainly entitled to from us: it is not entitled to respect. It has not been met. I am against the homestead, I will say

very freely; but I have not interposed that kind of opposition. I say that I am not yet prepared to be brought to a vote upon the homestead bill. I have good reasons for it, which I can state to gentlemen at any time; but they simply effort myself, and nobody else. When the session is to last for many months longer, because there are a few here who are especially anxious in regard to the homestead bill, are the appropriation bills and every other species of business to be compelled to give way to that anxiety which seems to be morbid?

It is said that we cannot go on with the Indian appropriation bill, that the committee reporting are not ready. Why, sir, the amendment under consideration has already been printed; and that, I believe, is the only amendment to be offered to it, that it is thought will lead to debate. I do not think either of the Senators from Ohio do otherwise than seem to imply that they are very anxious that we should go into the consideration of the homestead bill; and to imply that perhaps it is not proceeding as fast as it ought to do. It is not just to this side. They are ready to go on with an appropriation bill. Are the appropriation bills to be again postponed, and the bill made to yield to this favorite measure of theirs?

I do not entertain any respect for this homestead bill. I believe it to be a mere abolition measure, to tell the truth. I believe it is merely to furnish a bonus, as far as the support of the other side goes, to the agents of the Territories, and to induce men to emigrate to the Territories on condition that aid societies will pay their expenses to get there. I say I have no respect at all for the bill when I look at it in that light, and that is the light in which I do look at it. I do not think that the appropriation bill, the regular business of the country—business that has to be transacted every year, and has been every year, from the beginning of the Government to the present time; and which has always, heretofore, had the precedence—ought now to be set aside in every instance for any particular pet measure of any party or class of persons. I hope the Senate will meet the test. I hope they will require that the regular and legitimate business for the support of this Government shall first be done; and I really think we should like to see the course they would take to the regular business of the country whenever it does come up.

Mr. COLLAMER. I wish, before the vote is taken, merely to say again that I have paired off with the Senator from Georgia [Mr. Toombs] in relation to questions concerning the bill.

The question being taken by yeas and nays on the motion to postpone, resulted—yeas 25, nays 29; as follows:

YEAS—Messrs. Bayard, Briggs, Brown, Chesnut, Clay, Clarendon, Cushman, Flick, Fitzpatrick, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Kennedy, Lane, Mason, Pearce, Polk, Powell, Saulsbury, Sebastian, Shuler, Wigfall, and Yates—42.

NAYS—Messrs. Anthony, Hamilton, Cameron, Chandler, Clark, Dixon, Doolittle, Douglas, Drake, Fessenden, Foster, Fremont, Grimes, Hale, Hendricks, Johnson of Tennessee, King, Latham, Nicholson, Page, Rice, Seward, Simmons, Sumner, Ties Ezyk, Trumbull, Wade, and Wilson—25.

So the motion did not prevail.

Mr. WILKINSON. Yesterday, expecting to go away this morning, I paired off with the Senator from Texas [Mr. HENKELS]. As he is not now here, I shall not vote.

POLYGAMY IN THE TERRITORIES.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had passed a bill (H. R. No. 7) to punish the present polygamy in the Territories of the United States, and other places, and for approving and annulling certain acts of the Legislative Assembly of the Territory of Utah; in which the concurrence of the Senate was requested.

On motion of Mr. GREEN, the bill was read by its title, and referred to the Committee on the Judiciary.

HOMESTEAD BILL.

The VICE PRESIDENT. The bill (H. R. No. 280) to secure homesteads to actual settlers on the public domain is now before the Senate as Committee of the Whole, and the Senator from Tennessee [Mr. JOHNSON] is entitled to the floor.

Mr. CLINGMAN. Before the Senator from Tennessee goes on, I wish to test the question

again, as to which bill shall be considered. It was taken when the Senate was thin the other day, and the Senator had better hold on to his own bill, which we were going on with and perfecting; and I move, therefore, to postpone this House bill, and take up the Senate bill. I will not say anything on it, but simply ask the yeas and nays, and hope we shall have the vote.

The yeas and nays were ordered.

Mr. WADE. I hope the motion will not prevail. We settled the order of proceeding on this subject the day before yesterday, after considerable debate. The question was, whether the Senate bill should be taken up first, or the House bill; and it was determined by a majority of the Senate that they would take up the House bill, and that the Senate bill could be offered as an amendment to it, and it is pending in that shape. Now the proposition is to reverse this order of things, and go back to the confusion we were in before. Here are two propositions—one of them a House bill, on the subject of the homestead—coming up here for consideration; and it does seem to me that it is more respectful to the House and more orderly in business to take their bill and consider it, and proceed with an independent Senate bill, which, if it should pass here, would require original action on the part of the House again. It is unusual; it is out of the ordinary course of business; and it was decided, on deliberation, that we would proceed with the House bill, and the Senate bill shall do it.

Mr. CLINGMAN. I do not think there is any reason why the Senate should throw aside its own measure and take up that of the House. It seems to me there is no discrepant to the House in going on with their own business. I make this motion, thinking that we had better go on with the bill we had under consideration. I am willing, however, that there shall be a vote taken on it without further debate.

Mr. FUGH. There can be no reason for this course other than the desire of the Senator to prevail. I dislike to make the suggestion, but really the circumstances admit of no other explanation than that the object is to keep delaying this matter, and defeat the bill by the alteration of dilatory motions. We have the House bill before the Senate well as an amendment to the House bill. We can perfect either. Let us dispose of the question in some shape.

Mr. BROWN. I suggest to the Senator from North Carolina that this state of things will occur instantly if his motion prevails. He proposes to postpone the House bill and take up the Senate bill. As the matter now stands, we have the House bill before us, and the Senate bill pending as an amendment to it. Now, suppose he carries his motion, and you postpone the House bill and take up the Senate bill; the Senator from Ohio would instantly move the House bill as an amendment to the Senate bill; so that you simply turn the proposition over.

Mr. FUGH. The difference is, that if we pass this measure it is a step towards legislation; but if we do not pass it, no Senator will make that amendments, we have not progressed an inch.

Mr. CLINGMAN. Finding that there is a difference of opinion, and gentleman think we had better go on with the House bill, by general consent, I withdraw my motion.

THE PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The Chair hears no objection, and the motion will be considered as withdrawn. The Senator from Tennessee is entitled to the floor.

Mr. JOHNSON, of Tennessee. I do not wish to speak. I took the floor yesterday because it was the usual time of adjournment.

THE PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana, [Mr. FITCH], to add to section one of the following proviso:

Provided, That the lands hereafter granted shall be entered only in alternate quarter sections, or in alternate sections, or parts of quarter sections, of land which shall remain to the United States, and not subject to entry under the provisions of this act, shall not be sold for less than double the minimum price of the public lands when sold: That the provisions of this act shall be applicable only to lands subject to private entry at the date of its passage.

Mr. FITCH. I ask for the yeas and nays on the amendment.

Mr. WADE. I hope the amendment will not

be adopted. I do not want to go into a general argument of the subject; but it confines the bill, I believe, to lands subject to private entry, and also to alternate quarter sections, which, in my judgment, will very nearly destroy the bill. I hope the friends of the bill will not consent to adopt the amendment; and I trust we shall have the yeas and nays on it.

The yeas and nays were ordered.

Mr. FUGH. The Senator from Indiana proposes more than my colleague says. He proposes to double the price of the other quarter sections. That will interfere with the preemption and graduation laws, and the whole of our present policy in relation to the public lands. We considered that in committee, and deemed it not advisable. We also considered the question whether we should reserve the alternate quarter sections or the alternate sections, and we finally adopted the alternate section system in preference to alternate quarter sections. For these reasons, I shall be constrained to vote against the amendment, although the general principle upon which it stands, as I stated yesterday, commands to some extent my approbation; but on the amendment as it stands at present I shall be compelled to vote in the negative.

Mr. FITCH. I am not strenuous about the application of the provisions of the bill to alternate quarter sections or alternate sections, although I think its application to alternate quarters is preferable; but I am not so anxious that the amendment ought to be adopted, in my estimation, without any modification whatever. The Senator says that raising the price of the alternate sections will interfere with the preemption law. The preemption law is virtually destroyed by the bill itself. Those not entitled to a preemption of course will not be interfered with; and when the land is to be given, it will not be claimed under the preemption act, but under the donation act. Therefore it cannot interfere with preemptions. Still the preemption law is virtually destroyed by the limitation of the provisions of the bill to land now in market, for the purpose, as I remarked the other day, of preventing a pressure being brought on the Government, to purchase indiscriminately, perhaps, all the Indian lands, because they will be valuable to the Government, and it will be to donate them. Limit it to lands now in market, and if it is found in one, two, or three years afterwards, to have operated beneficially, we can extend its provisions subsequently to other lands.

Mr. FUGH. It seems to me the Senator from Indiana has strangely overlooked a fact. The preemption law requires the party to make an actual settlement, to make a claim fortified by affidavit and on settlement; and the claim and affidavit are precisely the same under the homestead bill and under the preemption bill. Under the homestead bill, after having made this affidavit and this settlement, he continues in possession and in settlement five years, and obtains the patent. Under the preemption bill he can obtain a patent on payment of \$1 25 an acre any time short of five years after he has made his settlement. If the Senator committee, does not injure or affect the preemption law in any particular. It leaves the settler an option, after he settles, either to avail himself of the provisions of the homestead bill or of the preemption law; but the amendment of the Senator from Indiana destroys the preemption law utterly. It had better be repealed. These were the reasons that governed the committee. That is a point that my friend from Indiana overlooks, that a settlement under the terms of this bill is a settlement under the terms of the preemption bill; the only difference is, that the preceptor can buy at any time. If he does not choose to buy, and remains in possession five years, then his title ripens under this bill.

Mr. FITCH. I understand precisely what the Senator is saying, and I understand that the settlement under this bill is precisely the settlement under the preemption bill in what I intended to allude to before, if I did not do so with sufficient distinctness for his comprehension. It is precisely because the settlement under the two bills is the same, that I say my amendment will not interfere with the preceptor any more than the original bill. No man will preempt land and pay for it when it is to be given to him, and therefore my amendment does not interfere with the preceptor any more than the bill itself. If

the land is now buying on the part of the preceptor, if he prefers buying, he will give \$2 50; but if he does not, if he prefers to have it donated, as ninety-nine in a hundred will if you give the land, he will not take the land under the preemption act.

Again, if the amendment be adopted as a whole, most of the land which is likely to be claimed by preceptors is already claimed, for it is contained in land now in market at the time of the passage of the bill, and it is not *notorious* that nearly all the land claimed by preceptors is claimed even before the land is surveyed. The amendment of course does not apply to lands not now in market, because it is already claimed by the title of the act; and to such land; and other land, not surveyed, or surveyed and not yet in the market, will be liable to entry as heretofore under the preemption act.

Mr. PUGH. Does the Senator mean that lands that may hereafter become subject to private entry shall not be subject to the provisions of this bill?

Mr. FITCH. Yes, sir; I propose to confine it to those in market at the time of its passage.

Mr. PUGH. I am not sure of the confinement I supposed. I did not understand that before.

Mr. FITCH. It limits the application of the bill to land in the market at the date of its passage. Of course, it cannot generally interfere with the preemption laws.

Is the question being taken by yeas and nays, resulted—yeas 17, nays 28, as follows:

YEAS—Messrs. Bayard, Benjamin, Bragg, Chiswell, Clay, Clingman, Fitch, Fitzpatrick, Hammond, Hester, Iverson, Johnson of Arkansas, Pearce, Polk, Shaulsbury, Sebastian, and Wigfall—17.

NAYS—Messrs. Anthony, Bingham, Brown, Cameron, Chandler, Clark, Davidson, Dixon, Houston, Hovey, Johnson of Tennessee, Foot, Foster, Gilman, Harlan, Johnson of Tennessee, Latham, Nicholson, Page, Rice, Sewall, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—28.

So the amendment was rejected.

Mr. BROWN. Would it be in order for me now to move an amendment for the entire amendment of the committee—to substitute one amendment for another?

The PRESIDING OFFICER. The amendment reported by the committee is still pending. Mr. CLINGMAN. Before my vote is taken on the substitute, I desire to perfect the first section. I will propose to do so whenever it is in order.

The PRESIDING OFFICER. The Chair cannot determine whether the amendment of the Senator from Mississippi will be in order until he learns something of its character.

Mr. BROWN. With a view of indicating my own well-considered views on this subject, I present this proposition; which I ask may be read.

The Secretary read the amendment of Mr. Brown; which is, to strike out all after the enacting clause, and insert:

That the laws now in force, granting preemption to actual settlers on the public lands, be and the same be extended to all the Territories of the United States.

Sec. 3. And be it further enacted, that from and after the passage of this act, the right of preceptors shall be perpetuated: that is to say, persons acquiring the right of preemption shall retain same until the expiration of the term without payment of any land to the United States; but on these conditions: First. The preceptor shall not sell, alienate, or dispose of his or her right for a consideration; and if he or she voluntarily abandons one preemption, and claims another, no right shall be acquired by such claim, until the claimant has first made provision for the original preemption, and that no consideration, reward, or payment of any kind, has been received, or is expected, directly or indirectly, as an inducement for the preceptor to abandon his or her person who shall testify falsify in such case, shall be deemed guilty of perjury. Second. Any person claiming and holding the right of preemption in any land under this act, may be required by the State within which the same lies to pay taxes thereon in the same manner, and to the same extent, as he or she otherwise would be required to do; and in case such lands are sold for taxes, the purchaser shall acquire the right of preemption only. Third. Absence of the preceptor and his or her heirs for six consecutive months shall be deemed an abandonment; and the land shall, in such case, revert in the United States, and be subject to the same disposition as other public lands.

Sec. 3. And be it further enacted, That lands preempted, and the improvements thereon, shall not be subject to execution sale, or other sale for debt; and no contract, made in reference thereto, intruded in any way to alienate the right, or to embarrass or disturb the preceptor in his or her occupancy, shall be abrogated.

Sec. 4. And be it further enacted, That the preceptor may, at any time, at his or her discretion, enter the lands

preempted, by paying therefor, to the proper officer of the United States, the Government minimum price.

Sec. 5. And be it further enacted, That in case of the preceptor's death, if a married man, his right shall survive to his widow and children. And the rights of the older children shall cease as they respectively come of age, or when they reach the age of twenty-one years; in all cases the right of preemption shall remain to the youngest child. And in case of the death of both father and mother, leaving no child or children under fourteen years of age, the right of preemption shall cease, and the fee shall inure to the benefit of said father child or children; and the executor or administrator, may, at any time, within two years after the death of the surviving parent, sell said land for the benefit of said infants, but for no other purpose; and the right of preemption shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.

The PRESIDING OFFICER. The amendment reported by the committee being to perfect the original bill, and the one offered by the Senator from Mississippi being a substitute, the first question is on the one reported by the committee.

Mr. BROWN. I did not know there was a pending amendment to the original bill.

Mr. CLINGMAN. I take it it will now be in order to move an amendment to the first section of the original bill; and I propose, in the eighth line, to strike out all after the word entitled, and insert the same amendment, which was before moved by me to the Senate bill.

Mr. BROWN. I understood the Presiding Officer to say that there was an amendment pending to the amendment, and that, therefore, my amendment was in order.

The PRESIDING OFFICER. The Chair is so informed by the Clerk.

Mr. BROWN. Then how can the amendment proposed by the Senator from North Carolina be in order?

The PRESIDING OFFICER. The amendment offered by the Senator from Mississippi is a substitute for the entire bill, as the Chair understands.

Mr. BROWN. No, sir; I propose to substitute my amendment for the amendment reported by the Senator from Tennessee, as the Committee on Public Lands. That is the point I make. I am not proposing to amend the original bill at all; but the amendment of the committee.

The PRESIDING OFFICER. It can be made in order by moving to strike out all after the word "that," where it first occurs in the amendment, and inserting what has been read.

Mr. BROWN. That will do.

The PRESIDING OFFICER. The Chair misunderstood the Senator from Mississippi.

Mr. BROWN. I hope the amendment of the Senator from Mississippi will not be agreed to. It will destroy the principal features and character of the bill; so that I presume the friends of the bill will go against it.

Mr. BROWN. I have no prepared speech on this subject; but I feel that in justice to myself I ought to state now distinctly what my position is, because otherwise my present position may seem to be somewhat in conflict with my past record. At heart, sir, I am not opposed to this measure; in principle I am not opposed to it; but I do not think it wise to enact a law of this kind, and I have, in various modes, indicated that they did not desire or expect me, as their Senator, to vote in its favor. If I was only giving the vote of ALBERT G. BROWN, I should record it in favor of it; but when I cast one of the votes which belong to the State of Mississippi, I must cast it in accordance with the wish of that State, and therefore in opposition to this bill. But, sir, if the friends of the measure could be induced to accept such a proposition as that which I have laid on your table, I would undoubtedly vote for it, and take the hazards of settling the account with my constituents. To the proposition which I have laid upon your table there can, in my judgment, be no reasonable objection.

Sir, what is the proposition? It secures substantially the same benefit to the poor as the bill which either the House bill or the Senate bill secures. If the object be to benefit the settler on the public lands, my proposition reaches that object. It is, that he who settles upon the public land may remain there and occupy the land as he chooses, or he may remain, like the settler on this Government stretched over him protecting him from harm or molestation. Can the settler ask more? If your object really be to protect the settlers on the public lands, the first section of the substitute which I propose does that, and does it most effectually. It

removes the limitations to your preemption laws; removes the twelve months' limitation, the two years' limitation, and all other limitations; and says to the settler: "Go upon the land, and stay as long as you choose; whenever you are ready to pay, come forward and pay the Government the minimum price, whatever that may be." It may be two dollars, or a dollar and a half, or a dollar and a half; it may be a quarter, or a half, or three quarters of a dollar, or a dollar and a quarter; but whatever the Government minimum is, you ask him to pay, and to pay only when it suits his convenience. You do not harass him continually with threats of eviction, if he cannot pay. You relieve him from that anxiety which every settler on the public lands feels when he fails to present the money at the land office at the right term—that some more fortunate man, or some man of more fortune, may come and take, his homestead from him.

Sir, I care not what other men feel, what they think, or what they say in regard to this matter. I tell you, and tell the country, what the bone and sinew of the country already know, that your preemption system is a failure, a grand failure. He has been decaying upon the public lands by his flustering policy; he has expended his labor in rearing a little hut in the forest, felling a few trees, making a little improvement, and struggling against the misfortune of the storm, and the drought, and the flood, to find, after having bestowed a year of honest toil, that he has attracted the eye of cupidity. Some man with more money than he, and ten times, I dare say, less genuine patriotism, has come and taken his home and sent him again into the forest, if he can not satisfy him. You relieve him in this presence and say that every instinct of my heart revolts at such results. I am not ashamed to stand up in this presence and say that, by every power vested in me as a Senator, I will protect these poor settlers, if I can not listen to my friends from Texas [Mr. WIGFALL] yesterday with much pleasure when he said poverty was a crime. No, sir; poverty is no crime. Poverty may lead to crime, but in itself it is a virtue. There are more men on the poor list in this country who are honest and industrious than there are in any other proportion of numbers, on the list of millionaires.

Mr. WIGFALL. Will the Senator allow me to interrupt him a moment?

Mr. BROWN. Certainly.

Mr. WIGFALL. I should like to know who he calls the millionaires, and to understand you at that point yesterday, and I desire not to be misunderstood. I never pay any attention to newspaper reports myself, but some friends of mine showed me this morning one published over here in Baltimore, the Sun, and were greatly horrified at its statement of my ideas. I wish to put you right on the record. I stated yesterday, as distinctly as I knew how, that labor was capital. It is a long time since I read books on political economy, and I do not remember definitions; but I ask that to be capital which will bring money; that any man who can get money, and his money will always command money; and that bone and muscle and brains are capital, and that any man who has brains, or bone and muscle, is a capitalist to the extent that he is supplied by nature; and if he chooses not to use his brain, or his bone and muscle, he is guilty of a crime; it is an outrage upon those men who do work, upon those who do pay the taxes, that the results of their energy, their enterprise, and their industry, that the money that is made by the sweat of their faces should be appropriated to support pauperism, which is another word for vagabondism; and that another word for crime; and I would not consent myself to pay one dime to support such a man, nor would I vote that the Government should; and I therefore denounced pauperism as a crime. There is no crime in being poor, and still being crippled, if he is sick, that is an exception; there are exceptions to general rules. It is useless to bring in exceptions. I say that brains and bone and muscle are capital, and the man who has them and does not use them is guilty of a crime, and ought not to be encouraged; and still I say that while they are introduced to provide for the poor are imputations on the character of the American people. Now, sir, I did not intend to argue it; I only wanted to put myself right.

Mr. BROWN. I am not going to discuss this

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matter with my friend from Texas. I wanted to give my generous friend an opportunity to explain what fell yesterday harshly on my ear. What we understand in common parlance by poor men, are not the Lazarus; they are not absolute paupers, inmates of houses of charity; but they are men not blessed with this world's goods. You find them everywhere. Sir, there are more than ten thousand of them in sight of this Capitol to-day. I should, perhaps, not be extravagant if I said twenty thousand; they are poor—so regarded by their neighbors; so understood by themselves; poor, as contradistinguished from the word rich, or even well to do in the world. These are the sort of people who want homes. It may be well enough for gentlemen born with silver spoons in their mouths—I certainly was not—it may be well enough for those who inherit fortunes, to spurn the wants of the poor; I cannot. I came from among the poor. I was one of them; born to no fortune but poverty; I struggled through the earlier years of my life for a way. I recollect the people from among whom I came; and I never hear a taunt thrown to them that I do not feel disposed to say a word in their defense. Sir, they are the bone and sinew of your land. They are the muscle of your Army and your Navy. Whenever you want food for powder, when you want soldiers, they come not from Fifth Avenue, nor from Wall or State street; they do not come from the families of your millionaires. If you want men to stand in the line, and to fight the enemies of your country, to play the soldier, you take them from the class of people to which I have alluded. Sir, there are more than one hundred and sixty acres—those who have settled in my own State, those who have settled by thousands and tens of thousands in the State from which the Senator comes; those who have settled all over the N. W., and spread their acres out from one extreme to the other of our land. These are the men who make up your poor. They do not lack bone nor muscle nor brains; still less, sir, do they lack patriotism.

MR. WIGFALL. I would merely ask the Senator what us he has to say in criticism—will he bill before us grant them land?

MR. BROWN. Yes.

MR. WIGFALL. Then how do you say that the men who formed the Mississippi regiment, who have done these deeds of valor, who have bone and muscle, are men who will be benefited under the provisions of this bill? The men who filled that Mississippi regiment were landholders; they were men of substance; they were men who had the capital that I have spoken of; they were men who supported themselves; they were freemen; they had bought their freehold; they lived on that which was their own, and which they had paid for. They never begged or stole. They were respectable, decent men, and that is the character of the people of Mississippi. They were men who would not go on one hundred and sixty acres if given to them, nor hold them as a gift. You speak of Texas. I say there are no men in Texas who have ever received donations of public lands. We have no paupers there; and we have got no men, at least none who have come into the State since annexation, who have not paid for all they own. I speak in defense of Mississippi as well as Texas.

MR. BROWN. I am much obliged to my friend for defending Mississippi against any supposed assault of mine.

MR. WIGFALL. I really considered it so.

MR. BROWN. The Senator thinks he, sir, I know what belongs to the honor of my State; and it does not sound very kindly for Senators to tell me that I am making assaults on my own constituents. I think, at least, have never charged me with being disrespectful in their friends. I have never done, nor do not belong to Senators from adjoining States to taunt me with being unfaithful to my own constituents. Let them speak for their own States. I have held this language on other occasions; and I have been twice returned to this body, and twice back to the House of Representatives. That my con-

stituents approve of all my views, I do not pretend; but I doubt if they will thank the Senator from Texas and my friend from Alabama for the special guardianship which those gentlemen are assuming for them.

I have said that the bold men, with bone and muscle and brains, were entitled to one hundred and sixty acres of land; and so they are. They bought the right and paid for it. My proposition does not propose to give it to them. I know where the graduation bill came from. It was an Alabama proposition. I recollect that my friend from Alabama [Mr. CLAY] was exceedingly anxious that it should pass. It reduced Alabama lands to twelve and a half cents an acre. It reduced Mississippi lands to that standard very nearly. Gentlemen from the land States at that time were very anxious to have it pass. You, sir, (Mr. FRANKLIN in the chair,) were anxious for its passage. That graduation was next to giving it away. You reduced the price to the lowest standard—reduced it to twelve and a half cents per acre; and I now declare, what all men know, that the graduation bill has furnished homes, in a given time, to more homeless people than all the bills that ever passed Congress. Now, I appeal to Senators whether, under the operation of that bill, men who have bought homes at twelve and a half cents an acre and who are patriotic and have no muscle, brain and muscle and bone, as those who had the means to pay a dollar and a quarter an acre?

Gentlemen speak of men as being worthless, when they cannot buy land at \$1 25 an acre, in the paltry little quantity of one hundred and sixty acres. I say that the men who are patriotic men there are in all the States, who would have been entirely unable to buy land at \$1 25, and who secured comfortable homes, when we reduced the price to twelve and a half cents per acre. You introduced it with a view to encourage that sort of thing. Men who have never seen the misfortune with which the settler in a frontier country has to contend can have no idea of his difficulties and dangers, his toils, his troubles, and his embarrassments. Why, sir, imagine a man, say in Virginia, or in New York, or elsewhere, into one of the western States, settling down upon a piece of land, with muscles and bones and brains, to earn an honest livelihood for himself, his wife, and three or four children. He sets to work in good earnest to make an honest living. It is not his fault, and certainly it is not his crime, if disease fall upon him. It is no crime of his if the season be unpropitious. It is no crime of his if bankruptcy should overpread the country and destroy the value of his products. Misfortunes of a thousand kinds may break him up at the end of a year—may leave him not only destitute of money, but even a debtor on account of the year's labor. Where is he to obtain the \$200 to enter one hundred and sixty acres of land? He has reaped his little cabin, cleared his little spot of ground, sowed it in, and made a crop; and for another crop; and if you will indulge him the next year, or three, or four, or five years, he may be able to pay for his home; but stop him at the end of one year, as your law now does, and the chances are three to one that some man with money, who may have neither muscle, nor bone, nor brain, but who has gold, will come and enter his home and turn him drift on the world. What encouragement had such a man to struggle against the cold charities of your laws?

Mr. President, I am opposed to treating the settler in this way. My proposition does not give the land to anybody. It simply, under proper guards and restrictions, authorizes the man who settles a piece of land to occupy it so long as he chooses to occupy it. Whenever, from any cause, he desires the title, then he registers him to pay for it; but it does not compel him to pay at the end of one year, or two years, or four years. Misfortune may be close upon his heels; death may take its cold embrace his wife and children; he may struggle against a thousand misfortunes;—mark my words—whenever that man makes the land worth

more than the Government minimum, and has the money, he will pay for it. That pride to which the honorable Senator from Texas has appealed would tell him to do it. The natural desire of every man to be the owner in fee of his own estate will prompt him to it. A desire to be a landholder, and to be independent, will urge him on. He will work all the more earnestly, and with all the more zeal and energy, because your law does not cramp him either in body or mind. I implore you, sir, not to maintain the harsh rule which compels this man to have the money at a stated day, or be turned out of his home?

Mr. President, there is no use in closing our eyes to stubborn facts. Take up the newspapers from our western States, and what do we find? Half the controversies, half the murders, half the scenes of bloodshed, grow out of this matter of disturbing squatters on the public lands. A man settles down and bestows his labor on a piece of land, and some man with more money comes and buys it—buys it from the Government—the Government thus selling out one man to another, the Government selling one man's home to another, who chances to have more money to pay for it. I am against the system. I am for protecting men in their settlements. My bill does not propose to give the land. It proposes to give the right of occupancy, and to give it upon the man of settled character, who has the money to pay for the soil the price which the Government asks. Then, what do you give? You give the bare chance of selling the land for a number of years. You may lose the interest of the \$800, which six percent, is, and six percent, is, for many years; and you take families from among the commoners and put them in the more profitable class of producers. You take them from the purchases of your cities and your towns, where you found them in squalid poverty, and make them independent settlers upon one hundred and sixty acres of land. You take their children out of the streets, where they beg their bread from door to door, and plant them on a piece of land which is yours, and teach them energy, industry and perseverance, by the protection which you give them. The man himself, his wife and his little children, all become independent because they feel that the Government has extended over them its protecting arm and will never allow them to be disturbed. Let misfortunes come; let sickness, with all its blighting and withering influence, fall upon them—there is no heart sickening unless some one comes and turns them out of doors. They feel secure; they feel that the Government has given them security. Such a family will be patriotic. They will be patriotic in despite of all the influence you can bring to bear on them. They will feel grateful to the Government which thus protects them. But if the man stricken by disease, living under a cloudless sky, with no rains descending to fertilize the soil, is heartlessly turned adrift by the act of his Government, and he and his wife and little children come back to seek refuge in some of our cities, can he be a patriot? If you want a soldier, will he shoulder his musket? Ten to one he will say "No; why should I love a Government which treats me thus? Why should I love a Government that gives up its land to be roamed over by bears and wolves, and other beasts, and denies to me, patriot that I am, patriot that I would ever be, the privilege of occupying it?"

But, Mr. President, I did not intend to make a speech on the subject.

MR. GREEN. Mr. President, I give notice an intended amendment which I shall propose at a proper time, when it will be in order. From the questions now pending, I presume it is not now in order to propose any amendment.

THE PRESIDING OFFICER. It will not be in order at this stage of the proceedings.

MR. GREEN. Mr. President, I give notice, and I will read it, because I want to make a few remarks on the question now before the Senate, and my remarks will have some little reference to the amendment I intend to propose. My amendment is, to substitute for the whole of this provision,

That the provisions of all the existing preemption laws

be, and the same are hereby extended for the time of payment to the space of two years; and that if, at or before the termination of the two years, the preceptor shall elect to pay for any land, the same shall be subject to private entry according to existing laws.

It will be seen at once that this proposes a change in the preemption law. The preemption law now is that that the land must be paid for in one year. This gives two. The preemption law authorizes a preceptor to take possession of one quarter section; and he must pay for all, or forfeit all. My amendment proposes that he may pay for even one quarter of a quarter—which is forty acres—and the rest that he does not pay for falls back, subject to private entry under general laws.

I intend to move this amendment as a substitute for all that has been called a homestead bill. It is better for the country, better for the people, and will result better for the Government. **Homestead!** That is the popular cry. Who is there that has the power to make a homestead? Not the Federal Government; and all this talk about a homestead in the Federal Congress is a nonentity and an absurdity. The moment that the title passes out of the Federal Government, the land is subject to State laws; and I beg my particular friend from Tennessee to remember, when he talks about making a homestead, how long does it continue? Just so long as the title remains in the United States; and the very moment it passes from the United States to your power, your power over it ceases. While he is *in* *in*, it is a homestead. When the title is vested in him, it is subject to State laws; and, under the judgment and execution of Tennessee, it may be sold from him the next day. If *Homestead!* If the States want homesteads, let them make them. If Tennessee desires a homestead, why does she not pass a homestead law?

Mr. JOHNSON, of Tennessee. She had one it. Mr. GREEN. Very well, let them execute it.

Mr. JOHNSON. You do. That's all right—own with your own property, and with your own citizens; but with the property of the United States, outside of Tennessee, what business have you to interfere to make homesteads? This Federal Government was created for the benefit and defense of the people. The public land belonging to it is to be administered for the general benefit, to pay the debts and expenses of the Government; and now we have men getting up a proposition to make homesteads, when, if they were any sensible men, they know that the moment the title passes out of the United States we cannot make it a homestead, but it becomes subject to the State laws; and if the State does not choose to exempt it from execution, it may be sold from under your grantees the next day after the title passes away.

Why call it a homestead? It is a misnomer; it is a misuse of terms. **Homestead!** To secure to a man and his wife and his children a home! Who can secure it? Nobody but the sovereign power over the property. Who is that sovereign power? The moment that the title passes out of the United States, it is the State; and you would do much better if you were to go to the several State Legislatures and call on them to pass homestead laws, and to call on Congress to pass homestead laws is a contradiction and an absurdity.

Again, if you say that giving for five years' possession amounts to a homestead, then I answer, we already have a homestead bill in the shape of the preemption law, which gives one year's possession; for if five years' possession amounts to a homestead, *per se* one year's possession is a homestead, and we have already a homestead law. Does it secure it to the man, his wife, and his children, against execution, against creditors, against money, against influence? Not one word of it. There is nothing like a homestead connected with the name of it. I will tell you what it is: first, it is a pandering to a vitiated, corrupt public taste; second, it is a demagogic system to court popularity; and third, it is a deception practiced upon the public mind. I use terms just as I wish them distinctly to be understood. Mr. President, I have no motive for anybody; but these are the probable facts resulting from the action. We have now a preemption law that permits any man to go on the public land, occupy it for twelve months, and then pay for it and take his home. I am willing to extend the time of payment to two years; and if he cannot

pay for a whole quarter section, I am willing to let him pay for a *less* amount—forty acres, or eighty acres, or one hundred and twenty acres. Every man may not be prepared to pay for one hundred and sixty acres, although he can do that with \$120, for which sum he can buy a land warrant; but he may not be prepared to pay for eighty acres, although he can get that for about thirty dollars; yet he can surely secure his own home of forty acres; and permit me to remark that forty acres of good land will support a good family, raise them in good circumstances, and send them forth in the world as well as ordinary society will justify.

Mr. RICE. He has that privilege now. Mr. GREEN. Yes, sir; and I am willing to give it to him hereafter. Why give him land and propose to make it a homestead? Now, what do we understand by a homestead? A perpetual home or a temporary home—which do you mean? I want gentlemen to speak out, and distinctly inform the country what they mean. Do you mean a perpetual home? Is that it? Or a temporary home? I ask the Senator from Tennessee to tell me a little more, and let me hear you more by it.

Mr. JOHNSON, of Tennessee. If the Senator wants me to answer him now, I will do so.

Mr. GREEN. I do. Mr. JOHNSON, of Tennessee. Mr. President, so far my views go with reference to the homestead question I am willing to give them over at any other time. What I mean by a homestead is to put a man into the possession of a certain amount of soil that he may call his home; and, so far as the Federal Government is concerned, to forbid the sale of any forced sale or execution so long as the title remains here. Then I proceed upon the idea that if the States have not already provided for it, they will commence the policy where the Federal Government ceases; that they will, by State legislation, secure to each individual the right to have a home, or the best of soil he can get. You may denominate it a homestead—the abiding place of his wife and children—or whatever name you think proper. The advocates of this bill do not assume any power on the part of the Federal Government to come into conflict with State laws; but they assume the title remains in the Federal Government, until the act itself compels with the condition of the law, it is intended to guaranty and protect him in the enjoyment of the land against any debt or contract made prior to the title passing into the Federal Government, and assuming that the States where this land lies and where the individuals are, will pursue the same policy and carry out the same principle of justice. The same popular sentiment that induces the Federal Government to adopt the policy here, will induce the States to take it up and carry it out. That is what I mean by the homestead measure.

Mr. GREEN. He says "the same popular sentiment." That discloses a wonderful amount of information. I understand—

Mr. JOHNSON, of Tennessee. Permit me, in answer to the Senator, to say that the homestead is concerned, that it is very hard for a State or the Federal Government to secure one of its citizens in the enjoyment of that which never existed. There is one thing very clear: neither the State nor the Federal Government can secure a man in the enjoyment of a home, if he never possessed one. If he gets one, it must be subject to the operation of the laws under which he lives.

Mr. GREEN. I understand that, Mr. President. He says, "the same popular sentiment." Here is a wonderful amount of meaning in that. I see why it is that the trees bend to the gushing wind. I see why it is that individuals bow to what they suppose to be popular sentiment. Popular sentiment! Sir, I will stand by the Constitution of the country against popular sentiment.

In answer to the Senator, against the homestead, I will stand up for what is right, even if public sentiment is against it. Now, sir, is it right, or wrong, in this Federal Government, to do this?

Mr. JOHNSON, of Tennessee. By permission of the honorable Senate, I will answer, assuming any position I may assume here, I do not set in contravention of the Constitution of the United States. I stand here as the advocate of popular sentiment, in conformity with the organic law and the laws that are made in pursuance of it. I believe the homestead proposition is right; I

believe it is constitutional; and in standing by it, I believe I stand by the Constitution, and thereby reflect popular sentiment in accordance with its provisions.

Mr. GREEN. Mr. President, I am not taken by surprise by that remark. I had expected the Senator to say as much; and I have no doubt he is conscientious, but his judgment is not well constituted, and the moral affections and judgment are so tempered, when brought to bear together, that when the idea of popular sentiment gets to bear on them, it too frequently warps the one and sways the other. I am demonstrated, and I think, that there can be no homestead made by Congress. There can be an arrangement made for a temporary occupancy; it may be for one year or five years; but as for securing to the occupant a permanent home against the power of execution under State laws is utterly impossible; it is beyond the power of this Government; and it contravenes the express rights of the several States. Such being the case, why call it a homestead? Why not call it a gift? It is no homestead; and adopting that name, and applying it to it, deceives the public; me a little, but it deceives the country and itself. Call it a gift, a donation, a bounty—a bounty upon terms—upon condition that the donee occupies the land for five years; but calling it a homestead perpetuates a fraud on the public; for it is no homestead. The very moment the title passes out of the United States it is subject to State law.

Another question may spring up; and I will mention it in this connection. Suppose the Federal Government should say: "We let you hold it for five years. If you do not want it, you may sell it—sixtieths of one cent." Perhaps, the Federal Government would have that power; but would it be good policy? Would it not strike at the prosperity of all the new States of this Union? The real interests of these States consist in vesting the title in the States, so that they may be able to improve and extend, according to their power, and their disposition. This measure, if passed, at once strikes down your whole railroad system. There can be no further grants to aid in the construction of railroads; because the land will all be gone. It will occur, now, to no tax one portion of the act of injustice to the soldiers of the Revolution; to the soldiers of the war of 1815; to the soldiers in the Indian wars; to whom bounty land warrants have been granted. We have given them; and if you now pass this bill, those warrants will not be of any value to the soldier, or the man who may buy a land warrant when he can go to the land and get it without paying a single cent?

But, sir, what is the object of government? It is to tax the rich in order to build up the poor. I have no prejudice against the poor. I am not one that class myself. But what is the purpose of this Federal Government? Where are its powers derived from? From the States. For what purposes? To regulate our foreign affairs, and certain specified limited domestic affairs. Is there within that the power to give away the public lands to the people for the benefit of another? There is not; and however the Senate may vote, however the House of Representatives may vote, and however the public judgment may pronounce, the truth will stand forever, that this Government has no power to tax one portion of the people to give away to another. Here is an amount of land bought, paid for out of the Treasury. That Treasury is replenished by drawing money from the common mass of the people. It is now proposed to parcel out the proceeds of that purchase, and give to any man who chooses to go and occupy it. What right have you to do that? Wherever Government undertakes to equalize the condition of men, and to tax the most industrious, and the most thrifty, and the most economical, and bestow it on the most improvident, the worst spirit of extravagance, in all such cases you will find that it encourages neglect, idleness, laziness, and waste, while it discourages industry, enterprise, and energy. The greatest object of government is protection. It is the only purpose of government—protection. If the Government is to protect the property of every man shall pursue his own course in his own way, subject only to the law, and that he shall have the lawful result of his own acquisitions. But if laziness is to be rewarded; if worthlessness is to be courted and caressed; if the basest men in the land are to receive an equal dividend with my own

exertions, how much will I exert myself, and how much will other people exert themselves? The motive is all destroyed; industry is paralyzed; enterprise is destroyed, and there will be no future progress in this Union. Agrarianism will be the policy—yes, they will want a division every five years. When these five years expire, the worthless men who go on the land and occupy it, when it becomes subject to taxation, as it will, at the end of five years, and when it is sold, will then clamor for another division; and if I should be fortunate enough, or my friend from Oregon who sits before me [Mr. LANE] should be fortunate enough to have a section of land, they will demand that we shall divide with them. What then? Why, perhaps, the Senator from Tennessee will say the popular breeze demands that we should have a second division. Is that to be the rule of this Government? Suppose the popular breeze blows; I say, that whenever the popular breeze sets in a wrong direction, we must meet and repel it.

Mr. JOHNSON, of Tennessee. Who are to be the judges?

Mr. GREEN. Good sense and honesty.

Mr. JOHNSON, of Tennessee. Who is to execute that—the people or the Senate?

Mr. GREEN. The Senate—the people sending them here.

Mr. JOHNSON, of Tennessee. I say the people.

Mr. GREEN. I say the Senate, representing the States of the Union. But they may because the popular breeze sets in that direction, therefore you must have a division. I have already shown to you that the moment the first five years expire it is no longer a homestead, it is subject to the State law. Missouri will sell it for taxes. Will not Tennessee do the same thing? Will not Tennessee sell your homestead for taxes? I want the Senator to answer me. Suppose they do not pay taxes; will you not sell the homestead to coerce the payment of the taxes?

Mr. JOHNSON, of Tennessee. No, sir.

Mr. GREEN. No part of it?

Mr. JOHNSON, of Tennessee. No, sir.

Mr. GREEN. It is a beautiful state of things—a homestead secured, and no taxes to be derived, and no power to coerce the payment of the taxes. Is that the system that the Senator desires the Federal Government to inaugurate? No taxes to be collected from these landless creatures; but they are to squat upon the public land, be protected by the Federal Government, pay no taxes, perform no duty, subject to no law, subject to no execution!

Mr. JOHNSON, of Tennessee. The Senator makes his proposition very broad. It seems to me that the Government is generally in a better condition to do without what is due it than an individual is; and if we exempt a homestead from the payment of a debt between man and man in the same neighborhood, it would seem to me that the Federal Government is competent to get along without collecting taxes from the homesteads of its people. I repeat to the Senator, I would exempt the homestead that gives a man's wife and children, and himself, an abiding place, from the payment of all taxes to the Government, State or Federal.

Mr. GREEN. Is that the law of Tennessee?

Mr. JOHNSON, of Tennessee. I say the homestead is exempt from the payment of any description of debt, either to the State or individuals.

Mr. GREEN. I am not talking about what a State can do. I admit that a State has rights which this Federal Government has not. The States may exempt church property from taxation, as they do; they may exempt school-houses, and academies and colleges from taxation, as they do; but has this Federal Government the power to exempt a college or academy, located in any State, from taxation, State or Federal? It cannot do it, and I hope, therefore, the Senator will stop and discriminate, remembering that a State may do certain things which the Federal Government cannot do.

Mr. JOHNSON, of Tennessee. I would ask the Senator if most of the States do not exempt their public buildings, their burial grounds, their churches, and their benevolent institutions from taxes? Is not that the custom in all the States?

Mr. GREEN. True; exactly as my. I say

the States have a right to do it, and most of them do; but this Federal Government cannot do the same thing. Can we sell a piece of land, or give away a piece of land, and say it shall never be subject to taxation, and that the party occupying it shall never be subjected to the payment of taxes upon it?

Mr. JOHNSON, of Tennessee. I would ask the Senator if the public lands are now lying in the States are subject to taxation?

Mr. GREEN. They are not subject to taxation, because there is a special compact made that they should not be until they were sold. But for that compact, it might be so; but when they are sold they are subject to taxation.

Mr. BENJAMIN. I would remind the Senator also of the fact, that the General Government gave a large quantity of land to the States in exchange for that.

Mr. GREEN. Yes, sir; we gave the sixteenth section, and in some cases the "thirty-sixth section; we gave seventy-two sections for public buildings; we gave the salt springs, and six sections surrounding them, and various other land grants, and five per cent. of the proceeds, as I have said, for not selling them.

Mr. JOHNSON, of Tennessee. Really, I want to be informed on this subject.

Mr. GREEN. You shall be.

Mr. JOHNSON, of Tennessee. Does the Senator concede that the States have authority to tax the public lands lying within their limits?

Mr. GREEN. When you get through, I will answer.

Mr. JOHNSON, of Tennessee. Has not that power been denied again and again? It has been a matter of agreement in the admission of a State, one of the conditions on which also could get it, that she would not tax the public lands. Has the power to tax them ever been conceded and acknowledged on the part of this Government?

Mr. GREEN. As the Senator is now through, I will answer him. I do not think I can answer him while the Senator is still occupying the floor, proposing to propound other questions. The point that he asks does not affect the point I am discussing. It was a mooted question, a disputed question, whether, in the absence of these stipulations, the States would have the right to tax the lands of the United States. To avoid dispute, it has been uniformly adjudged at the time of the admission of the State by the contract to which the Senator from Louisiana called my attention, always without a single exception; but in no instance has Congress attempted to put the title to land, and then say, after it has parted with the title, it should be exempted from taxation—in no single instance; nor can the Senator from Tennessee point one out. The lands are subject to taxation, if the State chooses to tax them, the moment the title passes from the United States.

I venture another thing: that the Senator from Tennessee is wrong in the statement of his own State law. They cannot exempt any part of the property of the citizens of that State from taxation, whether it be the school and the poor-house; and I say that an individual owning property there will be taxed, and that wherever property is taxed it is liable to be sold to coerce the payment of that tax. That is true in every State. It is true in Missouri, in Iowa, in Illinois, in every State Congress that I have ever examined.

Why, then, call it a homestead? What do you mean by a homestead? Is it to be perpetually secured; to be beyond the reach of execution under State laws; to be protected to the Lazarini as long as the worthless creature may choose to do so, and then to be thrown upon it? Is that the homestead? If the States choose to pass such a law, let them do it; but this Federal Government has no such power. It can dispose of the public land, and in disposing of the public land it must do it for the public good, and as a prudent, conscientious trustee, it must keep an eye as to what will be best for the public at large.

What is best for the public at large? We are now receiving from two to two and a half million dollars annually from the sales of the public lands. The Federal Government has no other source of revenue. Our duties upon imports are hardly high enough. I am free to admit, for I would readily this day vote to raise them—hardly high enough to afford revenue sufficient to pay the debts and expenses of Government. Under this

state of things, shall we throw away \$2,500,000 annually? To whom does it go? Who receives the benefit of it? Will it improve Iowa, Minnesota, Missouri, Illinois—any of the western States? It will not. It will prove the direct opposite; and why? The graduation law was passed, and, as has been well said to-day, it has proved a curse rather than a blessing. It has done more harm than good. The principle of the graduation law is just in itself, and yet the practical effect of it has been injurious. That law requires the individual, after settling upon land, to pay for it at a certain price and keep it a certain time before he shall have a title, just as this does. What has been the practical result? The result has been this: a few rich men hired hundreds and hundreds of worthless perjurors to go upon the public lands, swear to occupancy, stay there a little while, and then run away, and transfer the title to the capitalist; and it has proved a means of monopoly. Instead of poor men having the benefit of the law, men get the whole benefit; and I venture to say that this will be the same. If, unfortunately—if to the curse of our country, and to the misfortune of her institutions—this bill should ever be enacted into a law, it will result in a monopoly in the hands of Eli Thayer and such men, sending the creatures of their emigrant aid societies, and taking up thousands and thousands of acres of land, living there until they can wear out and transfer them all to Eli Thayer and his associates. It will result in the same thing, and the Senator's colleague admitted in his speech.

Mr. NICHOLSON. I beg to correct the Senator.

Mr. GREEN. The Senator certainly admitted it would result to the benefit of anti-slavery societies.

Mr. NICHOLSON. No, sir. I said the natural course of things would carry more men from the free States into these Territories than from the slave States. That is what I said on that point.

Mr. GREEN. The Senator admitted that it would hasten it, in his speech, directly, if I recollect a single word that he said. Why, sir, how are these things to be done? Suppose this bill should become a law: who are to reap the benefit of it? I do not see it. Twenty years ago, together his two hundred or five hundred associates; he will pick them up in the streets, and they will go out with a stipulation, a contract, that the land they settle upon they shall transfer to him at the end of five years, and he will pay their expenses out, and thirty dollars by way of a second-class passage. When they get out there, they will locate and pick out all the best lands. They may stay upon them until they comply with the law, and the moment the title is vested in them, worthless vagabonds that they are, they will transfer it to Eli Thayer—I do not mean "Mr. Thayer"—I shall use his name to illustrate my argument, for I mean no disrespect to him. The only reason why I use the name of Thayer is, because his name has been connected with the emigrant aid societies, and I do not wish to say that I use it with any disrespect towards him; for I do not know him, and know nothing of him; but I use it by way of illustration. I say that some prominent, secure, intelligent men may get up societies to locate land under this bill. They are doing it under the graduation law, and the graduation law, which was intended as a benefit to the new States, has proved a curse to all the States. It would be much better if we never had had a graduation law.

But let me say this remark: while they may thus defeat the purpose of the law, not securing homes to anybody, but securing a large monopoly to a few rich men; while they make use of tools to accomplish their purpose—and it is done under the name and the popularity of a homestead, but is in reality no homestead at all—and they pass and redact one moment, we shall see that every man worthy of a farm can get it under existing laws. We have land now to twelve and a half cents an acre. Forty acres will support a family of industrious people well. I know a family—I know a family of five or six children in the family—all raised, educated, and put forth in the world in admirable order—and they are now as good citizens as you can find in the United States—on forty acres of land. Forty acres will cost, at present prices under the gradu-

ation law, five dollars. The man that cannot raise five dollars to pay for it is unworthy to have it. Your talking about exempting it from execution shows the ignorance of any man who promulgates such an idea. Nobody but a State can do that—not the Federal Government. I say, therefore, Mr. President, give the lands to the States, and if the States want homesteaded bills, let them pass them. They are the judges of their own interests, of the causes of their own prosperity, and of the means that will conduce to their public good, than we are.

If you want to rid yourselves of the subject of public lands, give them to the States in which they lie, and I will vote for it; and if Tennessee wants homesteads, let Tennessee have homesteads; if Minnesota wants homesteads, let Minnesota have homesteads; but to talk of this Federal Government making homesteads, which it has not the power to do, looks to me very improper. Homestead! We cannot exempt it one single minute after the title has passed out of the United States. If giving people the privilege of occupying the lands five years in a homestead, then the privilege of occupying them one year is a homestead. I am willing to extend the privilege of occupying the land. That will be the homestead for two years. Your bill is only a homestead for five years. Yet you deplete the Treasury; you dam up the channels that flow into it; you create a necessity for increased taxation; you tax the mass of the people to benefit a few; you create a necessity for aid and are forced out by the stimulus of a society gotten up for speculation. There is no doubt of the fact that some good men will avail themselves of the benefits of this law. Almost any law has some of the good results for it. Under the graduation law some good resulted; but in the aggregate, in the majority of the cases, the fraudulent entries did more harm than good; and instead of settling up the States, (for I live in one of those States, and have seen its practical operations,) it has put the land in the hands of a few men. I saw in my own county an infamous man who gave money and hired indebted individuals to go on the land, take an oath, acquire it, get the title, and in six weeks transfer it to him; and he has more than twenty-five hundred acres of land, when he ought to have a single acre. He has held up for an exorbitant price just as speculators will under this bill, if it should ever become a law.

It will not inure to the benefit of the man who occupies the land; it will result to the benefit of the speculator; and the result will be that large, immense tracts of land will be sold into the hands of the few, not to be sold until exorbitant prices are obtained. It is an injury to the poor; and as a friend of the poor, and of one of them myself, I protest against any such bill. It is not a benefit to the poor. The poor, proud in spirit, indomitable in energy, ask no largesses from the Government. The Senator from Tennessee says protect him. It is all he asks; do that, and if you need his energies, if you need his sinews, if you need his power to assist in the defense of the Government, let him have his land. How would you occupy your land—he who will pay for his home, and feed like an independent freeman. How would you feel if you occupied a farm given to you? Would you not feel humiliated and degraded—a man like a serf? And so with all men. And nobody will go to occupy it, as a general rule, except those who are hired, sent out for purposes of speculation.

Again, sir, what are the materials that are to be sent out? You cannot go to Richmond and hire men to go out there; you might go there and beat your drum, and hold up a flag for six weeks, and not get five men to go. You cannot go to Charleston and get men to go. You may go through the like process there six weeks, and not get five men. But if you go to New York and Boston you will get your thousands of your thousands. Who are they? Men intent on destroying the institutions of the South—men determined to destroy the rights of the South. Where do they go? It is their policy—as Mr. Thayer's was—to colonize Virginia, Missouri, Tennessee, Arkansas, or any other State where they can make an inroad.

Now, Mr. President, I want peace in this Government, I want harmony in this Government; and I will never vote in a manner which will give encouragement in any shape or form to a pro-

cession which may result in the destruction of that peace. I say that this is fraught with mischief. It will do no good to the North, but it will gratify a vitiated taste. It will encourage them to do what, in their hearts, they desire to do, but which, in their judgments, they ought to pause and not do. There is a community of feeling between the North and the South; there is a community of interest between the North and the South; and hence there should be no alienation; there should be no war of one upon another; yet, if this bill should pass, you will find them intent on colonizing Virginia, Kentucky, Tennessee, Missouri, Arkansas, and every State that has any land. They have already attempted it in Virginia, because Virginia lands are cheap lands. They have been forfeited, and sold for the taxes over the mountains.

Let us come to a common honest understanding. Let us not encourage a spirit which is fraught with so much danger. There is a point beyond which even the South, humble as we are, conceding as much as we do, will not go; there may come some event to make us take a stand. A threat would be beneath the dignity of a statesman. It would be beneath the dignity of a Statesman. I will order on the stump. I make no threat; but facts ought to be understood; truths ought to be considered; and these are some of the truths and some of the facts to which we should turn our attention.

You will observe that in the course of my remarks I have simply made the statement that this is an homestead, and that Congress can make no homestead—it belongs to the States alone to make it; second, that it destroys all hope of building railroads hereafter by way of alternate-section grants; third, that it takes the lands away from every friend of the railroad system ought to be against this bill; third, that it destroys the value of all the land warrants, and therefore the friends of the old soldiers ought to be against this bill; fourth, that it is a change in the policy and character of the Government, and that it is a change to give what nothing but honest industry ought to obtain; and finally, that it is encouraging the worst sentiment under the influence of emigrant aid societies, which will sap the foundations of the Government, and in the end destroy it. It is in this light that I regard this bill, and I think that I may approach no difficulty. I know there is a state of public sentiment there too sound to be influenced by the emigrant aid societies; yet I desire to avoid the strife and the contention that will arise from it, and I think that we ought to be aware of any kind of influences that will produce strife, when we can avoid it. It is not just in itself, because it can result in no good. If you say it will settle up the lands, I answer that it will not. The graduation act did not settle up the lands. The land is not yet settled; but speculators have taken hold of it, and have large amounts, which they hold subject to a large price, rather than the Government price, which has been fixed by Congress; and so it will be under this law. It will not be a matter for the benefit of the speculators.

Mr. President, I have been as brief as I could. Perhaps, before the subject is closed, I may take occasion to make some other remarks. I look on this as a serious matter, because it is laying the foundation of a principle which, if followed up hereafter, will run and break down the Government. If the rich are to sustain the poor, if the Government is to divide out the property every five years—for this runs only five years—we had better end the Government at once; we had better put up with the present rule, and never mind it, and blow it up at once, than to live to see the consequences of that agrarian doctrine which will result and take root from this plant, and grow up until it overshadows us all. I hold, if there ever was a principle so destructive in its tendency, this is one of those things; and it is time for us to stop. It is said that it is popular. What if it is? The populace has called for heads, and they were severed; posterity deplored the event. The populace cried against the act. The world was shocked, and the world's voice condemned the act as a crime. Popular! It is the duty of every politician to cultivate an honest public sentiment, not to pander to a vitiated one. They may it is popular. Who made it so? They say that our peo-

ple are indoctrinated in it. Who indoctrinated them?

I shall resist wrong and this agrarian principle as long as I occupy a place in this Chamber. I do not recognize the right of this Government to give away, as a gift, a single dollar to a single man under any circumstances whatever. We have rights, for questions of expediency, of reward, and we have a right to fix compensation. We have a right to give pensions as an encouragement for service; but as a mere gift, we have no right to give away the public lands. They fall into the hands of speculators. It does not secure a homestead to the man who occupies the land, because the moment the five years expire it is subject to State law; and even before then it is transferred by agreement to the speculator or capitalist, who sets about placing men on the land. In every aspect, therefore, in which you can view this measure, it is wrong, radically wrong, and sooner or later the public judgment will so pronounce.

Mr. MASON. There are some communications on the table which require an executive session, and there is other executive business. I move, therefore, that we proceed to the consideration of the Executive Session.

Mr. DOOLITTLE. The honorable Senator will allow me to take the floor. I desire to say a few words on this question. I will give way to his motion.

Mr. MASON. We can devote some time in executive session.

Mr. DOOLITTLE. I merely wish to get the floor.

Mr. MASON. Certainly, I yield for that. I withdraw my motion for the purpose of allowing the Senator to take the floor.

Mr. DOOLITTLE. Mr. President.—THE PRESIDING OFFICER. (Mr. FOSTER in the chair.) The Senator from Wisconsin is entitled to the floor.

Mr. DOOLITTLE. I yield to the Senator from Virginia.

Mr. GWIN. I desire to submit an amendment which I intend to move to the homestead bill; and I move that it be printed. The motion was agreed to.

GOOD FRIDAY.

Mr. MASON. I move an executive session. Mr. PUGH. Before that motion is put, I move that when the Senate adjourns to-day, it adjourn to meet on Monday. To-morrow is Good Friday, and I think the persons of at least a few denominations of Christians regard it as a day of importance. I think we have never sat on that day before.

Mr. BENJAMIN. Saturday has been set aside for finishing the business of the District of Columbia.

Mr. PUGH. Then I amend the motion, so that we adjourn to meet on Saturday.

Mr. IVERSON. I did not hear the Senator from Ohio give any reason for his motion, and its effect will be to put aside the private bill day, which I thought was a day which the Senate will adjourn over until Saturday. Let us go on with the Private Calendar to-morrow.

Mr. PUGH. We have given diligent attention to the Private Calendar, and, besides, a great many private bills have passed in the morning hour. To-morrow is a day which the Senate will adjourn on, at least, regard with peculiar solemnity, and it is a day on which the Senate has heretofore adjourned. I think it is proper to do so.

Mr. IVERSON. I do not very much whether there are or are not Christians in this body, at any rate. [Laughter.]

Mr. PUGH. I expect to attend church myself to-morrow.

Mr. IVERSON. The Senator from Ohio has said we have paid diligent attention to the Private Calendar. If we have, very little has been accomplished. I think we have not passed a dozen bills yet; certainly, I do not think there have been twenty private bills passed since the commencement of the session. There are now one hundred and fifty or more bills on the Private Calendar, and if we lose one day it is an important matter. The day is not a day which we have to have their bills disposed of. I think it is much more important that the business of these claimants should be attended to by Congress, than that we should give attention to the ceremonies of the

church. That is my opinion. Besides, Senators are not obliged to come here to-morrow if they do not choose to do so. They can go to church and then come here. There will be plenty of time to attend to both duties. I hope the Senate will not adjourn over.

Mr. PUGH. That would be a good argument for sitting on Sunday; but I think we had better not.

Mr. HAMLIN. I would not interpose any objection to any Senator attending church. I think most of them need it, [laughter]; but, however much they need it, I think there is an obligation they owe to the country which ought to demand their attendance here to-morrow. The House has already, by a vote, assigned Saturday for the consideration of business relative to the District of Columbia. We are the exclusive legislative body for the people here. The Committee on the District—and I would not say a word, but I notice that the chairman of the committee is out—have reported on variety of bills, in which the people here feel, and have a right to feel, a deep interest. If this motion is carried, it carries it over until Monday.

The PRESIDING OFFICER. The motion is, that when the Senate adjourns to-day, it be to meet on Saturday.

Mr. HAMLIN. I thought it was to carry over both days; and I thought that was an additional reason why we ought not to adjourn over to-morrow, if it also adjourned us over Saturday. Then I say, that justice to private claimants who have reports on their cases demands that we should act on those reports—either vote for them or against them.

The PRESIDING OFFICER. The question is on the motion that when the Senate adjourns to-day, it be to meet on Saturday next.

Mr. HAMLIN. I call for the yeas and nays. It is a gross outrage.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 29, as follows:

YEAS—Messrs. Anthony, Benjamin, Cameron, Clay, Fitzpatrick, Fox, Hale, Hammond, Hays, Johnson, Arkansas, Kennedy, Lane, Sumner, Pearce, Powell, Fugh, Rice, Sebastian, Shields, Sumner, and Wigfall—21.
NAYS—Messrs. Briggs, Chalmers, Claiborne, Clement, Clark, Clingman, Colman, Dixon, Doollittle, Durkee, Frazer, Fitch, Foster, Green, Grimes, Grant, Hamlin, Harlan, Hendricks, Johnson, Johnson of Tennessee, Nicholson, Salisbury, Stewart, Simmons, Ten Eyck, Trumbull, Wade, and Wilson—29.

So the motion was not agreed to.

EXECUTIVE SESSION.

Mr. MASON. I now renew the motion for an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Thursday, April 5, 1860.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. Thomas H. Stockton. The Journal of yesterday was read and approved.

ALICE HUNT.

Mr. CASE. Mr. Speaker, there is upon the Speaker's table a bill from the Senate for the relief of Alice Hunt, widow of Thomas Hunt. I ask that it be taken up, read a first and second time, and referred to the Committee on Invalid Pensions.

There being no objection, the bill was taken from the Speaker's table, received its first and second readings, and was referred to the Committee on Invalid Pensions.

POST OFFICE APPROPRIATION BILL.

Mr. SHERMAN, from the Committee of Ways and Means, reported a bill making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1861; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CHANCE OF REFERENCE, ETC.

On motion of Mr. SHERMAN, the Committee of Ways and Means was discharged from the further consideration of the following papers; and they were disposed of as indicated below:

The remonstrance of one hundred and ninety-

six citizens of Davis county, Iowa, against the abolition of the franking privilege—referred to the special committee on abolishing the franking privilege.

Memorial relative to an appropriation of money for the transportation and settling of the Indian tribes on their reserves east of the Cascade mountains—laid upon the table.

The following executive communications were generally referred to the Committee on Territories:

A communication from the Secretary of the Treasury, in reference to an appropriation for the compensation and mileage of the members of the Legislative Assembly of Utah.

A communication from the Secretary of the Treasury in reference to an appropriation, and the accounts incident thereto, connected with the Territory of Utah;

Copy of a letter of the Comptroller to Hon. A. B. Greenwood, dated March 22, 1858, relative to the affairs of the late Almon W. Babbitt, secretary of the Territory of Utah; and

Sundry other letters in relation to the Territory of Utah.

RAILROAD LAND IN ALABAMA.

Mr. CLOPTON, by unanimous consent, introduced a bill extending the provisions of the sixth section of the act granting public lands to the State of Alabama, to aid in the construction of certain railroads, approved June 3, 1850, to the North and South Alabama railroad; which was read a first and second time, and referred to the Committee on Public Lands.

THE COOLIE TRADE.

Mr. ELIOT. I ask leave to report, from the Committee on Commerce, a bill prohibiting the Chinese coolie trade by American citizens in American vessels.

The bill was read by its title.

Mr. ELIOT. I move that the bill be postponed for three weeks from this day, and, with the report, be printed.

Mr. CLAYTON. I understood that the bill was to be introduced for reference only, or I should certainly have objected to it.

Mr. ELIOT. It has been referred. I hope the gentleman will not object. I have been trying for weeks to get the bill before the House.

Mr. BRANCH. Do you propose to refer it? Mr. ELIOT. I propose to postpone it to a day certain. It has been referred.

Mr. BRANCH. I must certainly object to the receipt of anything except for reference.

Mr. SHERMAN. I would suggest to the gentleman from Massachusetts that he should let the bill be referred to the Committee of the Whole on the state of the Union.

Mr. ELIOT. No, sir; it makes no appropriation.

Mr. SHERMAN. You can move to discharge the committee from its consideration at some time.

Mr. ELIOT. I think there can be no objection to having the bill postponed for three weeks. The House can then do what they choose with it. I desire to have the report printed. I think that gentlemen will then see that it is a subject which calls for immediate action by Congress. I hope no objection will be made.

Mr. BRANCH. I do not feel inclined, without knowing anything about the bill, to consent to its being placed in a privileged condition. I feel great dissatisfaction at all times to object to the introduction of bills for reference; but this is quite a different matter.

Mr. ELIOT. If gentlemen object when they read the report, I will not press the bill when it comes up.

Mr. BURNETT. How does this bill get in?

The SPEAKER. The gentleman from Massachusetts takes unanimous consent to introduce the bill.

Mr. ELIOT. It comes from the Committee on Commerce.

Mr. BURNETT. I object to the printing of the bill. I am opposed to it.

Mr. ELIOT. The gentleman from Kentucky yesterday offered several resolutions, which were not objected to on this side of the House.

Mr. BURNETT. I am opposed to the principle of the bill, and will object, unless the gentleman can get it in the regular order.

Mr. ELIOT. It is already in.

Mr. BRANCH. I hope the gentleman will not claim that the bill has been admitted, for I was listening to the reading of the bill by its title under the impression that it was to be introduced simply for the purpose of reference, and, therefore, I made no objection. But if gentlemen are going to take advantage of our inattention in this way, to bring bills before the House, I shall feel it my duty to object to everything out of order at this time forth.

Mr. ELIOT. I am not disposed to take advantage of anybody. I only wish to bring the bill before the House in such a way as to get action upon it. If it goes to the Committee of the Whole on the state of the Union, there it will rest; and I do not wish it to be disposed of in that way.

The SPEAKER. Objection being made, the bill cannot be received.

NAVIGATION OF THE EAST RIVER.

Mr. BARR. I ask the unanimous consent of the House to introduce a bill authorizing the formation of a company for the improvement of the navigation of the East river at Hell Gate, New York, for the purpose of reference.

Mr. TRAIN. I object to everything out of order.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. PATTON, a clerk in the office of the Secretary of the Senate, notifying the House that that body had passed a bill of the House entitled "An act (H. R. No. 940) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York;" and also notifying the House that that body had passed a bill (S. No. 249) for the relief of Samuel J. Henley, and a joint resolution (S. No. 23) in relation to the minister from Japan, in which he was directed to ask the concurrence of the House; and also notifying the House that it had ordered the printing of the following documents:

Resolution of the Legislature of New Jersey, concerning duties on imported merchandise;

Resolution of the Legislature of New Jersey, relative to the removal of obstructions in the Delaware river;

Resolution concerning the establishment of a Government foundry in New Jersey;

Resolution of the Legislature of New Jersey, relative to the public lands;

Resolution of the Legislature of New Jersey, for the improvement of navigable waters on the Atlantic coast;

Resolution of the Legislature of Iowa, for additional mail facilities;

Resolution of the Legislature of Kentucky, in reference to pensioning the soldiers of the war of 1812;

Resolution of the Legislature of Kentucky, relating to treaties for the surrender of fugitives from labor;

Resolutions of the Legislature of Kentucky, in relation to duty on tobacco; and

Resolutions of the Legislature of Kentucky, in reference to the enlargement of the Louisville and Portland canal.

PENSION BILL.

Mr. HOWARD. I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill (No. 66) giving pensions to the soldiers of the war of 1812, and that it be referred to the Committee on Military Affairs, and printed.

Mr. ELIOT. I object to everything out of order.

Mr. BARKSDALE. I call for the regular order of business.

POLYGAMY IN UTAH.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 7) to punish and prevent the practice of polygamy in the Territories of the United States, and other places, and disapproving and annulling certain acts of the Legislative Assembly of the Territory of Utah; on which the gentleman from Tennessee [Mr. NELSON] resumed his floor.

Mr. NELSON continued his argument, interrupted by the adjournment yesterday, and finished it, in support of the bill as reported by the committee. [A report of his whole speech will be found in the Appendix.]

objection I have referred to, but which, under the rules of the House, I am not permitted to state, constitutes a sufficient reason with me for voting in the negative.

Mr. COBB said: Mr. Speaker, I give my vote with great doubt. If I err at all, I have the consciousness that I err upon the side of morality. I vote in the affirmative.

The vote was then announced, as above recorded.

Mr. MAYNARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PUBLIC PRINTING.

Mr. SHERMAN. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HASKIN. I desire the gentleman will yield to me to make a motion for the postponement of the further consideration of a special order fixed for this day.

Mr. SHERMAN. I yield for that purpose.

Mr. HASKIN. I move that the further consideration of the resolutions relative to the public printing, reported from the Committee on Public Expenditures, and which was set down for this day, be postponed until Thursday next.

The motion was agreed to.

JAPAN MINISTER.

Mr. BURLINGAME. I ask the unanimous consent of the House to take from the Speaker's table Senate Resolution No. 23, in regard to the minister from Japan.

There was no objection. The joint resolution read a first and second time, and on motion of Mr. BURLINGAME, referred to the Committee on Foreign Affairs.

CONTENDED ELECTION.

Mr. COBB said: Mr. Speaker, I rise to a question of privilege.

Mr. SHERMAN. There can be no higher question of privilege than the one I submit to you, into the Committee of the Whole on the state of the Union, and I insist on its being put.

Mr. SICKLES. I desire to present to the House some papers in reference to the contest for my seat upon this floor, between Mr. Williamson and myself, in order to have them referred to the Committee of Elections. Before they are referred, I ask that a portion of them, which I have marked, may be read. It will be remembered that, on the 21st of March last, this House passed a resolution requiring Mr. Williamson to serve upon me a particular statement of the grounds upon which he asserted his claim to my seat. On Saturday last I received from him a paper purporting to be such a statement. The paper is substantially a mere repetition of the petition heretofore presented to the House and, of course, if the House did not require something more to be served on me than a mere rehearsal of the contents of that petition, it would not have required him to serve a further paper. I hold his notice in my hand. I have prepared a specification of the objections to that notice, showing its insufficiency and the impossibility for me to take issue upon it, or to proceed to take testimony upon it. I desire to have this paper read.

Mr. SHERMAN. I submit whether this is a question of privilege. It is a matter for the Committee of Elections.

Mr. SICKLES. It touches the right of a member to a seat upon this floor; and therefore, it is a question of high privilege.

Mr. SHERMAN. I do not see how, in this incidental way, we can go into the validity of this notice.

Mr. SICKLES. I wish the House to know the character of the papers I submit; and then to have them referred to the Committee of Elections.

Mr. SHERMAN. I have no objection to the reference.

Mr. SICKLES. There are portions of the papers that I deem it material should be read.

Mr. SHERMAN. I object to the reading of the papers. It will unnecessarily consume the time of the House. Let the papers go to the Commit-

tee of Elections; and when it is proper to bring the matter before the House for its consideration, that committee, which has the power to report at any time, will submit its report.

Mr. SICKLES. The papers are not voluminous. I desire the nature of the objections made, as well as the character of the notice, to be understood by the House.

Mr. SHERMAN. I do not think that it is proper to have the papers read at this stage of the proceedings. I object.

Mr. SICKLES. I have the right to have the papers read. I insist that they be read as a portion of my speech.

Mr. HURNETT. It seems to me that the proposition is one of the highest privilege. It touches his right to a seat upon this floor. Even leaving that point out of view, we have the right to have a paper read which it is proposed to refer.

The SPEAKER. The Chair is of the opinion that the gentleman is entitled to have the paper read.

The Clerk, read as follows:

In the matter of the Third Congressional District.

Anno J. Williamson, contestant,

against

Daniel E. Sickles, sitting member.

Know all men, that notice that upon the paper served upon me by your friend on Saturday the 31st ultimo, pointing out the various errors and omissions of said election, and of said contest, required by the resolution of the House of Representatives, passed this ultimo, and upon the exhibit for the purpose of which herewith submitted, I should apply to the Committee of Elections on Thursday, the 5th of April, instant, at eleven o'clock, a. m., at the Capitol in the city of Washington, or at any other place where the parties can be heard, for an order requiring you to make your statement more particular, specific, and certain; and in default thereof, that all the averments of your statement be taken out as inadmissible, insufficient, and immaterial; and that each order shall first state further notice shall be given, and that the law relating to the investigation shall be construed, and also what further time shall be allowed the parties, or either of them, for such notice and the answer thereto, and for the further filing of the statement by the contestant, and the House of Representatives may deem just and proper. I wish you please take notice that a particular reference is made in the annexed exhibit A to the portions of my statement deemed deficient.

D. E. SICKLES.

To ANNO J. WILLIAMSON, Esq.

NEW YORK, April 2, 1860.

EXHIBIT A.

In the matter of the Third Congressional District of New York.

Anno J. Williamson, contestant,

against

Daniel E. Sickles, sitting member.

The undersigned, Daniel E. Sickles, a Representative in Congress from the State of New York, respectfully represents:

That, on the 21st of March ultimo, the House of Representatives, by resolution, required Anno J. Williamson to serve upon the undersigned, within ten days from the passage of said resolution, a particular statement of the grounds upon which said Williamson contests the right of the undersigned to the seat of Representative for the third district of the State of New York;

That the undersigned was also, by said resolution, required to answer such notice within twenty days thereafter;

That, in accordance with the parties were allowed sixty days to take testimony upon the issues thus joined;

That, on the 24th of March ultimo, the said Anno J. Williamson, by a newspaper called the "New York Herald," published in the said city, printed an article in the editorial columns of said paper, of and concerning, said controversy, and in which paragraph of which paragraph of which paragraph from any and all persons, which would enable said Williamson to support the allegations in his petition presented to the House on the 21st of February ultimo, which paragraph is in the words following, to wit:

"In the mean time, all parties interested in this case, on behalf of the contestant, are invited to compare the statement of Alfred Mitchell, Esq., attorney at law, whose office is at No. 220 Broadway. The contestant feels confident that he will be able to show that the statement of Mitchell is untrue in his petition; but, at the same time, he begs to say that he will be obliged to his friends and the citizens of the district to give him their aid and assistance in this contest. If he can get at all the facts, so as to be able to lay them before the House of Representatives at the time of the trial, he feels confident that there will be no hesitation on the part of that body to do justice to the third congressional district."

The undersigned waited in the city of Washington until Thursday evening last, 28th ultimo, to receive the said notice from Mr. Williamson, but not receiving the same, and having occasion to go to the city of New York, the undersigned informed the chairman of the Committee of Elections, Hon. JOHN A. GILMAN, of his intention to be acknowledged by the House of Representatives, and authorized and requested Mr. Gilman to receive and acknowledge the same on his behalf.

That on the evening of the 21st ultimo, in the city of New York, it being the last day upon which notice as aforesaid could be given, and not having received the same from Mr. Williamson, the undersigned sent to Mr. Williamson's place of business to inquire whether he intended to

serve any notice upon the undersigned, and if so, that he would wait said five o'clock, p. m., at the office of the city clerk, for the service of the same.

That soon afterwards, the counsel of the said Williamson, Alfred Mitchell, Esq., and another person, came to the undersigned, and requested that he stop the undersigned from pursuing to the particular statement of the grounds of said contest, required by said resolution to be served as aforesaid.

That the said paper is substantially a repetition of the contents of the petition of the third ward, and is, on the behalf of, and Williamson to the House, containing only vague, indefinite, and general allegations;

That the undersigned is not so much as sufficiently definite in show that they, or any of them, are material; that no issue of fact can be framed upon them; that the said Mitchell, Esq., is not so generally true in his admissions or denials of an equally vague and sweeping character;

That said statement charges that many illegal votes were polled, but does not give the name of our illegal voter; That the election took place on the 3d day of November, 1858;

That the poll-books containing the names of all the persons who voted at the several places where the polls were held in said district, are, now, under the care of the clerk in the office of the county clerk of New York;

That either the said Williamson has no information or knowledge of any illegal votes having been polled, upon which he can base a charge against the undersigned, or, else, having such knowledge or information, he conceals and withholds the same from the House;

That said Williamson should be required either to abandon charges which cannot particularly specify, or else to disclose the particular names of the persons who were designated to ascertain whether they are true or not, and thereupon to take issue upon them;

That the said Williamson charges that frauds were practiced by the inspectors and canvassers, in all the election precincts in the several wards comprising the congressional district;

That the fifth wards of the city, in writ: the first, second, third, fifth, and eighth, are embraced in the third congressional district;

That the first ward contained five election precincts; the second ward, three; the third ward, two; the fourth ward, the fifth ward, six, and the eighth ward contained eleven election precincts, in all of which polls were held;

That the first ward was divided into two election precincts, and also three canvassers—officers duly elected or appointed, and authorized by law to act, and who did act in the election;

That although the statement of Mr. Williamson charges generally upon the eighty-four inspectors and the eighty-four canvassers, yet in specific act only twenty-eight inspectors embraced within the said congressional district, various acts of fraud and criminal misconduct in and about the election, and in the canvassing, and in the counting of the votes were lost to the said Williamson, or guarded by the undersigned, in consequence of the misconduct charged, to the injury of the undersigned and to the injury of the voters received by the undersigned;

That the twenty-eight election precincts embraced within the said congressional district, only two precincts, namely: the third and fourth precincts of the first ward, are particularly specified in the statement of the undersigned; the proceedings contained in the contestant's statement, although the charges are made in general terms as to all the precincts, are not alleged how many votes the contestant, or the sitting member charged, by any illegal act done in the said third and fourth precincts of the first ward;

That it is held by the contestant that his officers, marshals, and other persons in the service of the United States, and then stationed at or near the said third district, voted illegal at said election, but the name of no one of said pretended illegal voters is given, nor is it stated in what election precincts such votes were polled;

That it is stated by the contestant that he was induced by the agents of the undersigned to deposit their ballots for him, yet no such agent is designated, nor is the name given of any person who was induced to do so, nor is it stated what such vote was deposited;

That it is said that inspectors, whose duty it is to receive the ballots, and to count the ballots, defrauded the contestant of ballots cast for him, and counted ballots for the sitting member which were not given to the sitting member; yet of the fifty-four canvassers no charge is made in a grand way, not one is designated;

That it is alleged that canvassers, whose duty it is at the close of the polls to receive the ballot boxes from the inspectors and to count the ballots, defrauded the contestant out of ballots cast for him, and counted ballots for the sitting member which were not given to the sitting member; yet of the fifty-four canvassers no charge is made in a grand way, not one is designated;

That it is alleged that many persons voted more than once at said election; but it is not alleged in which of the many precincts this occurred, nor is the name of any person given who voted more than once;

That the undersigned has no knowledge or information of any of the fraudulent occurrences thus vaguely mentioned, and that he is not so much as sufficiently definite in show that they, or any of them, are material; and does not believe, that any such misconduct was committed by any of the inspectors or canvassers or other persons charged in the statement of the undersigned, so far as they are imputed to the undersigned, or to any persons employed or authorized by him, are without foundation and wholly untrue; and that the undersigned has no knowledge or information of any illegal vote put, obtained for, or received by him at said election; but that, on the contrary, the said Mitchell, Esq., and another person, were wrongfully defrauded of many votes at said election, as he will be in due time particularly able to prove.

D. E. SICKLES.

VERIFIED BY THE CLERK OF THE HOUSE OF REPRESENTATIVES, Washington, 2d April, 1860.

CLERK OF REPRESENTATIVES, Washington, 2d April, 1860.

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CLERK OF REPRESENTATIVES, Washington, 2d April, 1860.

the Senate bill No. 84, for the Pacific telegraph, largely reducing the amount to be paid by the Government. We do not desire to have them printed, so that gentlemen can read them, before we shall ask the House to act on them.

There being no objection, the report was received, and the amendments and the Senate bill ordered to be printed.

ADMISSION OF KANSAS.

Mr. GROW. I desire to call the attention of the House to the fact, that to-morrow and Saturday will be private bill days, and that on Tuesday next, the bill for the admission of Kansas will come up in order. I believe there are no special orders to prevent its being taken up. I want to give notice that on Tuesday next I will ask a vote on that bill.

Mr. SMITH, of Virginia. The gentleman from Pennsylvania is giving some notice. I should like to know if there is any validity in it.

Mr. SHERMAN. Oh, no; it is a mere notice of his intention.

Mr. SMITH, of Virginia. Because I will object to any special order.

Mr. GROW. The bill will come up regularly on Tuesday.

THE TARIFF BILL.

Mr. SHERMAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHINGTON, of Maine, in the chair.)

Mr. SHERMAN. I move that House bill No. 338, to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes, be taken up for consideration. I do not expect to have a vote taken on this bill for two or three weeks; but I wish simply to have it taken up for consideration. I hope there will be no objection.

The CHAIRMAN. The Chair understands the gentleman from Ohio as asking the consent of the committee to lay aside the bills having precedence of this, and to take up this bill.

Mr. BRANCH. Is it in order for the gentleman from Ohio to ask to lay aside all the bills in a body? I make the point of order that he must make a separate motion to lay aside each.

The CHAIRMAN. The gentleman from Ohio asks the consent of the committee to his proposition.

Mr. BRANCH. I object.

Mr. SHERMAN. Then I move to lay aside the annual message of the President. I will move to lay the bills and resolutions aside, one by one, until we reach the tariff bill. I only desire to reach the bill in order, and we might as well do it by a single vote.

Mr. PHELPS. The gentleman from North Carolina might as well withdraw the objection.

Mr. SHERMAN. I do not intend to press a vote on the bill, but I wish simply to reach the bill and let it stand before the committee.

Mr. PHELPS. I have this to say to my friends: that there are a sufficient number of members in the House desirous of having the tariff bill taken up for consideration, to take it up; and it is, therefore, useless for us to consume time by requiring a vote to be taken on laying aside each bill that precedes it on the Calendar. I think the better course would be to let the bill be taken up at once by unanimous consent.

Mr. SHERMAN. I hope that course will be pursued.

Mr. BRANCH. I do not think the fact that there is a majority of the House in favor of passing this bill, or of taking it up, is by any means a sufficient reason for our jumping over the rules, or dispensing with the usual order to motion of the gentleman from Ohio, because I was opposed to reaching the bill, to taking it up, or to acting on it in any way at all; but if I stand alone upon

this side of the House, I will not persist in that objection.

Several MEMBERS on the Democratic side of the House. You do not stand alone.

Mr. McCLERNAND. I shall object, if the gentleman does not.

Mr. BRANCH. Then I persist in my objection.

Mr. HOUSTON. Mr. Chairman—

Mr. SHERMAN. I ask for a vote upon my motion without further discussion.

The CHAIRMAN. All discussion with regard to the priority of business is out of order.

Mr. HOUSTON. I know that, and I am not going to discuss the question. I merely wish to ask the gentleman who is at the head of the Committee of Ways and Means how many of his appropriation bills are yet in the committee undischarged? The gentleman will see the object of my question. I desire to press those bills first.

Mr. SHERMAN. There is no appropriation bill standing ahead of this bill upon the Calendar. There are some four or five after it; but we can at any time make those appropriation bills special orders, and that will place them in advance of this bill.

I will say further to the gentleman that I do not propose to press a vote upon this bill for at least three weeks, so as to allow ample time for the discussion of it. I shall propose to make the remaining appropriation bills special orders one by one. I now insist on my motion to lay aside the first bill upon the Calendar.

Mr. BRANCH. I move that the gentleman from Ohio whether it is as his purpose, when the bill is reached, to make it a special order?

Mr. SHERMAN. I do not intend to move to make it a special order. If we reach it in its order, I will leave the committee; but if it will not prevent a majority of the House from making the appropriation bills special orders, at any time, one by one. I propose to do that; but, meantime, this bill will stand in order before the committee.

Mr. HOUSTON. I desire to make one more question of the Chair. It is this: I have not the Calendar before me, and I do not know, therefore, what bills precede this one; but I desire to know of the Chair whether, if they are now passed over, and this bill is taken up, that will not make this bill the first order of the day?

Mr. SHERMAN. I admit that a majority of the House can make the appropriation bills special orders. They cannot make this bill a special order. That would take a two-third vote. But, as between the bills that precede this—not appropriation bills—and this bill, will not the taking up of this bill postpone all the other bills until it is disposed of?

The CHAIRMAN. The Chair understands that if this bill is taken up by the committee it will be before the committee until it is disposed of, and no other bill shall be made a special order, and thus take precedence of it.

Mr. SHERMAN's motion was agreed to.

The next business on the Calendar was a resolution directing the Clerk to remove the present session from the Calendar.

Mr. SHERMAN. I make the same motion in regard to that—that it be laid aside.

Mr. WINSLOW. I desire to ask the gentleman when it is his business to call for action on the tariff bill.

Mr. SHERMAN. At any time when the committee desire it, if they will indicate any day I have no particular wish in regard to it.

Mr. SHERMAN's motion was agreed to.

Mr. BRANCH. I would inquire if motions to set aside bills are debatable?

Mr. SHERMAN. They are not.

Mr. BRANCH. Does the Chair hold that they are questions relating to the priority of business?

The CHAIRMAN. The Chair so holds, and it has been the practice of the House so to regard them.

The next business in order was a bill granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period.

Mr. SHERMAN. I move that that bill be laid aside.

Mr. BURNETT. I desire to know under what rule the Chair decides that that bill be laid aside on the state of the Union, a gentleman has

no right to take the floor now and discuss that bill?

The CHAIRMAN. A motion is made to postpone the consideration of this bill, and questions in reference to the order of business are not debatable, by a special rule, and under the uniform practice of the House. The question is upon laying aside the bill, the title of which has been reported.

Mr. BRANCH. I shall call for a division upon that, and for tellers, in order that we may see who is willing to set aside the old soldiers, in order to get up a tax bill. [Laughter.]

Tellers were ordered; and Messrs. BRANCH and BERTINOT were appointed.

The committee divided; and the tellers reported—aye 30, no 38.

So the bill was laid aside.

The following resolution and bills coming up in their order, were then severally laid aside, on motion of Mr. SHERMAN:

A resolution deprecating the example which has of late years obtained, by the practice of the subordinate officers of this House of appointing ex-members of Congress to inferior places within their gift, as derogatory to the dignity of the House and calculated to impair its influence with the country.

A bill to establish an assay office in the city of St. Louis, in the State of Missouri.

A bill to provide for a superintendent of Indian affairs for Washington Territory and additional Indian agents.

An act in relation to the assignees of bounty land warrants.

A bill to enable the trustees of the Blue Mount College to preempt a certain quarter section of land, and for other purposes.

A bill to provide for the public printing, binding, engraving, and lithographing.

A bill to reduce the expenses of the Post Office Department.

A bill to suppress the unlawful collection and delivery of letters.

A bill to provide for an appeal to the Supreme Court of the United States in certain criminal cases.

A bill to divide the State of Pennsylvania into three judicial districts, and to establish a district court to be holden in the city of Erie.

A bill to authorize district judges of the United States to assign one of their districts in certain cases.

The following bill will come up in its order.

A bill (H. R. No. 338) to provide for the payment of outstanding Treasury notes; to authorize a loan; to regulate and fix the duties on imports, and for other purposes.

Mr. SHERMAN. That is the bill which I proposed to take up for consideration. I move that the first reading be dispensed with.

The motion was agreed to.

Mr. LOVEJOY obtained the floor.

Mr. STEVENS, of Pennsylvania. It is now four o'clock, and if the gentleman from Illinois will give way, I will move that the committee rise, and let the gentleman start fresh in the morning.

Mr. LOVEJOY. I will yield, if it is the wish of the committee. It is immaterial to me whether I am on or in the morning.

Mr. ADRIN. I move, then, that the committee rise.

Mr. BURNETT. I desire to call the attention of the gentleman from Illinois to the fact that to-morrow is private bill day, and the gentleman will have an opportunity of going on with his speech then.

Mr. LOVEJOY. I prefer to go on now.

Mr. LOVEJOY then proceeded to address the committee upon the slavery question. [His speech will be published in the Appendix.]

Mr. HARDEMAN obtained the floor.

Mr. HATTON. I move that the committee rise.

Mr. WELLS. If the gentleman from Georgia does not desire to go on this evening, I would like to occupy the seat as I have some remarks which I desire to submit.

Mr. HARDEMAN. I have no objection, if it is the understanding that I shall have the floor when the House next resolves itself into the Committee of the Whole on the state of the Union.

Mr. VAN METER. I object to the result is to be to have this committee continue in session two or three hours, with only half a dozen members present.

Mr. BRANCH. Subject without qualification. The CHAIRMAN. The question is on the motion that the committee rise.

The motion was agreed to.

So the committee rose and the Speaker having resumed the chair, Mr. Wadsworth, of Maine, reported that the committee had had the Union generally under consideration, and particularly House bill (No. 388) to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duty on imports, and for other purposes, and had come to no resolution thereon.

Mr. BRIGGS. I move that the House do now adjourn.

Mr. COVODE. Will the gentleman withdraw his motion a moment? I rise to a question of privilege.

Mr. BRIGGS. I am willing to accommodate the gentleman a moment. I will hear him.

Mr. COVODE. I rise to a question of privilege.

Mr. BRANCH. I hope no gentleman will endeavor to transact any business now.

Mr. COVODE. I am instructed by a special committee to make a report to the House.

Mr. BRANCH. I object.

Mr. COVODE. The gentleman has no right to object. It is in the privilege matter.

Mr. FLORENCE. A motion to adjourn is a motion of higher privilege than any other.

Mr. BRANCH. The motion to adjourn is a privileged motion.

Mr. MILES. I beg the gentleman from New York to withdraw his motion. To-morrow is Good Friday, and a great many members are exceedingly unwilling to sit to-morrow; and I beg the gentleman to allow me to offer a motion that when the House adjourns it adjourn until Monday next.

Mr. FLORENCE. And on Good Friday we can pass a great many private bills, and do a good deal of good. I believe to-morrow is objection day.

Mr. BRIGGS. I insist on my motion to adjourn.

The motion was agreed to; and the House accordingly (at five o'clock, p. m.) adjourned.

IN SENATE.

Friday, April 6, 1860.

Prayer by the Chaplain, Rev. Dr. Guale. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. DOOLITTLE. I present the memorial of Hon. Daniel S. Dickinson and other citizens of Binghamton, New York, praying for the passage of an act directing a term of the district and circuit courts of the United States for the northern district of New York to be held at that place, and a petition of Horatio Ballard and others, of Cortland county, N. Y., praying for an act directing the circuit and district courts of the United States to be held at Binghamton, New York. In connection therewith, I desire also to present a statement made by the clerk of the circuit court for the northern district of New York, in a letter addressed to the Hon. Charles B. Stowes, of the House of Representatives, communicating some facts on this subject; and also a statement touching the number of counties, and the population of the several counties interested in having a court held at that place, they containing some four hundred thousand people; also a report in which is contained a sketch of a map and certain statements bearing on this subject. I move that they all be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. CAMERON presented the petition of Joseph Wilson, a surgeon in the Navy, praying that the surgeon of the Navy may be allowed an increase of pay; which was referred to the Committee on Naval Affairs.

Mr. BINGHAM presented the petition of William Fairfield, a soldier in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. KENNEDY, it was Ordered, That leave be granted to withdraw from the files

of the Senate an original deed from the United States senator, in 1815, to Abraham Hines and Matthew Hines, for a lot in the city of Washington, bought by them at a tax sale of the Government.

On motion of Mr. MASON, it was Ordered, That leave be granted to withdraw the memorial of the legal representatives of Thomas Nelson, an officer in the military forces of the Government, for a house destroyed by the military forces during that war, and to be allowed the compensation pay to which he was entitled.

BILL INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 381) to provide for holding the circuit court and district court of the United States at Binghamton, in the State of New York; which was read twice by its title, and referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Jeffrey T. Adams, late clerk of the United States court for the Territory of Minnesota, praying to be allowed the compensation contemplated by the act of 26th of February, 1853, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 220) for the relief of Anson Dart, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 369) for the protection of the fisheries upon the Potomac river in the District of Columbia, reported it with an amendment.

STEVEN'S RAILROAD REPORT.

Mr. LANE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of printing two hundred copies of the report of the late General Stephen, in explanation of a southern route for a Pacific railroad, for the use of Messrs. Suckley and Cooper, the naturalists of the expedition.

ISLAND OF SAN JEAN.

Mr. LANE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be directed to communicate to the Senate the report of Henry R. Crocker, Esq., regarding the facts and occurrences connected with the occupation of the island of San Juan.

WILLIAM F. BOWLEY.

Mr. HALE. I ask the indulgence of the Senate to take up, for passage, Senate bill No. 373. It was reported by the Committee on Claims yesterday, and the Senate will give me their ear for about two minutes, I think they will pass it. It is in behalf of an old man, whom many Senators may have met about the city, walking on two crutches, nearly eighty years of age. His name is Bowley. He was reduced to this state of infirmity in the service of the United States on a national vessel; but not being an enlisted sailor, he does not come within the pension law. The committee have reported a bill to give him the small sum of \$500, in full for his injuries. I move that the bill be taken up.

The motion was agreed to; and the bill (S. No. 373) for the relief of William F. Bowley was read a second time, and considered as in Committee of the Whole. It proposes to allow the sum of \$500 to William F. Bowley, for severe personal injuries received by him while employed by the United States on board the frigate Congress, which rendered him a cripple for life.

Mr. HALE. I think I am justified in moving to increase the sum to \$800. That was the sum originally asked; and I think that was the judgment of the Committee on the Claims, who had the subject under consideration. But, for fear it might not pass, they put the bill at the small sum of \$500. The old man now stands at your door a cripple, and he has been so for years, from injuries received in the service. I move the amendment, and I ask the chair to refer the Committee on Claims to give his views upon it.

Mr. IVERSON. The committee had this case

under consideration in three aspects. The old man asked some compensation for a machine he had invented and obtained a patent for from the Government. He alleged that the machine was in the use of the Government, and that they ought to pay some compensation for it. He also claimed, and found that his patent expired in 1830. If the Government used it, they had a right to use it after the patent expired; and therefore we declined to give compensation—although it was a very valuable invention, and no doubt the Government has derived some benefit from it. He also asked compensation for injuries sustained in the employment of the Government. The fact was, the old man was employed on the frigate Congress, at the navy-yard at Washington city, and fell from a scaffolding into the hold; timber fell on him, and he has been a cripple ever since. He came before the committee, and I do not think I have ever seen a case that appealed so strongly to the sympathies of Senators. He is in a very bad condition, and has been so for many years, growing out of the injuries received on that occasion. He has now grown a very old—over eighty years of age—and is in very poor; and he asks Congress to allow him a pittance for the residue of his days. I was in favor, myself, of allowing \$800, which the committee allowed in another case to a man injured at the navy-yard, and who was a very young man, very much under circumstances like these. Some members of the committee, however, said, "Perhaps if it were put at a lower sum it would more readily pass." But I am satisfied he ought to have \$800, and I am very willing to vote for the amendment which the Senator from New Hampshire has proposed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES PORTERFIELD'S REPRESENTATIVES.

Mr. DURKEE. The Committee on Revolutionary Claims, to whom was referred the bill (H. R. No. 443) for the relief of the legal representatives of Charles Porterfield, deceased, and to be reported to the Senate, and recommend its passage. I ask that it be put on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Interior to cause to William Kinney and Thomas J. Michie, executors of the last will and testament of Robert Porterfield, deceased, a number of warrants, equal to six thousand one hundred and thirty-three acres of land, according to the usual subdivisions of public lands, in quantity not less than forty acres, to be by them located on any of the public lands which have been or may be surveyed, and which have not been otherwise appropriated at the time of such location within any of the States or Territories of the United States, and the State of Ohio. The price shall be \$25 per acre, to be appropriated according to the directions contained in the last will and testament of Robert Porterfield, deceased, in the same manner and for the purposes directed in regard to the lands which were lost by those legal representatives of Charles Porterfield, as decided by the Supreme Court of the United States.

Mr. POLK. I should like to ask the Senator from Wisconsin if this bill is in *pari materia* with Senate bill No. 186, for the relief of the legal representatives of Charles Porterfield.

Mr. DURKEE. It is the same.

The bill was reported to the Senate, ordered to be read a third time, read the third time, and passed.

OLIVIA W. CANNON.

Mr. SAULSBURY. As I shall not be here on next private bill day, I ask the indulgence of the Senate to take up Senate bill No. 98, for the relief of Olivia W. Cannon, widow of Joseph S. Cannon, late a Commodore in the United States Navy. The bill has been reported by the Committee on Pensions favorably. Mr. Cannon was in the United States Navy under Commodore Perry, during the last war with Great Britain. In 1855 or 1856 Congress passed an act giving the widow a pension of \$100 per annum. The bill now asks for an extension of it during life or widowhood. The services of her husband were meritorious,

and the committee have reported in favor of extending the pension during life or widowhood. I ask that the bill be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 98) for the relief of Olivia W. Cannon, widow of Joseph S. Cannon, late a shipman in the United States Navy. It proposes to continue to Olivia W. Cannon, for her life, or during her widowhood, the pension at the rate allowed her by act for her relief reported August 16, 1856.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

F. W. LANDER.

Mr. WILSON. I move to take up bill No. 284, for the relief of F. W. Lander. I do so for the reason that Mr. Lander is about to leave, within a few days, in the service of the Government, for the central portions of the continent, and I think we ought to settle this matter before he goes. I ask to have it taken up, and decided one way or the other.

The motion was agreed to; and the bill (S. No. 284) for the relief of F. W. Lander was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of War to audit and settle the account of F. W. Lander, for services rendered and expenses incurred by him in making a reconnaissance for a railroad from Puget Sound to the Mississippi river, in 1854 and 1855; but the amount named is not to exceed \$4,750, which is to be in full consideration for his services and expenses.

Mr. WILSON. This bill has been before the Committee on Military Affairs, and been reported by the unanimous vote of the committee twice. It is sustained by letters from Captain Humphreys, and I think, and the committee thought, this amount was justly due, and ought to be paid. The bill puts it in the hands of the Secretary of War to settle the claim on equitable grounds. I hope the bill will be allowed to pass, and that Mr. MASON. Will the Senator tell us what authority the expense was incurred? I am uninformed.

Mr. GRIMES. I call for the reading of the report.

Mr. WILSON. The Senator from Iowa has anticipated me. The reading of the report will give the information.

The Secretary read the report of the Committee on Military Affairs and Militia, made at the last session.

Mr. MASON. I understand, from the reading of the report, that this gentleman made a survey for a route for a railroad somewhere in Washington Territory, without the request or employment of any officer of the Government whatever. Subsequently, it seems, was brought to the notice of the Government, and they have entertained it in some form, and paid him a sum of money for it; but the question is, whether it is expedient or wise to encourage this sort of proceeding. I cannot vote for it. I can see no equity or merit in it of any kind.

Mr. POLK. I prefer that the bill should lie over. I think bills on the Private Calendar should not be taken up out of their order; and the reading of the report does not strike me very favorably. Perhaps I do not understand it, but I would prefer to examine the case a little.

Mr. WILSON. The reason why I called up the bill at this time was this: I understand that Mr. Lander is to be ordered from the city in a very few days. As the matter has been pending before Congress for some time, it seems to me it might be better settled, in justice to him, in some form before he is called upon to leave the city in the public service. That is the reason I called it up. The bill leaves the matter with the Secretary of War to be settled. By the statement of Captain Humphreys, the sum of \$4,750 is due him. This bill limits it to that sum, and that leaves it to be settled by the Secretary of War upon equitable principles. I think it ought to pass; but I do not wish to press the matter in the face of opposition.

Mr. POLK. I only made my remark for this reason: I feel bound to vote against this bill as it stands now. Perhaps on further examination of it, I may change my opinion; but it strikes me,

as said by the Senator from Virginia, that this thing commenced at the mere motion of Mr. Lander. In the first instance, he incurs expense, and then one branch of Congress calls for his report, and it is published; and now there is a demand for payment. It seems to me it is a bad precedent, to prefer that the bill should lie over. I am in favor of these explorations, and perhaps, on examination, I shall not object to this bill.

The VICE PRESIDENT. If the Senator objects to the third reading of the bill to-day, it must lie over.

Mr. POLK. I do.

Mr. WILSON. The bill has been taken up for consideration; but if the Senate does not wish to consider it now, I am willing that it should be passed over.

Mr. POLK. I will not insist on the objection, if the Senator is anxious to have it brought forward; but I cannot vote for it as it now stands.

Mr. WILSON. I should like to have the bill settled in some form.

Mr. MASON. I object to the third reading of the bill.

The VICE PRESIDENT. The bill having received its second reading to-day, if objection be made, it must lie over.

Mr. MASON. I object.

W. F. ZANTZINGER'S SURETIES.

Mr. HARLAN. I move to take up the bill (S. No. 177) for the relief of John R. Nourse and others.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It proposes to release John R. Nourse from the effect of a judgment obtained against him by the United States in the circuit court for the District of Columbia, as one of the sureties of William P. Zantzinger, late a purser in the United States Navy; and to release the said Zantzinger of all claims of the United States upon that judgment as against him.

Mr. MASON. I ask for the reading of the report, if there be a report on the bill.

Mr. IVERSON. The Senator merely asks, I suppose, some reason for taking up this bill out of its order. I consented, when the Senator from Iowa asked me to allow it to be taken up, because, under the circumstances, I thought it proper that it should be. It is a good way off on the Calendar, and may not be reached regularly next week, or possibly next month. It is a case of his character: Nourse was one of the sureties of Zantzinger, who was a purser in the Navy during the war with Great Britain; and in the celebrated case of the sloop *Hornet* by the British fleet, it became necessary to throw everything off the ship, to save her and lighten her, and the purser's stores were thrown overboard, by order of the commander. The accounting officers allowed, under a previous act, a portion of the amount, but they rejected some portion of the account, and a judgment has been rendered in favor of the United States against Zantzinger and his sureties. Zantzinger is dead, but it has gone against his estate and against the sureties. Nourse is one of his sureties, and execution is now, I understand, in the hands of the marshal of the district of Washington, against him, and his property is liable at any moment to be sold and sacrificed. It is a just case. The testimony before the committee was conclusive to their mind that the purser ought to have been allowed a larger amount for the property thrown out of his order, and during that chase, and to the extent of the amount of this judgment, which I think is about two or three thousand dollars. We therefore propose that he be released from the judgment. It is a case of some emergency, and therefore I consented to let the bill be taken up out of its order.

The VICE PRESIDENT. Is the reading of the report called for? As the Senator who called for it is not now present, it will not be read, unless some other Senator desires it.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

NOTICE OF A BILL.

Mr. WIGFALL gave notice of his intention to ask leave to introduce a joint resolution to continue the light-ship at the entrance of the harbor of Galveston.

CHICAGO HARBOR.

Mr. DOUGLAS. A joint resolution has come from the House of Representatives, not on the Private Calendar, simply as to the expenditure of an unexpended balance of appropriation for the light-house at Chicago, and the protection of the pier, at the end of which the light-house was built. It is merely a transfer of appropriation of the unexpended balance. I ask that it may be considered now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 11) providing for the manner of expending the balance of appropriation "for repairing the works and piers in order to preserve and secure the light-house at Chicago, Illinois," which had been reported adversely from the Committee on Commerce. It provides that the unexpended balance yet remaining of the appropriation made the 3d of March, 1859, "for repairing the works and piers in order to preserve and secure the light-house at Chicago, Illinois," shall be expended in repairing and improving the harbor of Chicago; but this is not to interfere with so much of the appropriation as may have been already required by the Light-house Board for repairs, in order to secure the light-house; but it shall be expended in accordance with this requirement.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

ELI W. GOFF.

Mr. IVERSON. I move that the Senate now proceed to the consideration of the Private Calendar.

The VICE PRESIDENT. If there be no further morning business, the Chair will call up the Private Calendar.

The bill (S. No. 113) for the relief of Eli W. Goff was read the second time, and considered as in Committee of the Whole. It will be a direction to the Secretary of the Treasury to pay Eli W. Goff, late inspector of customs for the district of Vermont, \$3,500, for expenses actually incurred by him in his efforts faithfully to execute the revenue laws of the United States.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

LEE AND JOHN DEATHRAUGE.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 87) for the relief of Lee Deathrauge and John Deathrauge, or their legal representatives. It proposes to correct erroneous land entries heretofore made by these parties, and to grant them the land on which they have actually settled, on their surrendering the patents heretofore issued to them, with a deed of relinquishment to the United States.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DAVID MYERLE.

The bill (S. No. 118) for the relief of David Myerle, was read the second time.

Mr. MASON. This claim of Myerle is one of very long standing here; and it has been very much debated and litigated, and resisted, I know, by a great many members of the Senate, who are better informed about it than I am. The information I have of it has been derived during these debates; and, unless some reason can be given, as far as my vote is concerned, I shall vote against it. It is a large claim—over forty thousand dollars—which has been depending for thirty or forty years, I think; thirty years, certainly.

Mr. IVERSON. I hope the report will be read. It was drawn up by the Senator from Florida, [Mr. MALLORY,] who is on the Committee on Claims, and I think it is rather liberal.

Mr. MASON. I think, in the absence of that gentleman, the claim had better go over.

The VICE PRESIDENT. The bill having received its second reading to-day, if objection be made it cannot be read the third time.

Mr. MASON. I shall object.

The VICE PRESIDENT. Then the bill lies over.

WILLIAM WALLACE.

The bill (S. No. 130) for the relief of William Wallace, of Illinois, was read the second time,

and considered as in Committee of the Whole. It provides for the allowance to William Wallace of an increase of pension, at the rate of two dollars per month, commencing on the 16th day of September, 1858.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH SPEAR.

The bill (S. No. 123) for the relief of Elizabeth Spear was read the second time, and considered as in Committee of the Whole. It provides for placing on the pension list the name of Elizabeth Spear, widow of Thomas Williams, late private in Captain Jernison's company in the Creek war, at the rate of half pay proper, commencing on the 17th day of April, 1858, and to continue during her life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NANCY M. GUNSBALLY.

The bill (S. No. 124) for the relief of Nancy M. Gunsally was read the second time, and considered as in Committee of the Whole. It proposes to place the name of Nancy M. Gunsally, widow of Lyman M. Richmond, deceased, late private and musician in Company G, first regiment Michigan volunteers, in the war with Mexico, upon the pension list at the rate of half pay proper, commencing on the 1st of January, 1859, and to continue during her life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. GENERAL MACOMB.

The next bill on the Calendar was the bill (S. No. 67) granting a pension to Mrs. Macomb, widow of Major General Alexander Macomb.

Mr. PUGH. I think we have passed a bill of that character once during this session; and if so, this bill ought to be laid on the table.

The VICE PRESIDENT. The Chair is informed that this bill has been passed by the Senate as an amendment to another bill. The Chair will, if there be no objection, lay it aside. The Chair hears no objection.

JOHN PEEBLES.

The next bill on the Calendar was the bill (S. No. 125) reported from the Court of Claims for the relief of John Peebles.

Mr. POLK. I ask that the bill may lie over on account of the absence of the Senator from Mississippi [Mr. Davis]. I do not know what interest he may feel in the bill, but a gentleman who is interested in it spoke to me about it.

Mr. IVERSON. I can state the reason. The Court of Claims gave a judgment for only twenty or twenty-five dollars. Since then the claimant has adduced some additional evidence. He now asks that amount to be increased, and the Senator from Mississippi, if interested at all, desires to offer an amendment to the bill to that effect. I think it very proper to let it lie over.

The VICE PRESIDENT. By unanimous consent, the bill may be passed over. The Chair hears no objection.

MICHAEL NOURSE.

The bill (S. No. 126) from the Court of Claims, for the relief of Michael Nourse, was read a second time, and considered as in Committee of the Whole. It provides for the payment to Michael Nourse of \$2,597 31, as a compensation in full for his services as acting Register of the Treasury, at various times between the 16th of February, 1830, and the 12th of May, 1847.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN ROBB.

The bill (S. No. 127) from the Court of Claims, for the relief of John Robb, was read a second time, and considered as in Committee of the Whole. It provides for the payment to John Robb of \$2,476 73, as a compensation in full for his services as acting Secretary of War, in the years 1842 and 1853.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MOSES NOBLE.

The next bill on the Calendar was the bill (S. No. 128) from the Court of Claims, for the relief of Moses Noble.

Mr. CLARK. There is a House bill for the relief of that same individual, which has passed that body this session. It is No. 253 on the Calendar. I move that the House bill be substituted for this, so that we may have a final disposition of the matter.

The VICE PRESIDENT. Let the bill receive its second reading, and then it can be disposed of.

The bill was read the second time.

Mr. CLARK. I move to lay that bill on the table, and to take up the House bill, so that if we pass the House bill, there will be an end of the matter.

The motion was agreed to.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. C. C. No. 12) for the relief of Moses Noble.

It provides for the payment to Moses Noble, agent for the brig Good Hope, and the schooners Delta, Jaeger, Sardine, Five Sisters, Commonwealth, and Two Brothers, for the benefit of the persons entitled thereto, the sum of \$1,704 68, for failing between July 1, 1857, and January 1, 1858, entitled in the fishing season of the year 1852.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

Mr. CLARK. It is necessary now to move to indefinitely postpone the Senate bill, so as to get it off the Calendar.

The VICE PRESIDENT. It will lie on the table and never be called up.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. BOCHANAN, his Secretary, announced that the President had this day approved and signed the following acts:

An act (S. No. 81) for the relief of Elizabeth M. Cooke, widow of Major James H. Cooke, late marshal of the district of Texas; and

An act (S. No. 302) in relation to the return of undelivered letters in the post office.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FOANEY, announced that the House had passed a bill (No. 543) for the relief of Margaret Whitehead.

The House read twice by its title, and referred to the Committee on Pensions.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bill and joint resolution; which thereupon received the signature of the Vice President:

A bill (H. R. No. 242) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York.

A joint resolution (H. R. No. 26) constituting Macon, Georgia, a port of call for the time being, for the purposes therein specified, and for other purposes.

The message further announced that the House ordered, on the 26th of March, 1860, the printing of the report upon the meteorological observations accompanying the report of the Commissioner of Patents.

Also, that the House had ordered, on the 26th of March, 1860, the printing of an thousand copies, in addition to the usual number, of Governor Stevens's final report of the exploration and survey of the northern route for a Pacific railroad.

ASBURY DICKINS.

The bill (S. No. 129) from the Court of Claims, for the relief of Asbury Dickins, was read the second time and considered as in Committee of the Whole. It provides for the allowance to Asbury Dickins of \$1,393 88, for his services as acting Secretary of the Treasury, at various times, between the 24th of April, 1829, and the 31st of May, 1833, \$3,693 37 for his services as acting Secretary of State at various times between the 16th day of August, 1833, and the 30th day of November, 1834, and \$294 16 for his services as chief clerk in the Treasury Department, from the 21st day of June, 1831, to the 7th day of August, 1831.

Mr. IVERSON. The Committee on Claims reported an amendment at the last session, but did not report one this session. I propose to offer the amendment which was proposed at the last session. It is to strike out all after the enacting clause of the bill, and insert:

That the proper accounting officers of the Treasury Department be, and they are hereby authorized and required, to ascertain the amount of compensation to which the said Asbury Dickins is entitled as chief clerk in the Treasury Department, and late chief clerk in the Department of State, for the time he discharged the duties of chief clerk in the Treasury Department, Secretary of the Department of State, by appointment from President Jackson, the same compensation as was then allowed by law to the head of that department, deducting therefrom the compensation received by the said Asbury Dickins as chief clerk of either of those Departments, during the same time, and the balance of any money in the Treasury not otherwise appropriated.

I will make a short explanation of the amendment, and the Senate will decide whether they will adopt the amendment or take the original bill. Mr. Dickins was formerly chief clerk in the Treasury Department and in the State Department, and during the administration of General Jackson and also possibly during that of Mr. Van Buren, while thus acting as chief clerk, in the absence of the head of the Department, he was appointed temporary Secretary of the Treasury, and Secretary of State, and discharged the duties. He went before the Court of Claims with his petition, asking to be allowed the compensation of the Secretary of State and Secretary of the Treasury for those services, and the Court of Claims allowed him the whole amount of both salaries, giving him the salary of Secretary and chief clerk also.

That was in conformity with decisions made by the circuit court of the United States for the District of Columbia and the Supreme Court of the United States; but the Committee on Claims thought that was not fair; that, as Mr. Dickins had discharged the duties of Secretary of the Treasury, the probability was that some other man had discharged the duties of chief clerk, and therefore he ought not to have more than one salary. They therefore propose to give him the higher salary, but deducting the amount which he received for the lower salary. That is the amendment. If that is satisfactory to the Senate, they will pass the amendment. If they want to allow him the whole amount of both salaries, they can reject the amendment and pass the bill. The amendment was agreed to.

Mr. PUGH. I should like to ask the Senator from Georgia why it is that he amends this bill in that particular, and has allowed two other bills in the same description to pass without amendment?

Mr. IVERSON. No such bill has passed. Mr. PUGH. Two bills passed within the last ten minutes—one for the relief of Michael Nourse, and one for the relief of John Robb, giving them the pay of the higher office. In one case the party was acting as Register of the Treasury, and in the other as Secretary of War. If the amendment be made to this bill, I shall move to reconsider those bills, and put them all on the same footing.

Mr. IVERSON. I will state to the Senator from Ohio that they escaped my notice at the time. If this amendment is adopted, the principle settled by the Committee on Claims; and if my attention had been called to them, I should have moved, of course, to amend those bills; but I did not hear those bills read, in fact.

Mr. PUGH. I do not oppose this amendment. I agree with you; but after that has passed, I shall move to reconsider those other bills for the purpose of amending them also.

Mr. IVERSON. That is very proper. The bill was reported to the Senate as amended, and the amendment was concurred in; the bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MICHAEL NOURSE.

Mr. PUGH. Now I enter a motion to reconsider those two bills I mentioned. I shall not ask for its consideration now. I want the motion to be entered to reconsider the bills Nos. 126 and 127.

Mr. IVERSON. My recollection is, that amendments were introduced by the Committee on Claims to all these bills; but it was at the last Congress when this question was decided by the committee, and I do not remember whether any

amendments have been reported to those bills at this season. They can be very soon drawn up by the clerk. The same principle precisely is involved.

THE PRESIDING OFFICER. (Mr. Poor in the chair.) The Senator from Ohio moves to reconsider the vote passing the bill for the relief of Michael Nourse.

MR. UGHL. I will not ask to have the vote on that motion to reconsider taken now. The bills may lie on the Calendar until next week, and I can draw up an amendment, or the Senator can perfect it.

MR. IVerson. I simply ask whether there is already an amendment among the papers. If so, we can act upon it at once. I ask the Secretary if there be no amendment among the papers accompanying this bill?

THE PRESIDING OFFICER. The Senator from Ohio proposes that the question of reconsideration shall lie over for the present.

MR. IVerson. No; I hope they will be reconsidered by general consent, and then take their place on the Calendar precisely as they were before they were passed. Then, if the amendments are not now ready, we can pass over the bills until the amendments are prepared.

THE PRESIDING OFFICER. The Chair will put the question on reconsidering the passage of both of these bills.

The motion to reconsider was agreed to.

MR. UGHL. Now I ask that the bills be passed over, retaining their place on the Calendar?

THE PRESIDING OFFICER. That course will be taken.

MR. IVerson. I will prepare the amendments, and, in the course of the day, will call the attention of the Senate to the bills.

MR. IVerson shortly afterwards said: I now have the papers in the case of Michael Nourse. There was an amendment among the papers which escaped my attention. I ask that that bill be taken up. The amendment is already there, reported by the committee at the last session.

The Senate resumed the consideration of the bill (S. No. 126) for the relief of Michael Nourse. The amendment is to strike out all after the enacting clause, and insert:

That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to account with and allow to Michael Nourse, late chief clerk in the office of the Register of the Treasury, for the time he discharged the duties of the Register of the Treasury, by appointment from the President, the same compensation as was then allowed by law to the Register of the Treasury, deducting therefrom the compensation received by the said Michael Nourse as chief clerk of that office during the same time; the same to be paid out of any money in the Treasury not otherwise appropriated.

THE PRESIDING OFFICER. At this stage of the bill, it is not competent to amend, except by unanimous consent. The Chair hears no objection. The amendment, therefore, will be considered as agreed to by the unanimous consent of the Senate; and it is amended accordingly.

The bill was passed.

JOHN ROBB.

MR. IVerson. Now I call up the other case—bill No. 127, for the relief of John Robb. I move to strike out all after the enacting clause, and insert:

That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to account with and allow to John Robb, late chief clerk in the War Department, for the time he performed the duties of acting Secretary of War by appointment from the President, the same compensation as was then allowed by law to the head of the War Department, deducting therefrom the compensation received by the said John Robb as chief clerk of the said War Department during the same time; the same to be paid out of any money in the Treasury not otherwise appropriated.

THE PRESIDING OFFICER. If no objection be made, the Chair will regard this amendment as made by unanimous consent.

The bill was passed.

RICHARD FITZPATRICK.

The bill (S. No. 130) from the Court of Claims for the relief of Richard Fitzpatrick was read a second time, and considered as in Committee of the Whole. It provides for the payment to Richard Fitzpatrick of \$12,000, in full for the use and occupation of his plantation as a military post of the United States between the years 1836 and 1842, as also for the damage done to the planta-

tion in the cutting of wood and lumber during such occupation.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CHARNER T. SCATFE.

The next bill on the Calendar was the bill (S. No. 131) from the Court of Claims for the relief of Charner T. Scatfe, administrator of Gilbert Stalker.

MR. IVerson. There is a bill precisely similar to this which has come from the House of Representatives, and the better course would be to let this bill lie on the table, and take up the House bill.

THE PRESIDING OFFICER. That course will be taken, no objection being made, and the Senate bill will lie on the table.

The Senators in Committee of the Whole, proceeded to consider the bill (C. C. No. 82) for the relief of Charner T. Scatfe, administrator of Gilbert Stalker. It provides for the payment of \$5,645 16 $\frac{1}{2}$ full, for the use and service of the steamboat James Adams, belonging to Gilbert Stalker, from the 1st of August, 1841, to the 9th of July, 1842.

The bill was reported to the Senate, read the third time, and passed.

JOHN ERICSON.

The bill (S. No. 132) from the Court of Claims, for the relief of John Ericson, was read the second time, and considered as in Committee of the Whole. It proposes to pay John Ericson \$13,930, in full for the balance due him for his services in planning the United States war steamer Princeton, and planning and superintending the construction of the machinery of that steamer.

MR. HALE. If there is a report in that case, let it be read.

The Secretary proceeded to read the opinion of the Court of Claims; but before doing so—

MR. HALE. The reading was asked for at my request. I do not want to detain the Senate any longer with it. There is enough disclosed in what has been read to suggest to my mind very serious doubts whether the bill should pass. I move that the bill be postponed until next Friday.

I want to examine it. If it is a fair case, I shall not say a word; but I really desire to examine the bill.

The motion to postpone was agreed to.

JAMES SMITH.

The bill (S. No. 134) for the relief of James Smith, was read a second time, and considered as in Committee of the Whole. It provides for placing the name of James Smith, now of the city of Washington, late a soldier in the war with Mexico, and on the frontiers of Texas, on the invalid pension roll, at the rate of eight dollars a month, to commence on the 4th of March, 1858, and to continue during his lifetime.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CORNELIUS BOYLE.

The next bill on the Calendar was the bill (S. No. 135) from the Court of Claims, for the relief of Cornelius Boyle, administrator of John Boyle, deceased.

MR. BENJAMIN. This bill, I observe, is another of the same character as those which have been amended by the Senate. I ask the chairman of the Committee on Claims if he has an amendment ready in this case also.

MR. IVerson. There is no amendment reported at this session; but if it is one of the same class of cases, the Secretary will find the amendment among the papers. If there be not an amendment among the papers, the bill can be passed over for the present.

THE PRESIDING OFFICER. The Chair is advised that there is no amendment among the papers.

MR. IVerson. Then I move that it be passed over for the present.

THE PRESIDING OFFICER. That course will be taken.

MR. IVerson subsequently said: I have prepared an amendment now in the case of Cornelius Boyle, that was passed over a little while ago. I send it up to the Secretary's desk, and ask that the bill be taken up now.

The bill (S. No. 135) from the Court of Claims for the relief of Cornelius Boyle, administrator of John Boyle, deceased, was read a second time, and considered as in Committee of the Whole. It provides for the payment of \$7,629 64, in full for the services of John Boyle as acting Secretary of the Navy, at various times between the 21st March, 1831, and the 3rd November, 1838.

MR. IVerson. I move as a substitute for the bill:

That the Secretary of the Treasury be, and he hereby is directed, out of any money in the Treasury not otherwise appropriated, to pay to Cornelius Boyle, administrator of John Boyle, deceased, the sum of \$7,629 64, in full for the services of the said John Boyle as acting Secretary of the Navy at various times between the 21st March, 1831, and the 3rd day of November, 1838, deducting any and all sums which he received as clerk in said Department during the time aforesaid.

The amendment was agreed to.

The bill was reported to the Senate, and ordered to be engrossed for a third reading, and was read the third time.

MR. CRITTENDEN. I want to say one single word in relation to these bills. I have acquiesced in the passage of several of them. They strike me to be of exceeding bad policy, and making exceedingly bad precedents. I do not see how we can allow them. An officer, owing to some casual disability of his superior, performs his duty for a little while, and, twenty years afterwards, it is made a regular business case and present claims for the salary of the superior officers whose duties they have casually and for short periods performed. I think the length of time is alone a sufficient defense on the part of the United States against such demands. I do not think they ought to be allowed at all. What is past is past, and I am willing that it shall be so considered. I shall not attempt to make any opposition to this bill; but I do not think I can ever stand or vote for another. We have made so many precedents that I think it is the last time any acquiescence can ever be extorted to any such bill.

MR. IVerson. The Senator from Kentucky will allow me to say that these precedents can have no bad effect, because in 1849 Congress passed a law prohibiting the payment of salaries being paid to any officer. This is only for cases before that, established by the Supreme Court and the Court of Claims.

MR. CRITTENDEN. I am glad there is some prospect of relief from it.

MR. HALE. This is not obnoxious to one objection of the Senator from Kentucky. The delay has been on the part of the Government in giving, not of the parties in asking.

MR. CRITTENDEN. A very good reason they had, and a very good reason we should have for delaying it until the day of judgment.

MR. SIMMONS. This was not a mere temporary service. It was for a considerable time.

The bill was passed.

THOMAS FILLERBORN.

The bill (S. No. 136) from the Court of Claims, for the relief of Thomas Fillerborn, was read a second time, and considered as in Committee of the Whole. It provides for the payment of \$430 to Thomas Fillerborn, in full for his salary as secretary of the board of commissioners for the Navy pension fund, from February 7 to May 16, 1827, and for commissions on disbursements of that fund from 1825 to 1829.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

NAHUM WARD.

The next bill on the Calendar was the bill (S. No. 137) from the Court of Claims, for the relief of Nahum Ward.

MR. BENJAMIN. That bill is for a very large amount, and I am not willing to vote without looking at the papers. I ask that it may lie over informally, and I will look at the papers.

THE PRESIDING OFFICER. The Chair hears no objection, and the bill will be passed over.

BENJAMIN subsequently said: I have looked at the case of Nahum Ward. I have no objection to its being taken up now, but I shall oppose its passage, and I should like very well for the Senate to vote on that bill now. I think we ought to vote it down.

THE PRESIDING OFFICER. The bill S.

No. 137, which was laid aside for the time being is called up by the Senator from Louisiana.

The bill (S. No. 137) for the relief of Nahum Ward was read a second time, and considered as in Committee of the Whole. It provides for paying to Nahum Ward, of Marietta, Ohio, the sum of \$67,618 27, in full for the amount due on forty-five loan office requisition of the United States, dated December 23, 1877.

Mr. BENJAMIN. I call for the reading of the report made by my friend from Missouri [Mr. POLK] last session, or the session before last, the reading of which, I think, will satisfy the Senate that it is out of the question to pass this bill; and I should like to have a vote taken on it by yeas and nays.

The Secretary read the adverse report made by Mr. POLK, from the Committee on Claims, on the 26th of January, 1888.

Mr. PUGH. I ask the Senator from Louisiana to allow this bill to pass over until next week. I think I can satisfy my friend from Missouri that he has greatly erred in two or three matters of fact—not of law—in his report, in relation to which the court has found against the report, in relation to which the court has found a sufficient explanation of the decisions made by the Treasury Department, in evidence since discovered. I am not prepared to consider it to-day. Mr. Ward is one of my constituents, and has had his case called to my attention. I think I can satisfy the Senator from Missouri and the Senator from Louisiana that there is an error of fact in that report, and that the court has decided rightly. I move to postpone the bill until next Friday.

The motion was agreed to.

ERNEST FIEDLER.

The bill (S. No. 138) from the Court of Claims, for the relief of Ernest Fiedler, was read the second time, and considered as in Committee of the Whole. It provides for the payment to Ernest Fiedler of \$329 90, in full for excess of duties paid by him on importations of ammonia, made by him into the port of New York, in the years 1846, 1847, 1849, 1851, and 1852.

Mr. SLIDELL. I should like to hear the report.

The Secretary proceeded to read the opinion of the Court of Claims.

Mr. SLIDELL. The bill in Ernest Fiedler's case is for duties on ammonia. The document that is being read is in regard to duties on liquors.

The PRESIDING OFFICER. The Chair understands that the Clerk is reading the report of the Court of Claims on Senate bill No. 138.

Mr. SLIDELL. Perhaps it will enlighten the Senate.

Mr. PUGH. Then there is a discrepancy between the bill and the report, because the bill says it is for excess of duties on ammonia; but the report speaks of duties on brandy and gin. I was going to say, however, that there is no identity of these cases. They involve not a large amount of money, but grave questions of law, on which the Court of Claims, I think, has grossly erred, and reversed repeated decisions of the Supreme Court of the United States, and in effect repudiated the act of Congress. The Committee on Claims, to which they were referred at the last Congress, reported against them. I believe my friend from Louisiana [Mr. BENJAMIN] and I had a brief discussion of five or ten words a few years ago, giving notice respectively that we would debate the question on the one side and the other; and not expecting that the Senate would make such progress in the Calendar, I am not now prepared to state my objections and refer to the acts of Congress and the decisions. I hope that all that class of cases refunding excess of duties on drugs and liquors will be over. They are claims for the return of duties back on leakage during the voyage, though the duties were paid without protest at the time. If actions had been brought against the collector, as the law would have required before the establishment of the Court of Claims, they could not have been sustained, because no protest was made. Now they have brought their actions against the Government in the Court of Claims. It is a large amount of money, and important questions of law are involved, and I hope that class of cases will be over until Friday, when I shall be able to state my

objections; and besides, we have no printed report of the decision of the Court of Claims.

The PRESIDING OFFICER. The Senator from Ohio moves to postpone the consideration of this bill and all like bills until Friday next.

Mr. BENJAMIN. I make no objection to that postponement. I shall endeavor to prepare myself to answer any objections the Senator from Ohio may have in relation to these bills. I desire to repeat now, what I said before, that I think them due by the Government on the highest grounds of equity and justice; and I hope I shall be able to satisfy the Senate to that effect.

Mr. PUGH. I suggest that the decision of the Court of Claims in the leading case, whatever it is, be printed. It has not been printed, I think, for two years; and probably we cannot very conveniently have a copy of the document. I move that the decision of the Court of Claims in the leading case, whatever it may be, be printed.

The PRESIDING OFFICER. The Chair is advised by the Clerk that he has now in his possession the particular report in this case. There was some error before.

Mr. PUGH. We can look at it between now and Friday next.

The PRESIDING OFFICER. The Senator from Ohio moves to postpone the consideration of this and all similar cases until Friday next.

The motion was agreed to.

The PRESIDING OFFICER. The Senator further moves that the report of the Court of Claims be printed. He will indicate the case in which he desires to have the decision printed.

Mr. PUGH. The court made a principal decision in one case, and then, in the other cases, referred to that decision. Probably the Secretary may find it.

The PRESIDING OFFICER. The Chair understands from the Clerk that the reports have all been printed.

Mr. IVERSON. The Clerk is mistaken. The Committee on Claims made a report in the case of Sturges, Bennett & Co., which was one of the class. That report of the Committee on Claims has been printed, but it is not found in each particular case. It is only one report in the case of Sturges, Bennett & Co., and in that case the Clerk found, probably, the report of the Committee on Claims at the last session. That has been printed, and is, of course, accessible to all Senators. The case of Sturges, Bennett & Co. has only recently been reported back from the Committee on Claims, having been overlooked when this batch of cases was originally reported at the present session. It is a late case on the Calendar, and among the papers of that case, I think, will be found the report of the committee.

Mr. SIMMONS. I should like to inquire of the Senator from Georgia if that claim of Sturges, Bennett & Co. is still pending?

Mr. IVERSON. I do not understand.

Mr. SIMMONS. The Senate dismissed the case a year ago or more, I believe.

Mr. IVERSON. I am still pending in this way: the Clerk establishing the Court of Claims direct that all cases shall go upon the Calendar, and shall remain on the Calendar from session to session, and from Congress to Congress, until disposed of by both Houses; and, of course, no case is considered as finally disposed of until both Houses concur in the same decision.

The PRESIDING OFFICER. The Chair will pass over all bills of this class, without bringing them to the notice of the Senate.

FRANCIS HUTTMAN.

The bill (S. No. 143) for the relief of Francis Huttman was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to examine the claim of Francis Huttman for losses sustained by the detention of the bark Callao, at San Francisco, in 1848, by the act of the collector of that port, and to settle it according to the terms prescribed in section four of the act "to create additional collection districts in the Territory of Oregon, and changing the existing collection districts therein; and providing for the existing collection districts in the United States," approved September 28, 1850, as though it had been a collection district in 1848; and to pay the sum due for actual damages, with interest, at the rate of six per cent. per annum, from the 15th of August, 1848; and also the import duties and

tonnage, and light dues on the vessel, illegally exacted from Huttman, but nothing is to be paid for speculative or consequential damages.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JEREMIAH PENDERGAST.

The bill (S. No. 144) for the relief of Jeremiah Pendergast, of the District of Columbia, was read a second time, and considered as in Committee of the Whole. It provides for placing the name of Jeremiah Pendergast on the pension list, at the rate of eight dollars per month, from the 4th of September, 1856, and to continue during his life, in lieu of the pension to which he is now entitled by law.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

OWAY H. BERRYMAN.

The bill (S. No. 145) for the relief of Oway H. Berryman, was read a second time, and considered as in Committee of the Whole. It provides for the payment to Oway H. Berryman of \$2,160 02, being the sum of his expenses sustained by him while commanding and acting as purser of the United States schooner On-ka-hy-a.

Mr. HUNTER. I should like to hear the report in that case.

The Secretary read the report, from which it appeared, that the grounds relied upon by Lieutenant Berryman are substantially those which induced Congress to grant relief to Lieutenant Charles G. Hunter, in 1858. Lieutenant Berryman assumed the command of the United States schooner On-ka-hy-a in October, 1846, under an order from the Navy Department, dated the 30th October, 1846, and he immediately entered upon special duty, and performed active and arduous service in the Gulf of Mexico, to Brazil, and Chagres, during twenty-two months, which was terminated by the total shipwreck of the vessel on a sunken reef, in July, 1848. With his command he was ordered to perform the duties of purser to the vessel, and these duties he performed throughout the whole period of his command. No adjustment of his accounts took place until his return to the United States, when it was found that he had actually expended as purser more money, by \$2,325, than he could produce the requisite vouchers for. This sum he paid to the Government, and his accounts were balanced accordingly. He alleges that he was diligently and faithfully kept and disbursed the moneys intrusted to him as purser, to pay the lawful liabilities of the Government, and that the omission to take and return the proper vouchers for all his expenditures was alone the result of his ignorance, and of his want of practice in the duties of purser.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

EZENEZER RICKER.

The bill (S. No. 151) for the relief of Ebenezer Ricker was read a second time, and considered as in Committee of the Whole. It proposes to place the name of Ebenezer Ricker, late a corporal in the Army of the United States, on the pension list, at the rate of eight dollars per month, commencing on the 4th of March, 1856, and to continue during his natural life, on account of a wound received in the military service of the United States.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

RANDALL PEGG.

The bill (S. No. 154) for the relief of Randall Pegg was read a second time, and considered as in Committee of the Whole. Its purpose is to pay to Randall Pegg \$139 58, being the difference between the pay allowed him as a watchman on the construction of the Patent Office extension and that allowed to other watchmen.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ELIJAH N. MORRILL.

The bill (S. No. 169) for the relief of Elijah N. Morrill was read a second time, and considered as in Committee of the Whole. Its object is to

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secure the allowance to Elijah H. Merrill, of the State of Maine, the sum of \$600, for injuries received while in the employment of the United States in a dangerous service, and for medical and other expenses incurred in consequence thereof.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

H. H. HOWARD.

The bill (S. No. 170) for the relief of H. H. Howard was read a second time, and considered as in Committee of the Whole. It will be a direction to the Secretary of the Interior to place the name of H. H. Howard, late a volunteer in the Oregon mounted volunteers, in the late Indian war, in that State, on the invalid pension roll of the United States, at the rate of eight dollars per month, commencing on the 22d of August, 1859, and to continue for and during his natural life.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH VERBICKI.

The next bill on the Calendar was the bill (S. No. 83) to authorize an increase of pension to Joseph Verbicki.

Mr. BENJAMIN. There is an adverse report on that case from the Committee on Pensions. I move that the Senate concur in the adverse report.

THE PRESIDING OFFICER. The Chair will suggest that the proper motion is the indefinite postponement of the bill.

Mr. BENJAMIN. I move that it be postponed indefinitely.

The motion was agreed to.

A. M. MITCHELL.

The bill (S. No. 119) for the relief of A. M. Mitchell, late colonel of Ohio volunteers in the Mexican war, was considered as in Committee of the Whole.

The bill was reported by the Committee on Military Affairs, with an amendment to strike out all after the enacting clause, and insert:

That the Secretary of War be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to A. M. Mitchell, colonel first regiment of Ohio volunteers in the late war with Mexico, a certain amount may be ascertained to be due him for transportation from Monterey to Cincinnati, and from Cincinnati to Monterey, in 1846, the trip not having been performed under orders, but by leave granted in consequence of temporary disability, caused by wounds received in action on 31st of September, 1846.

The amendment changes the phraseology of the original bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in; the bill ordered to be engrossed, and read a third time. It was read the third time, and passed.

WILLIAM MONEY.

The bill (S. No. 174) for the relief of William Money was read a second time, and considered as in Committee of the Whole. It will be a direction to the Secretary of the Treasury to inquire into the alleged seizure of certain horses in California, by the orders of General Kearny, said to be the property of William Money, and to pay the value of the horses thus seized, and which were appropriated to the use of the Army of the United States, under the command of said Kearny.

Mr. PUGH. I ask for the reading of the report, if there be one in the case.

The Secretary read the report, from which it appears that the memorialist claims compensation for the seizure of horses, and the orders of General Kearny in California, and for other articles lost, as he avers, in consequence of the conduct of the troops under the command of General Kearny. The horses are valued at \$100 each. The memorialist alleges that he had been engaged for many years as a naturalist, in exploring California, studying the geology, geography, and productions of the country, with a view to publish the information accumulated by his observa-

tions and researches; and that he had compiled a large manuscript volume, containing many drawings, sketches, and maps, which were worth \$10,000. He says he had instruments connected with his scientific investigations in natural history worth \$200; and personal baggage and provisions worth \$600. He states that, in November, 1846, he left the town of Los Angeles for Sonora, and having reached an Indian village, called Howargo, he was deprived of his horses by the troops under the command of General Kearny, and thus deprived of the means of pursuing his journey, or of returning. He moreover states, "that information having been given by General Kearny's troops to those Indians and to the neighboring tribes, that the country was under the American flag, and that it became the duty of those Indians to aid and assist in the American cause, and to prevent the passage of all persons from the settlements of Sonora, it was a sufficient incentive to the Indians for the exercise of their natural inclination for pillage; and after the departure of the troops of General Kearny the Indians took prisoners the whole of the memorialist's party, and commenced an indiscriminate plunder of the property and baggage of the memorialist, and some of his moments totally destroyed all the valuable manuscripts, drawings, maps, and interesting documents, the result of more than twenty years' arduous labor, and upon which the memorialist placed his sole dependence for his future maintenance."

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE PHELPS.

The bill (S. No. 175) for the relief of George Phelps was read a second time, and considered as in Committee of the Whole. It provides for the allowance to George Phelps of \$1,155 in full compensation for services performed by him as messenger in the Quartermaster General's Office, from December, 1859, to May, 1846.

Mr. PUGH. This is a claim for extra services, is it not?

Mr. IVERSON. Yes, sir; a different case from the other.

Mr. PUGH. I discover that this and the next bill are both bills for the payment of extra services. I hope the Senator will explain it, for I think we have an act of Congress which forbids persons in the employ of the Government claiming for extra services. There seem to be two of that class of cases here.

Mr. IVERSON. The report in the case sets forth the facts. I will read the law to which the Senator refers. It exempts this case. The act of August 26, 1842, the law to which the Senator from Ohio refers, is this:

"That no allowance or compensation shall be paid to any clerk, or other officer, by reason of the discharge of duties which belong to any other officer or officer in the same or any other Department, and no allowance or compensation shall be made for any extra services whatever, which may any clerk or other officer may be required to perform, and no greater allowance shall be made to any such clerk or other officer than is or may be authorized by law, except to waitmen and messengers, for any labor or services required of them beyond the particular duties of their respective station, rendered as such times as does not interfere with the performance of their regular duty."

This is a messenger or watchman—a class of officers exempted, by express provision of the law, from the operation of it—and the facts, as represented by General Jesup, present a strong case in favor of the claimant. If the Senate deems the facts, the report will show them.

Mr. PUGH. I should like to know the nature of the services, because I find, in the next bill, a messenger is to be paid for extra service as a clerk. Although the act of Congress may allow particular cases of payment to messengers, I think the Senate ought to be satisfied that the services were clearly of the nature of his duty; otherwise we overturn the principle of the act. I observe in one of these bills that a messenger is to be paid for extra service as a clerk. The whole law may be avoided by appointing clerks messengers, and

giving them the salary of messengers, and then the extra salaries of clerks. The case requires some explanation as to the nature of the services.

Mr. IVERSON. The case of Phelps is for extra service performed by the messenger himself, and General Jesup's letter will explain fully the facts in the case.

Mr. GRIMES. Read the report.

Mr. PUGH. There was no report made on the Calendar. That was the reason I asked the question.

The Secretary read the report made at the first session of the Thirty-Fifth Congress, from which it appears that the petitioner claims for extra services as messenger, rendered in the Quartermaster General's Office, War Department, at night, and Sundays, after the closing of the public offices, from 1st December, 1839, to 1st July, 1846, six years and five months, at fifteen dollars per month, \$1,155. Mr. Phelps was the regular messenger in the office during the period named, at a salary of \$500 a year. The Quartermaster general states that the allegations contained in the memorial are true; that, in consequence of the pressure of business in the office, arising out of the Indian hostilities in Florida, he was obliged to remain in the office almost every afternoon, and often until late at night, and often a portion, and sometimes the whole of Sundays; and that Mr. Phelps was obliged to remain and close the office, &c.; and General Jesup adds: that the sum he asks is small compared with the amount of extra labor he has performed."

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

R. W. CLARKE.

The bill (S. No. 176) for the relief of R. W. Clarke was read a second time, and considered as in Committee of the Whole. It provides for paying to R. W. Clarke, late assistant messenger in the office of Commissioner of Pensions, the sum of \$225, in full compensation for extra services performed by him in that office as clerk, from January 1, 1850, to October 1, 1851.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

NICHOLAS UNDERHILL.

The bill (S. No. 182) for the relief of Nicholas Underhill was read a second time, and considered as in Committee of the Whole. It will be a direction to the Secretary of the Interior to place the name of Nicholas Underhill, of New York, upon the roll of invalid pensioners, at the rate of four dollars per month, from the 4th of April, 1859, for life.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CORNELIUS HUGHES.

The bill (S. No. 183) for the relief of Cornelius Hughes was read a second time, and considered as in Committee of the Whole. It provides for placing the name of Cornelius Hughes upon the roll of invalid pensioners, at the rate of eight dollars per month, from the 17th day of January, 1850, in lieu of the pension he now receives under the act of March 3, 1853.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

REBECCA A. CORRELL.

The bill (S. No. 184) for the relief of Rebecca A. Correll was read a second time, and considered as in Committee of the Whole. It proposes to require the Secretary of the Interior to place the name of Rebecca A. Correll, widow of Isaac Correll, deceased, late private in company D, eleventh regiment of infantry, United States Army, upon the pension list, at the rate of \$3 50 per month, commencing on the 1st of June, 1854, and to continue during her life.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ANN F. DERRICK.

The bill (S. No. 185) for the relief of Mrs. Ann P. Derrick, widow of W. S. Derrick, deceased, was read a second time, and considered as in Committee of the Whole. Its object is to direct the proper accounting officers of the Treasury to account with and allow to the widow and children of W. S. Derrick, late chief clerk in the Department of State, for the time he performed the duties of acting Secretary of the Department of State, by appointment of the President of the United States, the same compensation as was then allowed by law to the head of that Department, deducting therefrom the compensation received by him as chief clerk of the Department during the same time.

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. GRIMES. I understand this bill, no far as it relates to Mr. Derrick, repeals the law of 1842. Is that so?

Mr. IVERSON. I do not know. I think these services were rendered before that.

Mr. GRIMES. I ask whether they were rendered prior to the law of 1842, just read by the Senator from Georgia, or since?

Mr. IVERSON. It was prior to 1842. The present chief clerk has been in the Department since before that time. These services were rendered prior to the passage of the law of 1842.

The bill was read the third time, and passed.

JAMES MACCABODY.

The bill (S. No. 51) for the relief of James Maccabody was considered as in Committee of the Whole. It provides for the payment of \$500 to James Maccabody, for losses and injuries suffered by him while engaged in the performance of his duty in the public service.

Mr. HALE. Is there any report in that case?

Mr. SIMMONS. This bill was passed at the last session, and is on the same principle as two or three other bills which have been passed this morning.

Mr. HALE. Very well. I will not object.

The bill was reported to the Senate, and ordered to be engrossed for a third reading, read the third time, and passed.

MILLS JUDSON.

The bill (S. No. 186) for the relief of Mills Judson, surety on the official bond of the late Purser Andrew D. Crosby, was read a second time, and considered as in Committee of the Whole. It proposes to direct the proper accounting officers of the Treasury to readjust the accounts of the late Purser Andrew D. Crosby, and to allow credit therein for sundry sundries or rejected items to the aggregate amount of \$1,196.877, which sum, together with interest thereon, at the rate of six per cent. per annum, from the 25th of June, 1855, to the date of payment, is to be reimbursed to Mills Judson, being so much of the amount paid by him upon a judgment obtained against him as one of the sureties on the official bond of Purser Crosby.

Mr. BINGHAM. Read the report.

Mr. IVERSON. I think it is hardly necessary to read the report. I will state, in a few words, the character of the case. This man was surety of Mr. Crosby, while he was purser in the Navy. Crosby fell from the mast, and died on board the vessel, and in settling his accounts at the Treasury Department they fell deficient. An action was brought on his bond again; this surety, Judson, and judgment rendered against him for the amount of deficiency, which he has paid with interest, but since the death of Mr. Crosby some original vouchers have been discovered, which were not brought into the case when the account was settled; and this is to allow the Secretary to pay him back the amount shown by these vouchers.

Mr. BINGHAM. Where are the vouchers?

Mr. IVERSON. They are among the papers. The committee had them under investigation.

Mr. BINGHAM. I do not insist on the call for the reading of the report.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CURTIS GRUBB.

The bill (S. No. 187) for the relief of Henry G. Caron, administrator of Curtis Grubb, deceased, was read a second time, and considered

as in Committee of the Whole. It provides for the payment in the legal representatives of Curtis Grubb, deceased, surviving partner of the firm of Curtis and Peter Grubb, the amount of a certain final and complete certificate, numbered 235, letter "N," dated January 5, 1844, issued by Benjamin Stetle, commissioner for settling debts of the United States in the State of Pennsylvania, to Curtis and Peter Grubb, on account of cannons, shot, and shells furnished during the revolutionary war, not having been paid by the Register of the Treasury to be still outstanding and unpaid, which certificate amounts to the sum of \$4,180.56, and upon which interest will accrue from December 16, 1844, the time of making the first application to Congress for relief, until the time of payment.

Mr. HALE. I should like to know something about this case.

Mr. CAMERON. This is one of those claims that ought to have been paid long ago. Mr. Peter Grubb was the owner of one of the only two furnaces in Pennsylvania, at the time of the Revolution, and the only place where cannon could be cast at that time. He fulfilled the demands of the Government during the war. He took whatever he could get. He took sometimes continental money; sometimes something a little better; and I recollect, on looking over the account, in the State of Pennsylvania, I found that he once took in payment a number of Hessian prisoners. [Laughter.] The Government would send him some prisoners, and charge him six pounds apiece, Pennsylvania currency, for the prisoners; and I remember reading amongst the papers that the old gentleman sent back six of those Hessians, and said they were unfit for duty. He paid six pounds apiece for them, and never got a cent in return. He was a man of great patriotism and large wealth; and he, or his son, never made any demand to be paid. He was settled by his son, and the family became reduced in circumstances, and looking over the accounts, they found this sum due. Everybody in Pennsylvania who remembers old Peter Grubb and knows his descendants is satisfied that the claim ought to have been paid a long time ago. I think the only thing in an amendment, to pay him back the amount he paid for the six Hessians who were returned. [Laughter.] But I will not insist on that.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

COLONEL WILLIAM THOMPSON.

The bill (S. No. 188) for the relief of the surviving grandchildren of Colonel William Thompson, of the revolutionary army of South Carolina, was read a second time, and considered as in Committee of the Whole. It proposes to direct the accounting officers of the Treasury to settle and adjust the account of William Thompson, late a colonel of the third regiment of South Carolina continental troops in the revolutionary war, and pay to his surviving grandchildren, William E. Haskell, Charles T. Haskell, Charlotte Rhett, widow of James S. Rhett, Mary E. Darby, widow of A. B. Darby, Caroline Lewis, widow of Dr. John A. Lewis, and Charlotte A. Goodwin, widow of Robert H. Goodwin, the sum of \$5,625, being his five years' full pay as a colonel of cavalry, according to the resolve of Congress of March 22, 1793. It also proposes to direct the Commissioner of Pensions to issue, in the names of the grandchildren of Colonel William Thompson, a warrant for such an amount of bounty land as was provided for a colonel under the resolve of Congress of September 16, 1776.

Mr. BENJAMIN. I will inquire, from the honorable gentleman from Kentucky, if this bill is based on the principle of the general bill allowing commutation of revolutionary half pay, which the Senate refused to pass upon full discussion?

Mr. CRITTENDEN. I did not hear the bill read. My attention was not directed to it.

Mr. BENJAMIN. The question is, whether this is one of those claims for commutation of half pay which were included in the general bill that the Senate refused to pass?

Mr. CRITTENDEN. Let the bill be read again.

The Secretary read it.

Mr. CRITTENDEN. It is a claim founded on the resolutions of Congress, and as such would have been embraced in any general law, such as

was proposed by Mr. Evans, for instance, when he was here. There is no law providing for the case except this one which we are passing for the payment of this claim. It is one which the committee supposed to be due under the resolution of Congress to which I refer, and that it has not been paid. The only hesitation the committee had was whether it was proper for them to report bills in individual cases, while the Senate and Congress seemed to be unwilling to pass any general bill on the subject. This case appeared to be plain and simple, and I thought that it would not feel at liberty to reject it.

Mr. COLLAMER. I do not understand this case as the gentleman does. I understand the general law which we proposed in relation to the officers of the Army was a law to make up to those who had received their commutation the half pay for life. Now, this bill is for the commutation, not for half pay. The resolutions of Congress of 1778 were, that those who remained in the service until the close of the war should have half pay for life. By the resolution of 1793, they were to have five years' full pay in lieu of it. The general bill which has been reported is to make up the deficiency of those who took their commutation and make it equal to the half pay for life, which they say they were constrained into from the necessity of the war. I understand this to be the case, and that the officer has not had his commutation at all.

Mr. CRITTENDEN. Certainly.

Mr. COLLAMER. I see no reason in the world why the man should not have his commutation, for he which it had it. It would not come within the general bill at all.

Mr. CRITTENDEN. It would come within a general bill, if we chose to provide by general bill for the payment of all such cases; but we have provided by no law for the payment of any such case, and therefore it becomes necessary to pass these individual bills.

Mr. IVERSON. I move to postpone this bill until next Friday. It is one of those cases which, if passed, will be a precedent for thousands of others; and of course, it will give rise to the passage of a law for the payment of all revolutionary claims. I want it to be decided simply. I think it involves too great a principle to be decided by a thin Senate. Besides, I know my colleague would be very glad to take part in the discussion of this bill. He did take part in the discussion of the general bill, and I think a more full discussion and consideration, rejected that general bill. That general bill was based precisely on the same principle with this bill, as I understand it. I think it had better be postponed, and I move to postpone it until next Friday.

Mr. FUGH. I think the Senator from Georgia is mistaken. The resolution of 1789—I believe that is the date of it—at all events, that resolution about which we have had so much controversy, provided that all officers who would remain in the service from that date until the disbanding of the Army, should be entitled to half pay for life. Afterwards, on petition of the officers, Congress commuted that to five years' full pay. Now if this gentleman was within that resolution—that is the question I ask my friend from Kentucky—if he was within the contract, is it simply a bill to make good the contract. The opposition was based on the principle of the general bill which was offered to the general law by the Senator from Georgia, not now present, and myself, as well as many other Senators, was that it purporting to set aside the contract, and remit them back to the half pay for life. Therefore this bill, so far from coming out the principles of the general bill which was defeated in the Senate, is simply making good to the party what we then acknowledged good to him. They did, in nearly all the cases, receive commutation. If this gentleman did not, it is for some cause which he has not stated. My friend from Kentucky can state it. If he did not receive it, undoubtedly it is due to him; and I am sure that the argument of the Senator from Georgia, not present, would not be directed against such a case. That case is within the resolution.

Mr. CRITTENDEN. I beg leave to read the report. It states the facts more clearly and distinctly than they remain in my recollection:

"The evidence submitted shows that there is no doubt that William Thompson was colonel of the third South Carolina regiment of mounted troops, from the 24th day of July, 1776."

Twenty days after the Declaration of Independence—

to the close of the revolutionary war in 1783, and that he never received his commutation and bounty land, and died on the 26th of November, 1796.

These are the facts of the case, and the bill provides for the payment of the commutation.

Mr. PUGH. Then he is clearly within the resolutions.

The PRESIDING OFFICER. The Senator from Georgia moves to postpone the further consideration of this bill until Friday next.

Mr. COLLAMER. Those officers who had been in the war were, in the winter of 1778, inclined to go home; and in order to induce them to stay in the Army, the resolution of 1778 was passed, that if they would remain until the close of the war they should receive half pay for life. Now this gentleman, according to the report, was in the Army at that time, and served to the close of the war; and, of course, was entitled to his half pay for life. But in 1783, in consequence of a good deal of talk about providing for men for life, (not at the request of the officers, precisely, as the Senator from Ohio has said), a resolution was passed that in lieu of this half pay for life they should have a commutation of five years' full pay in lieu of it; but they were to give their consent to this, and they did not give their consent to this, and generally did give their consent, and afterwards they received their commutation pay; that is, their five years' full pay. They generally received it, and the books show it. I have had occasion to examine them often in relation to many men, and almost uniformly I found their receipts, from which it appeared, by the books, that they had been paid the very amount now proposed to be paid to this man's grandchildren. The general bill proposed to be brought in, was a bill to pay them, pursuant to the first engagement, the half pay for life, although they received their commutation pay; and in the Senate, as has been stated; but it had nothing in the world to do with the commutation pay. It was rejected on the ground that they had received their commutation to their satisfaction, and almost all have no more. Now if this officer has not had that commutation, clearly he should have it.

Mr. PUGH. The point of explanation I want to know why he did not do it. There are many cases where the officer died; but it is very extraordinary that an officer should have remained in the service until the disbanding of the Army, and not have received it. The report does not explain that. The resolution was not as the Senator from Vermont supposed. According to my recollection, it was passed in 1784; at all events after the surrender of Cornwallis and after the hostilities had concluded for all practical purposes. It is a great mistake to say that resolution was passed to encourage the officers to remain in the service during the war. It was passed after the last gun was fired, and it was to prevent the officers from going home before the treaty of peace was ratified; and Congress simply intended that if they would remain in service until the Army was disbanded by act or resolution of Congress, they should have this half pay for life. It is well known that that resolution creating pensions for life, together with the resolution of the society of the Cincinnati, which was intended to be hereditary, produced a wonderful excitement throughout the country, and General Washington was troubled about it, and Mr. Jefferson, and others; and the officers themselves, to avoid that difficulty, applied to Congress to provide for it for five years' full pay; and Congress did commute it. That I say was a good contract, and that was our position before. What I intended to find out from my friend from Kentucky was, after the expiration of this gentleman's case. He was living at that time. If he had received it through the ignorance of heirs or anything of that sort the application had not been made, I could understand it. If he never received it by any cause, he is within the resolution; but it seems to me that the statement is defective in not explaining to the Senate why this gentleman did not receive the money which was then subject to his claim to the Treasury. There may be good reason for it. If so, I am certainly willing to vote for the bill.

Mr. CRITTENDEN. I should be glad to endeavor, to remove any possible doubt from the mind of my friend, if I could give him any explanation.

This transaction happened a long time ago. The officer died in 1796. If there were to be great many instances of such neglect on the part of officers, it might be of some more force against the claim that no explanation can be made of the delay. But, in the infinite variety of human situations and circumstances, we must look for this sort of negligence; and our records furnish abundant evidence of it, not in this case only, but in many others. The gentleman must recollect that South Carolina was about as far from the seat of Government at that day, practically, in point of time, as it is now from San Francisco. It was a great deal more of facility to come from San Francisco here than there was in that day in getting from this gentleman lived in South Carolina. I cannot give any other account of it. There is none in the papers, and none furnished by the evidence. He lived until 1796, and then died. That was ten or twelve years after he was entitled to this allowance. I think this delay cannot be considered as creating much doubt as to the genuineness of the claim.

Mr. CRITTENDEN. I desire to ask the Senator from Kentucky, the chairman of the Committee on Revolutionary Claims, whether the committee made any examination at the Department to see whether this money had been actually paid or not, or have they just gone on the presumption that he actually died, and, being satisfied that he was an officer, and that the amount was due, instituted no investigation as to the fact of his having been paid? The Senator from Vermont says he has seen the record in some of these cases, and I dare say it is true. If the commutation was ever paid to Colonel Thompson, I take it the evidence is on the record of the Treasury Department.

Mr. COLLAMER. No doubt it would appear there.

Mr. IVERSON. I want to know of the Senator from Kentucky, whether the investigation has been made; whether the committee have gone there or sent there to ascertain the fact.

Mr. CRITTENDEN. I am unable to give the Senator full satisfaction on that subject.

Mr. BENJAMIN. I have looked at the papers, and think they are satisfactory. I wish to see a letter of the Commissioner of Pensions. In reply to a letter of Mr. Rhet, asking him particularly to examine the books and see whether anything was paid to this officer, whether for half pay or commutation, he said:

PERMISSION OFFICE, November 24, 1858.
Sir: In reply to your letter of inquiry of the 9th instant, I have to make the following statement:

The South Carolina regiment of rangers was placed on the continental establishment by authority of a resolution of Congress of the 9th day of July, 1776, and became the third regiment of the South Carolina line. The rangers, being a mounted regiment, were permitted by Congress to serve on horseback, or on foot. William Thompson, the colonel of the rangers, and who had served with such distinction in the defense of Fort Mifflin as to have received a vote of thanks from Congress, was continued in command of the regiment, and was raised to lieutenant colonel and the pay of a colonel of foot; and, in November, 1776, he was promoted to colonel of foot. From this time up to the close of the war, on all the rolls of the South Carolina regiment, and on all lists of officers of the South Carolina regiment, he will be seen that he was the colonel of the rangers, or colonel or commander of the regiment. Our records show that other regiments of the same line were organized at different periods during the war, and that the release of the officers included in the capitulation of Charleston, which was not until some time in 1780, the South Carolina regiment was not included in the list of officers killed and demoralized by the British invasion, that they performed very little service in the field, their operations being mostly confined to checking the progress of the British and Tories upon the Whigs. Still an organization was kept up, and the continental troops of South Carolina continued in service up to the very late period of the war.

Records and records are imperfect; yet we have rolls showing that the officers and soldiers of the South Carolina regiment continued in service, under a regular establishment, as late as May, 1780, and enlistments into the regiment were received as late as November, 1780, and also, that of the considerable number of commissioned officers of the South Carolina regiment on its master-rolls, one half, at least, served to the close of the war.

By reference to the Journal of Congress of the date of the 10th of July, 1780, it will be seen that the South Carolina line did not agree to the commutation of five years' full pay in lieu of half pay for life. Her quota, by the arrangement at the close of the year 1780, was reduced from three regiments, yet she appears not to have reduced her force in accordance with the congressional arrangement; and she continued to roll up her service until the close of the war, or until she was disbanded, and her regiments were all kept up until the close of the war.

It appears, then, that the officers of the South Carolina

line, excepting such as died, resigned, or were dismissed the service, continued actually active to the close of the war. None were legally thrown out of the service, certainly in the third regiment, by being declared supernumerary. If Colonel Thompson had been in the service, as Colonel of the third regiment, he should be of record. As the South Carolina line did not consent to the commutation of five years' full pay, and consequently having no other alternative, it was the usual presumption against those, in other States, not returned as entitled to commutation, does not apply to this officer.

The fair presumption, from the rolls and records in this office, and from all accessible data, is, therefore, that William Thompson continued in service, as Colonel of the third regiment of the South Carolina line, on continental establishment, until the close of the revolutionary war.

I am, very respectfully, Sir, your obedient servant,
GEORGE C. WHITING, Commissioner.

CHARLES H. KERRY, Esq., Present.

I also find this letter from the Third Auditor:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
November 24, 1858.

Sir: In reply to your letter of the 17th instant, asking inquiry relative to the commutation pay of Colonel William Thompson, of the South Carolina line of the Army of the Revolution, I have to inform you that it does not appear, from the revolutionary records of this office, that he received commutation, nor is he returned as having been entitled thereto.

Respectfully, your obedient servant,
R. J. ATKINSON, Auditor.

CHARLES H. KERRY, Esq., Director of the Interior.

There is still another letter, which I will read. It is from the Third Auditor's office, directed to General Shields, when he was chairman of the committee:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
December 24, 1858.

Sir: I have the honor to acknowledge the receipt of your letter of the 21st instant, in which you state, that as chairman of the Committee on Revolutionary Claims of the Senate, you are directed to request that I will inform the committee with such evidence as this office affords in relation to the half pay which it is supposed that Colonel William Thompson, of the third South Carolina continental troops, may have received or been entitled to. In reply, I have to inform you that, upon an examination of the revolutionary records of this office, it does not appear that William Thompson, of South Carolina, has received half pay for life, or a commutation of five years' full pay in lieu thereof, nor, so far as he is returned for, does he appear to have received or been entitled for, such commutation.

With great respect, Sir, your obedient servant,
R. J. ATKINSON, Auditor.

HON. JAMES SHIELDS, Chairman Committee on Revolutionary Claims, United States Senate.

I think that makes the proof perfect.

Mr. IVERSON. I withdraw my motion to postpone.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CRITTENDEN subsequently said: I wish to move a reconsideration of the bill we have just passed for the relief of Colonel Thompson's heirs. By an inadvertence, and the very common case of giving five years' full pay, we have robbed the heirs of Colonel Thompson of three years' half pay. He never received any commutation. It appears that the South Carolina line never came to any determination to receive the five years' full pay.

Mr. BENJAMIN. They actually refused it. Mr. CRITTENDEN. His heirs then are entitled to about twelve or thirteen years' half pay, which is more than three years' more than the bill actually gives.

The motion to reconsider was agreed to.

Mr. CRITTENDEN. Now let the bill lie over until we get an opportunity to consider it. I will call it up as soon as I prepare an amendment that is appropriate.

The PRESIDING OFFICER. It will lie on the table, by common consent.

FRANKLIN PEASE.

The bill (S. No. 189) for the relief of Franklin Pease was read a second time, and considered as in Committee of the Whole. It provides for the payment to Franklin Pease of \$10,000, in full compensation for the use of all of his inventions and improvements, and for his extra-official services in connection with the Mint of the United States and its branches.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

LAND TITLES IN MAINE.

The bill (S. No. 191) to provide for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes, was read a second time, and considered as in Commu-

tee of the Whole. It makes appropriations to pay the owners of land included by the State of Maine, but which, by the Ashburton treaty, fell within the British dominions, and to which these owners, who held under the State of Maine and Massachusetts, lost title by the operation of the treaty.

The bill was reported to the Senate without amendment.

THE PRESIDING OFFICER. The attention of the Chair is called to an avowed clerical omission. It speaks of the "Secretary" instead of the "Secretary of the Treasury." That will be rectified by unanimous consent.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CALIFORNIA CIVIL FUND.

The next bill on the Calendar was the bill (S. No. 193) to authorize and direct the payment of certain moneys to the State of California, which were collected in the ports of said State as a revenue upon imports since the ratification of the treaty of peace between the United States and the Republic of Mexico, and prior to the admission of said State into the Union.

MR. BENJAMIN. That bill has never been referred to any committee, that I can see; and I believe it is a bill of some importance. I move to refer it to the Committee on Finance.

The motion was agreed to.

JAMES BELL.

The bill (S. No. 195) for the relief of the legal representatives of James Bell, deceased, was read a second time, and considered as in Committee of the Whole. It provides for the payment to William Cameron, administrator of the estate of James Bell, late of Chambley, in the province of Lower Canada, for the use and benefit of his heirs and legal representatives, and to such other persons as may show themselves legally entitled thereto, the sum of \$329 31, that being the balance of principal found due to the representatives of Bell, upon the settlement of their accounts at the Treasury, under the act entitled "An act for the relief of the heirs of James Bell, deceased," approved the 30th day of June, 1834, with interest on this balance of principal, from the 30th of June, 1834, until paid.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MR. GAMES. I move that the Senate do now adjourn.

The motion was not agreed to.

JOHN C. CARTER.

The joint resolution (S. No. 15) for the relief of Lieutenant John C. Carter, was read a second time, and considered as in Committee of the Whole. It proposes to direct the accounting officers of the Treasury, in the settlement of the accounts of Lieutenant John C. Carter, of the United States Navy, to allow him the sum provided in the joint resolution of Congress, approved February 13, 1855, for such expenses as were incurred by him whilst acting as purser on board the ship *Massachusetts*, while undergoing repairs at San Francisco, California, deducting therefrom the sum which has been paid or allowed him on account of the same since the date of the passage of the joint resolution of 1855; but the amount allowed is not to exceed \$955 36.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

F. M. GUNNELL.

The bill (S. No. 196) for the relief of F. M. Gunnell, passed assistant surgeon in the Navy, was read a second time, and considered as in Committee of the Whole. Its object is to allow to Assistant Surgeon F. M. Gunnell \$156 for extraordinary expenses incurred by him in the discharge of his duty at San Francisco.

MR. FOLK. should like to know if there is any report accompanying the bill.

The Secretary read the report made at the first session of the Thirty-Fifth Congress, from which it appears that the petitioner, an assistant surgeon in the Navy, attached to the United States ship *Independence*, of the Pacific squadron, was ordered by Captain Josiah Tatnall, on the 17th day of September, 1855, to proceed to San Francisco, and report himself for duty at the United

States naval rendezvous at that city, and to return to the ship when the rendezvous should be closed. Under this order he performed the duty assigned him twelve weeks in the city of San Francisco. His board, during the time on shore, amounted, according to the voucher filed by him, twelve weeks, at eighteen dollars, to \$216. In view of the fact that in fixing the salary of his grade reference was had to its ordinary expenses, the committee deemed it but equitable, and in conformity with the provisions of law, to allow him an equal gratuity for any ordinary expense incident to public duty assigned him, properly incurred. Had the memorialist remained on board of the ship, in the discharge of his duties as an assistant surgeon, his mess bill would not probably have exceeded twenty dollars per month; deducting this amount from his expenses on shore, leaves the sum of \$156, and for this the committee reported a bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MR. POWELL. I move that the Senate adjourn.

The motion was not agreed to; there being, on a division—ayes thirteen, nays not counted.

SAMUEL HOLGATE.

The bill (S. No. 204) from the Court of Claims, for the relief of George Ashley, administrator de bonis non of Samuel Holgate, deceased, was read a second time, and considered as in Committee of the Whole. It provides for the payment of \$296 00, in full of claims and losses and other property of Holgate, seized by Commodore McDonough, on Lake Champlain, in the year 1814.

MR. PUGH. I should like to know how that bill has come up again. It has been rejected by the Senate, after a very full discussion, and I think two or three discussions. I understand that when a case is reported from the Court of Claims, it remains on the Calendar until it is disposed of; but this has been disposed of since I have been in the Senate, and so with the next bill on the Calendar. They have been debated at great length. This case and the next one are both old acquaintances that I think the Senate will recollect. This is a claim for the seizure of a vessel, and the appropriation of some lumber, during the last war with Great Britain, made by Commodore McDonough. The ship was libeled for dealing with the enemy, but it was condemned in the wrong district court. That is the whole case. The case stands on that point. It was condemned in the district of Vermont, when it ought to have been condemned in the district of New York, or perhaps vice versa; and the Court of Claims decided that the whole judicial proceeding was void, because it was in the wrong district, not because the facts were not well stated and well proved. The charge against the ship was that it was furnishing supplies to the enemy; the commodore seized the vessel and appropriated the property to the use of the United States, and the vessel was libeled and condemned for that very act; and on the mere quibbles that the case was tried in the wrong court, the Court of Claims have sustained the claim; but there is a fact behind it that the Court of Claims never looked to. This man brought an action, in the courts of Vermont, against the commodore, in trespass, on the ground that the jurisdiction of the district court in admiralty was not rightly taken, and on full trial by jury a verdict was given in favor of the commodore against the claimant. Now, if we stand on the conclusiveness of judicial proceedings, I say the verdict is a bar.

MR. IVERSON. Allow me to interrupt the Senator. Perhaps I can save his argument. The Senator says that this case has been decided by the Senate. If so, it has escaped my memory. I know it was under discussion two years ago, but my recollection is, that it was not finally decided; but if that be the case, there ought to be an end of the claim. I move to postpone it for the next session.

MR. PUGH. I believe, now that the Senator reminds me of it, the bill was defeated after a long debate, and towards the end of the session some Senator interposed a motion to reconsider. That motion was, perhaps, never disposed of. I am not sure, and substantially this case was disposed of by the Senate, and unless something new be brought up, I cannot vote for it.

MR. IVERSON. I move to postpone the case for the present. I think it is a good case, and ought to pass; but I am not disposed to debate the question so late in the afternoon.

The motion to postpone was agreed to.

O. H. BERRYMAN.

The next bill on the Calendar was the bill (S. No. 205) from the Court of Claims for the relief of O. H. Berryman and others.

MR. PUGH. I ask that that may lie over too. It has been considered, and I think rejected. At all events, the Senator from Georgia, who is absent, had a particular interest in the opposition. The case was postponed.

EMILIE G. JONES AND NANCY M. JOHNSON.

The bill (S. No. 206) from the Court of Claims, for the relief of Emilie G. Jones, executrix of Thomas P. Jones, deceased, was read a second time, and considered as in Committee of the Whole. It provides for the payment to Emilie G. Jones, executrix of Thomas P. Jones, deceased, of \$2,450, in full for the services of Thomas P. Jones, a member of the board of examiners appointed by the Secretary of the Navy, under the provisions of the act of Congress approved March 3, 1843, entitled "An act to modify the act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam,'" approved July 7, 1838.

MR. HALE. I move to amend the bill by adding the claim of Mrs. Johnson, who is the co-petitioner of Mrs. Jones, and stands exactly on the same footing.

MR. IVERSON. I have no objection to that. **MR. HALE.** I move to amend it by adding the bill S. No. 212, as an amendment to this. It is: *And be it further enacted, That the Secretary of the Navy, or the clerk in charge, or out of any money in the Treasury not otherwise appropriated, to pay to Nancy M. Johnson, administratrix of Walter R. Johnson, deceased, the sum of \$250 in full for services of said Walter R. Johnson, as a member of the board of examiners appointed by the Secretary of the Navy, under the provisions of the act approved March 3, 1843, to modify the act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam,'" approved July 7, 1838.*

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in, and the bill ordered to be engrossed and read a third time. It was read the third time, and passed; and the title was amended so as to read: "A bill for the relief of Emilie G. Jones, executrix of Thomas P. Jones, deceased, and of Nancy M. Johnson, administratrix of Walter R. Johnson, deceased."

THOMAS R. GEDNEY.

The bill (S. No. 207) from the Court of Claims for the relief of James L. Edwards, administrator of Thomas R. Gedney, deceased, was read a second time, and considered as in Committee of the Whole. It provides for the payment of \$496 60, in full for all sums due to Thomas R. Gedney, as disbursing agent of the coast survey, prior to the year 1847.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

LYDIA FRAZEE.

The next bill on the Calendar was the bill (S. No. 208) from the Court of Claims, for the relief of Lydia Frazee, widow of John Frazee, late of New York.

MR. IVERSON. I move that the bill be laid aside, and the House bill for the relief of the same party be taken up.

The motion was agreed to.

The Senate, as in Committee of the Whole, proceeded to consider the bill (C. C. No. 99) for the relief of Lydia Frazee, widow and administratrix of John Frazee, late of the city of New York, which directs the Secretary of the Treasury to pay to her \$2,983, in full for the services of John Frazee, as architect and superintendent of the New York custom-house from the 3d of March, 1841, to the 21st of May, 1848.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS ALLEN.

The bill (S. No. 209) from the Court of Claims, for the relief of Thomas Allen, was read a second

time, and considered as in Committee of the Whole. It provides for the payment to Thomas Adams, of \$27,720.00, in full for printing twenty thousand copies of the Compendium of the Sixth Census of the United States, and furnishing the materials for the same.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

AUGUSTUS H. EVANS.

The bill (S. No. 210) from the Court of Claims for the relief of Augustus H. Evans was read a second time, and considered as in Committee of the Whole. It proposes to pay to Augustus H. Evans the sum of \$800 in full for his services as clerk, in the State of Missouri, during the years 1835 and 1836.

Mr. HALE. Let the report be read. The bill does not say what he was clerk of. I do not care about it, if the chairman will say what it is.

Mr. IVERSON. I will take occasion to say that I do not know anything about it. I have not examined many of these cases from the Court of Claims.

The Secretary proceeded to read the opinion of the Court of Claims.

Mr. BENJAMIN. The Senator from New Hampshire seems from what has been read, that this is a claim of a clerk for a land office for his salary; and the court find upon the evidence that it has not been paid, and is due to him. I do not think we can do any better than take that for granted.

Mr. HALE. I called for the reading, because the bill did not state what he was clerk of. I ask from some one cognizant of these matters, for I am not, whether these clerks look to the officer who employs them, or to the Government, for pay.

Mr. BENJAMIN. I understand they are paid by the Government. The Government authorizes a certain number of clerks in the office.

Mr. POLK. The Government pays them. I will also state that I know this gentleman, and know he was employed in the land office.

Mr. BENJAMIN. The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM GRIGER.

The next bill on the Calendar was the bill (S. No. 211) from the Court of Claims for the relief of William Griger.

Mr. POWELL. I move that the Senate adjourn.

Mr. BENJAMIN. Will the Senator from Kentucky allow this bill to pass, or rather a House bill on the same subject?

Mr. POWELL. I withdraw the motion.

Mr. BENJAMIN. I move to lay this bill on the table, and take up the House bill in its place.

The motion was agreed to.

The Senate, as in Committee of the Whole, proceeded to consider the bill (C. C. No. 96) for the relief of William Griger. It directs the Secretary of the Treasury to pay to William Griger, in full for his contract made on the 18th of October, 1834, at Fort Smith City, with Captain French for lime-stone and mason work for the barracks at Fort Washita, in the Cherokee nation, \$4,010.62.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARIANO G. VALLEJO.

Mr. BENJAMIN. I made a mistake, as there is one more House bill, No. 92. I thought all the House bills had been passed. I move to take up the House bill No. 92.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (C. C. No. 92) for the relief of Mariano G. Vallejo, which directs the Secretary of the Treasury to pay to her in full, for the occupation by the troops of the United States, of a building on the square of Sonoma, in California, from May 30, 1848, to August, 1853, \$8,500.

Mr. KING. Is there a report in this case?

Mr. IVERSON. I do not know the facts of this case. I will state, however, that this bill, which comes from the House of Representatives, reduces the amount of the judgment \$4,000. The Court of Claims gave a judgment for \$12,000, and the committee in the House cut it down to \$8,500;

and the House passed it in that form. I do not know the merits of the case.

Mr. BENJAMIN. The Court of Claims gave a judgment for \$12,600, and the House has reduced it to \$8,500.

The Secretary read the report made in the House of Representatives, from which it appears that the petitioner alleges that in July, 1846, his private property, situated in the plaza of Sonoma, California, was taken possession of and occupied by the United States troops, and continued to be so occupied from that period until August, 1853, and for which he claimed as rent \$20,000. The Committee reported a bill for the petitioner, allowing him \$12,600. After an examination of all the testimony submitted to the court, the committee were of the opinion that the allowance of \$12,600 is an extravagant one, and not justified by the evidence. The following allowance appeared to the committee to be not only fair under the proof, but liberal: rent from May 30, 1848, to November 16, 1848, at \$200 per month, \$1,100; rent from June, 1849, to July, 1851, at \$200 per month, \$5,200; rent from July, 1851, to August, 1853, at \$100 per month, \$2,500; total, \$8,800. The Court of Claims allowed \$12,600, as follows: from May 30, 1848, to November 16, 1848, at \$200 per month, \$1,100; from June, 1849, to July, 1851, at \$250 per month, \$6,500; from July, 1851, to August, 1853, at \$200 per month, \$5,000; total, \$12,600.

Mr. KING. I should like to know on what authority the troops of the United States take possession of private property, and occupy it to the damage of the United States, in time of peace.

Mr. IVERSON. It was in time of war; during the Mexican war.

Mr. KING. In 1853?

Mr. IVERSON. In 1846.

Mr. KING. I thought the bill stated 1853. I ask that the report be read again. I think it is 1853.

Mr. BENJAMIN. It is from May, 1846, to August, 1853.

Mr. KING. I understood it was 1853. I think the matter is entitled to investigation elsewhere. If the War Department and the Army are not mixing private property and coming before the court, it is a matter that should elicit some inquiry else where, if such are the facts. I certainly see no authority for it.

Mr. BENJAMIN. Let the report be read again.

The Secretary read it.

Mr. KING. I heard the last date. I did not hear the first.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

Mr. POWELL. I now renew my motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 6, 1860.

The House met at twelve o'clock, m.

Prayed by the Chaplain, Rev. THOMAS H. STOCKTON.

The Journal of yesterday was read and approved.

SERVICE ON COMMITTEE.

Mr. DIMMICK. I rise to a privileged question. I was appointed by the Speaker, some time since, one of a special committee of investigation, of which Mr. Hoard is chairman. Circumstances have since occurred which render it quite necessary that I should be absent from the city for a few weeks. Therefore, I ask to be excused from service upon that committee.

The gentleman was excused.

NAVY-YARDS.

Mr. FLORENCE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy, in reply to the resolution of the House of March 1, 1860, calling for the evidence taken by the board of Survey, in relation to the condition of the navy-yards, be requested to transmit also the action of the Navy Department.

Mr. FLORENCE moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

WILLIAM WATKINS.

Mr. WARBLE, by unanimous consent, introduced a bill for the relief of William Watkins; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

Mr. TAPPAN. I call for the regular order of business.

Mr. STANTON. Will the gentleman from New Hampshire postpone his call for a moment?

Mr. TAPPAN withdrew the call.

COMMITTEE DISCHARGED.

Mr. STANTON. I am instructed by the Committee on Military Affairs to report back the petition of John B. Bowman, asking for a sale of the property belonging to the State of Kentucky, located at Harrodsburg, in the State of Kentucky; and also the remonstrance of the citizens of Kentucky, against the establishment of a cavalry depot at Harrodsburg, in Kentucky; and to ask that the committee be discharged from the further consideration of the same, in order that they may be sent to the Senate. I unask that motion.

The motion was agreed to.

SURGEONS IN THE NAVY.

Mr. MAYNARD, by unanimous consent, presented the memorial of Surgeon H. O. Mayo, in behalf of the corps of surgeons in the United States Navy; in which he refers to the committee on Naval Affairs, and ordered to be printed.

WINNEBAGO INDIANS.

Mr. ALDRICH, by unanimous consent, presented the memorial of the Legislature of the State of Minnesota, for the removal of the Winnebago Indians, and the indemnification of the early settlers on their reservations; which was referred to the Committee on Indian Affairs.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HATTOX, one of the clerks in the office of the Secretary of the Senate, informing the House that the Senate had passed a resolution and bills of the following title, in which he was directed to ask the concurrence of the House:

A resolution (No. 24) for the compensation of Rev. R. R. Richards, late chaplain to the United States penitentiary in the District of Columbia; An act (No. 145) concerning courts in the Territories;

An act (No. 229) for the relief of Angelina C. Bowman, widow of Francis L. Bowman, late captain in the United States Navy;

An act (No. 256) for the relief of Thomas L. Disharoon, of St. Louis county, Missouri;

An act (No. 295) for the relief of William B. Shubrick; and

An act (No. 375) to extend the provisions of an act approved March 3, 1851, entitled "An act to limit the liabilities of ship-owners, and for other purposes," to the Lake.

PORT AT PEMBINA.

Mr. ALDRICH also, by unanimous consent, presented the memorial of the Legislature of the State of Minnesota, for a fort or military post in the valley of the Pembina river; which was referred to the Committee on Military Affairs.

ALEXANDER THOMSON.

Mr. PETTIT, by unanimous consent, introduced a bill for the relief of Alexander Thomson, late United States consul at Maranhao, Brazil; which was read a first and second time, and referred to the Committee on Foreign Affairs.

AMERICAN CITIZENS IN MEXICO.

Mr. BRANCH, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, any information in his possession touching the reported expulsion of American citizens from Mexico, and the confiscation of their property by General Miramon.

NAVY-YARD IN MISSISSIPPI.

Mr. McRAE, by unanimous consent, presented the resolution of the Legislature of the State of Mississippi to the Congress of the United States, in relation to the establishment of a navy-yard at the bay of Biloxi, in said State; which was referred to the Committee on Naval Affairs, and ordered to be printed.

KING AND SAMANIEGO.

Mr. HAMILTON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of the Whole House be discharged from the further consideration of the reports of the Court of Claims (No. 309) in the case of Thomas B. King, and (No. 307) in the case of Fernando Samaniego, and that the same be referred to the Committee of Claims.

BOUNTY LANDS TO SEAMEN.

Mr. ELY, by unanimous consent, introduced a bill granting bounty lands to seamen on board of ships regularly commissioned by the United States; which was read a first and second time, and referred to the Committee on Public Lands.

UNITED STATES COURT AT BINGHAMTON.

Mr. DUELL, by unanimous consent, introduced a bill to provide for holding the circuit court and district court of the United States at Binghamton, in the State of New York; which was read a first and second time, and referred to the Committee on the Judiciary.

HENRY R. CROSBY.

Mr. STEVENS, of Washington, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be requested to communicate to the House the report of Henry R. Crosby, Esq., embodying facts and circumstances connected with the occupation of the Island of San Juan.

NAVIGATION OF HELL GATE.

Mr. BARR, by unanimous consent, introduced a bill authorizing the formation of a company for the improvement of the navigation of the East river at Hell Gate; which was read a first and second time, and referred to the Committee on Commerce.

ACCOUNTS WITH MINNESOTA.

Mr. WINDOM, by unanimous consent, introduced a bill to settle certain accounts between the United States and the State of Minnesota; which was read a first and second time, and referred to the Committee on Public Lands.

BOUNTY LANDS.

Mr. HAWKINS, by unanimous consent, introduced a bill granting bounty lands to soldiers engaged in the Indian wars of Florida since the 3d March, 1856; which was referred to the Committee on Indian Affairs.

SARAH MURPHY.

Mr. NOELL, by unanimous consent, introduced a bill for the relief of Sarah Murphy; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

PETER AND ALEXIS NATAKARE.

Mr. ASHLEY, by unanimous consent, introduced a bill for the relief of Peter and Alexis Natakare; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

ORGANIZATION OF THE HOUSE.

Mr. ASHLEY also, by unanimous consent, introduced a bill to provide for and facilitate the organization of the House of Representatives of the United States on the assembling of each Congress; which was read a first and second time, and referred to the Committee on the Judiciary.

COOLIE TRADE.

Mr. ELIOT. I ask leave to introduce a bill and report to have printed and recommitted.

Mr. BRANCH. I object.

Mr. ELIOT. I only want to have it printed and recommitted.

Mr. BRANCH. I must object.

Mr. ELIOT. Then I call for the regular order of business.

MARGARET WHITEHEAD.

Mr. MILLSON. I rise to a privileged question. I call up the motion, which I submitted some time ago, to reconsider the vote by which the House referred to a Committee of the Whole House a bill for the relief of Margaret Whitehead.

I can in two minutes state the reasons which I have to urge in support of my motion.

The SPEAKER. The motion is in order.

Mr. MILLSON. Mr. Speaker, this bill grants pension of five dollars per month to an old woman

who is the widow of a boatswain in the Navy. At the last Congress a bill for her relief was reported here. It passed the House unanimously, and was sent to the Senate. It was reported to the Senate with a recommendation that it do pass, and it was put upon the Private Calendar. Some time afterwards, when it was taken up, some Senator objected to it, or urged as an objection to the passage of the bill, that it was extended the benefits of the law further than the law had ever gone; and, strange to say, the Senators were either not attending, or those attending did not seem to be aware that the law had always extended pensions to the seamen as well as the officers, although the statement was that seamen and petty officers and their widows were never entitled to pensions under the law. It was a very gross and remarkable error; but still it was an error, which induced the Senate to reject the bill. When I discovered it, I called on that Senator, and when I showed him the law and gave him the statement of the Commissioner of Pensions, he expressed great regret at it, and said he would take pains on any future occasion to repair the wrong of which he had been the unwitting cause.

All I wish to be done now is, that the House shall put the bill in the same attitude in which it would have been placed but for this unfortunate and singular misconception in the Senate. If the bill remains in the Committee of the Whole House, the probability is that it will hardly be reached in time to go to the Senate. I ask the House, if these considerations commend themselves to it as they do to me, that the reference be reconsidered. If they do not, the House will reject the motion to reconsider.

The question was taken on the motion to reconsider; and it was agreed to.

The bill was read. It requires the Secretary of the Interior to place the name of Margaret Whitehead, widow of William Whitehead, late boatswain in the Navy of the United States, on the pension roll, at the rate of five dollars per month, from the 9th of April, 1854.

The question recurred on the motion to recommit the bill to a Committee of the Whole House; and it was not agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BILLS ON THE SPEAKER'S TABLE.

Mr. TAPPAN. I insist on the regular order of business.

The SPEAKER. The regular order of business is the reception of reports from committees of a private nature. Reports are in order from the Committee of Elections.

Mr. JOHN COCHRANE. Will the gentleman from New Hampshire yield to me, in order that I may propose to the House to take from the Speaker's table bill No. 303, and have it referred to the Committee on Commerce? The subject-matter of the bill is of great importance to many gentlemen in the city of New York and elsewhere. It refers to the guano trade. The bill has come from the Senate, and I wish to have it passed by this committee on Commerce, in order to bring it back to the House at an early day.

Mr. SHERMAN. I suggest that all the bills be taken from the Speaker's table for reference only.

The SPEAKER. If there be no objection, that course will be taken.

Mr. TAPPAN. I have no objection to their being taken up merely for reference.

There being no objection, the following bills, &c., were taken from the Speaker's table, and disposed of as indicated below:

DISCONTINUED PORTS OF DELIVERY.

A letter from the Secretary of the Treasury, in answer to a resolution of the House of Representatives, of March 26, 1860, requesting information relative to what ports of delivery, if any, were discontinued, &c.; which was laid on the table, and ordered to be printed.

MARK ELISHA.

An act (S. No. 42) for the relief of the heirs and legal representatives of Mark Elisha; which was

read a first and second time, and referred to the Committee on Private Land Claims.

GRANT OF LAND TO IOWA.

A joint resolution (S. No. 2) removing the restrictions on a certain grant of five sections of land to the State of Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

DESERTION AND ENLISTMENT.

An act (S. No. 46) to prevent desertion and to facilitate the enlistment of soldiers in the Army of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

GUANO DISCOVERIES.

An act (S. No. 303) supplementary to the act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856; which was read a first and second time, and referred to the Committee on Commerce.

ARTHUR EDWARDS AND ASSOCIATES.

An act (S. No. 49) for the relief of Arthur Edwards and his associates; which was read a first and second time.

Mr. COLFAX. I desire to state that this matter has been under consideration by the Post Office Committee, and that we have unanimously reported a bill which is of precisely the same tenor as that passed by the Senate. I ask that this bill be placed upon the Private Calendar and substituted for our House bill, which is exactly the same.

It was so ordered.

SHIELDON M'KNIGHT.

An act (S. No. 30) for the relief of Sheldon McKnight; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

AARON H. PALMER.

A bill (S. No. 111) for the relief of Aaron H. Palmer; which was read a first and second time, and referred to the Committee of Claims.

R. F. BLOCKER AND OTHERS.

A bill (S. No. 114) for the relief of R. F. Blocker, E. J. Gurley, and G. F. Davis; which was read a first and second time, and referred to the Committee on Military Affairs.

A. F. SPENCER AND GURDON F. HUBBARD.

An act (S. No. 221) for the relief of A. F. Spencer and Gurdon F. Hubbard; which was read a first and second time.

Mr. COLFAX. That case has already been considered by the Committee on the Post Office and Post Roads. I move that the bill be referred to a Committee of the Whole House, and printed. The motion was agreed to.

ABIGAIL NASON'S HEIRS.

An act (S. No. 324) for the relief of the heirs at law of the late Abigail Nason, sister and devisee of John and Deborah Nason; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

PROVIDENT ASSOCIATION OF CLERKS.

An act (S. No. 62) to amend the act to incorporate the Provident Association of Clerks in the civil departments of the Government of the United States in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

ALEXANDRIA AND HAMPSHIRE RAILROAD.

An act (S. No. 64) to authorize the extension and use of a branch of the Alexandria, Loudoun, and Hampshire railroad within the city of Georgetown; which was read a first and second time, and referred to the Committee for the District of Columbia.

PUBLIC SCHOOLS IN WASHINGTON.

An act (S. No. 300) directing the conveyance of a lot of ground for the use of the public schools in Washington city; which was read a first and second time, and referred to the Committee for the District of Columbia.

ODD FELLOWS OF WASHINGTON.

An act (S. No. 232) to incorporate the Grand

Lodge of the Independent Order of Odd Fellows of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PRIVATE LAND CLAIMS.

An act (S. No. 104) for the final adjustment of private land claims in the States of Florida, Louisiana, Arkansas, and Missouri, and for other purposes; which was read a first and second time, and referred to the Committee on Private Land Claims.

LOCATION OF BOUNTY LAND WARRANTS.

An act (S. No. 139) to authorize the location of certain warrants for bounty land heretofore issued; which was read a first and second time, and referred to the Committee on Public Lands.

UNITED STATES AND PARAGUAY CONVENTION.

An act (S. No. 346) to carry into effect the convention between the United States and the Republic of Paraguay; which was read a first and second time, and referred to the Committee on Foreign Affairs.

APPEALS AND WRITS OF ERROR.

An act (S. No. 4) concerning appeals and writs of error; which was read a first and second time, and referred to the Committee on the Judiciary.

VACANCIES IN CERTAIN OFFICES.

An act (S. No. 5) to supply vacancies in certain offices; which was read a first and second time, and referred to the Committee on the Judiciary.

SAMUEL J. HENSELEY.

An act (S. No. 249) for the relief of Samuel J. Henseley; which was read a first and second time, and referred to the Committee on Indian Affairs.

CONTRACTS ON CAPITOL EXTENSION.

Mr. MILLWARD. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That Senate Document No. 29, and Executive Document No. 22, be referred to the Committee on Expenditures in the War Department, who shall inquire into the subject therein treated of, the action of the War Department, and of the officer in charge, in regard to the contract for the major repairs of the Capitol extension, and whether the late action of the War Department has been legal and right, or in violation of the legal rights of the contractors, Messrs. Biles, Bates & Hewes; with power to send for persons and papers, and leave to report at any time.

Mr. BRANCH. I must object to the resolution, unless that latter clause be stricken out.

Mr. MILLWARD. I will strike that out.

Mr. BRANCH. Then I will not object to the resolution.

The resolution was agreed to.

ADVERSE REPORTS.

Mr. WALTON, from the Committee of Claims, made an adverse report on the memorial of Adolphus Glavick; which was laid upon the table, and ordered to be printed.

Mr. TAPPAN, from the same committee, made an adverse report on the petition of Susanah A. Sawyer, heir of Archibald Montgomery; which was laid upon the table, and ordered to be printed.

Mr. HOARD, from the same committee, made an adverse report on the petition of William Hicks; which was laid upon the table, and ordered to be printed.

SAMUEL H. TAYLOR.

Mr. TAPPAN, from the same committee, reported back, with a recommendation that it do pass, a bill (S. No. 100) for the relief of Samuel H. Taylor; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

COLE & BARR.

Mr. MAYNARD, from the same committee, reported a bill for the relief of Messrs. Cole & Barr; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MILES DEVINE.

Mr. MAYNARD, from the same committee, reported back Senate bill No. 99 for the relief of Miles Devine, with a recommendation that it do not pass; which was laid on the table, and ordered to be printed.

THERESA DARDENSE.

Mr. THAYER, from the Committee on Public Lands, reported back Senate bill No. 31 for the relief of Theresa Dardense, widow of Abraham Dardense, deceased, and their children; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAULT STE. MARIE.

Mr. THAYER also, from the same committee, reported a bill in relation to the mission claims at Sault Ste. Marie, Michigan; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM Y. STRONG.

Mr. TRIMBLE, from the same committee, reported a bill for the relief of William Y. Strong; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSEPH D. GREEN.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of Joseph D. Green; which was laid on the table, and ordered to be printed.

WILLIAM MOREE.

Mr. LEE, from the same committee, made an adverse report on the petition of William Moree; which was laid on the table, and ordered to be printed.

MISSISSIPPI AND MISSOURI RAILROAD.

Mr. LEE, from the same committee, made an adverse report on the petition of the Mississippi and Missouri Railroad Company; which was laid on the table, and ordered to be printed.

WILLIAM M'CORMICK.

Mr. LEE, from the same committee, made an adverse report in the case of the memorial of William M'Cormick; which was laid on the table, and ordered to be printed.

THOMAS F. BOWLER.

Mr. ADAMS, of Kentucky, from the same committee, reported a bill for the relief of Thomas F. Bowler, of New Mexico; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ENROLLED BILL.

Mr. THEAKER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution constituting Macon, in the State of Georgia, a port of entry for the time being, for the purposes therein specified, and for other purposes; when the Speaker signed the same.

JOHN MONTY.

Mr. BRIGGS, from the Committee on Revolutionary Claims, reported a bill for the relief of John Monty; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES BELL.

Mr. VANCE, from the same committee, reported a bill for the relief of the legal representatives of James Bell, late of Chambly, in the province of Lower Canada, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FRANCIS WARE.

Mr. FERRY, from the same committee, reported a bill for the relief of the legal representatives of Lieutenant Francis Ware; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN WINSLOW.

Mr. HOLMAN, from the same committee, made an adverse report in the case of John Winslow; which was laid on the table, and ordered to be printed.

JOHN A. B. D'AUTRIEVE.

Mr. NOELL, from the Committee on Private

Land Claims, reported a bill for the relief of the heirs and legal representatives of John A. B. D'Autrive, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LAND TITLE IN LOUISIANA.

Mr. BLAIR, from the Committee on Private Land Claims, made an adverse report on the memorial of the citizens of New Orleans, for confirmation of title to two hundred and twenty-seven thousand eight hundred and fifty-three acres of land in the State of Louisiana; which was laid on the table, and ordered to be printed.

THOMAS MADDEN'S HEIRS.

Mr. KENYON, from the same committee, reported back Senate bill No. 49, granting the right of preemption to a certain tract of land in the State of Missouri to the heirs and legal representatives of Thomas Madden, deceased; which was referred to a Committee of the Whole House, and ordered to be printed.

JACOB HALL.

Mr. EDWARDS, from the Committee on Indian Affairs, reported a bill for the relief of Jacob Hall; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM FISHER.

Mr. EDWARDS also, from the same committee, reported back Senate joint resolution No. 8 relating to the claim of William Fisher, late of Florida, deceased; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

AMERICAN BOARD OF FOREIGN MISSIONS.

Mr. ETHERIDGE. I am directed by the Committee on Indian Affairs to report back Senate bill No. 71, for the relief of the American Board of Commissioners for Foreign Missions. I ask the unanimous consent of the House that it be put upon its passage. It is granting power merely to this board of commissioners to expend money for educational purposes. I hope there will be no objection.

There was no objection.

The bill was read. It directs that the American Board of Commissioners for Foreign Missions be released from the obligation imposed upon it by the fourth article of the treaty made between the United States and the nation of the Cherokee Indians, at New Echota, on the 29th day of December, 1835, which provides that the money allowed for the appraised value of the Union and Harmony mission reservations, should be expended in schools among the Osage and improving their condition; provided, that the said board shall expend the same money for the same purposes, among other tribes not provided with schools, which may seem proper in the judgment of the American Board of Commissioners for Foreign Missions.

Mr. ETHERIDGE. I demand the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof, the bill received its several readings, and was passed.

Mr. ETHERIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ALMON W. BABBITT.

Mr. ALDRICH, from the Committee on Indian Affairs, reported a bill for the relief of the administrators of the estate of the late Almon W. Babbitt, secretary of Utah; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAMUEL W. PUCKETT.

Mr. BINGHAM, from the Committee on the Judiciary, reported a bill for the relief of Samuel W. Puckett; which was laid upon the table, and ordered to be printed.

JOHN RANDOLPH.

Mr. BUFFINTON, from the Committee on

Military Affairs, reported back House bill No. 336, for the relief of John Randolph, of Warren county, Tennessee, with the recommendation that it do not pass; which was laid upon the table, and, with the accompanying report, ordered to be printed.

FREDERICK F. BROESE.

Mr. POTTLE, from the Committee on Naval Affairs, reported a bill for the relief of the legal representatives of Frederick F. Broese, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SARAH BRASHEAR.

Mr. POTTLE, from the same committee, made an adverse report on the petition of Sarah Brashear; which was laid upon the table, and ordered to be printed.

GEORGE F. MARSH.

Mr. ROYCE, from the Committee on Foreign Affairs, reported back House bill No. 8, for the relief of George F. Marsh; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ANTON L. C. PORTMAN.

Mr. HUMPHREY, from the same committee, reported a bill for the relief of Anton L. C. Portman; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAMUEL N. ELLIOTT.

Mr. DELANO, from the Committee on Revolutionary Pensions, reported a bill for the relief of Samuel N. Elliott and others, children of Nathan Elliott; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REBECCA DAVIS.

Mr. DELANO, from the same committee, also reported a bill for the relief of Rebecca Davis, widow of Jesse Davis; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM HAYES.

Mr. DELANO, from the same committee, made an adverse report on the petition of William Hayes, administrator of Colley Rucker; which was laid upon the table, and ordered to be printed.

CATHARINE COMPTON.

Mr. DELANO, from the same committee, made an adverse report on the petition of Catharine Compton, only child of Joel Callahan; which was laid upon the table, and ordered to be printed.

ESTHER COLE.

On motion of Mr. DELANO, the Committee on Revolutionary Pensions was discharged from the further consideration of the petition of Esther Cole, and the same was referred to the Committee on Invalid Pensions.

CHILDREN OF WILLIAM HUMPHREY.

Mr. BABBITT, from the Committee on Revolutionary Pensions, reported a bill for the relief of the children of William Humphrey, a soldier of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ALICE HUNT.

Mr. FENTON. I am directed by the Committee on Invalid Pensions to report back to the House Senate bill No. 223 for the relief of Alice Hunt, widow of Thomas Hunt, with the recommendation that it do pass. I ask the unanimous consent of the House that it be put upon its passage at this time. It is a case of great merit. It passed the Senate without a dissenting voice, as I am informed. Mrs. Hunt, provided for in this bill—the widow of Captain Hunt, a brave soldier in the war of 1812, and a faithful and meritorious officer in the regular service to 1838, the year of his death—is worthy, and in pressing want of the relief which this bill will

afford. I hope there will be no objection from any quarter.

Several MEMBERS. Let the bill be read.

The bill was read. It directs the Secretary of the Interior to place the name of Alice Hunt, widow of Captain Thomas Hunt, on the pension roll, and to pay her at the rate of thirty-five dollars per month from the 5th day of January, 1860, for life or widowhood.

Mr. FENTON. I call the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the bill received its several readings, and was passed.

Mr. FENTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

KATE D. TAYLOR.

Mr. FENTON, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 250) for the relief of Kate D. Taylor, widow of the late Brever Captain Oliver H. P. Taylor; which was referred to a Committee of the Whole House, and ordered to be printed.

ARCHIBALD MERRYMAN.

Mr. FENTON, from the same committee, reported a bill granting a pension to Archibald Merryman; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CAROLINE E. CLARK.

Mr. FENTON also, from the same committee, reported a bill for the relief of Caroline E. Clark; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HENRY SANFORD.

Mr. FENTON also, from the same committee, reported a bill for the relief of Henry Sanford; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MOSES GROOMS.

Mr. FENTON also, from the same committee, reported a bill granting a pension to Moses Grooms; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. FENTON also, from the same committee, made adverse reports in the several cases of James H. Bradford, praying for arrears of a pension; Hector St. John Beatty, asking for an invalid pension for services in the war of 1812; and Henry Miller, asking for an increase of an invalid pension; which were severally laid on the table, and ordered to be printed.

JUDITH NOTT.

Mr. FOSTER, from the Committee on Invalid Pensions, reported a bill for the relief of Judith Nott, widow of John Nott, late of the United States Navy; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES VAN PELT.

Mr. FOSTER also, from the same committee, reported a bill for the relief of James Van Pelt; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM W. DEHL.

Mr. FOSTER also, from the same committee, reported a bill to increase the pension of William W. Dehl; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DANIEL LUCAS.

Mr. FOSTER also, from the same committee, reported a bill granting a pension to Daniel Lucas; which was read a first and second time, referred

to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

KATE D. TAYLOR.

Mr. MOORE, of Kentucky. I move to reconsider the vote by which the bill for the relief of Kate D. Taylor, widow of the late Brever Captain Oliver H. P. Taylor, was referred to a Committee of the Whole House. I ask to have the motion entered.

The motion was entered.

ADVERSE REPORTS.

Mr. FOSTER, from the Committee on Invalid Pensions, made adverse reports in the several cases of the petitions of C. Melville Reeves, praying for a pension; Thomas Satterlee, praying for an invalid pension; Ezekiel Darling, asking for a pension; Silas Stevens, of Virginia, praying for an invalid pension; Charlotte Butler, widow of John Butler, praying for a pension on account of services and disabilities of her husband during the war of 1812; Nathaniel Wilbur, asking for a pension; John R. Tucker, asking for a pension on account of his father being killed at the battle of Fort Meigs, in 1813; Daniel Doland, praying for an increase of pension; Antoine Robedoux, asking for an increase of pension; James S. Rowland, a private in the war with Mexico, asking to be allowed a pension; Samuel Janney, asking for a pension; Edward Hardesty, a soldier of the war of 1812, praying for a pension; Isaac Allen, asking for an increase of pension; and Margaret Coward, widow of Thomas Coward, asking for an invalid pension.

SAMUEL REMICK.

Mr. FOSTER. I am directed by the Committee on Invalid Pensions to ask to be discharged from the further consideration of the petition of Samuel Remick, and that the same be referred to the Committee on Revolutionary Pensions. I make that motion.

The motion was agreed to.

EDMUND MAYO.

Mr. BRABSON, from the same committee, made an adverse report in the case of Edmund Mayo; which was laid on the table, and ordered to be printed.

LEOPOLD SCHNEIDER.

Mr. BRABSON also, from the same committee, reported a bill granting a pension to Leopold Schneider; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ALEXANDER MONTGOMERY'S HEIRS.

Mr. POTTER, from the Committee on Revolutionary Pensions, reported a bill for the relief of the children and heirs of Alexander Montgomery; which was read a first and second time.

Mr. POTTER. In this case I ask for the reading of the report. It is a peculiar case, in which a certificate of pension was granted, but the pensioner died before the delivery of the certificate. I desire to put the bill upon its passage.

Mr. McQUEEN. I hope the bill will be passed. I am acquainted with the facts in the case. The agent of the parties sent the papers to me. They prosecuted their claim for a number of years. Finally they sent on the testimony, and the certificate issued; but after I sent it home, I learned that the party had died some five days before the certificate was received. I ask for the reading of the bill.

The bill, which was read, directs the Secretary of the Interior to pay to the child or children and heirs at law of Alexander Montgomery, late private in the revolutionary war, the amount due said Montgomery on the pension certificate which has not been paid to said child or children or heirs at law, by reason of the death of said Montgomery.

The bill was ordered to be engrossed and read a third time, and, being engrossed, was subsequently read the third time, and passed.

Mr. McQUEEN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ROBERT PURCHASE.

Mr. POTTER also, from the same committee, reported a bill granting a pension to Robert Pur-

chase, a soldier of the revolutionary war; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MARGARET PERRY.

Mr. POTTER also, from the same committee, made an adverse report on the petition of John Perry, for himself and surviving children of Margaret Perry; which was laid on the table, and ordered to be printed.

COMMITTEE DISCHARGED.

Mr. POTTER. I am instructed by the Committee on Revolutionary Pensions to ask that they may be discharged from the further consideration of the several petitions of Mary Douglas, Mr. Marshall, heir of Thomas Hoyt, and Martha Garrows and others; and that the same be referred to the Committee on Revolutionary Claims. I make that motion.

The motion was agreed to.

ADVERSE REPORTS.

Mr. HALL, from the Committee on Invalid Pensions, made an adverse report on the petitions of J. Andrew and J. Turk and Eleazer Huchcock, which were severally laid on the table, and ordered to be printed.

Mr. STOKES, from the same committee, made adverse reports on the petitions of William Walter, Catharine Welding, and Ellen Bowic; which were severally laid on the table, and ordered to be printed.

Mr. FLORENCE, from the same committee, made adverse reports on the petitions of William A. Johnson and J. L. Harker; which were severally laid on the table, and ordered to be printed.

HENRY F. BOWERS.

Mr. FLORENCE, from the same committee, reported a bill granting an invalid pension to Henry F. Bowers, which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

UNITED STATES ART COMMISSIONERS.

Mr. TRAIN, from the Committee on Public Buildings and Grounds, reported a bill to define the power and duties, and fix the salaries of the United States art commissioners; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

MAIL FACILITIES TO PIKE'S PEAK.

Mr. COLFAX. I ask to have a letter from the Postmaster General read.

The letter was read, as follows:

POST OFFICE DEPARTMENT, April 6, 1860.
SIR: Referring to the communication of this morning in regard to lack of mail facilities in the Pike's Peak region, I would state that there never having been any post routes in the region till the act of March 25, 1859, it has been impossible for the Department to supply that section with mails. Nor is it possible now, until Congress furnish the appropriation for that purpose. It is, however, the policy of the Department to make the appropriation for this service, now incorporated in the general Post Office appropriation bill, should be passed at once, as the post routes for that region were in a special bill, and if Congress should be fit to consider therein, the Department would at once furnish the necessary funds under the act of March 25, 1859, to be obtained on reasonable terms, and advertise for regular contracts there, to take effect in July next.

Respectfully, your obedient servant,

URBATO KING,
Acting Postmaster General.
Hon. BENJAMIN COLFAX, Chairman Committee on the Post Office and Post Roads, House of Representatives.

Mr. COLFAX. I would state that Congress unanimously passed a bill establishing five post routes in the Pike's Peak gold region. During the entire of last year the people there had no mail routes at all, and had to depend on private expressmen, paying from twenty-five cents to a dollar for their letters. The same state of affairs would exist this year, unless Congress granted relief. The Committee on the Post Office and Post Roads have instructed me unanimously, in accordance with the suggestion of the Post Office Department, to report a bill, and ask for its passage. It does not appropriate one single dollar that is not now estimated for and reported by the Committee of Ways and Means. There is simply this difficulty: The Committee of Ways and Means have reported an appropriation of \$25,000 for this bill, while the general Post Office appropriation bill, which it is

certain will not pass till the last day of the session. The Post Office Department says that, if that be the case, they will not be able to furnish mail facilities there this season; but that if this sum of \$25,000 for mails in that region be put in a special bill, and that bill be passed at once, they can furnish those mail facilities under the act of 1859. There are people there by thousands. They have no army to protect them, no Government officers, and do not cost the General Government anything at all. I do think that we should at least give them mail facilities.

Mr. CRAWFORD. I desire to discuss this question whenever the bill is to be put upon its passage; and I give notice to the gentleman from New Hampshire, [Mr. TAPPAN,] as well as the gentleman from Indiana, [Mr. COLFAX,] that I shall ask the attention of the House in opposition to the passage of the bill.

Mr. TAPPAN. Then I cannot give way.
Mr. COLFAX. Then I give notice that I shall on Monday endeavor to have substantial justice done to these people.

Mr. CRAWFORD. And I give notice that I shall on Monday resist it with all the influence that I can have on this side of the House.

EXECUTIVE INTERFERENCE WITH CONGRESS.

Mr. COVODE. Before a motion is put to go into Committee of the Whole House, I desire to submit a privileged question. I am directed by the special committee appointed to investigate charges of Executive interference with the legislation of Congress, to present a report. There was also a minority report presented. I ask to have them printed and referred back to the special committee.

Mr. SMITH, of Virginia. I would like to know what that report is.

The SPEAKER. The report is presented, with leave to the minority of the committee to present a minority report.

Mr. HOUSTON. I think the gentleman from Pennsylvania had better withhold his report until the minority of the committee are ready to report.

Mr. COVODE. The minority have agreed that their report should be presented.

Mr. HOUSTON. Well, let the minority present their report.

Mr. WINSLOW. I ask leave of the House to introduce a minority report.

The SPEAKER. If there be no objection, the two reports will be referred back to the special committee, and ordered to be printed.

Mr. HOUSTON. I do not understand the policy of that course.

Mr. WINSLOW. If the House will take up this question to-day it will suit me just as well as at any other time.

Mr. HOUSTON. I would like to know from the gentleman from Pennsylvania when he proposes to take up this matter?

Mr. COVODE. Let the report be referred back to the committee, and we will bring it up when we are ready. The reason why we determined not to have it acted on to-day was, that this is private bill day, and we did not want to take up the time of the House with it.

Mr. TAPPAN. I only gave way to allow the minority to come in and be ordered to be printed.

Mr. HOUSTON. The reports had better be printed and set down for some particular day. Then we will all know when it is to come up. Otherwise we would not know when this committee might come in with their report.

Mr. WINSLOW. Very well; let it be set down for Monday next.

Mr. HOUSTON. Well, say Monday, then.

Mr. WINSLOW. I understand that the Judiciary Committee will present their report on Monday, and we have to have it printed. I suggest, therefore, that this report be received and printed, and made the order of the day for Monday next.

The SPEAKER. Is there any objection to that proposition?

Mr. FLORENCE. I object to its being made a matter of course.

Mr. HOUSTON. Probably the gentleman from Pennsylvania has not heard what the report is. I take it for granted that he has not, or he would not object.

Mr. WINSLOW. It strikes me that this is a matter of course.

Mr. FLORENCE. I understood that this was

the final report of the committee. I withdraw my objection.

Mr. WASHBURN, of Maine. What is this? The SPEAKER. The report of a special committee.

Mr. WASHBURN, of Maine. I will object to making it a special order. I do not know what it is.

Mr. WINSLOW. I will state that the whole question is one of privilege, and can be taken up now, or at any time.

Mr. FLORENCE. Oh, no, not on private bill day.

The reports were postponed until Monday, and ordered to be printed.

Mr. TAPPAN. I now insist on my motion.

UNITED STATES ART COMMISSIONERS—AGAIN.

Mr. TRAIN. I desire to enter a motion to reconsider the vote by which the bill fixing the salaries of the art commissioners was referred to a Committee of the Whole on the Private Calendar.

The SPEAKER. The motion will be entered.

Mr. BRANCH. I would like to know if the bill was brought in by unanimous consent, or was reported from a committee?

The SPEAKER. No objection was made to its reception.

Mr. BRANCH. Well, I raise the point of order that bills brought in by unanimous consent for reference only, cannot be brought back by motions to reconsider.

The SPEAKER. The bill was not brought in for reference. It was brought in as a report from a committee.

Mr. FLORENCE. I shall interpose another objection at this point. It is a bill of a public character, and was referred to a Committee of the Whole House on the Private Calendar. I intended to have interposed an objection at the time.

If I understand the bill, it fixes the salaries of certain United States commissioners. It is, therefore, a general bill, and should go to the Committee of the Whole on the state of the Union, and not to a Committee of the Whole House on the Private Calendar; and I give notice that, when the motion to reconsider is called up, I shall discuss that point.

PRIVATE BUSINESS.

Mr. TAPPAN. I now insist on my motion, that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, [Mr. HAZEN in the chair,] and proceeded to consider the business on the Private Calendar.

This being "objection day," the bills to which no objection was made were laid aside, to be reported to the House with a recommendation that they do pass.

The committee considered the bills, &c., in their order on the Calendar, commencing where they left off on the last objection day.

REPRESENTATIVES OF PIERRE AYOTT.

A bill (H. R. No. 256) for the relief of the legal representatives of Captain Pierre Ayott.

The bill and report were read.

Mr. CRAWFORD. I object to that bill. I want to discuss it.

HEIRS OF NEHEMIAH STOKELY.

A bill (H. R. No. 257) for the relief of Nehemiah Stokely, a revolutionary officer.

The bill and report were read.

Mr. SMITH, of Virginia. I would like, if convenient, to have the statute of limitation read, that is referred to in that report.

The CHAIRMAN. Debate is not in order, except by unanimous consent.

Mr. SMITH, of Virginia. Of course not; my object is to aid in the dispatch of business.

The CHAIRMAN. If there be no objection, and the gentleman will furnish the statute to the Clerk, it will be read.

Mr. BURNETT. I am opposed to this whole class of cases; and I object to the bill without any qualification.

Mr. COVODE. I move that this committee do now rise. It is no use sitting here having the bills read and objected to. This is as plain a case as you can find.

Mr. CRAWFORD. I desire to say, in reply

to the gentleman from Pennsylvania, that, as I understood this case—and listened attentively to the reading of the report—there is not a particle of evidence that this claimant ever enlisted for the last three years of the war. The report is, that there is no record evidence of his service during the last three years of the war. But, even admitting that there is such evidence, I desire to say that these officers themselves came to Congress, and got five years' full pay; and now, when the youngest children they can have had must be more than fifty years old, their representatives come here to Congress for relief.

THE CHAIRMAN. Debate is not in order. Mr. MAYNARD. I hope the gentleman from Pennsylvania will withdraw his motion. Mr. COVODE. No, sir; I insist on it. The question was taken, and the committee refused to rise.

HEIRS OF JOSEPH TRAVERSEE.

A bill (H. R. No. 259) for the relief of the heirs of Joseph Traversee, a captain in the revolutionary war. [Objected to by Mr. Covode.]

ORPHAN CHILDREN OF JOSEPH JEWETT.

A bill (H. R. No. 259) for the relief of the orphan children of Joseph Jewett, a revolutionary officer, who was slain in battle. [Objected to by Mr. Covode.]

C. O. DUCLOREL.

A bill (H. R. No. 260) for the relief of Charles Olivier Duclouel, of the parish of St. Martin, Louisiana.

Mr. LONGNECKER. I object.

Mr. MAYNARD. I hope gentlemen will not object to bills in this way. They are unconscious of the great wrong they are doing to claimants here. I hope they will not interpose objections, at least until they hear the bills read.

Mr. COVODE. The gentleman from Kentucky—

THE CHAIRMAN. Debate is not in order, except by unanimous consent.

Mr. CURRY. I object to debate.

Mr. BURNETT. I hope the member from Pennsylvania may be permitted to say what he was going to say about me.

Mr. COVODE. The gentleman from Kentucky says that he is opposed to all these claims, and I see no use in my stating here.

Mr. BURNETT. I said that I was opposed to this class of claims. I repeat it. They are wrong upon principle. I have a right, as a member of this House, to object to any bill which I believe to be wrong, and I will not permit my comment by the member from Pennsylvania on my exercise of that right.

Mr. COVODE. I can object also.

Mr. BURNETT. You have no right to comment on my remarks.

THE CHAIRMAN. Debate is not in order. Any member of the committee has a right to object to a bill; and when objection is made, the bill must be passed over.

R. K. DOEBLER.

A bill (H. R. No. 85) for the relief of R. K. Doebler.

The bill legalizes and makes valid the assignment by Samuel H. Dill, on land warrant No. 10117, for one hundred and sixty acres of land, issued 4th November, 1851, which assignment was made on the 28th of November, 1851, to R. K. Doebler.

The report states that on the 4th of November, 1851, a bounty land warrant No. 10117 was issued to one hundred and sixty acres of land to Samuel H. Dill, lieutenant in Captain Taylor's company, first regiment Mississippi volunteers, Mexican war; and that on the 28th November, 1851, the warrant was assigned to R. K. Doebler by Dill; but that the assignment was made prior to the passage of the act making land warrants assignable, and was therefore declared void by the Commissioner of the General Land Office, who recommends, as the only remedy of the assignee, the passage of an act of Congress legalizing said assignment.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

VALERY LANDRY.

A bill (H. R. No. 261) for the relief of Valery

Landry, of the parish of Ascension, Louisiana. [Objected to by Mr. DEXL.]

FRANÇOIS GUILLOU.

A bill (H. R. No. 262) for the relief of the heirs of legal representative of Francois Guillou.

The bill confirms the heirs or legal representative of Francois Guillou, deceased, late of the parish of St. Landry, in the State of Louisiana, in their claim to that tract or parcel of lands known to the survivors of the southwestern district of Louisiana as section one hundred and eight, in township four south, range three east, and section seventy-eight, in township four south, of range four east, containing about one hundred and ninety-five acres, and that a patent shall issue thereon in ordinary course of law, provided that this act shall only be construed as a relinquishment of whatever title may now be vested in the United States of America, and shall in nowise interfere with any valid adverse claim of other third parties.

It appears, from the report, that Nicholas Lamthe, in 1797, transferred to Jacques Deshotels a tract of land of six arpents front by forty arpents back, containing about one hundred and ninety-five acres, which tract was sold by Deshotels to Francois Guillou in 1810, through whom it is now claimed. This six by forty arpent tract appears to be part of a tract of twenty-five by forty arpents acquired by Lamthe from one "Final," under the Spanish Government, though the title from that Government is not in evidence, and is said to have been destroyed by some fire; but all of which has, at different periods, been confirmed to claimants under Lamthe, except the tract now in question. Ten by forty arpents were confirmed to Helen Soileu, by the land commissioners for that district of country, in 1811. Under the act of Congress of 1819 and 1820, the commissioners divided the claims reported into eleven classes, placing the claims of Louis Guillou for nine by forty arpents, and of Francois Guillou for six by forty arpents, in the seventh class, the first six being confirmed. These two claims of Francois Guillou for fifteen by forty arpents covered the balance of the original twenty-five by forty arpents tract—only ten by forty of which had been confirmed up to that time. Louis Guillou afterwards made a new application for the confirmation of his claim to the line by forty arpents, under the act of 1820, and the same being reported favorably by the commissioners, was confirmed by Congress in 1826, leaving unconfirmed only the six by forty arpents of the original tract now claimed by the memorialist, as the representative of Francois Guillou, deceased. In view of the fact that there has been uninterrupted possession and cultivation of this tract by the claimants and their ancestors since 1797, and that the other parties, whose claims were upon the same basis, have been quieted in their titles, it is deemed that it will be but just and right to do the same in this case, at least to the extent of relinquishing whatever title the Government may have thereto, and preserving the rights of third parties, if any such there be.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

W. Y. HANSELL AND OTHERS.

A bill for the relief of W. Y. Hansell, the heirs of W. H. Underwood, and the representatives of Samuel Rockwell.

The bill directs the Secretary of the Treasury to pay to W. Y. Hansell, and the heirs of W. H. Underwood, and the legal representatives of Samuel Rockwell, \$30,000; but the balance of the sum of \$60,000, reserved in the treaty between the United States and the Cherokee nation, (negotiated on the 22nd of December, 1835,) for the payment of said claims, and misapplied by the commissioners of the United States in the payment of other claims; the said sum to be distributed in the following manner: To W. Y. Hansell, \$11,146; to the heirs of W. H. Underwood, \$9,035; and to the legal representatives of Samuel Rockwell, \$10,144.

It appears, from the report, that the memorialists were the counsel of the Cherokee nation, attending for the space of three years to a great multitude of cases in different circuits of the State of Georgia; that they were solicited by the commissioner who negotiated the treaty of 1835 to aid in the negotiation, with the assurance that their

claims should be provided for in the said treaty; that the assurance was given by the commissioner, Mr. Schermerhorn, and the then President of the United States, General Jackson, and the sum of \$60,000 was stipulated in the treaty to be applicable to their claims alone. This fact is acknowledged by the commissioners; and the fact that the treaty could not have been negotiated without the assent of the memorialists is also stated by Mr. Schermerhorn, the commissioner who negotiated the treaty. The claims of the memorialists were presented to the commissioners appointed to carry the treaty into effect, and were then referred to a committee of Indians, appointed under the twelfth article of the treaty, for the purposes therein specified, who made a report allowing \$21,000 for three years' service of three gentlemen of high professional standing. Against this report the memorialists protested; but was finally agreed that this sum should be received as an advance, the commissioners expressly reserving to themselves the right to review the case and do what justice might require. Subsequent commissioners were appointed, who disagreed in opinion upon the claims, and on the suggestion of the Secretary of War, the commissioners referred the account to seven professional gentlemen of Georgia, with power to any three to act, five of whom united in an award, which was laid before the commissioners. In the mean time, the commissioners had directed a portion of the fund reserved for the payment of these claims to others, leaving only some eight thousand dollars of that fund expended, which sum the last board of commissioners, acting under the award, directed to be paid to the memorialists, reserving the whole amount of the reserved fund which remained under their control. The memorialists now claim that the balance of that fund, which was created for their benefit alone, and which has been applied by the commissioners of the United States to other purposes, is now due to them.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JOHN JOHNSON.

A bill (H. R. No. 263) for the relief of John Johnson.

The bill and report were read.

Mr. SMITH, of Virginia. I think that claim is founded upon mischievous principles. The idea is, that a man who was with the army of a gentleman for five years, and never paid him when he was entitled to be paid, is preposterous. I must object.

CHARLES STILLMAN.

A bill (H. R. No. 264) for the relief of Charles Stillman.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Charles Stillman, the sum of \$500, in full compensation for a chaland, or ferry-boat, used and appropriated to the public service by the officers of the Army of the United States, and the crew was with Mexico, in a ferry-boat for the transportation of troops and army stores across the Rio Grande, at Matamoros, during said war.

Mr. SMITH, of Virginia. I do not like to object; but it is well known that all services of this character are paid by the proper officers. If this man has not received his pay, there must be some reason for it. I object.

Mr. STANTON. If the gentleman will bear the report read, he will see why this man did not get his pay.

Mr. SMITH, of Virginia. Very well; I will withdraw my objection until I hear the report.

The report was read. It shows that at the commencement of the war with Mexico the petitioner was a resident of Matamoros, in the Republic of Texas, and the crew of the ferry across the Rio Grande at that place, and the crew of the ferry-boat, used in the transportation of passengers and freight across the river. That a few days before the capture of that place by the American troops under General Taylor, in 1846, the petitioner, and crew of the ferry, and the crew of the ferry-boat, were with Mexico, and the crew of the ferry-boat was exalted from that place by virtue of a proclamation of General Ampudia, the Mexican general in command of that department. That during his absence his boat was seized by the officers in command of the army of the United States, and used in the transportation of troops

and army stores at the capture of Matamoros, and detained and used as a ferry-boat during the occupancy of that place by the army of the United States until it was worn out. A letter from the Third Auditor of the Treasury, however, states that the proof before him, on the application of the petitioner to that officer, shows that the boat was first captured by the Mexican army, and recaptured by our troops from the Mexicans, and that for that reason the claim was disallowed by that office. Although the Government is not bound to indemnify or make compensation to a petitioner for property captured or destroyed by an enemy in time of war, yet, if it is recaptured by our Government, the title of the owner is revived, and he may reclaim it; or, if it is retained for public use, compensation must be made to the owner. Two witnesses and the petitioner testify that the boat was worth \$500. But the builder of the boat, whose testimony is taken by the petitioner, testifies that it was worth \$500, and that he sold it to the petitioner for that sum.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

FREDERICK STEPHENS.

A bill (H. R. No. 265) for the relief of Frederick Stephens.

The bill directs the Secretary of the Treasury to pay to Frederick Stephens, of the county of Kane, and State of Illinois, the sum of fifty dollars, in full satisfaction for all claims on account of services rendered as a private in the company commanded by Captain James Sulich, in the regiment of New York militia, composed of one month in the war of 1812, and of all claims on account of loss of time, and expenses incurred by reason of sickness contracted in the service.

It appears, from the evidence submitted in this case, that the petitioner was drafted for the term of one month at Bainbridge, in the county of Chenango, and State of New York, about the 1st of September, 1814, as a private in the company of Captain James Sulich, in the regiment of New York militia commanded by Colonel Billinger. He served with Colonel Billinger for one month in the war of 1812, when he was taken sick, and with the permission of his captain retired from the lines to a place where he could be taken care of by his friends, and where he remained sick until some time after the company was discharged. It is worthy of some notice, that the name of Sulich is not borne upon the rolls of said company, and for that reason he never drew any pay, even for the time that he was in actual service. Owing to the death of his captain soon after, the company was discharged. He was never able to get the omission of his name upon the rolls rectified. The facts above set forth are proved by the affidavit of William Piercy, who was a soldier in the same company, and who conveyed the petitioner from the army to his friends after he was taken sick, at the request of his captain. The petitioner has proved his service of one month in the said faction of the Commissioner of Pensions, and been allowed one hundred and sixty acres of bounty land therefor. The petitioner prays to be paid not only for the actual service of one month in the war of 1812, but for the loss of time and expenses incurred during some six months of sickness, contracted in the service.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MISSOURI OSAGE HOSTILITIES.

A bill (H. R. No. 130) to pay the State of Missouri the amount expended by said State in repelling the invasion of the Osage Indians.

The bill directs the Secretary of the Treasury to pay to the State of Missouri the sum of \$100,000, being the amount of money said State expended in repelling the invasion of the Osage Indians in 1837.

It is stated in the memorial of the Legislature of the State of Missouri, that the policy of the General Government has, during a course of many years, placed upon the border of Missouri said Arkansas an immense number of Indians, nearly equal, by actual computation, to the effective population of the two States. This policy, which yearly receives the sanction and adoption on the part of the Federal Government, has exposed that frontier to great and imminent peril from which the few forces of the United States upon

that line are utterly unable to protect the citizens. Whenever a host of scout occurs among the Indians, the settlements of the whites become the theaters of their predatory excursions, and the retaliation which is thus provoked leads to murderous warfare. In 1837, an incursion was made of this character, on the part of the Osages, into the southwestern portion of Missouri, which it became necessary for the military authorities of that State to repel. Under the known rule of Indian warfare—which consists of a sudden and unexpected inroad, an exterminating massacre, and retreat—the military forces of the United States at that period in Missouri could not be summoned in time to meet the danger, and the only resource for defense and repulsion was in the State militia. A portion of them was ordered into the field, and the incursion was repelled, happily without much injury. In the prosecution, however, of this expedition, the State of Missouri was compelled to sustain and liquidate all the costs of the forces thus raised to defend its frontier and protect its citizens, which costs amounted to a sum of \$21,146 90.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MARTIN BURK AND CHARLES S. WINDER.

A bill (H. R. No. 266) for the relief of Brevel Lieutenant Colonel Martin Burk and Captain Charles S. Winder, of the United States Army.

The bill directs the proper accounting officer of the Treasury to credit the accounts of Brevel Lieutenant Colonel Martin Burk and Captain Charles S. Winder, of the United States Army, with the sum of \$100 each, in being the sum of the moneys in their possession on board of the steamer San Francisco during the month of December, 1853, at which time the steamer was lost, and which sum now stands charged against Brevel Lieutenant Colonel Burk and Captain Winder upon the books of the Treasury, it having belonged to the recruiting fund of the United States Army.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MRS. A. W. ANGOS.

A bill (H. R. No. 267) for the relief of Mrs. A. W. Angus, widow of the late Captain Samuel Angus, United States Navy.

The bill directs the Secretary of the Treasury to pay to Anne W. Angus, widow of Captain Samuel Angus, of the United States Navy, deceased, the amount of pay which he would have received if he had remained in the Navy from the date of his dismissal to the date of his death, at the same rate he was drawing when dismissed; and that she be placed in all respects as if he were as she would have been had her husband not been dismissed the service; said allowance to be in full of all claims of said widow.

It appears from the report that Mrs. Angus is the widow of Captain Samuel Angus, late of the United States Navy, who entered the service in 1799, became a lieutenant in 1807, a commander in 1813, and a captain in 1816. During his connection with the service he served with distinguished bravery, and his name and deeds have received honorable mention in our naval history. This heroic state there was wounded in the engagements with the enemy in the war of 1812, one of these wounds a severe one upon the head. The medical testimony submitted proves that this wound produced temporary fits of insanity, but he was entirely recovered, and was subsequently to some of his attacks he performed a cruise during which "his mind was rational." During one of his mental aberrations he wrote to the Secretary of the Navy a rude and insulting letter, for which he was summarily dismissed the service by the Secretary of the Navy, and ceased his administration. As soon as he became aware of the injustice he had unintentionally committed in dismissing an officer for an act for which he was not responsible, he wrote to his successor, Mr. Adams, urging the restoration of Captain Angus to the service, saying, "I am sensible that it comports with justice, as well as humanity, to reinstate him." He was not, however, reinstated, but was allowed a pension during life, which, had he not been dismissed, he would have been entitled to as an invalid pensioner, in addition to his pay. In consequence of his dying out of service, his widow was deprived of right

a pension for life or widowhood under the existing laws, and she is obliged to apply to Congress for the passage of a special act, which she did, but was not successful until nearly nine years after his death, when five years' pension was granted her, which was renewed for a further period of five years, and expired on the 4th of March, 1853. The petitioner asserts that her pension was not adequate to meet the expenses of herself and family, and compelled by her necessities and the repatriation which she thinks is due for the wrongs inflicted on her husband and family, she asks to be placed in all respects as if the pay of a pension, as she would have been if her husband had not been dismissed the service.

Mr. BURNETT. I do not object to this bill; but I desire to inquire of the gentleman who reported this bill, how much, or how many years' pay, does this bill provide for?

Mr. DUELL. I will state that my colleague [Mr. SENECAY] reported this bill. He is not at this moment present.

Mr. CURRY. This bill provides for an appropriation of about sixteen thousand dollars; and I will say to the gentleman who reported this bill, in my judgment, it is a very meritorious case. The gentleman who reported the bill examined the case with great care, and the allegations contained in the memorial are fully sustained by the proof. This is a very proper case. When the insolent letter was written by Captain Angus, he was laboring under a mental aberration. This bill simply gives his widow the pay which he would have received if he had not been dismissed from the service.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MARTHA SWILLING.

A bill (H. R. No. 368) to pay to the surviving children of the late Martha Swilling, widow of George Swilling, the pension that was due her to the period of her death under the act of 7th of July, 1838. [Objected to by Mr. BEAUFORT.]

JAMES LACEY, of TENNESSEE.

A bill (H. R. No. 369) granting a pension to James Lacey, of Grainger county, Tennessee.

The bill was read. It directs the Secretary of the Interior to place the name of James Lacey, of Grainger county, Tennessee, upon the invalid pension roll, at eight dollars per month, beginning on the 1st of January, 1860, and to continue during the existence of his present disability.

It appears from the report, which was read, that James Lacey was mustered into the service the 5th of January, 1814, under Captain Adam Minell, of Carter county, Tennessee, and on the 18th day of May following was transferred to Captain Everett's company, the former being discharged; and that on the march from Fort Strother to the Horse-shoe Bend, the said Lacey took the measles, and, from being greatly exposed in various ways, the disease fell into his limbs, and he was confined to his bed for two months, and has never been well since, as the proof shows, and cannot at this time get his members into assistance, but for the want of nine weeks after he returned home. The proof shows that he was an able-bodied man before entering the service. The proof further shows that there have been several pieces of bone extracted from his hip. The said Lacey has applied to the Pension Office for assistance, but for the want of some proof that it was impossible for him to get owing to deaths and removals of witnesses, he was refused aid.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JOHN MADDEN.

A bill (H. R. No. 370) granting a pension to John Madden, of Claiborne county, Tennessee.

The bill was read. It directs the Secretary of the Interior to place the name of John Madden, of Claiborne county, Tennessee, upon the invalid pension roll, at eleven dollars per month, beginning on the 1st of January, 1860, and to continue during the existence of his present disability.

It appears from the report, which was read, that John Madden enlisted under Captain Taylor, Pendleton district, South Carolina, in July, 1812; served five years, was discharged at Fort Crawford, and paid off at Montgomery, Alabama; then volunteered in consequence of his dying of General Jackson to Florida and Pensacola; was

an orderly sergeant, and in loading his pistol, as ordered, it accidentally fired, and bursting, caused him to lose his middle finger and part of the fore finger, disabling him in that hand ever since.

Mr. MAYNARD. I move a clerical amendment to the bill. I know Mr. Madden. He is a constituent of mine, and lives in Campbell, and not in Clinch County. I move that "Campbell" be substituted for "Claiborne," wherever it occurs.

The amendment was agreed to.

Mr. STANTON. I would inquire of the gentleman from Tennessee, (Mr. STOKES), who made the report, what reason there is for this bill, and why it is that the name of this party cannot be placed upon the pension roll at the Department without special act of Congress.

Mr. STOKES. The case has not been before the Department at all. From the facts and proofs in the case, it was clear to the minds of the committee that Mr. Madden was entitled to relief, having served in his country's service, and having received a wound.

Mr. STANTON. I do not propose to object to the bill. It is a small matter. The proofs show that he is entitled to it under the general law; and I do not see the necessity for the passage of this bill.

Mr. STOKES. It is as clear a case as ever was presented to this House. The rules at the Department are so stringent, that the Commissioner of Pensions is in the habit of rejecting claims upon mere technical objections. Because some surgeon was not living who saw this soldier wounded, and because such proof was not presented, this claimant was refused to have his claim acknowledged at the Pension Office. The committee was of the impression that the case was a good one; that the proofs were clear; and they, therefore, upon the grounds of equity and justice, have recommended that this bill ought to pass. This claimant received a wound in the discharge of his duty. [Cries of "Let it pass!"]

Mr. CRAWFORD. I am opposed to extending the law; and I object.

The CHAIRMAN. Then the bill must be passed over.

CYRUS C. BLACKMAN.

A bill (H. R. No. 271) granting a pension to Cyrus C. Blackman, of St. Helena parish, Louisiana.

Mr. STANTON. Precisely the same objection applies to this bill that was made to the last bill.

JAMES MADDEN—AGAIN.

Mr. CRAWFORD. Upon an explanation which my friend from Tennessee (Mr. STOKES) gives me, I withdraw my objection to the bill granting a pension to James Madden, if I have the general consent to do so.

Mr. WASHBURN, of Illinois. I hope that all objections will be withdrawn to these pension bills.

Mr. STANTON. I objected to the other case upon the ground that I thought it was a case which ought to come in under the general law. I think it is right. I shall withdraw my objection, if the gentleman from Georgia withdraws his.

Mr. BURNETT. We cannot get along if gentlemen are permitted to withdraw their objections. I do not object to these cases, however.

The CHAIRMAN. The Chair hears no objection to the case of James Madden.

There was no objection; and 186 bill was laid aside, to be reported to the House with a recommendation that it do pass.

CYRUS C. BLACKMAN—AGAIN.

A bill (H. R. No. 271) granting a pension to Cyrus C. Blackman.

The CHAIRMAN. Is objection withdrawn to this bill?

Mr. STANTON. I withdraw my objection. Let the bill and report be read.

The bill was read. It directs the Secretary of the Interior to place the name of Cyrus C. Blackman, of St. Helena parish, Louisiana, upon the invalid pension roll, at \$22.50 per month, beginning on the 1st of January, 1850, and to continue during the existence of his present disability.

It appears from the report, which was read, that Cyrus C. Blackman was a lieutenant in Captain Hardin's company in the war of 1812, discharged

at New York, wounded by a cut on the hand by an Indian, and has been disabled ever since. The proof shows that he is disabled three-fourths of his time. His middle finger was amputated, affecting his shoulder very much. He was in the battle of Lundy's Lane.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

ADELAIDE ADAMS.

A bill (H. R. No. 272) granting a pension to Adelaide Adams, widow of Commander George Adams, United States Navy.

The bill was read. It directs the Secretary of the Interior to place the name of Adelaide Adams, widow of the late Commander George Adams, of the United States Navy, on the pension roll, at the rate of thirty dollars per month, and to pay her a pension at that rate from the 9th of June 1853, and continue during her widowhood.

It appears from the report, which was read, that the claimant, Mrs. Adelaide Adams, is the widow of Captain George Adams, of the United States Navy, who entered the Navy in the year 1818, and died on the 19th of April, 1856, at Baltimore, Maryland, of a disease contracted in the service. It appears that the only objection to allowing a claim at the Pension Office was owing to the construction of the phrase "line of duty." From the evidence submitted there can be no doubt that the disease of which Captain Adams died was contracted whilst he was in the line of his duty. Doctor James C. Palmer, a surgeon in the United States Navy, certifies "that the late Commander George Adams, before being detached from the receiving ship Ontario, at Baltimore, called my attention to the fact that he had a cough. He was soon after relieved from command of the Ontario, and passed out of my professional observation; but I learned, after the lapse of many months, that he had a constant cough, with other symptoms of pulmonary consumption. When next I had opportunity to observe, he was in an advanced stage of the said disease, of which he certainly died. I do believe, from a study of his history, that he had a continuous cough after leaving the Ontario, and it is my opinion that the disease of which he died probably originated with that cough; in which case, it seems to me a sufficient ground for its recognition to reimbursement of exposure incurred during a period when he was engaged in continuous acts of duty." Dr. G. W. Miltenberger, of Baltimore, who attended Commander Adams after he was detached from the Ontario, certifies, under oath, that the disease of which he died commenced in ravages while he was in charge of the Ontario. Lieutenant Henry Rolando, who served with Commander Adams on the Ontario in the year 1851, states that he remembers distinctly the sufferings of Commander Adams from "an inflammatory disease, accompanied with a cough, which I have no doubt was the development of the disease of which he subsequently died." Mrs. Adams has five infant children depending upon her personal exertions for support, and she is in very indigent circumstances.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

MICAHIAH LAWKES.

A bill (H. R. No. 273) for the relief of Micajah Hawkes.

The bill was read. It directs the Secretary of the Interior to place the name of Micajah Hawkes, of Eastport, in the State of Maine, on the roll of invalid pensioners, and to cause him to be paid a pension, at the rate of fifteen dollars per month, being half of his pay proper, to commence with the 1st of January, 1853, and to continue during his natural life.

It appears from the report, which was read, that Micajah Hawkes was an assistant surgeon in the naval service of the United States in the war of 1812, and was acting in that capacity on board the Hornet at the time of the capture of the vessel.

It appears from the report, which was read, that that ship with the British sloop-of-war Peacock. He was honorably discharged May 10, 1813. It is equally clear that he is now totally disabled, at the age of seventy-four years, is dependent on his children. Three physicians and a surgeon of high standing in his vicinity give it as their decided opinion that his disability, which has been of long standing, is entirely in consequence of the accident which, as he alleges, befall

him while in the line of his duty on board the Hornet. The chief point of difficulty in his case is with regard to the proof of the original injury. His own statement is, that soon after the Hornet was captured at New York he was called on to visit a sick man at one or two o'clock in the morning; the vessel at that time being under repair, and everything about her being in confusion and disorder. In passing to the patient he fell into the hold of the ship, and sustained a very serious injury of the small of the back, less serious at first, but which has constantly increased, until he has long been unable to move without help.

As to this original injury, Mr. Hawkes furnishes no statement but his own; nor can he do so. He continues to serve as assistant surgeon until honorably discharged, and the rolls furnish no proof of his disability. It further appears that there is but one other survivor of this cruise of the Hornet, namely, Commodore Forrest, now absent in command of the Brazilian squadron. His testimony cannot, therefore, be obtained at present; nor is it certain that it would avail the applicant anything if procured. The narrative of the applicant is consistent with itself, and with the opinions of the medical gentlemen on file. He produces no certificates of his disability, but his vicinity in favor of his application, and his integrity and honorable standing are heartily endorsed by Hon. STEPHEN C. FOSTER, of this House, and by Hon. T. J. D. FULLER. The applicant has given a truthful statement of his injury, and of its effects. The report of the medical gentlemen in asking for a pension has been, that by his practice of medicine he was enabled to support himself without calling upon the Government for that assistance which long since he was justly entitled to.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

TIMOTHY CAVAN.

A bill (H. R. No. 274) for the relief of Timothy Cavan, an invalid pensioner.

The bill was read. — Mr. BURNETT. When does the pension commence?

The CHAIRMAN. According to the bill, from the date when he was discharged for disability to the United States Navy, and to the date when he was granted a special act of Congress in 1849.

Mr. SMITH, of Virginia. That is not allowable at all.

Mr. STANTON. I object.

NATHANIEL SMITH.

A bill (H. R. No. 275) for the relief of the children of Lieutenant Nathaniel Smith, deceased. [Objected to by Mr. CRAWFORD.]

HANNAH McDOWELL.

A bill (H. R. No. 276) for the relief of Hannah McDowell.

The bill, which was read, directs the Secretary of the Interior to place the name of Mrs. Hannah McDowell, widow of James McDowell, late a lieutenant in the third regiment United States rifles, war of 1812, upon the pension roll, under the act of February 3, 1853, at the rate of \$12.50 per month, commencing on the 29th of July, 1854, and terminating on the 4th of July, 1859.

From the report, it appears that Hannah McDowell, the widow of Lieutenant James McDowell, applied for the benefit of the act of Congress passed the 3d of February, 1853, on account of the services of her said husband, who was a lieutenant in Captain Robert Campbell's company, third regiment United States rifles, in the war of 1812, and who was an invalid pensioner at the rate of fifteen dollars per month, commencing on the 29th of July, 1854, and terminating on the 4th of July, 1859. She now claims that her pension should commence at her husband's death—say May 29, 1854; and adduces, in support of her claim, the decision of Hon. Attorney General Black in the case of Mrs. Sarah Hunt, of Alabama, who died in 1854, on appeal, that her pension should commence from the date of the act, say February 1853, or from the date of her husband's death; and upon said decision, the Commissioner of Pensions did pay several cases; but in hers, as in

others, refused to carry out the said decision, for the alleged reason that Congress made no appropriation for such cases.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

WEBSTER S. STEELE.

A bill (H. R. No. 277) for the relief of Webster S. Steele.

The bill directs the Secretary of the Interior to place the name of Webster S. Steele, of Illinois, on the list of invalid pensioners, at the rate of eight dollars a month, commencing on the 4th of December, 1859, to continue during his lifetime.

Mr. FENTON. I move to amend the bill by striking out "1859" and inserting "1857." This case was before the Senate last year, and they passed a bill allowing this individual a pension from that date. This bill failed in the House for want of time. The case having thus been satisfactorily made out to the Senate, I move the amendment.

The amendment was agreed to.

It appears, from the testimony, in the case, that Webster S. Steele was, in October, 1814, mustered into the service of the United States as a private in the company of Captain William Eels, of the New York militia, called out in the war of 1812 with Great Britain; that he was stationed, with the company to which he belonged, at Sackett's Harbor, in the State of New York, and there, while in the service and in the line of his duty, contracted a disease from hardship and exposure which has resulted in making him an invalid, and rendered him unable to obtain his support by labor.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

PAULING, WILLIAMS, AND OTHERS.

A bill (H. R. No. 278) for the relief of John Paulding, David Williams, Isaac Van Wert, and Sergeant John Champe.

The bill provides that, in consideration of the distinguished services of John Paulding, David Williams, Isaac Van Wert, and Sergeant John Champe, in the revolutionary war, they be granted one township of land to the heirs of John Paulding, one township of land to the heirs of David Williams, one township of land to the heirs of Isaac Van Wert, and one township of land to the heirs of John Champe, to be laid out and located on any of the unappropriated lands of the United States subject to entry, under the authority of the Secretary of the Interior, who shall authorize the same to be done as follows: The townships to the heirs of John Paulding to be laid out and located in the name of Joseph K. Paulding and John Paulding, of the city of New York, as trustees, to hold and convey said township of land, in equal shares, to the heirs of said John Paulding, deceased; the townships to David Williams, Isaac Van Wert, and Sergeant John Champe, to be laid out and located in the names of their several heirs, on satisfactory proof being given to the Secretary of the Interior of such names and heirships—the heirs in the several cases mentioned in the act to take by right of representation.

The Clerk commenced to read the report, but was interrupted by

Mr. TAPPAN. As all the historical facts in reference to Paulding, Williams, Van Wert, and Champe were familiar to members, I move that the reading of the report be dispensed with.

Mr. BURNETT. I suppose members are familiar with all the facts connected with the capture of Major André. There is no doubt of that. This bill, I believe, contains a grant of just ninety thousand acres of land, according to my calculations. Now, I ask for the reading of the report, then I may see the reason the committee give. Why we should vote that amount of land, without naming the descendants, or showing who they are. I do not remember any incident connected with that transaction which would entitle the representatives of these parties to so large an amount of land.

The CHAIRMAN. Does the gentleman from Kentucky object to the bill?

Mr. BURNETT. I do not now. I want to hear the report read, that I may see the reason for the bill.

Mr. COX. General Washington promised Sergeant John Champe a township of land for services rendered by the American Army, and going to New York, for the purpose of taking Arnold, and Washington Irving has also written a letter, asking that the same amount of land shall be granted to the descendants of these other men. The land is to go to the descendants themselves, and not to speculators.

Mr. SMITH, of Virginia. How much land is granted by the bill?

Mr. COX. Only four townships.

Mr. BURNETT. I will propose this to the gentleman from Ohio. It is a very ungracious task for a member, in the discharge of his duty, to object to bills, and then to be commented upon in reference to doing so. Now, if the gentleman will give us the yeas and nays upon this bill in the House, I will have no objection to having it laid aside, to be reported to the House.

Mr. COX. I am entirely content with that.

Mr. COBB was understood to object.

The CHAIRMAN. Does the gentleman from Alabama object?

Mr. CRAWFORD. I object, to remove all doubt.

JOHN W. TAYLOR.

A bill (H. R. No. 284) for the relief of John W. Taylor, and certain other assignees of preemption land locations.

The bill declares valid all assignments of preemption bounty land warrant locations, at any of the land offices of the United States, made in good faith prior to the 19th of October, 1852, and prior to the 21st of May, 1856, under instructions from the Commissioner of the General Land Office of the former date, and authorizes the Secretary of the Interior to cause patents to be issued, in the name of the assignee, on all such locations as now remain unsold and have not been patented.

It appears from the petition that, on the 23d day of March, 1852, Congress passed an act declaring all bounty land warrants assignable, and all valid certificates of location made with land warrants made assignable. By the same act, persons having preemption rights were authorized to locate the same with land warrants. That the then Commissioner of the General Land Office, Hon. John Wilson, construed said law as permitting locations made by preceptors, as well as by the holders of the warrants, to be assigned. He issued instructions to that effect to the registers and receivers throughout the United States, in October, 1852. In accordance with said instructions, quite a number of entries were made by preceptors in the years 1852 and 1853, which were afterwards assigned to other parties. The entries so made and assigned were all duly patented to the assignees as they were reached in their order in the General Land Office, until 1856, when the Secretary of the Interior overruled the opinion of the Commissioner, and decided that the law did not recognize assignment by preceptors, and from that time to the present patents have been withheld. The petitioner represents that he holds a certificate of location assigned as aforesaid, and that the Secretary of the Interior declines to patent it to him. The petitioner says that Hon. J. Taylor, then Secretary of the Interior, declared it as his opinion that equity and good faith require that parties situated as the petitioner should have their patents, and will recommend the passage of a law which will authorize him to issue the patents to the petitioner and others similarly circumstanced.

Mr. VANDEVER. I ask that the letter of the Secretary of the Interior, and also the letter of the Commissioner of the Land Office, be read as a part of the report.

The letters were read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, February 27, 1860.

Sir: I have the honor to acknowledge the receipt of your letter of the 26th inst., in relation to the petition of John W. Taylor, of Iowa, and in reply to inclose the report of the Commissioner of the General Land Office in the matter, of this date, accompanied by the draft of a bill for the relief of certain assignees of preemption land claims.

The views of the Commissioner of the General Land Office are concurred in by this Department.

Very respectfully, your obedient servant,

J. THOMSON, Secretary.
Hon. W. VANDEVER, Committee on Public Lands, United States House of Representatives.

GENERAL LAND OFFICE, February 27, 1860.

Sir: I have the honor to return herewith a letter of the

6th instant to your address from Hon. William Vandever, chairman of the House Committee on Public Lands, with the petition of John Taylor, asking Congress to authorize the issuing to him in patent as the assignee of a pre-emption location, and to request him to instruct that the Commissioner of the General Land Office, on the 10th day of October, 1852, did issue instructions to local land officers, deciding that assignments of pre-emption locations made prior to the 19th of October, 1852, were valid as those made at ordinary private entry; that many locations of this character were afterwards assigned to other parties. The individual petitioner is one of a class of persons whom it is proposed to relieve by legislation, by authorizing patents to be issued to the assigners of all pre-emption locations assigned under the authority of said instructions of the 19th of October, 1852, and prior to the 21st of May, 1856, in the opinion of the Secretary of the Interior. In the opinion of the Secretary of the Interior this legislation would be just and proper, and in that view I herewith inclose the draft of a bill which it is thought will cover the whole class of cases represented in part by the petition of John Taylor.

Very respectfully, your obedient servant,
JOSEPH R. WILSON, Commissioner.
Hon. Jacob Thompson, Secretary of the Interior.

Mr. BURNETT. I wish to ask the gentleman from Iowa whether this bill is in accordance with the views contained in the letter of the Secretary of the Interior?

Mr. VANDEVER. The exact bill.

Mr. BURNETT. Then let it go.

There being no objection, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

JAMES S. CAMPBELL.

A bill (H. R. No. 298) for the relief of James S. Campbell. [Objected to by Mr. BURNETT.]

MARY ANN HENRY.

A bill (H. R. No. 311) for the relief of Mary Ann Henry. [Objected to by Mr. SMITH, of Virginia.]

PAULING, WILLIAMS, AND OTHERS—AGAIN.

Mr. COBB. At the earnest solicitation of my friend from Ohio, [Mr. Cox,] I withdraw my objection to the passage of the bill [H. R. 278] for the relief of the heirs of Paulding, Williams, and Van Wert.

Mr. CRAWFORD. The gentleman is mistaken in the matter.

The CHAIRMAN. The gentleman from Ohio is mistaken. It was not the gentleman from Alabama on whose objection that bill was passed over. Objection was made by the gentleman from Georgia.

Mr. TAPPAN. I was about to suggest to the committee that as we have already done a good deal of work to-day, and for the purpose of relieving members, and especially the reading clerks, the committee should now rise, with the understanding—which I suppose was had last week—that the House will sit to-morrow. With that understanding, I move that the committee rise, and re-report the bills to the House.

Mr. PRYOR called for tellers.

Tellers were ordered.

Mr. TAPPAN. I withdraw my motion. I supposed that we might rise now, as the committee is worn out, and that we might meet and do more business to-morrow.

Mr. SMITH, of Virginia. I withdraw my objection to the bill for the relief of John Johnston.

Mr. BURNETT. I object to going back on the Calendar.

The CHAIRMAN. It can only be done by unanimous consent.

JOHN BONDLES.

A bill (H. R. No. 312) granting a pension to John Bondles.

The bill was read. It requires the Secretary of the Interior to place the name of John Bondles, of the State of Ohio, on the list of invalid pensioners, at the rate of eight dollars per month, from the 5th of January, 1859, to continue during his natural life.

The report was read.

Mr. SMITH, of Virginia. That is a case for the Pension Office, and I do not know why it comes here. I must object to it.

Mr. MARTIN, of Ohio. I trust the gentleman from Virginia will withdraw his objection. This is a very meritorious case.

Mr. SMITH, of Virginia. I understand that

the Pension Office indorse this claim; but I do not understand it. Still, I am willing to do anything reasonable.

The CHAIRMAN. Is there any objection to the passage of House bill No. 312?

Mr. SMITH, of Virginia. It is necessary to settle principles in disposing of these cases, and therefore I must make the objection.

PRIVATE BILLS PASSED.

Mr. BOOCOCK. This is Good Friday; and, as it is understood we are to meet again to-morrow for the purpose of attending to private business, I move that the committee do now rise.

The motion was agreed to. So the committee rose, and the Speaker having resumed the chair, Mr. BRANCH reported that the Committee of the Whole House had had under consideration the Private Calendar, and had instructed him to report back, with a recommendation that they do pass, the following bills, (two of them with amendments):

A bill (H. R. No. 85) for the relief of R. K. Doebler;

A bill (H. R. No. 263) for the relief of the legal representatives of François Guillery, deceased;

A bill (H. R. No. 264) for the relief of W. Y. Hansell, the heirs of W. H. Underwood, and the representatives of Samuel Rockwell;

A bill (H. R. No. 264) for the relief of Charles Stillman;

A bill (H. R. No. 265) for the relief of Frederick Stephens;

A bill (H. R. No. 130) to pay to the State of Missouri the amount expended by said State in repelling the invasion of the Osage Indians;

A bill (H. R. No. 266) for the relief for Brevet Lieutenant Colonel Martin Burke and Captain Charles S. Winder, of the United States Army;

A bill (H. R. No. 267) for the relief of Mrs. A. W. Angus, widow of the late Captain Samuel Angus, United States Navy;

A bill (H. R. No. 268) granting a pension to James Lacey, of Grainger county, Tennessee;

A bill (H. R. No. 270) granting a pension to John Madden, of Campbell county, Tennessee, with an amendment;

A bill (H. R. No. 271) granting a pension to Cyrenus C. Blackman, of St. Helena parish, Louisiana;

A bill (H. R. No. 272) granting a pension to Adelaide Adams, widow of Commander George Adams, United States Navy;

A bill (H. R. No. 273) for the relief of Micajah Hawkey;

A bill (H. R. No. 276) for the relief of Mrs. Hannah McDowell;

A bill (H. R. No. 277) for the relief of Webster S. Sterle, with an amendment; and

A bill (H. R. No. 284) for the relief of John W. Taylor, and certain other assignees of pre-emption land locations.

The SPEAKER. If there be no objection, the bills will be voted on *en masse*.

There was no objection.

The amendments to bill (H. R. Nos. 270 and 277) were agreed to and all the bills were engrossed, read the third time, and passed.

Mr. TAPPAN moved to reconsider the vote by which the bills were passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PROPOSITION TO ADJOURN OVER.

Mr. WASHBURN, of Illinois. I rise to a privileged question. We have passed a great number of bills to-day. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. TAPPAN. I desire to appeal to the House to vote down that motion. When we adjourned over last week, it was with the understanding that as Friday and Saturday of this week were to be objection days, the House would sit both these days.

The SPEAKER. No debate is allowable. The question is on the motion of the gentleman from Illinois.

Mr. FLORENCE. If the gentleman understood why it is desired that the House should sit to-morrow, I apprehend there would be no objection to doing so. Under the new rules, to-morrow will be objection day. We can continue on the Private Calendar, and if the gentlemen do not choose

to come here, we can still go on and do business, if there be only a quorum.

Mr. BURNETT. Debate is not in order.

Mr. CARTRELL called for tellers.

Tellers were ordered: Messrs REAGAN and BURNETT were appointed.

The House divided, and the tellers reported—ayes 61, noes 68.

So the House refused to adjourn over.

Mr. TAPPAN. I move that the House do now adjourn.

Mr. BURNETT. I move that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. TAPPAN. On that motion I call for the yeas and nays. It was understood last week that we should sit on Saturday of this week.

The yeas and nays were ordered.

Mr. BURNETT. I withdraw the motion to adjourn over.

Mr. ADRAIN. I move it.

Mr. TAPPAN. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK, of Missouri. It is indispensable to the committees of the House that they should have to-morrow to transact business.

Mr. TAPPAN. I would say the gentleman and the House, that I am perfectly willing the House should adjourn over Saturday of next week.

The question was taken; and it was decided in the negative—yeas 51, nays 87; as follows:

YEAS—Messrs. Adrain, Barksdale, Blair, Boteler, Bush, Burnett, John B. Clark, Clayton, John Cochran, Cocking, Crawford, Curry, Curtis, B. Winter Davis, Fenton, Garrett, Graham, Hazen, Hawking, Hill, Hughes, Jones, Keith, William Kellogg, Lamar, Logan, Mallory, Elbert B. Martin, McTernand, McLean, Montgomery, Steadman, Moore, Morrill, Nelson, Potter, Reagan, James C. Robinson, William Smith, Stearns, Stanton, Stevens, Stevenson, James A. Stewart, Stone, Thayer, Thomas, Vallandigham, Vance, Elliott B. Washburn, Webster, and Winter—51.

NAYS—Messrs. Charles F. Adams, Allen, Ashley, Ashmun, Babitts, Barr, Binks, Bowers, Branson, Bruce, Burnett, Brewster, Buchanan, Butterfield, Cary, Carter, Cobb, Coffey, Cox, James Craig, Davis, Delano, Dill, Dunn, Edgerton, Edwards, Eliot, Elbridge, Ferry, Foster, French, Frank, George, Howe, Hild, Harlan, John T. Harris, Helmick, Hoard, Holman, Howard, Humphrey, Hutchins, Jenkins, Jenkins, Francis W. Johnson, DeWitt C. Leach, Lee, Loomis, Lovell, Maynard, McKnight, Milton, Moorhead, Morse, Nixon, Noft, Olin, Olin, Foster, H. P. Olin, Pettit, Phillips, Quinn, Rice, Christopher Robinson, Royce, Schwartz, Scrantom, Sherman, Spaulding, Spinner, Stokes, Tappan, Thacker, Thomas, Train, Trimble, Vandever, Van Wyck, Verree, Waldron, Walton, Watson, and Woodruff—87.

So the House refused to adjourn over.

The question then recurred on the motion that the House adjourn.

Mr. SHERMAN. There are several members present who desire to make speeches to-night in the Committee of the Whole on the state of the Union. I ask the gentleman from New Hampshire to withdraw the motion to adjourn, with a view of going into committee.

Mr. TAPPAN. I will withdraw the motion for that purpose.

Mr. SHERMAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BURNETT. After the occurrences of yesterday, I hope the gentleman will not make that motion.

Mr. SHERMAN. Those speeches have to be made at some time; and they might as well be made now as at any time.

Mr. BURNETT. I move that the House adjourn.

Mr. SHERMAN. I hope that the House will vote that motion down.

Mr. VALLANDIGHAM. I call for tellers on the motion.

Tellers were ordered; and Messrs. VALLANDIGHAM and BURNETT were appointed.

Mr. CRAWFORD. I will state that the gentleman from Ohio, that my colleague [Mr. HARDEMAN] is entitled to the floor in committee; and I think he is not present.

Mr. SHERMAN. I have consulted the gentleman's colleague, and this motion is perfectly agreeable to him. He is present.

The House divided; and the tellers reported twenty in the affirmative—a further count not being demanded.

So the House refused to adjourn.

The question then recurred on the motion of Mr. SHERMAN to go into the Committee of the Whole on the state of the Union.

SHELDON McKNIGHT.

Mr. COLFAX. I was not in my seat to-day when the Committee on the Post Office and Post Roads was called. I now ask the unanimous consent of the House to report by Senate bill (No. 30) for the relief of Sheldon McKnight.

No objection being made, the bill was received, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CARITY BILL.

Mr. BURNETT. I now call the yeas and nays upon the motion of the gentleman from Ohio. I am opposed to these debating societies.

The yeas and nays were not ordered.

Mr. SHERMAN's motion was then agreed to. So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PETTIT in the chair).

Mr. BRANCH. I ask what is the business before the committee?

The CHAIRMAN. It is the bill of the House (No. 338) to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes.

Mr. BRANCH. This being Friday, I make the point of order that, under the 30th rule of the House, the Private Calendar is under consideration in committee; and I submit that that Calendar must now be taken up.

Mr. SHERMAN. This committee is subordinate to the House. The House has resolved itself into the Committee of the Whole on the state of the Union. If the gentleman will examine the Calendar of this committee, he will find that there is no private bill upon it. It is therefore too late for the gentleman to make his question of order.

The CHAIRMAN. The House is now in the Committee of the Whole on the state of the Union, and it is not competent for the Chair to take into consideration what are the rules of the House in relation to the Private Calendar.

Mr. SHERMAN. The gentleman from Georgia [Mr. HARDEMAN] is entitled to the floor.

Mr. BRANCH. I understand the Chair then to overrule my question of order.

The CHAIRMAN. The Chair overrules the gentleman's question of order.

Mr. FLORENCE. I will state that it was the understanding that the House should adjourn at four o'clock to-day. The clerks of the House are overburdened with business, and it will be impossible for them to get through with it unless the House does no more business to-day. I move that the committee rise.

The CHAIRMAN. The gentleman from Georgia is entitled to the floor.

Mr. WELLS. I understand the gentleman from Georgia does not wish to go on with his remarks to-night, and appeal to him to yield me the floor to submit a few remarks which I have prepared. If gentlemen do not wish to hear me they can retire from the Hall. I should, of course, be very happy to have them remain and hear me; but as this is about the hour when most of the gentlemen here are in the habit of dining, I am perfectly content for them not to remain to listen to me.

Mr. HARDEMAN. I am willing to yield to the gentleman from New York, with the understanding that I shall be entitled to the floor when the House shall again go into the Committee of the Whole on the state of the Union.

The CHAIRMAN. That arrangement will be made, if there be no objection.

Mr. VALLANDIGHAM. I must object.

Mr. CLARK, of Missouri. I certainly object. I insist that when a gentleman obtains the floor he shall go on with his remarks, or else yield the floor altogether. If the gentleman from Georgia yields the floor unconditionally, I have nothing to say.

The CHAIRMAN. Then the gentleman from Georgia is entitled to the floor.

Mr. BRANCH. Will the gentleman from Georgia yield for a motion that the committee rise?

Mr. HARDEMAN. I will.

Mr. BRANCH. I move that the committee rise. Mr. COLFAX. I hope that motion will be voted down. The objection that has been made comes from the friends of the gentleman from Georgia. [Mr. HARDEMAN.]

Mr. BRANCH. The friends of the gentleman from New York [Mr. Wells] are those who brought the House into the Committee of the Whole on the state of the Union.

Mr. MAYNARD. The gentleman is not a political friend of the gentleman from Georgia—not so claimed; and I trust that such a statement will not be made.

Mr. BRANCH. The gentleman from Georgia yielded the floor to make the motion that the committee rise. It is his desire that the committee should rise; and I want to see whether the House will force him to go on, at this late hour of a private bill day, against his will.

Mr. WELLS. I am told that the committee has refused to rise; and if that be so, the gentleman from Georgia has the right to yield to me. He has yielded to me, and I will now proceed with my remarks.

Mr. BURNETT. I appeal to the gentleman from Georgia to withdraw his motion that the committee rise. We are in the Committee of the Whole on the state of the Union, and we had better do what we can, instead of rising. Here is the gentleman from New York, ready to go on with his remarks; and I think we ought now to withdraw objection to his going on.

Mr. BRANCH. I will yield to the gentleman from Georgia, if he desires to proceed this evening. If he desires to adjourn, I will insist on my motion that the committee rise.

Mr. HARDEMAN. I will say to the gentleman from North Carolina, that I would prefer not to go on with my remarks this evening. In order to accommodate the gentleman from New York, I will yield to him, if that be the general wish of the House.

Mr. CLARK. Objection has been made. Mr. CLARK, of Missouri. Yes, sir; I object. Mr. SHERMAN. If the gentleman from Georgia yields the floor unconditionally, I have no doubt he will get it when the committee again goes into session. That courtesy, under circumstances like the present, has never been denied that I am aware of.

Mr. HARDEMAN. With that understanding, I yield the floor unconditionally.

The CHAIRMAN. The Chair recognizes the gentleman from New York.

Mr. VALLANDIGHAM. I have objected to the gentleman from Georgia yielding to the gentleman from New York. I insist on my objection reluctantly, but I insist upon it.

Mr. WELLS. I will proceed with my remarks.

Mr. VALLANDIGHAM. Does the gentleman from Georgia yield the floor unconditionally?

Mr. BRANCH. I stated that I would yield entirely to the wishes of my friend from Georgia. If he desired to proceed this evening, I would withdraw my motion that the committee rise; but if he desired to go on another day, and wished to retain the floor, I would insist on it. I understand that my friend from Georgia desires that the committee should rise, and that there should be an adjournment, rather than that he should go on this evening.

The question is whether the Committee of the Whole on the state of the Union will deprive the gentleman from Georgia of his opportunity. I have never known the committee to refuse to any gentleman what is now asked by the gentleman from Georgia, that, not desiring to proceed this evening, the gentleman should rise to let him go on another day. I insist on my motion that the committee rise.

The CHAIRMAN. Does the gentleman from Georgia waive his privilege to go on with his remarks?

Mr. HARDEMAN. I understand that there will be objection to my proceeding when the committee is in session, another day, if I now yield the floor unconditionally. I do not like to lose my position; and, although I do not prefer it, yet I will yield this evening with my remarks.

Mr. BRANCH. If it accords with the concurrence of my friend, I will withdraw the motion that the committee rise.

Mr. CLARK, of Missouri. I want to see this House adjourn, and for that purpose I want to see this committee rise.

Mr. STEWART, of Maryland. I call the gentleman to order. The gentleman from Georgia has the floor, and I want him to go on if he wishes to proceed this evening.

The CHAIRMAN. The gentleman from Missouri is not in order. The gentleman from Georgia is entitled to the floor.

Mr. CLARK, of Missouri. I move that the committee rise to the next day.

The CHAIRMAN. The gentleman has not the floor to make that motion.

Mr. HARDEMAN. I yield the floor for the present.

Mr. WELLS. The floor has been yielded, and I will go on. A question of incalculable moment.

Mr. BURNETT. I rise to a question of order. I understand that Jefferson's Manual has been consulted a part of the rules of this House. Now, that Manual is against the practice of reading speeches which has grown up here, and I want to put a stop to that practice. Members rise here and read speeches which go into the Congressional Globe and out into the country as if they were delivered here in this Hall in debate. It is in the House and in society in accordance with the rules of this House. The gentleman from New York holds in his hand a printed speech, which he proposes to read—he does not care how many may be present. He proposes that that speech shall go to the country as if it were delivered here in debate, when it has been set up in type and printed before he came into the House. He proposes to have it made a part of the printed debates of this body. It is a mere force. It is but a form; for it is no speech, and is such as was never intended to compose a presented debate of any deliberative body in the world. I make the point of order that he cannot proceed to read that paper. Let me read the language of Jefferson's Manual:

"For the same reason a member has not a right to read a paper in his place, if it be objected to, without leave of the House; but this is never granted, but when there is an intimation or gross abuse of the time and patience of the House."

I make the point that this reading of speeches is a great waste of our time.

Mr. SHERMAN. This point of order has been made many times, and it is never sustained.

The CHAIRMAN. The Chair overrules the point of order, putting his decision upon the ground of the uniform precedents on the point, and the general usage of the House, which has never been sustained.

Mr. BURNETT. I take an appeal from the decision of the Chair. Is my appeal debatable?

The CHAIRMAN. The appeal is not debatable.

Mr. BURNETT. I have to yield to that decision; but the Chair is equally wrong in both of his decisions.

Mr. HATTON. I hope now the gentleman from New York will be allowed to proceed.

The question was taken, "Shall the decision of the Chair stand as the judgment of the committee?" and it was decided in the affirmative.

Mr. WELLS. A question of incalculable moment is now before the American people for their decision—one which the American people only can decide. Not to Congress, not to courts, not to the American Legislature or judicial tribunals in the States, but to the people only, belongs the final decision of this question—a question fraught with the most momentous consequences, not only to themselves and their posterity, but to the race. Of what vast importance is it that the tribunal which is to decide this question should stand upon its high trust so as to advance the interests of humanity, by establishing its decision upon those principles of truth and justice which are the foundation of God's throne, and which alone can keep His footstool from destruction. Before the people we stand with the judicial power, and decide what may be irreversible, save by the fiat of the Father and Judge of all, each individual should strive to fit himself for the right discharge of his high function. He should ask that his affections may be purified and his intellect enlightened, that he may be able to rise above all selfish motives, and, unbiased by all disturbing influences, may act under the dictates of conscience and the inspirations of the Father. He should pray that prejudice and passion may not be suffered to cloud his reason, and that the Divine

radiance from the Sun of Intelligence may illuminate his understanding. Then, with pure hands, an unclouded intellect, and affections radiant with love to God and man, each citizen, clothed with the judicial emblem, may fearlessly enter upon the discharge of his high trust.

Now, here, on the threshold of my argument, I bow my soul in humility before the throne of Eternal Justice, and, with the aid of His love, and the energy, which shall enable me to advocate, as I ought, the cause of man before the august tribunal of the people—august, because the people are images of God, end, clothed with sovereignty by Him, their high function is to exercise justice, and to afford the means for the service of their servants who sinke, execute, and decide the laws.

Of infinite importance is it that the source of power, the spring that feeds the stream, should be pure as the crystal; for if the fountain is turbid at its source, it will carry with it, in solution, the impurities of the fen and the morass from which it issues. Only as from a virtuous people, from the mountains of an elevated spiritual state in the individual man, roll the springs of power, through the channels of the law, will be found concentrated here an ocean of power, whose winds and waves even will but purify its depths, whose expended surface shall not only bear the weight of nations, but, under the beam of a Sun of Righteousness, shall send up the cloud and the mist, which, wafted to the remotest rim of its mighty realm, shall descend upon the humblest and the highest, in the dew and rain of equal and just laws, replenishing the fountains of its power, making their flow perennial, and our Union perpetual.

Now, in its application to man, is a rule of conduct commanding what is right and prohibiting what is wrong. Obedience to law, as thus defined, is an essential element of all well-being. No man, no society, no nation, no world, can revive in its appropriate sphere with its connection to law. All law is the will expressed of God or man. The source of law is indirectly God; the Creator of the universe must be its preserver, in its parts as well as in the mighty whole; and whether, by direct power and omniscience, He holds man in their spiritual spheres, or through His laws, nations in their fate, or individuals in their destinies, or whether He acts through instrumentalities of matter or of mind, the Divine is, indirectly, in all law, and is the law of law. However remote the source of the law, its connection is continuous and eternal. His will, whether expressed in His word or written on His works, is immutable, and embraces within its range the worlds of matter and of mind.

Unless man is self-created and self-existent, he must himself be subject to the will of his Creator, and the laws men make by permission, must accord with the law of God; must derive their sanction from their agreement with and subordination to the laws of God. If they were against His attributes of Justice and Mercy, they cannot bind the conscience of man, or be the basis of any law. Once clearly established that a human law is in direct and palpable opposition to the divine, and its force, its sanction as a law, is gone. It has ceased to be the will of God, and is no longer the voice of the people, and is the voice of a tyrant or a fiend. Whether it be a British stamp act, or ship-money act; whether the act of a King, or of a British Parliament clothed with the highest authority on earth; a decision of a Jeffreys, smiling the ermine of the bench, or the proclamation that Nebuchadnezzar made on the plain of Dura, or the decree of Darius, which, like the law of the Medes and Persians, altereth not; the teachings of Holy Writ and of the fathers of the Revolution instruct us that resistance to tyrants is obedience to God. And it is better to bleed as our fathers, suffer as Hampden, walk through the fire, as our fathers with Shadrach, Meshach, and Abednego, or be cast into the lion's den with Daniel, than to give the sanction of human law to crime against God and man.

The momentous question for the people to decide is, whether the nation, under the forms of law, is to sink into a realm of despots and slaves, or to rise into a glorious Republic of freemen? Whether sterility and death shall finally spread a pall over the land, or fertility and life make it jubilant with joy? Whether the savannas of

the sunny South, and the green hills and valleys of the North, shall ultimately be tilled by the swart descendants of Africans or by our own Anglo-Saxons? Whether the mill shall resound to the crack of the overcracker's lash, or echo with the cheerful sounds of free labor? Whether the wide plantation, with its princely mansion and circle of huts, shall dot the surface of our western prairies, and education languish, religion perish, slavery or white slavery your joy, and your sons shall rise the cottager's humble dwelling, garnished with the woodbine and the rose; over whose happy threshold the free boy, with his merry laugh, bounds, with satchel in hand, at the tinkle of the school bell; and whose cheerful winter hearth, while the winds whistle and the snow descends without, gathers the sacred circle of home; the decent matron, careful of her children's heats, and minds, and bodies; the sturdy man, rough, but contented with the toils of life, glancing with proud eye upon the simple comforts that surround the casement of jewels that he calls his own, and watching with jealous care and manly pride the gradual unfoldings of those germs of mind into the graces of a genuine manhood and priceless womanhood; knowing that no rude hand may enter the golden hour of his life; and his wife, with willing heart to the sharer of his life-long joys and sorrows; sure that the nurselings of his care, around whose hearts are twined the fibers of his cure, will not be torn rudely from his embraces; sure that the daughter of his heart will be his sorrow meet him with glad smile and joyful lip; sure that the boy whom he expects to support in steps, as they grow feeble with age, will, at the appointed time, take his place, and supply his vacant chair; confident that the circle of home, knit together by ties of affection and duty, consecrated to works of use to the neighbor below, will be gathered again into a holier and happier circle on high, to dwell forever in God's wider realm of active rest and nobler kingdom of use above—the perfected fruit of obedience to the laws of God, which ripens the sun of liberty shines upon man and society with unclouded ray, and gives free scope, under the influence of free institutions, to the unshackled faculties of body, mind, and heart, to unfold into perfection?

Eternal vigilance is the price of liberty; not vigilance in Congress or in the Executive, or in the President; not in lords or aristocracies; but in the people. Power, in its very nature, is cumulative and aggressive. The principle of attraction applies to all recipients of power, as well as to the globe of space. The rights of the people are the smaller; the aggregated mass the scattered particles; and nothing but the centrifugal will overcome or neutralize the centripetal force. Action, activity, ceaseless activity, eternal vigilance, is the preservative of all things. No recipient of the delegated power which infers only in the individual man is free from this attractive influence. A knowledge of this tendency made our fathers make this Government one of checks and balances. For this purpose, making the grants of power as limited as possible; separating, by as distinct lines as possible, the sphere of each body of power remaining in the people from that imparted to the States, or delegated to the Federal Government. In the Federal Government, separating and defining the functions of its various departments, thereby making the abuse or encroachment of power more easy of detection and enhancing the responsibility of the public servant; sedulously providing against the absorptive influence of power by the Government, by leaving the great bulk of individual freedom and sovereignty undelivered in the people, and by providing for the resumption, through peaceful methods, of any power delegated which the people might deem injurious to their rights; by short terms of office and frequent elections, keeping alive that active interest in governmental affairs among the people, upon the constant exercise of which the safety of the whole depends; lastly, by affording the amplest protection which the most sacred guarantees could afford to the absolute and inalienable rights of the citizen. The President, as Executive, will have no legislative, no judicial power, but his qualified veto was a check on Congress, and the legislative veto. The Senate, as a coordinate branch, in its right to make treaties and confirm nominations to office, was to be a check upon the executive functions; in its power to try im-

peachments, a limitation of and check upon the judicial; in its authority to originate and to adopt, or reject or amend laws, a check on the executive; and, for the object of representation, and together with the Senate, the sole power to declare war, and to pass all laws within the limits of the Constitution. Independent of both the executive and the legislative branches; selected for their great learning, for their pure and spotless character; to observe the conduct of the other branches of Government; freed by the tenure of their office, and by their pursuits as jurists, from all motives of earthly ambition likely to conflict with the faithful discharge of their duties; with no responsibilities but to God and their own conscience—this Supreme Court of the Union is entrusted, as to the cherubim of old, the flaming sword of Justice, "which turned every way, to keep the way of the tree of life." Above all, and over all, the purifier of them all, the check on all, the source of all the powers of the Government, the eyes of the sovereign people, with eternal vigilance as their motto, watch the movements of the mighty mechanism of their hands, ready at the needed moment to correct, through the sovereign energy of their potent will, the first encroachment of any part upon the appropriate functions of another.

This Government of ours—thus constructed, thus guarded—is a mighty instrument of progress. But as it moves along the shining years, freighted with the hopes of humanity, the ceaseless, the fearless, the virtuous vigilance of the people can alone make its movements safe, can alone repress and confine its elements of power within their appropriate limits, and keep Government and people from being plunged into the gulf of despotism, down which the statistist Commonwealth have toppled into shattered fragments.

"The end of Government is to perfect
The human spirit."

The laws which should govern the individual man should steadily have this object in view—the perfection of the human spirit. All violations of the laws that govern the individual man delay or frustrate this end. The social laws which regulate man's relation to his fellow-man have all the elements of this perfection. Without obedience to the physical, moral, and religious rules, which are intended to govern man, as an individual and as a social being, there can be no true progress. By the operation of those laws, under the Providence of God, the experience and powers of the individual gradually unfold and grow into a genuine manhood. Robust and vigorous health attend only upon purity, temperance, and exercise. Cheerfulness of temper, serenity of mind, holiness of affection, and power in execution, consist best, if not only with robust and vigorous animal health, which is the fruit of obedience to the laws of our animal nature. A sane mind in a sound body, is a maxim not less true than true. But health of body is but the base, the foundation of the superstructure. Its sensational capacities are but the robes that gate through which the intellect images of the world without; the inimitable treasures that are gathered from the mine of the universe; the "wafted odors" that assail the sense of smell; the Hesperian fruits that melt into the joys of taste; the music of the woods;

"The many tones of air and earth and sea,
All instruments of melody, that cheer
Still air to music; yea, the stars that give
To every thought and love its vocal power."

the glories of nature, the purple flush of morn and eve, the "starry canopy on high," all the blended beauties of art and nature that stream upon the senses, the joys of touch, the fragrance of the air—all this sensational wealth, daguerreotypied upon the human soul in an image and likeness of the visible universe, with all its vast and complicated phenomena—these stores of wealth, which constitute the rudiments out of which the grand fabric of human culture is woven, and which, in its diversity, stately structures to adorn the slopes of all coming time—these are but the adornments of the vestibule to the temple of the soul; for all these may stand as stony statues in the

dome of thought, as lifeless as the marble and as cold. Man may

"Take the patient years,
To plow the fallow fields of history
For buried treasures;
"Gather the ripe fruits of all sciences;"
"Drink deep of the Hesperian spring;"

and yet sink below the level of the beast. Physical power, mental culture, vast attainments in art and science, literature, the love of knowledge, the useful, the Promethean fire decenda, until the vitalizing principle of love penetrates and permeates the done of thought—not self-love, not love of the world, not love of "the world's applause, the body's pleasure," but the love of the neighbor, the love of God; that love which makes the pathway of duty more joyous than beds of roses; that love which prompts to works of usefulness; that love which wears the crown of thorns and bears the bloody cross. When such love enters and fills the human soul, the stony statues turn to living flesh; the torpor of death springs into the energy of life; a glorious sunlight fills the thought; holy affections sail out in messages of love, and come back from their deeds of mercy, laden like bees with honey. From under the threshold of the done pours forth the river of life, fertilizing in its course the soil of sorrow. The done of thought is no longer opaque, but like a diamond, radiates the beams of the sun of right-ousness; for then man becomes the Shekinah of the Almighty. Through him streams the Divine wisdom; from his intellect flows the Divine science, the Divine power, enlightening, elevating, energizing every faculty of his nature. Then man glows in the image and likeness of his Maker, and the promise is fulfilled.

Such is an imperfect and hasty sketch of that perfection of the human spirit, which is the only legitimate aim and end of human government. When the human soul is so perfected, it is a heaven; it may be here on earth; for the kingdom of God is within us, and mental state depends, not so much on the amount of what we know, as on the purity of our motives and our hearts. Buried knowledge is a sepulcher; and whether it be a single grave or a pyramid, within it is nothing but dust. Slavery is the sepulcher of knowledge thus buried. It is a chain upon the body, a manacle on the mind, a heavy fetter on the heart, a dark, gloomy, and fearful growth—impossible to the slave. As well expect the rose-bud, encased in ice, to unfold its petals, as to expect the germs of intellect and affection in a slave to unfold into a genuine manhood or priceless womanhood. The slave, in the hands of his master, straining influence, save of fear, are cast aside. Mental culture is stopped in its beginnings, by a sensual, toilsome, and hopeless life. The rudiments, the alphabets of knowledge, are cut off from him. The fires of intelligence are smothered, and in their stead the smother pall of brutal ignorance and stolid indifference o'creepens the soul. Within its firmament shine no luminaries, twinkle no stars. The ample page of God's works written on the face of nature is dimmed and blurred; and the will of God, revealed in his word, is almost entirely lost. The "written word" of the Scriptures is denied. His affectional nature is perverted at its source. Self rules supreme. The fountains of affection are turned in upon himself. The outlets are all blocked up. He can become an image only of those pestilent poisons which receive but never issue forth the springs of the mountain—whose stagnant and stinky wave becomes the home of the reptile, and from whose putrescent surface rise the miasmatic vapors of death. His love cannot go forth, save in adulterous love to her whose chamber palls of lust should build around him a panoply of power to resist every impure desire. His affections cannot wear themselves in to the interests of his offspring, stimulating him to self-sacrificing toils for their temporal good, and to a stainless life, in the paths of duty and virtue. His love cannot be the love of his country, that ennobling element of moral and mental wealth, has no scope for action. No common interest makes him ready, like Winclried, to gather the spears of his country's enemies into his own bosom; no temple of fame lifts its airy dome in the distance, to which he the dormant energies of his soul, to climb the steep where it shines afar. The toil-worn body—the darkened intellect, the dwarfed and lighted affection—is the lot of the slave. Say not his lot

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is happy. If his inborn virtues lift him above the beast, it is not because his surroundings have tempted to the result.

Man is not man, and heaven, to which he is an heir, cannot be within him, save in the right and free exercise of his faculties of body and of soul. He must be free, and virtues are constituted amongst men that man may be free. For this end they derive all their just powers from the consent of the governed. They are instituted by men to protect man through men. All the powers of Government are imparted by men; all the powers are intrusted to men, and all the functions of Government are exercised by men, and are carried on for the protection of man; and all Governments should be under the influence of those principles of liberty, justice, and mercy which are intended for man. Kings have arrogated the Divine right to govern, impudently assuming that their power was descended directly from the Divine, not mediately through man; forgetting that the Almighty has said, "I have made a king in my anger," and that the Apostle has declared, "That there is no respect of persons with God." Forgetting that the Father of all has given to all one common nature, has clothed all with the like powers, and has prepared for all who obey His law one common destiny. Classes of men have arrogated to themselves the power and right to govern.

In the pride of wealth, class, or color assumed to have been lifted above the common level of humanity, and to have been placed by nature or by nature's God upon a higher plane of existence, and clothed with sovereign attributes; invested with the prerogative of God, and to be obeyed only, but all whom in their sinful pride they have placed below them.

But the corner-stone of our political Governments is the equality of all men. Kings, aristocracies, classes, are repudiated by the fundamental principles of the Declaration of Independence, and of our national and State constitutions. The long struggle of the Revolution, the glorious lives sacrificed on the altar of freedom, were to secure the **privileges** or **liberty**, which the colonists believed to be the birthright of every subject under the British Constitution and laws. The rights secured by Magna Charta, and the other great charters of British liberty, were claimed to be the natural and inalienable rights of all men. In their Declaration of Independence they declared "that all men are created equal," and endowed by their Creator with the inalienable right to "life, liberty, and the pursuit of happiness." They repeated this doctrine in their subsequent manifestoes. In one form or another, almost every State constitution enunciated the same doctrine. They pointed to the work of Sydney and Locke as their text-books, and appealed to the Bible in confirmation of the natural equality and independence of the whole species. The flagrant inconsistency of the system of African slavery existing in the States, was everywhere proclaimed, was a frequent subject of regret and of painful study among the statesmen and patriots of the revolutionary era. Patrick Henry declared that it was a debt we owe "to the purity of our religion, to show that it is at variance with that law which warrants slavery." It has been admitted on this floor that, among the founders and fathers of the Republic, slavery was considered as morally wrong, and inconsistent with the principles of equality, and the natural and inalienable rights declared by the Declaration of Independence. Such were the sentiments of Jay, Hamilton, and Franklin, and hosts of northern men. Such was the almost unanimous voice of all the great men of the South. Eloquent extracts, showing the abhorrence of southern men to slavery, have been repeatedly published in newspapers and pamphlets.

Among the warmest opponents of the institution of African slavery, were Washington and La Fayette, Jefferson, Madison, Monroe, Patrick Henry, Pinckney; and scarcely a single southern State but what has borne testimony against the iniquity of African slavery, either in the debates in its legislative halls, by the promi-

neous of its constitution, or the decisions of its judicial tribunals.

The early abolition of slavery, at the time of the formation of our national Government, was confidently expected. The first steps had already been taken which led to its extinction in over half of the original States. The action of the States prohibiting the slave trade, and the authority to Congress to prohibit it entirely in 1808, the branding the traffic as piracy, were all considered incipient steps in the abolition of slavery. Nothing is more clearly established by the history of the times, than that African slavery was considered a curse, inflicted upon the American colonies through the mercenary rapacity of British merchants, sanctioned by the British Crown—a blot upon the national catechism, all attempts to wipe out which, by the colonial Legislature, had been defeated by the British Government, and which, under the influence of our free institutions, was gradually but surely to be obliterated.

How terribly our fathers were mistaken, we now know. The seven hundred thousand slaves have grown into four millions. To the six original slave States have been added nine others, and the original area has been more than trebled, the single State of Texas, alone, having more territory within its bounds than is included within the limits of the six original States, and which the institution now exists. From hanging its head in penitence, the institution now rears its Gorgon front, and threatens to overwhelm all the Territories and all the States, or, like him of Gaza, in his wrath, pull down the pillars that support the temple of our country.

The ultimate aped of African slavery over the fairest portion of this continent, if not over the whole of it, or its ultimate extinction, is a fact **raz**, which is as capable of demonstrative proof, by logical reasoning, as any contingency in the future.

It is reasonable to suppose that the framers of our national Constitution, when they authorized Congress to abolish the slave trade in 1808, understood that doing so would necessarily ultimately result in the abolition of the institution itself, and a large number of the members, were in favor of the immediate abolition of the slave trade. The statesmen of Virginia saw, even in that early day, that slave labor was impoverishing the soil and the State. Even then, the contrast between Virginia and Pennsylvania, in which free labor mostly prevailed, was most marked in favor of the northern State. And not only patriotic, but interested motives urged the ultimate extinction of slavery. It was with indignation and regret that Madison and the opponents of slavery, in order to keep within the Union two southern States, submitted to the postponement of the prohibition of the African slave trade for twenty years. That father of the Constitution saw and said that the ultimate extinction of slavery would be thereby indirectly postponed, if not entirely prevented.

The revival of the African slave trade is indispensable to the perpetuity of African slavery. Whoever walks the streets of this city, or enters its dwellings, knows that Africans are seldom seen. Unlike our northern abolitionists, southern abolitionists, perhaps under the influence of a more genial sun, are working out the emancipation of the race by practical amalgamation. Cut off the inkly fountain from Africa, and but a few generations will pass, a few centuries roll away, before the traces of a negro population will be utterly obliterated. Blue and black race will take the place of the unchanging ebony, and flaxen curls that of the compacted twist. Our law books are not devoid of cases where greedy heirs filch the estates of the master's sons from them, and pocket the gold and sons. As the bleaching processes proceed, the repugnant becomes the attractive; amalgamation; and population, spreading over vast territories with virgin soils, will increase in the abject race with terrible rapidity. In the mean time, the fiery blood of the free Anglo-Saxon, mixed with the warlike physical capacity of the negro and mulatto, will produce a more restless

and bolder population; more impatient of restraint—less subservient of punishment.

The gradual advancement of the negro race in the scale of mental capacity, and its consequent aspirations, is inevitable; whilst the sure results of labor, even if coerced, will develop and harden the physical frame. On the other hand, amidst the rise of the negro race, the Anglo-Saxon master must certainly descend. The exercise of despotic power necessarily breeds a swarm of vices, which in time will inevitably obliterate all genuine manhood. As the virtues can only grow through the exercise of that love to the neighbor which is the all of religion, the base of all true democracy, and the only sure foundation of government; so the opposite to universal fraternal love, the love of self and of freedom for self, which is the all of hell, the base of aristocracy, and foundation of despotism, breed a swarm of lusts and passions that ultimately destroys all that is lovely in manhood. With accelerated speed down the succession of generations, from parent to child, all that makes man noble and Governments beneficent, all records and deeds inculcating virtue, the calm consciousness of virtuous power is substituted the arrogance of selfish force. For the mild but potent persuasives of fraternal love, are substituted the lash and the chain.

As this retrograde course lapses down the vista of years, darkness and desolation gather over its path. The lights of love, beaming from free speech, radiating from the free press, and reflected and refracted from the free schools, free churches, and free institutions, are one by one put out, until one gloomy way, a path to engulfment, a final ruin, heaven is stretched above; and the masters stalk through the paths of life, amid the darkened and cowed minds of their miserable slaves, feeling beneath their tread the suppressed rumblings of that volcanic soil which is aggregating and intensifying its force to can the world in final ruin.

From these two causes—the ascent of the slave, the descent of the master—there is but one escape; and that is, the restoration to humanity of its God-given, heaven-descended rights. The final catastrophe will be the reign of Christ's law of love, which will bring men and nations into one universal fraternal concord.

At this moment, three mighty powers are in operation to spread human slavery over the Union—the President of the United States, the Democratic party, and the Supreme Court of the United States.

The impending crisis is upon us. The people are aroused; another stand is taken by the lovers of humanity to stem the torrent of aggressive despotism. In terrible array, fierce as ten furias, armed with holy truth, they are rushing forward, by new deeds of empire, to acquire new realms of empire. The blow to humanity and freedom is shot forth from under the ample shield of our national Constitution. Its toleration of slavery in the slave States is diverted into its sanction in the Territories. Its limitations on the exercise of despotic power are construed into sacred guarantees for its nurture and protection; and that charter of the rights of humanity and the palladium of our liberties is to become the potent engine of destruction to both. The President, who occupies the chair of Washington, directs the blow, and

Marcus, Charles D. Martin, Elbert B. Martin, Maynard, McClelland, McKean, McKeeth, McPherson, McQuinn, Miller, Mills, Milton, Mitchell, Moberg, Moore, Myron, Nathan Moore, Mordant, Morrill, Edwards Jay Morris, Isaac N. Morris, Moore, Nixon, Nixon, Palmer, Perry, Peyton, Phelps, Pomeroy, Foster, Pratt, Pugh, Quaker, Bingham, Reynolds, Rice, Rices, Christopher Robinson, James C. Robinson, Royce, Russell, Russ, Schwartz, Spaulding, Stedley, Stebbins, Stickleton, Stinson, Stinson, William Smith, William N. Smith, South, Spaulding, Stallworth, Stanton, Stevens, Stevenson, James A. Stewart, William Stewart, Stokes, Thompson, Thomas, Taylor, Thayer, Thayer, Thompson, Train, Trimble, Underwood, Vance, Vanderburg, Van Weck, Verree, Wade, Waldron, Watson, Caldwell, C. Washburn, Elliot B. Washburn, Israel Washburn, Webster, Whitely, Wilson, Windsor, Windsor, Wood, Woodruff, Woodson, and Wright.

Mr. BURCH. I move that the House do now adjourn.

Mr. FRANK. No quorum being present, is there not some rule by which we can compel the attendance of the absentees?

Mr. SCOTT. Is it in order to move a call of the House?

The SPEAKER *pro tempore*. If the motion to adjourn is voted down, it will be in order to move a call of the House.

The question was taken; and there were, on division—aye, 13, noes 12.

The SPEAKER *pro tempore*. The Chair votes in the negative, and the House refuses to adjourn. [Laughter.]

Mr. SCOTT. I move there be a call of the House.

Mr. BURNETT. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock and forty minutes, p. m.) the House adjourned.

IN SENATE.

Saturday, April 7, 1860.

Prayer by the Chaplain, Rev. Dr. GURLEY.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had passed the following bill; in which the concurrence of the Senate was requested:

A bill (No. 85) for the relief of John C. Cuyler;

A bill (No. 262) for the relief of the legal representatives of François Guillaury, deceased;

A bill (No. 224) for the relief of W. Y. Hannell, the heirs of W. H. Underwood, and the representatives of Samuel Rockwell;

A bill (No. 264) for the relief of Charles Sullivan;

A bill (No. 263) for the relief of Frederick Stephens;

A bill (No. 130) to pay to the State of Missouri the amount expended by said State in repelling the invasion of the Osage Indians;

A bill (No. 266) for the relief of Brevet Lieutenant Colonel Martin Burke and Captain Charles S. Winder, of the United States Army;

A bill (No. 267) for the relief of Mrs. A. W. Arden, widow of the late Captain Samuel Angus, United States Navy;

A bill (No. 262) granting a pension to James Lacey, of Grainger county, Tennessee;

A bill (No. 270) granting a pension to John Madden, of Campbell county, Tennessee;

A bill (No. 271) granting a pension to Cyrus Blackman, of St. Helena parish, Louisiana;

A bill (No. 272) granting a pension to Adelaide Adams, widow of Commander George Adams, United States Navy;

A bill (No. 273) for the relief of Micajah Hawley;

A bill (No. 276) for the relief of Mrs. Hannah McDowell;

A bill (No. 277) for the relief of Webster S. Steele;

A bill (No. 284) for the relief of John W. Taylor, and certain other assignees of preemption land locations; and

A bill (No. 600) for the relief of the children and heirs of Alexander Montgomery.

The message further announced that the House passed the following bills of the Senate:

A bill (No. 71) for the relief of the American Board of Commissioners for Foreign Missions; and

A bill (No. 232) for the relief of Alice Hunt, widow of Thomas Hunt.

The message further announced that the House ordered, on yesterday, April 6, 1860, the printing of the following documents:

Letter from the Secretary of the Treasury, in answer to a resolution of the House, calling for information as to what parties delivered if any have been discontinued since the passage of the act of June 4, 1858—ordered at twelve o'clock and twenty-nine minutes.

Memorial of Surgeon Henry O. Mayo, in behalf of the corps of surgeons in the United States Navy—ordered at twelve o'clock and fifteen minutes.

Memorial of the Legislature of Minnesota for the removal of the Winnemago Indians, and the indemnification of the early settlers on their reservation—ordered at twelve o'clock and sixteen minutes.

Memorial of the Legislature of Minnesota, making for a fort or military post in the valley of the Pembina river—ordered at twelve o'clock and sixteen minutes.

Memorial of the State of Mississippi, in relation to the establishment of a navy-yard at the Bay of Biloxi, in said State—ordered at twelve o'clock and sixteen minutes.

METROPOLITAN RAILROAD COMPANY.

Mr. PEARCE. I have been requested to present the memorial of a select committee of the directors of the Metropolitan railroad, in relation to railways in Washington and Georgetown, and to ask that the memorial itself may be read to the Senate.

The Secretary commenced to read the memorial.

Mr. CAMERON. I move to dispense with the reading of that paper. We have all read it.

Mr. PEARCE. I doubt whether anybody has read it. It has only been prepared this morning.

Mr. HAMLIN. I have read every word of it. The VICE PRESIDENT. If objection be made to the reading of the paper, the Chair will provide for its being put to a vote of the Senate without debate.

Mr. PEARCE. I leave it to the Senate.

The VICE PRESIDENT. Does not the Senator from Pennsylvania object?

Mr. CAMERON. Certainly. I do not object, if any Senator desires to have it read.

Mr. BENJAMIN. I submit to the Senator from Maryland that, on this side, we have all read it. I have, at least, very carefully.

Mr. CAMERON. If any gentleman want to hear it read, I shall not object. I desired to save time.

Mr. PEARCE. I did not propose to have the paper read through, but only the memorial; a few pages. It is not very long.

Mr. HAMLIN. Fifteen pages.

Mr. PEARCE. It is in fact about thirteen pages, printed in large type. I submit to the decision of the Senate, though.

The VICE PRESIDENT. The Chair did not understand the Senator from Pennsylvania to object to the reading of the paper, the Chair will put the question to the Senate.

Mr. CAMERON. I certainly did not object. I only suggested the propriety of saving time.

The VICE PRESIDENT. Then the memorial will be read.

The Secretary proceeded with and concluded the reading of the memorial; which is as follows:

To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled: The memorial of Benjamin C. Taylor, David Benjamin, William H. Edes, Adolphus H. Fekreh, and Ferdinand W. Elmore—the first named president, and the others directors, the Metropolitan railroad—respectfully represents:

That they have been selected by their co-directors to prepare and submit to the honorable the Senate and House of Representatives a statement of facts in relation to the said company, by which the minds of Senators may be dispelled of the unfavorable impressions heretofore formed or expressed by them removed or corrected.

In making this statement, they disclaim any intention of reflecting upon the characters or impugning the motives of the two honorable Senators, members of the Committee on the District of Columbia, who participated in its debate on the railway bill in the Senate on January 1st, but claim the right, as American citizens, to correct the errors of fact into which the Senators above referred to have fallen in regard to the said company.

On the 24 day of March, 1853, an act of Congress was approved, incorporating the Washington and Georgetown Railroad Company, which declares, "that whenever the State

of Maryland shall by law incorporate a company to lay out and construct a railroad from any point, in connection with the Baltimore and Ohio canal, or at or near the Point of Rocks, in Georgetown, in the District of Columbia, the right of way, not exceeding sixty-six feet wide, be and is hereby granted to such company." (See said act, Appendix A.)

The Metropolitan Railroad Company, which said company was so contemplated by the act of Congress above said, was organized on the 1st day of May, 1853, by an act of the Legislature of Maryland, which act of incorporation was subsequently amended by the Legislature of the State above said on the 6th of March, 1856. (See those acts, Appendix B and C.)

By the thirtieth section of the act of incorporation of the Metropolitan Railroad Company, the majority of the stockholders of the earnings of said road shall be paid to the stockholders until the entire road is completed to Hagerstown, but by the first section of the said act, it is provided, that it shall not be necessary to complete the said rail road in Hagerstown before any dividends of the net profits arising from the operation of said road should be declared. This section of the act was considered very curious by the stockholders, and prevented many persons from taking stock in the said company, and said secondary act of the 6th of March, 1856, gave additional strength and encouragement to the president and directors of said company.

Books of subscription to the stock of said company were opened by the commissioners named in the said act, and over ten thousand shares of the stock having been subscribed—amounting to the sum of \$500,000—these same steps were taken to organize the said company, by the election of president and directors.

By an ordinance of the Board of Aldermen and Common Council of Georgetown, approved by Henry Addison, then Mayor of said town, on the 11th day of June, 1853, the said Mayor was authorized to subscribe to the said company, ten thousand shares of said stock, equal to \$500,000. (See said ordinance, in Appendix F.) The said subscription was accordingly made by the said Mayor, in obedience to the said ordinance.

By an ordinance of the same boards, approved by the said Mayor on the 13th day of July, 1853, the following gentlemen, viz: David English, Evans Lyons, Robert P. Dodge, William H. Edes, and Ferdinand W. Elmore, were appointed as proxies to vote the stock of the said town, at any meeting of the stockholders of the said company. (See said ordinance, in Appendix F.)

The boards of Aldermen and Common Council of the town aforesaid refused to appoint Henry Addison, then Mayor, as one of the proxies aforesaid, to vote the stock of the said company, and the said Mayor, Henry Addison, of the 26th of February, 1854, he says:

"In view of the fact that the Mayor should be to maintain our credit unimpaired, by getting Congress in sanction the railroad subscription, and remove all questions as to its legality. This was done when the Mayor was authorized to amount to the Chesapeake and Ohio canal, and without it, no income could have been possibly received."

"My recollection is, that I then ask Congress to sanction that subscription."

Application was accordingly made to Congress, upon the recommendation of said Mayor, in relation to the said road subscription aforesaid, and on the 13th day of March, 1855, an act was passed, which authorized the Mayor to execute the recently assumed by said town in subscribing to the stock of the Metropolitan Railroad Company." (See said act, Appendix F.)

After the election of the president and directors of the said company, the first installment of \$25,000, upon the stock subscribed by the said company, was paid on the 1st day of June, 1856, the corporation of Georgetown passed an ordinance to pay the second installment on their subscription to the stock of the Metropolitan Railroad Company, which was voted by the Mayor, Henry Addison (but the said ordinance was passed, notwithstanding the vote, by a two-thirds majority. (See said ordinance, Appendix G.)

The said Mayor then proclaimed that he would not sign the bonds of the corporation to meet this second installment.

After the passage of the ordinance of the 1st day of March, 1855, above noticed, Henry Addison, in his address "To the People of Georgetown," in the year 1855, on page 12 of 13, says:

"If I have succeeded in showing that our subscription was void, without authority of law, and therefore ineffectual and void, I can then return to my subscribers to pay such subscription? If it was void when made, it is forever void. It simply abounds, in every link an act done, performed, and completed in June, 1853, it is void, it is null, and void at that time, and yet that it is legal, operative, and valid, and not a subsequent thing. A void act cannot be confirmed by a subsequent thing. It is not in the power of Congress even, to declare it a thing, it is void act done and performed in June, 1853, should be void at that time, and at a future day."

On page 23 of said address, Mr. Addison uses the following language:

"I always believed that it was at the suggestion of Mr. Dodge, (the president of the Metropolitan rail,) and to gratify his personal animosity to myself, that the Board of Common Council, and the Mayor, were induced to take the affairs of that road. I felt that I had been grossly and injuriously insulted by a coordinate branch of the corporation."

To the memorial of the stockholders of the Metropolitan Railroad Company will be found the names of a large number of the stockholders of the said company, and the names of Georgetown, and quite a number of the influential and wealthy citizens of Washington city—praying that the power to construct the said road be given to the stockholders of Georgetown, and that the said power be given to the stockholders of Georgetown, who are not stockholders in said company.

The Board of Aldermen and Common Council of Georgetown, in the year 1853, by a unanimous vote, recommended that the franchise of the city markets should be given to the Metropolitan Railroad Company, and on the 1st day of March, 1854, four out of the five members who constitute the Board of

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Mr. TRUMBULL. I have no objection; but it struck me that if the Constitution was to be changed, or any recommendation of that kind made, it would probably come more appropriately from the Committee on the Judiciary.

Mr. GREEN. It affects the Territories only.

Mr. TRUMBULL. I have no kind of objection.

Mr. GREEN. I care nothing at all about it. The VICE PRESIDENT. What committee does the Senator indicate?

Mr. TRUMBULL. I indicate the Judiciary Committee, unless there is objection.

Mr. GREEN. There is no objection.

The VICE PRESIDENT. The memorial will go to the Committee on the Judiciary.

MARY WALBACH.

Mr. POWELL. I ask the unanimous consent of the Senate to take up the bill No. 345, reported by the Committee on Pensions, for the relief of Mrs. Walbach, widow of the late Brevet General Walbach. This lady is over eighty years old, is very infirm, and in very straitened circumstances. I think it a very meritorious case.

The VICE PRESIDENT. The Chair will assist the Senator in the form of a bill, but the Chief Clerk has gone to the House of Representatives to carry some bills, and it is difficult to find them here. The Chair will receive morning business, if the Senator will waive his motion until the return of the Clerk.

BILLS INTRODUCED.

Mr. FITZPATRICK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 25) manifesting the sense of Congress towards the officers and seamen of the vessels and others engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco, from perishing with the wreck of that vessel; with, with the papers on the file of the Senate relating to the subject, was referred to the Committee on Military Affairs and Militia.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 382) for the relief of the heirs and legal representatives of Olivier Landry, of the State of Louisiana; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. WIGFALL, in pursuance of previous notice, asked and obtained leave to introduce a joint resolution (S. No. 26) to continue the light-ship at the entrance to Galveston Harbor; which was read twice by its title, and referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. FOOT, from the Committee on Claims, to whom was referred the petition of James Myer, praying compensation for services rendered and losses sustained by him as quartermaster to the Mexican boundary line commission, submitted a report, accompanied by a bill (S. No. 383) for the relief of James Myer. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. HARLAN. The Committee on Public Lands, to whom the subject was referred, have instructed me to report a bill (S. No. 384) authorizing the sale of abandoned military reservations. I move that the letter of the Secretary of the Interior, accompanying the bill, be printed.

The bill was read, and passed to a second reading; and the letter of the Secretary of the Interior was ordered to be printed.

OBSTRUCTION TO A STREET.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire by what authority K street north has been obstructed by the erection of a market-house thereon; and, in case of the expediency of making provisions for its removal.

ACCOUNTS OF ISAAC COOK.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be directed to communicate to the Senate copies of all the newspapers from any agent or agents of the Post Office Department, in relation to the condition of the post office at Chicago, Illinois, during the service of I. Cook, as postmaster at said office.

Mr. WILSON subsequently moved to reconsider the vote on the passage of the resolution, desiring it to lie over, so that he might modify it; which was agreed to.

INDIAN AFFAIRS IN CALIFORNIA.

Mr. LATHAM. I submit a resolution of inquiry, and ask for its consideration now. It is connected with business that comes up for discussion Monday, and I hope it will be adopted.

Resolved, That the Secretary of the Interior be directed to furnish this body with copies of all correspondence or reports made by the present superintendents or agents of the Indian department, or by the special agents of the Government, J. Ross Browne, relating to the condition or management of the Indians and their reservations in California.

The resolution was considered by unanimous consent, and agreed to.

COURTS IN ARKANSAS.

Mr. GREEN. I ask the Senate to take up and consider the bill (No. 172) to establish a court in the western district of Arkansas. It is a formal matter, and will involve no debate.

The VICE PRESIDENT. The Chair will state that the bill suggested by the Senator from Missouri has been found, and it is probable it will come up regularly first; but if there be no objection, the Chair will recognize the Senator from Missouri.

Mr. BROWN. Before the Senator from Missouri proceeds, I desire to ask whether at one o'clock District business will come up?

The VICE PRESIDENT. The Chair will call up the District business at one o'clock.

Mr. GREEN. I move to take up the bill No. 172. It is a mere formal matter.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 172) concerning the courts of the United States in the district of Arkansas. It provides that there shall be a district judge of the United States for the western district of Arkansas, to wit, of \$2,500, who shall reside in that district, and have the same jurisdiction and powers now exercised within that district by the judge of the district of Arkansas, whose jurisdiction and authority are to be hereafter confined to the eastern district of Arkansas, and also provides that there shall be hereafter two terms of the circuit court for the eastern district of Arkansas, on the second Mondays of April and October in each year.

The bill was reported from the Committee on the Judiciary with an amendment, to add, as a new section:

Sec. 3. And be it further enacted, That it shall be incumbent on the attorneys, marshals, and clerks, of the district courts in the eastern and western districts of Arkansas, to reside within their respective districts.

The amendment was agreed to.

Mr. GREEN. Now I move an amendment in regard to the terms of the court. I move, in section two, line four, after the word "year," to insert "and four terms of the District court in the western district of Arkansas, on the second Mondays of March, June, September, and December;" in line five, to strike out the words "circuit court," and insert "court;" in line six, to strike out the words "district," and insert "two districts;" and in the same line to strike out the word "it," and insert "are;" so that the section will then read:

Sec. 2. And be it further enacted, That there shall be hereafter two terms of the circuit court of the United States held for the eastern district of Arkansas, on the second Mondays of April and October in each year, and four terms of the District court in the western district of Arkansas, on the second Mondays of March, June, September, and December, at the same place where the courts of the United States for the two districts of Arkansas are now held.

The amendment was agreed to.

Mr. KING. I should like to hear some reason why it is necessary to multiply these districts and officers.

Mr. GREEN. I do not want any discussion on this bill, because the time has nearly run out. I understand the Indian country, and it is indispensable to have a judge there always ready to adjudge Indian cases that arise in the Indian territory. The bill met the unanimous approbation of the committee, and I do not think there is any reason why we should object to it. The western district of Arkansas includes the Cherokee, Choctaw, and Chickasaw Nations.

Mr. TRUMBULL. I did not intend to interpose an objection to the bill; but I do not wish to

be understood, as I am one of the Judiciary Committee, as being an advocate for the bill. I amply acquiesce in letting it come here.

Mr. GREEN. That is correct.

Mr. TRUMBULL. I am not disposed to interfere in regard to it, if the Senate think proper to pass it.

Mr. BENJAMIN. I desire to say a word or two in vindication of the action of the Judiciary Committee, and I think Senators will be perfectly satisfied about it. In the State of Arkansas there are now two districts. There are marshals and clerks in both districts, but there is but one judge. The western district of Arkansas comprises the Indian country, and the principal business of that court is to take cognizance of criminal offenses committed by Indians. The Indians are never able to give bail, and consequently, as soon as one is arrested, he is kept in prison until he is tried. The extent of the district is such, that it is utterly impossible for the judge of the eastern district to hold frequent courts in the western district. The extent of country is very great; it is an unsettled country; and in consequence of having a judge residing in the western district, who shall be there always to take cognizance of crimes occurring amongst the Indians, and have them speedily disposed of, making jail deliveries, instead of keeping prisoners in the State for six or eight months before they can give bail, the only additional officer is one judge. Already marshals and clerks exist. The judge in the eastern district cannot hold courts in the eastern district, by possibility, and also do the requisite business in relation to those Indians in the western district. If Senators would glance over the map, they would see that the district of country is enormous. If he were to travel all the time he could not attend to it. The bill then provides for no additional officer but a judge, who is to reside in the western district, and who will hold four terms a year, instead of two; and the bill provides that the marshal and clerk shall also reside in the western district. We are told there is an abuse in that respect now—that they reside in the eastern district, and that they are with difficulty found in the western district. The object is to take care of the Indians, and do what is just and humane towards them.

Mr. JOHNSON, of Arkansas. It is purely an Indian district. It is no district that was ever made for Arkansas, in fact. There were but a few counties in Arkansas when it was first organized. The district is a mere fiction. If Senators would glance over the map, they would see that the district of country is enormous. If he were to travel all the time he could not attend to it. The bill then provides for no additional officer but a judge, who is to reside in the western district, and who will hold four terms a year, instead of two; and the bill provides that the marshal and clerk shall also reside in the western district. We are told there is an abuse in that respect now—that they reside in the eastern district, and that they are with difficulty found in the western district. The object is to take care of the Indians, and do what is just and humane towards them.

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The bill was reported to the Senate as amended, and the amendments were concurred in; and the bill was ordered to be engrossed, and was read the third time.

Mr. CRITTENDEN. I understand from gentlemen that, although there are two courts now in Arkansas, there is but one judge there.

Mr. BENJAMIN. Yes, sir.

The bill was passed.

MESSAGE FROM THE HOUSE.

A message, from the House of Representatives, by Mr. HAYS, Chief Clerk, announced that the House had passed the bill of the Senate (No. 250) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. Taylor.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

A bill (C. C. No. 19) for the relief of Moses Noble;

A bill (C. C. No. 88) for the relief of Channer T. Seafie, administrator of Gilbert Stalker;

city—some four or five million—who propose to throw the matter open to all the citizens.

Now, sir, it strikes me, in the first place, that if we are to grant a charter for a horse railroad in this city, and the citizens come forward with such a subscription and such a list of such fortune, and ask that it may be opened to the citizens generally, that books of subscription may be opened, on which all may take stock to a certain amount, and be interested, that is the fair, honest, democratic, and proper way of doing it, and a company. Sir, I must say that I cannot understand why a few gentlemen, some of them of means and some not of means, should be picked out and this privilege given to them, if it is a privilege, and they seem to consider it so, and a valuable one, when the citizens ask that it be laid open to all in this way.

I have received a communication this morning, which has been handed probably to all Senators, signed by Mr. Wallace, who calls himself president of the very company to whom the bill grants the charter, who objects very much to Mr. Vanderveken's being in. I do not know anything about this; but he states that, admitting Mr. Vanderveken as a stockholder would be paying him a bonus, and he does not see why he should be paid a bonus. That is a question of very valuable matter; that it is a bonus to own and hold stock in this company. That is Mr. Wallace's own idea in this printed paper here. If it is a bonus, if it is so great a privilege, I do not see why it should be handed over to Mr. Riggs and Mr. Todd, and three or four other men to make in kind of close corporation, in defiance of the wishes of people of this city, men of abundant means, who want the ordinary common course of proceeding in relation to corporations of this description to be taken, and the books may be opened in order that the inhabitants of the city may have an opportunity to build and own this road.

That is all I have to say. I have no knowledge of the matter, except just what I have stated. The amendment strikes me as reasonable, proper, and fair, and meets my own views, and I am in opposition, in opposition to schemes of a different description.

Mr. BROWN. Mr. President, I do not mean to discuss this question, and I shall be very much obliged if the Senators if they will listen to the very little I have to say, and I will not say anything more. The committee considered the very proposition which the Senator from Maine now introduces—that of making this a joint stock company—and rejected it, for reasons which seemed to them to be good.

This is a privilege which Congress proposes to grant for the mutual benefit of all—over a street which belongs to the Government. The committee believed it better to grant that privilege to certain gentlemen of known and established reputation; so that, if it were exercised badly, we should know precisely who to blame, and on whom to call; so that, if Mr. Riggs and his associates failed to lay down the road and keep it in order, in the manner prescribed in the act, we should know the precise gentlemen upon whom censures was to be laid, and if you make a joint stock company, you know not who owns the stock. There may be three or four or five hundred of them. They may assign their stock. They have a set of directors; and you complain to them, and they say, we could do otherwise, but the stockholders in this concern require that we shall not expend their money to do this or that or the other. Inasmuch as it was the mere granting of a privilege, I say again, the committee thought it better to grant it to known persons of established reputation, who could be held to account for any violation of the bargain under which the grant was made.

Now, this thing of popularizing every little scheme of this sort is, I know, somewhat captivating. The idea of letting everybody have his hand in this scheme may be all well enough, and certainly I am as much for the people as anybody else; but who does not know how it will result? Men of straw will be sent to subscribe for the stock. It always so happens if it is supposed the stock is going to be profitable. I think I heard of gentlemen from the State of Maryland, Baltimore, named Brock; he can send over more Plug-Uglies, more fellows from Baltimore to whip everybody else off, and take the whole of this

stock, than you could get clear of in a month, if he chose to do it; I do not say that he would. So with anybody else: mere men of straw might take the stock; do for a consideration, and in the end transfer it to somebody living in Baltimore, New York, or anywhere else. One man might own the whole of it under that sort of stockjobbing, if he only had the dashing impudence to subscribe for it in that way. Thus it would turn out that in the end the privilege was granted to a few parties. They, once or oft, that I have in no sort in this scheme of putting a railroad on the avenue at all; and if these people will only make a "Kilkenny fight" of it, and destroy each other, I shall be the best pleased man in the Senate; but when public opinion of the Senate and public opinion of the people indicated that you were to open the road on the avenue by putting a railroad upon it, I banded myself to have it done in the most proper, decent, and orderly manner. The committee agreed with me, and we reported a bill to grant the privilege to seven or eight gentlemen of known character and respectability—old citizens of Washington, known to everybody.

I am not surprised that there are appellations elsewhere; that there is an attempt to throw distrust over the action of the committee; that there are complaints that the committee have been partial to these half a dozen gentlemen. Sir, the committee was partial to nobody. The committee believed that, in proper deference to the interest of the Government, the privilege, if granted at all, was to be granted to gentlemen of known respectability. Now, to whom is it proposed to be granted? To Richard Wallace—a gentleman, I believe, born in this District—a man of very high character; how much money he has, I do not know; to Mr. George W. Riggs, an eminent banker; to Walter Lenoir, an ex-mayor; to John D. Hoover, an ex-marshal of the United States; James M. Carlisle, a lawyer of distinction and character, than whom, I suppose, no one stands higher at the bar of this city; Mr. William B. Todd, a gentleman of high respectability; to a man named Boteler, equally respectable; to Mr. George Harrington, a reputable gentleman; John F. Coyle, Walter S. Cox. I know all of them, except Mr. Cox.

Mr. PEARCE. I can vouch for him. Mr. BEARCE. I can vouch for the reputation of every one of them. How much money they may have, I do not know; but Mr. Riggs has money enough to build the railroad himself. Certainly they have an amount of reputation sufficient to guaranty the construction of the road. If I could get the whole city to sign a resolution to be glad to do it; but, as that cannot be done, I simply think it is better, when you grant the franchise, to grant it to persons who are known, and hold them responsible for any mal-administration of the law.

Mr. FESSENDEN. A word in reply to the Senator. He has said nothing of this proposition that will not apply equally to his own. He says, in the first place, that we are granting a privilege. Very well; that I stated. I presume it to be so. It is so considered. The reply to that is: if you bestow a privilege, why not bestow it on the best man, instead of to half a dozen men? Why not grant it to all the people of this city, who wish to take part in the enterprise, rather than to some six or eight, who are singled out to take it? The argument works against the Senator, in my judgment.

Again: he said they were gentlemen of known respectability. Why, sir, on this list which I have before me there are gentlemen of as high respectability as are found anywhere in this city—men of the highest fortunes, and of the very best standing. There are some four or five hundred of them; but they do not claim to take more than ten shares apiece. The Senator says that there will be men of straw among them. Why, sir, there are you men of straw? Just look at the list. I have it list certified here, from which it appears that Walter Lenoir's valuation is sixty-one dollars in this city; Mr. Boteler's, \$930; Mr. Harrington's, \$197. These are three of the corporators named in the bill. Take out two men, and there is not enough property in the whole of Baltimore to read and understand; and that these two men will put in any large amount of their property; one is a banker, and the other a capitalist. What are they to do? This bill was

drawn originally for them "or their assigns"—nothing said about "associates" at all. It goes to prove something to my mind, and that is that there is no idea that these men are anything more than it is said some have represented them to be—merely men who have lent their names to the enterprise. Cannot they sell their stock just as well as those who take ten shares apiece? They must be obliged to sell their stock. From the necessity of this case, they must sell out. They were to assign their stock to their associates. The idea was to get a charter, and sell it to other persons, who want to build this road on their own speculation—men outside of this city as well as in it. If the stock is all taken by subscriptions of ten shares apiece by people of this city, it will then be likely to sell, or less likely to pay for it, or more likely to have the stock go out of the city, as if you grant it to half a dozen men who cannot build it, or who will not be likely to do so themselves, and who must, if necessary, sell the whole charter—or, at least, large portions of their stock—right out, in order to accomplish the purpose? All the argument the Senator has used applies with vastly more force to the proposition he has presented than it does to the proposition I have presented here, by way of amendment, in my judgment. If you adopt my amendment, the citizens will be likely to hold on to it, because it is among themselves in small quantities each, and would be likely to produce a good return; and I see not why men of small capital, who have a little surplus, should not be at liberty to put it in, instead of granting a charter to half a dozen men, the very idea of which is that it is to be sold to capitalists out of the city, who are to build the road on speculation.

As to the idea of responsibility: how are you going to hold these men responsible, if they sell out, they are not to be responsible, of course. If they do not choose to hold on to this stock, you cannot oblige them to do so. Their responsibility ceases the moment they part with their interest. But in my proposition, the ownership of the stock is in my judgment given to the directors are to be chosen from among themselves, instead of going to Philadelphia or Baltimore, or anywhere else out of this city; and in my judgment it is intended to go elsewhere from the manner in which the bill is drawn. The reasons why the committee have given are entirely unsatisfactory to me. I see reason for varying from the usual custom when you grant a charter which is likely to be valuable in a city, why the books should not be opened, and those of the city who have the means, and want to become interested in it, should not have the opportunity, instead of picking out half a dozen of their fellow-citizens, and giving it to them, and giving them alone a chance to make money out of it. I do not pretend to be any kind of a Democrat; especially according to the modern occupation of the term; but I like to see, in these matters at any rate, democratic principles carried out.

THE PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The question is on the first amendment of the Senator from Maine, to insert "or their assigns" in the bill, and the word "assigns," in the sixth line of the first section.

The amendment was agreed to. THE PRESIDING OFFICER. The question now is on his amendment to add the additional sections.

Mr. FESSENDEN. I call for the yeas and nays.

Mr. COLLAMER. There is a provision in the amendment that the books shall be opened within ten days after the passage of the act. There is a further provision that the books shall be published or published of the books in two papers in the District. Now, it seems to me that ten days is too short a time to make the publication and open the books. I move that that "ten" be altered to "twenty." There is also a time left blank during which the books shall be kept open, which I desire to have filled with "forty days."

Mr. FESSENDEN. Ten will be enough to give the notice.

Mr. COLLAMER. The books are to be opened within ten days, which I move to make "twenty," and then let them be kept open ten days after that.

Mr. FESSENDEN. They ought to be kept open longer; say twenty days.

The PRESIDING OFFICER. The Chair will regard that as the sentiment of the Senate.

Mr. FESSENDEN. I adopt the amendment of the Senator from Vermont.

Mr. COLLAMER. There is one other thing necessary to perfect it, which is my idea. It is provided that if the subscriptions are more than the whole amount required, they shall be scaled; that would be by the corporators named; but it seems to me that the scaling should be by some person not a stockholder—a disinterested person.

move therefore an amendment—

Mr. FESSENDEN. The ratio of scaling is fixed among those already subscribed.

Mr. COLLAMER. Then my suggestion would be unimportant.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine, as modified; and on this question the yeas and nays are called for.

The yeas and nays were ordered.

Mr. MASON. I should be inclined to go for the amendment of the Senator from Maine, if I thought the matter was of sufficient consideration to open it for general competition amongst the people; but it will require comparatively but a small investment—\$250,000, I understand, for the whole; and although it may be that a railroad upon the avenue will be profitable, I should strongly suspect that the railroad connected with it, to run up Seventh street, will be a burden quite as great as any profit the other can bear; and I should apprehend, therefore, that if it is opened in this way, it will either disincite or disable those who really are prepared to make the road from doing it.

I think a railroad along Pennsylvania avenue, connecting the two cities of Georgetown and Washington, and extending to the Capitol, or beyond it, will be of very great public utility; but greater utility than any can believe but those who have experienced the practical advantages resulting in other cities from passenger railways; and my earnest desire—not personal, but as a representative of the people of the District in this matter—is that the bill may be that a railroad upon the avenue will be profitable, far more interesting that the road shall be made, than A, B, or C shall be benefited by it as an investment. Then we have had some experience—especially in railroad companies—the consequences of opening stock to general subscription. It may be that a railroad has been practiced, which have been alluded to by the honorable Senator from Mississippi, are familiar to every one; and there does seem to be a class of people, in other cities, in some way connected with capitalists, speculators, or persons who will subscribe to sell again—and I strongly apprehend the population of Washington is not exempt from them—who seem to degenerate into mere brutes, and sell their persons, and sell their muscle and their strength, to capitalists who are disposed to engross a subscription that is supposed to be valuable. The number of frauds that are practiced on occasions of subscriptions of this character—frauds that it seems impossible either to prevent or detect when they are made, but are known by the consequences—are such as would deter me from there being any more. It is to be ascertained than will be attained by opening this matter to general subscription) from voting for this amendment.

I was not present in the Senate during the whole of the remarks of the honorable Senator from Maine; but I understood him to advert to a report which I heard within a day or two, that one of the applicants for this work—Mr. Riggs, of this city—had declared in terms that he had no substantial interest in it, or designed to have none, leading to the belief that he had given up his own name, or was disposed to allow others to use his name for purposes of speculation. My personal acquaintance with that gentleman, my knowledge of the man as a citizen and a man of business, led me to discredit the statement when I heard it; and he called to see me within half an hour. Hearing as he did, through the chairman, that such a representation had been put in circulation, and that it had reached me, he called for the purpose of disclaiming it, and did disclaim it in the most plain, simple, and unequivocal manner—not for the purpose at all (I am sure) I do the gentleman justice in saying) of furthering the passage of this bill, but to do himself justice as a good citizen and a man of character. His interest in the subject is

exactly that which the paper purports—nothing more and nothing less.

I did not mean to detain the Senate, but to express as briefly as I could the reasons that would induce me to vote against the amendment.

Mr. FESSENDEN. One word in reply. It must be perfectly obvious to the Senate that if there is a chance that this will be taken by a rush in any way, as is sometimes done by men of straw, for the benefit of capitalists, the result will be only precisely what this bill proposes to do, without any previous motion; and that is, to make a charter for the benefit of capitalists to begin with. There is a possibility of doing, in the case of the amendment which I propose, what is done by the bill itself. So it seems that cannot be said by the bill. I do not see how the amendment can do that, but to begin with, which there is a possibility of having accomplished under the amendment.

Mr. FOOT. I desire to say that I have commented on this question for the present with the Senator from Florida, [Mr. YULEE.]

The question being taken by yeas and nays, resulted—yeas 17, nays 19; as follows:

YEAS.—Messrs. Briggs, Clay, Cushing, Collamer, Fessenden, Hoar, Johnson of Tennessee, Nicholas, Pease, Pugh, Stedley, Sumner, Ten Eyck, Wade, and Wright—47.

NAYS.—Messrs. Anthony, Benjamin, Brown, Chandler, Crittenden, Dixon, Doolittle, Fitzgerald, Foster, Gove, Hamlin, Hammond, Johnson of Arkansas, Kennedy, Lane, Sumner, and Williams—19.

So the amendment of Mr. FESSENDEN was rejected.

Mr. HAMLIN. I propose to amend the sixth section of the bill in line three, by striking out "eighteen" and inserting "twelve." That will limit the time for the completion of the road to twelve months after the passage of the bill.

Mr. BROWN. I hope that will be agreed to. I think twelve months quite long enough.

The amendment was agreed to.

Mr. IVERSON. I offer this amendment:

And be it further enacted, That said incorporated company shall give to the corporate authorities of Washington city and Georgetown, semi-annually, one half cent on each passenger carried over said road, to be divided between said cities in proportion to their population; and the Secretary of each Federal census, the same to form a fund for the education of the poor of the said cities respectively.

I intend that the committee on the subject of the Committee on the District of Columbia have reported this bill proposed to make a donation out of their profits to the cities of Georgetown and Washington for the education of the poor. The committee, however, struck that out of the bill, and proposed to reserve the same for the poor. It is very extraordinary to me, if the corporators propose to give a part of their profits to these cities for the education of the poor, that the Senate should voluntarily and deliberately strike it out and refuse to allow them to do this act.

Mr. BROWN. Strike out the word "poor," and say it shall pass to the common school fund, and I will agree to it.

Mr. IVERSON. Very well; let it read: "for the maintenance and support of public schools in said cities."

Mr. CLINGMAN. I suppose the charge will be five cents a passenger. This will be equal to ten per cent. of the gross proceeds. I think it is probably rather too much. I do not know what the profits will be.

Mr. IVERSON. The Senator has not seen their own estimates. The estimate of the company itself gives them six per cent. on the whole investment and all the expenses of the institution, and then a clear profit of \$18,612 besides. Of course they have made the estimate of profits as they see fit. These are not their own figures.

Mr. BROWN. I think the Senator is a little mistaken about it; but let it go.

Mr. IVERSON. I have made no mistake, because here are the figures.

The amendment was agreed to.

Mr. PEARCE. I now propose to submit an amendment, which has been asked for, in lieu of the one which I withdrew this morning, and which I had offered on Saturday last. This has been prepared on behalf of the Metropolitan Railroad Company by legal counsel, and is supported by him. I have the objections made by the Senator from Louisiana [Mr. BENJAMIN] last Saturday. I have looked into the law as announced by the Senator from Louisiana. I admitted on last

Saturday the force of the point which he made, and I do not propose now to controvert what he then said, or to do anything more than to say that, if this amendment, as prepared, should be adopted by the Senate, I believe it will be in the power of the Metropolitan Railroad Company to remove, by action of their own, the objection then made by the Senator. That objection was, that inasmuch as the proposed extension of this road through the city of Washington was beyond the scope of the original bill, it was competent for any one of the corporators to obtain an injunction to restrain the directors from applying the money of the corporation to objects foreign to its original design. I believe I have properly stated the objection. Well, sir, there were some twenty-odd shareholders in the Metropolitan Railroad Company who remonstrated against this amendment on this proposition. They represented in value about \$4,500 of stock, on which ten per cent. had been paid in—that is, \$450.

The stock of this company is said to be valueless. The chairman of the District Committee [Mr. BROWN] has said that he considered it a myth and a humbug. The gentleman from Maine [Mr. HAMLIN] has said that they never had any money. The fact has been stated, in the memorial presented to the Senate, that the sum of \$50,000 had been called for and paid in, and the greater part of it, I admit, expended; but if these gentlemen be correct in their views, if this be a corporation without money, their stock is without value, and it will be very matter for the assenting shareholders to purchase out the rights of those who dissent. If you do, the objection of the Senator from Louisiana is removed, by all the corporators bring such assent to this act.

Now, sir, I do not mean to repeat what I have heretofore said to the Senate on this subject. I will very briefly state, however, that I believe this to be a very valuable franchise; that I believe, I think I may say I know, that if it be given to the Metropolitan Railroad Company, the railroad will be built, and the corporation, for I have seen the evidence furnished by able contractors, experienced in laying down railways of this sort, that they can construct it at the rate of a mile a week, and that in thirty days from the time they commence operations, they can build it. These are gentlemen of good business character, who have constructed railways in St. Louis and other places. I believe, then, that if this franchise be given to the Metropolitan Railroad Company, the convenience of the city of Washington, intended by the establishment of this corporation, will be effected as completely as if it be given to any other persons whatsoever. I believe that if it be given to them it will aid them—and is that I do not speak without warrant—in making the railroad, which they were originally incorporated to make, from Georgetown to the Point of Rocks; for I have been well assured, by gentlemen who are stockholders and directors in the company, that they have a direct offer from capitalists, if they can obtain this franchise, to invest \$1,000,000 in the work, which, with their present subscriptions, will give them the means of accomplishing both projects.

I shall not vote for the bill introduced by the committee, for the reasons which have been assigned by the Senator from Maine, [Mr. FESSENDEN], in as full a manner as I can. Why should we bestow a valuable grant upon a few individual gentlemen, however respectable? It is, in fact, putting a large sum of money into their pockets. If I were controlled by my personal regard for the gentlemen named in the bill, I should vote for it. But I am not a man whom I hold in the highest esteem and regard, I should, of course, give my vote for it; but I cannot be controlled by such a consideration. I think whenever we do a thing of this sort, we should do it in such a way as to effectuate, to the fullest extent, all public interests which may be involved in it. I believe we shall accomplish that purpose by giving the right to the Metropolitan Railroad Company; and though I will not say that this amendment, which I now present, avails the objection made by the Senator from Louisiana, I do say, as I have stated at large already, that the company will have the means of accomplishing for themselves that which will avoid all objection; in other words, they can buy out the

vious; but it is plain enough to see that they will sustain some injury by it. There is no principle upon which such obligations can be placed upon persons undertaking to work for the public convenience, and except for the public convenience no one would think of granting this charter. But the Senate having shown some preference for retaining this section, I wish by my amendment to put a limitation on it. If by this bill it meant all the omnibuses, and I say, therefore, anything that he may have at the time they pay him, he may get all the old omnibuses in the city of Washington collected together; there is no telling what amount of old horses and of old omnibuses he may collect together for the purpose of making this company pay for the use of them, and before any such motive as that could operate on him, we ought to fix a period when he had those that were really necessary, and no more, for the public uses in which he employed them; and therefore the words ought to be inserted "on the 15th of December last." It was on that day that some imperfect arrangement was made between him and this company as to the compensation which he was to receive, and it was in reference to the stock which he then owned. The general terms of this bill will put it in his power. I do not know that he would do it; all I hope he would not—but it puts it in his power, and subjects these corporations to that imposition, if he chooses to practice it on them. I move, therefore, that after the words "used by him," there be inserted the words "on the 15th of December last."

Mr. BROWN. I have no objection to the amendment.

The amendment was agreed to.

Mr. PUGH. I should like to know of my friend from Kentucky, on what principle this elevated section stands? If we are making a railroad for the benefit of the people, either of Washington or from abroad, we certainly have no excuse for charging a higher rate of fare, or imposing a burden upon the corporations that compels them to charge a higher rate of fare, in order to make good the loss of this individual. The same thing happens every time a railroad is constructed. It throws a stage line out of existence. There are street railroads in Baltimore, in Philadelphia, in Cincinnati, and I do not know how many other cities, but I never heard of a stage line being compensated a man whose business was simply superseded by a superior kind of business. Now, I have heard the argument repeated here, or rather the statement, half a dozen times.

Mr. KENNEDY. If my friend will allow me, I think I can correct him a little. In regard to the railroads built in the city of Baltimore, they did compensate the omnibus line.

Mr. PUGH. That was under the Brock grant.

Mr. KENNEDY. Under the grant that is there now.

Mr. PUGH. That grant has not been ratified by the Legislature of Maryland.

Mr. KENNEDY. It was not rejected on that ground.

Mr. PUGH. At all events, there is no principle on which it can be properly made, and the Senate has made this gentleman one of the corporations, by an amendment, and that too, as it seems, without the consent of the other corporations, according to the paper laid on our tables this morning. I was about to remark, when my friend from Maryland interrupted me, in what he said, that I stated in the Senate, I should think a dozen times, last session and this—that Mr. Vanderwerken has done a great service by establishing and running a line of omnibuses here. Is there any Senator who believes that he ran a line of omnibuses one hour except to make money out of them? They have run them one hour after they ceased to be profitable? Certainly not. He might just as well have been called upon, when he established that line of omnibuses, to compensate the hackmen whom he threw out of business, and to make good that corporation, if it is created by this bill, he is compelled to compensate every owner of a hack, or of a pair of horses, in the city of Washington; and the very same difficulty which was in the bill of the last session occurs in this section.

I did not intend originally to say anything more about this railroad. I give up that there will be a railroad in Pennsylvania avenue. I am overruled, defeated. I shall have to acquiesce. I am in hopes that the street through the city of Wash-

ington connecting the President's house and the Capitol—in a city which was not intended to be a commercial city; in a city which was established and laid out expressly for being the seat of Government of the United States—I did hope there was one street, or avenue, leading from the highest executive department to the highest legislative department of this Government and of the Union, into which speculators could not go; but the omnibuses, and the hackmen, and the stage lines, have a railroad; and I then wanted to put it on fair, squatter sovereignty doctrine. I wanted the corporation of Washington to regulate their own affairs. That has been defeated; I give that up. The amendment offered by the Senator from Maine is an ordinary corporation bill, and has been rejected. I see, therefore, that this bill is bound to pass; but I ask the supporters of the bill, is the eleventh section the price of buying off competition? Is it put in there to buy off competition? Is it a price paid for some influence that conduces to the passage of the bill? If not, on what principle does it stand? Certainly on no ground of public utility; certainly on no sound principle; for it takes money out of the pockets of the gentleman named in the first section of the bill—Mr. Walker, Mr. Rigg, and the hackmen. By what right does Congress compel them to buy out the property of another man? If it is intended that the charge to be paid for transportation is to be put at five cents rather than three cents, in order thereby to levy a fund off the public, and to make this gentleman, the omnibus and omnibus, let them state it. Therefore, so far as I am concerned, while I do not know this gentleman, Mr. Vanderwerken, and certainly have no ill will to him, I cannot vote for the bill while that section stays in it. If that section shall be taken out, I shall yield, as I am overruled on every other proposition. I move to strike out the eleventh section.

Mr. BENJAMIN. That was moved last Saturday, and voted down.

Mr. PUGH. I shall renew the motion when the bill comes into the Senate.

Mr. CRITTENDEN. The gentleman's observation does not affect the amendment I offer. That goes to the end he wishes to attain, to some extent.

Mr. BROWN. I am not going to discuss this question. I am exceedingly anxious to have the bill disposed of. The District has other matters behind it as important to the people here. But the Senator from Ohio makes a comparison between omnibuses and hackney coaches, and says that if we buy out the omnibus line we must necessarily buy out the hackney coaches. Not at all. An omnibus driver starts at stated periods for the public convenience. He starts without a passenger; he goes straight along; he does not wait to be remunerated for starting, but he goes any way. He goes through the whole line. He may drive from the gate of the Capitol to Georgetown without getting a passenger, possibly, and I dare say has done it sometimes in summer. An omnibus goes regularly at stated periods. It goes like a railroad train; it goes straight along, and it is remunerated for starting, and so it does not. He waits until he is paid to go; he is no public convenience; he is a convenience to himself. Therefore, he does not stand upon the same footing with an omnibus proprietor. I repeat, again, what I said last Saturday, and I beg the Senator to recollect it, that this old fellow Vanderwerken, who, I consider, is as honest a man as God ever breathed the breath of life into, came here and established a line of omnibuses, and crushed out the monstrous abuses which hackney coaches practiced all over the city. Now, you propose to take up his business and establish a railroad. I want to see the old man protected; and therefore, as to the eleventh section, I am not going to strike it out.

Mr. CRITTENDEN. The question now is not striking out, I understand, but simply on inserting the words proposed by my amendment.

The PRESIDING OFFICER. That amendment was adopted.

Mr. PEARCE. I move, in the fourth line of the third section, to strike out the words "and the width of the grooves of the wheels of the cars shall be determined by the Secretary of the Interior." I do this, because I know that in some city railroads which have been established, in Philadelphia, at all events, great complaints

have been made of the rail of the grooved pattern. Ordinary carriages, running on those tracks, are obliged oftentimes to go out of the way of the car which is coming, and the grooved pattern rails offer such resistance to the change in the line of direction of the wheels of the carriage, that it has often happened that the axles have been wrenched off, and the carriage has been broken down in the street. I understand there is a different pattern that is more adapted to approve one. The rail is flat, lying even with the surface of the street, and then there is a very gentle curve, quite sufficient, however, for all the purposes of the railway carriage used on such roads. They require a very small gauge; scarcely any at all. It is a very different thing from railway cars drawn by locomotives, laden with heavy freight, and thundering along with immense velocity. They require heavy grooves in order that the flanges may be kept in position, and the cars and locomotive be prevented from running off the track. That is not the case with these railway cars, which are drawn by horse power, and they ought to be so provided as to furnish the very least resistance to the wheels of ordinary carriages.

Mr. BROWN. I think so. I am not going to raise the question.

Mr. PEARCE. I offer the amendment.

The amendment was agreed to.

Mr. PEARCE. I have another amendment. I move, in the same section, to strike out the words in the sixth and seventh lines, "not to be less than four feet, nor more than six feet," which relate to the gauge. I do not know so much about this myself, but I have been informed by those who are good engineers that there should be a provision that the width of the railway should be that of the tracks of ordinary carriages; and it is very necessary in the city, I am told, where the streets are narrow, and it may even be necessary here, that the track of the railway carriage should be that of the ordinary wheel carriage employed. I propose, therefore, to strike out these words and insert in their place the words "the gauge of carriages generally employed in Washington."

Mr. BROWN. That seems to be a little indistinct. Are all the carriages employed in Washington of the same width?

Mr. PEARCE. Pretty generally. I think I shall object to it. I am sure this company do not mean to resist making the track the width of the ordinary gauge of carriages; but I understand some of them are narrower and some are wider. This philosophy may do, but it seems to me it may do some harm.

Mr. PEARCE. I think not; and I am told by high engineering authority that it is a proper amendment. I know carriages have generally the same width of track in any given place.

Mr. BROWN. I do not know that I shall object to it. Let it go.

Mr. HAMLIN. I do not think this amendment ought to be adopted. It seems to me there are two good reasons against it. One is, it is indefinite. I suppose all buggy-wagons and chaises are of the same width, and in the case of the horse-drawn carriage, they are of the same width, and so are the wheels of the same width, and that the wheels of one carriage follow precisely the wheels of another, what then? You make your grooves just the width of those carriages, which are all of the same width, and they get into the groove, and it is much more difficult to get out of them, and would be much more difficult to cross them than if the wheels were a little wider or a little narrower than the track of your road. When you have both your wheels in a groove, you have no room to move. You have a groove, and you have a groove and another out, you have a little angle to make with the wheel that is out, to get out of the other groove; but it is evident to my judgment that grooves just the width of the wheel would be the worst thing that could be done.

Mr. BROWN. I understand the object of my friend from Maryland is, that the rail on which the cars run should be the ordinary width of a carriage, and that the wheel is not to run in the groove, but on the top of the rail. The object is to run on the top of the rail, and not on the top of the rail. That, I think, is all very well, but I doubt very much whether the Senator's amendment meets the object he has in view.

The amendment was rejected.

Mr. BENJAMIN. I move a little amendment at the end of the eighth section. That section provides that the Government may at any time alter the grade of the streets, but it does not provide that the railroad company shall be compelled to alter the level of their road in case of such change. I move, at the end of the eighth section, to read:

And in such event it shall be the duty of the said company to change the level of the said railway so as to conform to such altered grades.

Mr. BROWN. I think there can be no objection to that.

The amendment was agreed to.

The bill was reported to the Senate as amended. The PRESIDING OFFICER. Shall the amendments made in as Committee of the Whole be voted on aggregately or separately?

Mr. BENJAMIN. There was one amendment adopted, which, I understand by a paper left on our table this morning, is in violation of the contract made between the parties. I supported the eleventh section last Saturday, on the ground that there was an equity in the claim of Mr. Vanderwerken under contract made with the parties, to be indemnified for breaking up his line for purposes of public convenience, and that it was a fair charge on the company. In addition to that indemnity, the honorable Senator from Maine [Mr. LANS] stated that in the case of the grant of the franchise, which, I understood, by common consent was agreed to; but the other parties now say that was not in their agreement, and that after having got the eleventh section passed for an indemnity, he has obtained an addition of his name to those who get the privilege, which gives him a double indemnity in some sense. They say that originally their agreement with him was to buy out from him, without loss to him, whatever might be necessary for the purposes of their road; but the eleventh section was inserted as to make them buy out everything from him, even the old omnibuses, which they will not require; but having conceded that, in order that the equities in his favor might not obstruct the passage of this bill, he is added to those who own the franchise, and he does not think that is fair, if it was not understood by them.

Mr. COLLAMER. If the Senator will allow me, the Senator from Ohio proposes to take a separate vote on the section buying him out.

Mr. PUGH. I want a separate vote on making him a corporation, but as to the separate vote on the eleventh section, I shall move to strike out the eleventh section.

Mr. BENJAMIN. That is exactly what I want. If the Senator from Maine will withdraw the amendment making him a corporation, I am willing that the eleventh section shall stand; but not otherwise.

Mr. BROWN. I think I understand this matter. Mr. Vanderwerken is made a corporation. He then pays himself, necessarily, a *pro rata* share in the purchase of the stock. He is one of ten, and he pays one tenth for the purchase of his own stock. Now, in buying him out, he is placed in this condition: he is left here with a large amount of stock, coaches and horses, on hand, and he is not allowed to sell his property to his company, but is granted the privilege that they name one, and the two are to take a third one, and they agree upon the price. What hardship is there in making him one of the corporations? What hardship is there in requiring the company to pay him for his stock? To him it must be a very great hardship to break him up in his business without paying him anything, and to throw his sixty or seventy thousand dollars—certainly not less than sixty thousand, and perhaps seventy-five thousand—of stock upon his hands, with his business broken up. Why shall not this company take him as one of the corporations, and why shall they not pay him for his stock? They will only have to pay a *pro rata* share, and he pays his *pro rata* portion to himself. I see no hardship in it.

Mr. BENJAMIN. I wish to call the attention of the Senate to the nature of the objection that is made to Mr. Vanderwerken being one of the corporations, as I alluded to it before. It is that it is giving him a bonus; that is to say, these gentlemen—if there are nine—consider this matter as they are getting ready a speculation, so infinitely profitable, and so much money to be put

in their pockets, that they are not willing to admit Mr. Vanderwerken or anybody else as an associate. He must be kept out. That is just what I was pointing to before; they say that this thing is a speculation; it is understood that a great deal of money is to be made, and the Senate of the United States are insisting that this speculation put into the hands of eight or nine men, so that nobody else shall have any interest in it, although there are hundreds of citizens here, who are the people who are to use the road, that stand willing and ready and anxious to take a small share of this property. If the principle is right, that Mr. Vanderwerken is to be paid the value of his property, the principle is right, also, that he should be paid something for giving up the profits he would make by that property. He is selling his property at merely its value; and he is, at the same time, giving up his business, he is losing all his profits. It would seem to be no more than fair, if he is to be considered personally—he having to give up his property at a valuation, and giving up his profits, everything he makes—that he should be permitted to come in and share with these gentlemen, although he does not put a little money into his pocket thereby, instead of their having it all. I do not know, I certainly cannot conceive, any reason why they are entitled to any special benefit and favor, although it seems to me that they are. I shall vote to keep Mr. Vanderwerken in.

Mr. BROWN. I am very glad to hear the Senator say so. This company, to whom the committee have shown favors, so far as reporting a bill for them is concerned, have made a publication of an extraordinary character, and most offensive. Surely the committee never meant to show any particular favor to one company over another. The committee meant to protect the public interests and to do what was right; and that they should be so to the disadvantage of Mr. Vanderwerken, it was impertinent in this company to come in here with a publication, and dictate to us what we ought to do. This publication from the company, in favor of which we report, is most offensive to us, and it ought to be to the Senate. It does not seem enough to the committee. We are charged by Senators with having favored this company; and because we do not favor them to the extent that they want, they lay offensive cards upon your table. I denounce the card. They had no business to put it here. Let the Senate legislate as it sees fit, and let the company do as they please, and nobody from every quarter. The card is offensive. I am for this company, upon the ground which I stated this morning: that they are gentlemen of respectability, and will build the road; but if there is any job in it, if any gentlemen are jobbing around the Senate, if the object is to put this men out and to put that man in, as a mere matter of favor, I wish my hands in it. I want to take care of old Vanderwerken; and I do not believe that these gentlemen named in the bill do consent to this publication, if they do, so let the responsibility rest upon them.

Mr. PUGH. As is well known to the Senate, at the last session and this, I have opposed strenuously the giving of this grant to any body of individuals by name. I believe I did vote to subvert the proposition to give this grant to any body last year; but I did it to defeat the bill, for I finally voted against the bill on its passage. The Senate has decided otherwise. It has decided to give it to individuals by name. I acquiesce in that; cannot help it. The only point then is, that having been settled, we should not make these individuals down by any species of favoritism on the part of others. The Senator from Maine asks why these nine gentlemen, or eight gentlemen, named as corporations, should be preferred to everybody else, and he asks a question, and asks the same question; why should they? But the Senate has decided that. The Senate has voted upon their amendment, though I supported him in it.

But, sir, while there is no reason that the name of any other citizen of Washington should not be forwarded his name, there is a public objection that Mr. Vanderwerken should not be. He is the only man in the city of Washington against whom a reason can be shown for keeping him out of the bill; and what is that reason? That you have compelled the company to buy his property; not only his property, but what they call his horses, that his horses, that are capable of drawing street cars;

those they might buy at a valuation very well; not such of his horses as will be suitable for the purpose; that they would be glad to buy; but you compel them to buy his omnibuses, for which they have no use, and never can have; and which they must sell at a loss. You compel them to buy out his old broken-down horses, which they cannot use; you compel them to buy old stage harness, which they cannot use. Then, after that, you insist on making him one of the participants in the profits of the enterprise; and I say it is a bill for the benefit of that man. You require these people, who you have allowed to be in the bill, in character and sufficient in responsibility, to build the road; and you refuse to allow them to build it, either for the public advantage or private advantage, until you have loaded it down by a double pension to one individual. The thing must be one way or another. If Mr. Vanderwerken is wanted to be a corporation, so be it. Then he may put in payment of his share of the corporate enterprise all the property that is useful for the enterprise; all his real estate; all his horses; all his harness, if they are suitable for it. He takes it at a valuation, and credits it with as much as his subscription to the stock. I do not object to that; but if you keep him in as a corporation, strike out the eleventh section, and I am satisfied; but, like the Senator from Louisiana, I want the Senate to decide not only on the bill, but on a corporation or not. If he is not to be, then I am willing to let the eleventh section stand.

I say that he is the only man, so far as I know, in the city of Washington, who ought not to be a corporation, simply because he already has a special benefit in another section of the bill. There is no reason, I grant, why any other citizen of Washington ought not to be added as a corporation. He is already provided for. It seems to me unkind; and I am perfectly satisfied that this doubling of his interest cripples the enterprise. I have no doubt there is some money in the railroad; otherwise the people would not be anxious to build it. I have no doubt it is a valuable privilege, running through a period of thirty years; but it is not a mint; it is not a place; you may very easily get rich, but you must be prudent; and if you keep pensioning, not only Mr. Vanderwerken, but his old horses and old omnibuses, upon the concern, you very soon eat out the villa, and you will have no railroad, or a very indifferent one. These parties have made an arrangement with the company, and they have an arrangement; the Senate has sufficiently approved it. These gentlemen have made an arrangement with him. They offer to stand to their contract. They offer to pay him for things they do not want, provided he is not to be a corporation. Now it is asked that they shall not merely buy him out, but they shall divide with him. It seems to me—I do not use the word job in any offensive sense—that the whole object of the bill is to provide for one man.

If the Senate will return to the proposition of the Senator from Maine [Mr. FESSLEDER], and let two or three corporations be created to receive the two or three commissions, and strike out the eleventh section, I would be better satisfied with the bill; but I say if you keep Mr. Wallace and Mr. Lenox and those gentlemen in the bill, do not load them down with pensioning, and you will have no railroad. Therefore, the Senate will refuse to include this gentleman's name as a corporation, or else strike out the eleventh section; I don't care which. Therefore, as this amendment has been separated at the request of the Senator from Louisiana, I ask for the yeas and nays.

Mr. BENJAMIN. I only wish to say one word in reference to something that fell from the Senator from Maine, [Mr. FESSLEDER]. I did not doubt that there was some profit to be made out of this bill, as he says, and I do not regret that. I have no objection to the application of the Senate to my remarks, because I understood perfectly well that these parties would make some money, and I have no objection to their making money. My object has been, as the Senator from Kentucky observed his name, there is a public objection in the shortest possible time, and by parties whom I felt and knew to be responsible. I therefore desired that this privilege should be given to these corporations, and if the profits that could be made out of it amounted to anything worth while for eight or nine of them, I would be very glad of it. I do not envy them any profits they may make

out of it. I desire to see the public accommodated, but I felt that by throwing this thing open to the public at large, and converting it into a mere stock-jobbing operation, hundreds would be interested in it; and where hundreds are interested in a work of this kind, they do not do it as well as five or six; and the result would be badly managed—carelessly managed, probably—if so many people had a small interest in it each; whereas, if a few people had large interest, it would be properly and efficiently managed. If they shall make money, very well. It may make it something for each one, but not enough to be divided among very many people. I do not see, from the calculation made by the committee, that there can be possibly over twenty or thirty thousand dollars a year made out of this enterprise, and that on an investment of several hundred thousand dollars.

The reason I desire to strike out Mr. Vanderwerker's name is this: it looked to me very much like an attempt at imposition. The eleven section of the bill carried an indemnity to him as far as anybody could desire, situated only by a spirit of strict justice, and he would not have ever anything he had put on his line, paying him a fair value for it, even though the company might not want it. It was some sacrifice to impose on them at the start; but the committee reported to us in substance that it was not worth doing, and then, him, that, in order to pacify his opposition, they would buy out his stock, and thus have no further trouble in relation to this grant. That was reported to and voted upon by us. When that was done, he comes in and asks to be imposed as an associate, against their will. I do not think it fair. It looks very much like what is called in common parlance "gouging," and therefore I will vote against it.

Mr. FESSENDEN. Suppose they buy out his stock at a valuation and stop there; what compensation does he get for giving up his business?

Mr. BENJAMIN. He gets all the compensation he contracted for. Having made a contract, I presume he is well able to take care of his own business.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, in line six of the first section to insert "Gilbert Vanderwerker;" and on that question the yeas and nays are called for.

Mr. CAMERON. I have no objection to the condition of the bill now; but I know something about these passenger railways, and I desire to say a word or two in relation to them. I have been, since the question was first started, exceedingly anxious that a bill should be passed to make a railroad by somebody—I do not care by whom—in the streets of this city. I think a road of that kind will be of great service to the city, and a great advantage to persons who come here; and last year I did all I could to secure the making of a road. I was told that it would be necessary for the purpose, it would be vetoed. I am told now that any bill we may pass will be vetoed. I am told that the President has a notion that a railroad passing along the city would be a monument against his administration, against his wisdom, and all that sort of stuff. I think it is a good deal older than most of us, and perhaps has outlived the time. [Laughter.]

But, in relation to Mr. Vanderwerker, it seems to me that if he gets paid a fair price for his stock, he ought to be content. He has got no profit out of the railroad. I know all about these railroads. There is no profit in them, unless they happen to belong to two or three persons, who manage them as an individual would his own property. I have no doubt that all this excitement about profits will be dissipated in a year or two. These gentlemen have heard of great advantages, and they come here expecting, every one of them, to make a fortune out of the road. None of them will do so. The city and strangers coming here will be made benefited by the road; but, so far as we are concerned, it is of no consequence to us who makes it. I shall vote for any set of gentlemen who I am certain will make the road in the shortest possible time.

I think it is just justice to Mr. Vanderwerker that he should be paid something in consideration of his enterprise in starting an omnibus line for the benefit of the community. He has certainly made no money, but has benefited us by coming

here and reducing the price one half. It is right that we should take care of him; but if we compel these people to pay a fair price for all his stock, old and new, he ought to be content; and therefore I shall not vote to put his name among the corporators, not because I believe there is to be any profit in it, but I think it is fair to let gentlemen who are going to put money into this enterprise, that they should be permitted to select their own associates—men who are agreeable to them, and who will be certain to pay all the money which they promise to pay.

I do not object to this subject; but just to say that I think all those people who expect to make great profits out of this road will be disappointed, while we shall be benefited by having the road made; and I shall vote against putting in Mr. Vanderwerker.

Mr. BROWN. When Mr. Vanderwerker is made a corporator, he will be one of eleven, as the bill now stands. He will, therefore, pay to himself one eleventh part of his own stock. The eleven gentlemen associated pay to one man for the whole road. What hardship is there in that?

Mr. PUGH. He gets the ten elevenths of the profits.

Mr. BROWN. But the company only bring in another man. Take any other kind of business, let half a dozen gentlemen associate together, and we get my friend from Ohio is one, to keep up his individual business, out of which he is making profits, and which the community at large has accepted, and he and his five associates break up his business; he becomes one of the company; he is not the object of our undue obligation to pay him. It seems so to me.

Mr. IVERSON. I do not know Mr. Vanderwerker, and never have seen him, that I know of, in my life. I feel no particular interest in him, except so far as I consider him greatly a benefactor to this city, and to the public generally who visit Washington city, and therefore I am inclined to protect him as far as I can. He came here and instituted this institution of omnibuses, I think, when it was a mere experiment, and he did not know whether he could make anything out of it. He has contributed largely to the interest and convenience of people who have congregated here, as well as the interest of the people of the city. I think he deserves a good deal of credit; and it is right, therefore, that in giving this franchise to him, we should give him, in return, his interest; and I am glad the committee have so done, by compelling the corporators to buy him out, and give him a fair and liberal price for his stock; and I think he ought to be interested in this company. He was one of the original parties that, two years ago, got up this concern; and probably went as far in making it a popular thing as any other member of the concern. I am inclined, therefore, to favor him, and not only make the company buy him out, and give him a fair price for his stock, but to give him an interest in the concern itself.

"The Senator from Pennsylvania thinks nothing is going to be made out of this road. I differ with him altogether. I think it is going to be one of the most profitable and valuable franchises that will ever be given to any citizen of this country."

Look at it. According to their own estimate, which they have made and presented to us in figures, they will make fifteen per cent. upon the amount of their investment. They allow six per cent. on the cost of construction and equipment, \$15,496 31; and then, after paying all expenses, it leaves them a net bonus of \$18,612 96, which will be about nine per cent. more—equal to fifteen per cent. annually on their investment, according to their own showing. They have exaggerated their expenditures, doubtless, and lessened the probable amount of their receipts, so as to make this as little obnoxious to Senators as possible; but look at it. The first item of expenditure is, "cost of real estate in Georgetown and Navy-Yard, \$50,000." Who can believe that it will cost \$50,000 to buy the real estate in the two cities that will be necessary merely for their depots? I do not believe it will cost half the money. I say nothing about the cost of their cars and horses. That may be a proper estimate; but then they say:

"Distance from Navy-Yard to Georgetown, four and a half miles, making nine miles of double track, at \$10,000 per mile—\$94,500."

It will not cost half the money. I have had some experience in the construction of railroads. I have been a contractor upon railroads, and I have been president of a railroad company, and I know something about the cost of construction. Sir, the heavy T iron which is necessary to sustain the burden of the most profitable road in your country, does not cost more than \$5,000 a mile. T iron which would weigh thirty-five pounds to the lineal yard can be put down here in the city of Washington for \$5,000 a mile; but they put the cost of the road at \$10,500 a mile. They will be no grating to the most profitable road; and do put down the superstructure and lay the iron; and, instead of costing \$10,500 a mile, I will venture any amount that it will not cost more than half the money. Then, again:

"Distance from Treasury Avenue, along Seventh street, to M Street, four fiftihs of a mile, making one mile and three fiftihs at \$10,000 per mile, double track, \$16,600."

And they add \$30,000 for "miscellaneous expenditures." After this exaggerated amount of cost for the construction of the road, they put down \$30,000 for miscellaneous expenditures, making the whole road and equipment cost \$28,275 30. Sir, I will risk my judgment that the whole work can be accomplished for \$15,000; and, instead of giving fifteen per cent. upon the actual amount of cost, this company will probably make from twenty to thirty per cent. annually. That is my deliberate opinion. I do not think they will make less than twenty per cent. clear of all expenses, for they have got their experience here at a very high figure. They put down:

Expenses for working the road, per annum.

Twenty-four drivers, at \$5 per week.....	16,800 00
On this line, \$200 per month.....	2,400 00
Forty-four conductors, at \$600 per annum.....	26,400 00
Ten switches, at \$45 per annum.....	4,500 00
Twenty engines, at \$1,000 per annum.....	20,000 00
Twenty-two engines.....	6,175 00
Two clerks.....	1,800 00
Two clerks.....	1,800 00
Post feed—.....	1,245 00
Car oil.....	125 00
Car oil.....	300 00
Office expenses, stationery, fuel, &c.....	500 00
Bundling, not enumerated.....	5,000 00
Estimated that in ten years the horses will be valued at, and the total destruction of the track, cars, and horses, one tenth per annum.....	90,227 50

Total expenses for working the road, per annum, \$90,227 50

They have got all the expenses which they will probably incur at an exaggerated figure, and the whole expenses are only \$90,000 a year, and the average receipts are \$130,000. They make that estimate by taking the present receipts of Mr. Vanderwerker with his omnibuses, and adding fifty per cent. to them. That is for the present population; but as the population of Washington and Georgetown increases, of course their receipts will grow; and instead of receiving \$143,000 a year, in the course of a few years they will probably go up to \$200,000 a year. It is an enormous franchise; and I think that they can very well afford to pay Mr. Vanderwerker, and take all his stock off his hands, at a fair price, and let him take some portion of their stock. I shall therefore vote for sustaining the old man.

Mr. HAMLIN. There are a variety of opinions in this Hall in relation to what proposition suggests to be considered. There are many who think no road at all should be built, and for that purpose of testing the question—and I shall vote for it myself—I move to lay the whole subject on the table.

Mr. BROWN. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 31; as follows:

YEAS—Messrs. Cuy, Fessenden, Grimes, Hamlin, Hunter, Johnson of Tennessee, Nicholson, Pearce, Post, Briggs, and others.

NAYS—Messrs. Anthony, Benjamin, Bigler, Briggs, Brown, Cameron, Chandler, Clingman, Collamer, Crittenden, Hiram, Hoole, Pennington, Foster, Gwin, Hendricks, Hendricks, Johnson of Arkansas, Kennedy, King, McKim, Mitchell, Nelson, Seward, Simmons, Sumner, Tilden, Tracy, Wade, and Wood.

So the motion was not agreed to.

The PRESIDING OFFICER. The question is on concurring in the amendment to insert the name of Gilbert Vanderwerker in the first section.

Mr. PUGH. I shall vote for it and I shall deliver the call for the yeas and nays. We can have a division on the amendment.

Mr. JOHNSON, of Arkansas, called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 22, nays 20, as follows:

YEAS—Messrs. Anthony, Bingham, Brown, Chandler, Colman, Doolittle, Pennington, Hamilton, Hiram, Irwin, Johnson, of Arkansas, Johnson, of Tennessee, Kennedy, Powell, Rice, Sebastian, Seward, Simmons, Steamer, Ten Eyck, Wright, and Wilson—30.

So the amendment was concurred in.

Mr. CLINGMAN. I hope we may take the question on the other amendments together.

The PRESIDING OFFICER. The next amendment made in Committee of the Whole was, in line six, section one, after the word "their," to insert "or associates—30."

The amendment was concurred in.

Mr. LANE. I should like to get rid of the bill now. I move to lay it on the table.

Mr. BROWN. We have just had a vote on that.

Mr. BENJAMIN. We have had no vote on it since this gentleman has been forced on associates who do not want him. I am willing now to lay the bill on the table.

The motion was not agreed to.

The next amendment made in Committee of the Whole was, in section three, line four, to strike out "a grooved pattern," and insert, "a most approved pattern," to be determined by the Secretary of the Interior.

The amendment was concurred in.

The next amendment made in Committee of the Whole was, in section six, line three, to strike out "eighteen," and insert "twelve;" so that it will read "or associates—30."

Unless the said railroads shall be commenced within six months from the passage of this act, and be completed within twelve months, this act shall be null and void.

The amendment was concurred in.

The next amendment made in Committee of the Whole was, at the end of section eight, to insert: "And he further covenanted, That the stockholders in said company shall be liable, each in his or her individual capacity, for all debts and liabilities of the said company, and proportionately to the amount of stock held by each."

Mr. FESSENDEN. If this is to be confined to half a dozen people who are to build the road, I think the last clause of that section should be stricken out. I move to strike out the words "to the amount of stock held by each." It is to be confined to half a dozen men.

The amendment to the amendment was agreed to; and the amendment, as amended, was concurred in.

The next amendment made in Committee of the Whole was, in section eleven of the bill, line three, after the word "him," to insert "or on the 16th of December last;" so that it will read:

"That said body corporate shall buy of Gilbert Vanderwerker all the real estate, houses, outbuildings, and barns, used by him on the 16th of December last, &c."

The amendment was concurred in.

The next amendment made in Committee of the Whole was to insert, as a new section:

"And he further covenanted, That said incorporated company shall pay over to the corporate authorities of Washington city and Georgetown, semi-annually, one half cent on each passenger carried over said road, to be divided between said cities in proportion to their population, as ascertained as each Federal census the same; to form a fund for the maintenance and support of public schools in said cities, respectively."

Mr. FESSENDEN. I should like to have the yeas and nays on that.

The yeas and nays were ordered.

Mr. CUSH. I have no objection to a proposition requiring these companies to pay a reasonable proportion of their net profits to the corporate authorities; but this bill has first a provision requiring all their property to be taxed according to the railroad rates, and then it proposes to give one half cent on every passenger paid of five cents. In the first place, it is a proportion of the gross revenue, and it is a very large proportion. Having already loaded the company down, I am satis-

fied that if we require them to pay one half cent for every passenger, they getting but five cents a passenger, they cannot make the road. I am anxious that no portion of their profits should go for the support of schools, but after having those provisions adopted, I suggest to the Senator from Georgia that this amendment lays it on rather too thick. He had better either go to the net proceeds, and take a proportion of them, or reduce the proportion of gross proceeds. This is a tax on the gross revenue of the company; not on its income.

Mr. FESSENDEN. If this bill is to pass, and we are to give a charter to a company to build a road, let us treat them decently, and not as if we wanted not only to prevent their making any profits, but to take money out of their pockets. The committee have fixed the rate of fare. They suppose it to be just, proper, and right. If it is a just and proper rate, if it affords a sufficient reasonable remuneration, I see no ground, as the Senator from Ohio says, why we should take so much out of the gross receipts. If you will say that they shall pay a certain proportion of their profits, or what they receive over a certain amount of profit, I am willing to agree to it; but it strikes me that this proposition is entirely unreasonable to be put on any company. I am anxious for this bill to stand, and I am free to say, and I wish it to pass to think they ought to be treated decently.

I have another word to say, and it is this: I do not see any reason why the people of Georgetown and Washington should not do as every other people do, and all the cities—support their schools and educate their children. I am opposed to the idea that we must tax everybody who comes here to support their schools, and the further idea, which seems to be advanced, that we must be making appropriations continually. People of this kind do not want to educate their children, and why these people cannot do it. If they are indisposed to walk up and do their duty in that particular, I see no reason why we should be taxed to do it. I see no reason for holding out inducements to them to educate their children, which every other people meet with cheerfulness.

Mr. IVESON. I do not see how this will create any additional tax on the people who are going to use the road. The Senator from Maine has certainly failed to demonstrate that this cannot be inserted by this bill to charge five cents for each passenger, and I want to know of the Senator if he will guaranty that, if this amendment is defeated, the company would only charge four and a half cents?

Mr. FESSENDEN. No, sir. I say this: it is to be presumed that the committee made a proper estimate with regard to what would be the income of the company and the expenses of the company. They have given them liberty to charge five cents. That either is or is not a proper remuneration. If it is too much, reduce it, but if it is nothing more than proper, where is the good sense of my saying that they shall pay out of the gross receipts, without reference to the profits, a given amount in order to support schools in this city?

Mr. IVESON. The Senator from Maine is making a very good computation of the committee. The facts are these: This company came and memorialized Congress, and in their memorial they proposed to pay this very thing to the corporation. They said, "if you will give us this franchise, and allow us to charge five cents a passenger, we will pay a certain portion of the proceeds to the corporation of Washington and Georgetown to educate their children." The committee struck that out, and did not propose to impose that obligation upon them. The company themselves, and all the cities, and all the people, as I had the paper a little while ago and exhibited to the Senate, that after paying six per cent, on the whole amount of their investment, and deducting all their expenses, according to their own showing, there would be a clear bonus of \$18,000, which cent to nine per cent, more, or less.

Mr. FESSENDEN. Then the proper course is to strike down the price to be received.

Mr. IVESON. If you strike it down to three or four cents, I will vote for it; but as long as it is at five cents, I will vote against it. If the bill will be, if you refuse this amendment, that instead of giving the half cent for the education of children here, you will put it in the pockets of this corporation. That is the result. I say that, as

they have themselves proposed to give this to the corporation for the benefit of the children of the district, (and they can very well afford to do it), I see no reason why we shall not permit them to do it. I offer the amendment in conformity with the proposition of the company themselves; and the Senators, in their exuberant liberality, propose to exonerate them from a burden which they themselves propose to inflict. According to their own showing, they will not only make six per cent, on their investment, on an extravagant estimate of their expenditures, according to my opinion, but they will make nine per cent. more on that investment according to their own showing, which they have exhibited here.

Mr. FESSENDEN. A very good argument against the bill.

Mr. IVESON. That may be so; but I am in favor of the bill, notwithstanding they will make these large profits; because I want the railroad constructed, and I am willing they should make profits, provided we have the road. It certainly will not injure the community to give them this privilege. The community now have to pay five cents for riding in omnibuses. They will have to pay no more than five cents to ride in a railroad car, and certainly the change will be an agreeable and profitable one for the community. I am for the bill, such as it is. I am not a socialist we shall take half a cent of that, and give it to the benefit of the public of the two cities. According to their own showing, they will make twelve per cent, on the amount of their investment, even receiving only four and a half cents a passenger.

Mr. HAMLIN. The Senator from Georgia has made a statement, I think at least twice, which I am very sure is not well founded. The Senator is mistaken. The persons named as corporators have never made any proposition as he has stated—proposing to give a certain amount of the earnings of their road—no such thing. I think I am right in my recollection: I am confident I am. Their first proposition was to pay a certain per cent on the net profits of the road, and not on all other taxes. That was their proposition, and the Senate committee deemed it wise to strike out that, and let them be taxed like other persons, and let the taxes be fixed at a proper rate. That was their proposition to relieve themselves from taxation, and the committee thought it not advisable to accede to it for two reasons: first, there might be trouble in hunting up net profits on which to make any assessment; and secondly, they ought to stand precisely as everybody else stood, assessed for the full value of all their property.

Mr. CAMERON. While listening to the Senator from Georgia, I prepared an amendment, which I think will be better than the half cent proposition he talks about. I will read it:

Provided, The said corporation shall pay to the treasury of Washington and Georgetown, for the benefit of the school fund, five cents, per passenger, on all railroads, which shall be in full of all taxation on said railroads.

I prefer that it should be left to the corporations of these two cities to assess them in proportion to the value of their property, and not to have anything to be taken from their income. I would rather it should be a portion of their actual profits. I do not believe, as I said before, that there is going to be any great profit. The Senator from Georgia differs with me. I see in his calculation of the profits of this road. I think I have had more experience than he has had in the making of railroads, and I have never seen a railroad made for the amount of the estimate on which it was based—neither city nor general railroad—none. They always lose, and it is a fact that it is always a great deal more to be done after a railroad is supposed to be finished than anybody not acquainted with that business can imagine.

I look on this railroad as a convenience to us, to the citizens of Washington, and to all strangers who come here. I would do nothing to interfere with the gentlemen who invest their money in it. They will find before they have done that it will cost them more money than they imagine, and they will find when they come to get their dividends that they are very much mistaken. If we shall derive benefit. If as you tax them at all, it is fair you should tax their income, and take a portion of their profits; but if you charge one half cent on each passenger, without regard to the

profits, you make the public pay that half cent and you take one tenth of the whole income. Ten per cent. is a very large portion of the income. I take it that if a five-cent fare is too much, public opinion will cause it to be reduced. I do not think it is too much. It has not been found too much anywhere; but if it is, public opinion will compel this corporation, after they shall have made the road, to reduce it. I think it is right that the public says is right. If we are going to leave the road says, let us treat them liberally; let us induce them to make it. I do not care about this proposition; but if anything is to be done I will offer it.

Mr. SIMMONS. I would like to ask the Senator from Georgia if he would not consent to modify his proposition, so as to give to these cities one fourth or one third of the net profit above six per cent. Then they will get their six per cent., the interest on their outlay, and of the net profit above that, divide two thirds to these corporations, and one third to the cities, and let the cities have a right to inspect the books.

Mr. JOHNSON, of Arkansas. I shall be very glad to suggest to the Senator from Georgia, who has offered this amendment, that he has expressed it certainly with the fullest power, and I believe it is very generally understood. It is evident that the Senate is becoming thin, the attendance is but small. There is a quorum here, I believe—barely a quorum—and a very little more discussion of the matter, in which so few of the members feel any interest, I think will soon end off what now constitutes a quorum. But I suggest to those who feel interest enough in the bill to continue to amend it, to let us vote. Really, if a proposition is made now by the Senator from Georgia, to lay it upon the table, I shall feel bound to vote for it, for one; and I am under the impression, from what I see and hear around me, that a motion of that kind will come very near carrying, unless a quorum should fail to be present. I think it is about discussed to death, if ever a small meeting of the Senate meets in extremity. It is at the last extremity now. It is in its last gasps. If passed not in any shape, there is certainly intelligence enough here, after three hours' debate to-day, to comprehend it; considering that several years before have been devoted to it. I really do hope the Senator from Georgia, in his good temper, which is always marked and distinguished—we know that is so—will insist upon having a vote on this matter, and let us get along with it.

Mr. CRITTENDEN. I beg leave to call the attention of gentlemen to the proviso of the fifth section of this bill, which gives the Congress of the United States the right "at any time within ten years after the completion of said roads" to "alter, fix, and regulate the fare chargeable on said roads for and during the next ensuing five years." That is the power of Congress. If they shall find that the privilege which we now grant is profitable, that these stockholders receive an exorbitant percentage, we can reduce the fare at any time that we please. I think that is a sufficient security, and that there is no necessity of any law to be taxing this bill with this or that bonus to Georgetown or to Washington city. I want the fare reduced to the lowest possible grade, and therefore I prefer to rely on this security, and have the fare reduced, and the public in that way will derive the most universal and general benefit from it.

Mr. IVERSON. The yeas and nays have been ordered on this amendment, and of course I have no right to withdraw the call, and cannot, therefore, conform to the amiable wishes of any one from Arkansas. I am in favor of the amendment, and I desire the question to be taken upon it. The Senator from Maine says that the company have never proposed anything to educate the children here; but here it is in their own hand-writing. Here is their own estimate, which they have printed and laid on the tables of Senators. They make their estimates of the amount of investment and the net profits, and then they say, "out of which is to be paid the sum stipulated to the support of the public schools in Washington and Georgetown."

That is their own statement. They therefore make the proposition to pay a sum out of the net earnings to the public schools of Washington and Georgetown. My amendment is only carrying out their own proposition, as I understand. Here

is their own estimate. Certainly Senators have not looked at it to see what this company will make, according to their own showing. "They estimate that the expense of the work will be \$238,000; and then, after taking out all the expenses of keeping it up, the taxes which they will pay, repairs, insurance, and all the expenses that the company will be called upon to pay, they make a net profit of \$18,000, or about six and a half per cent. of their capital invested." They give all their expenses; they add six per cent., which is \$15,466 upon the amount of investment; and then that leaves them annually a bonus of \$18,612, which, according to my calculation, would be six and nine per cent. more. They have already taken out the six per cent. on their capital, and they say they will make a bonus of \$18,000 besides, which of course will be about eight or nine per cent. in addition to six; so that, according to their own showing here made, as favorable to them as possibly they exhibit that they will make about from twelve to fifteen per cent. annually on the investment. Now, I say they can tell us how to pay something out of that for the education of the children in Washington and Georgetown.

Mr. POLK. I fear we are not getting through with this bill to-day, and it is important that some executive business should be attended to; and I move that we go into executive session.

Mr. BROWN. If we pass this bill we can transact all of our District business in twenty minutes.

Mr. POLK. I have no objection to next Saturday being appropriated for this business; but I want an executive session.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri, to proceed to the consideration of executive business.

Mr. BROWN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 16, nays 26, as follows:

YEAS—Messrs. Briggs, Chandler, Clay, Fessenden, Fitzpatrick, Green, Grimes, Hunter, Lane, Nicholson, Polk, Pike, Southard, Trumbull, and Wright—16.
NAYS—Messrs. Anthony, Benjamin, Bigler, Bingham, Blair, Clingman, Colquhoun, Crittenden, Doolittle, Foster, Fox, Fowler, Gwin, Hamlin, Hartson, Humphreys, Iveson, Kennedy, Lane, Mason, Russell, Sewall, Sidel, Sumner, Ten Eyck, and Wilson—26.

So the motion was not agreed to.

Mr. GREEN. I move to postpone the bill until next Saturday, and make it a special order.

Mr. BROWN. I hope not. I do hope most earnestly we shall finish the bill.

Several Senators. Let us pass it.

Mr. GREEN. If we can pass the bill with one vote, I am content.

Mr. BROWN. Do not talk, and we will soon pass it.

Mr. GREEN. Very well. I withdraw the motion.

The PRESIDING OFFICER. The question is on concurring in the amendment made in Committee of the Whole, on the motion of the Senator from Georgia, to insert as a new section:

And he further enacted, That all incorporated companies, and all the corporations of the District of Washington and Georgetown, semi-annually, one half cent on each passenger carried over said road, to be divided between the cities in proportion to their respective populations at each Federal census; the same to form a fund for the maintenance and support of public schools in said cities and towns.

Mr. CAMERON. Would it be in order for me now to offer my amendment as a substitute for that? ["Let us vote."] Very well.

The Secretary proceeded to call the roll.

Mr. DOOLITTLE. I understand that there is a proposition to amend this section in another report, and therefore I shall vote "aye."

The result was then announced—yeas 21, nays 22; as follows:

YEAS—Messrs. Anthony, Bigler, Brown, Chandler, Fitzpatrick, Green, Grimes, Hartson, Iveson, Johnson of Tennessee, Kennedy, Nicholson, Polk, Pike, Southard, Sidel, Ten Eyck, Wigfall, and Wilson—21.

NAYS—Messrs. Bingham, Briggs, Cameron, Clingman, Colquhoun, Crittenden, Doolittle, Fessenden, Foster, Hamlin, Humphreys, Johnson of Arkansas, King, Lane, Mason, Russell, Sewall, Sumner, Ten Eyck, Trumbull, and Wade—22.

So the amendment was rejected.

The PRESIDING OFFICER. The amendments made as in Committee of the Whole are disposed of.

Mr. HAMLIN. On consultation with the committee, I am authorized to move an amendment in the third line of the fifth section, to strike out "ten years after its completion." That will give Congress control of the fare after five years, instead of ten years, as it is now.

The amendment was agreed to.

Mr. FESSENDEN. I now move the amendment which I offered in Committee of the Whole. The amendment is to open books and make it a joint stock company.

Mr. CLINGMAN. I suppose we all understand it. Let us dispense with the reading.

Mr. FESSENDEN. I do not desire it to be read.

The PRESIDING OFFICER. The reading will be dispensed with.

Mr. FESSENDEN. I understand the Senator from North Carolina has an amendment to make to it.

Mr. BRAGG. The effect of the amendment, of which I am in favor, is to open books for subscriptions generally; but objection was made to the limitation of ten shares to each individual, at least for a certain time, that mere men of straw will be procured to come forward, by persons really interested, and take up the stock in that way. The objection was not well founded, in the small number of shares. I offer an amendment to obviate that objection, by inserting after the words "500," in the second section of the amendment of the Senator from Maine:

And to that end no subscription shall be allowed or received for stock, unless the person offering to make such subscription shall first make affidavit, before the person authorized to receive such subscriptions, that the same is done for and in fact and in truth for him or herself, and not for another; and any person who shall take a false or corrupt oath touching such subscriptions, shall be held in habeas corpus, and be subject to all the pains and penalties thereof.

Mr. FESSENDEN. I will accept that amendment.

Mr. BROWN. I suggest that does not amount to anything. A man comes forward and makes affidavit that he intends it as a bona fide subscription. So he does; but it does not amount to anything, for he can transfer his stock the next day.

Mr. FESSENDEN. It can certainly do no harm.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine, as modified.

Mr. CLINGMAN. We ought to have the yeas and nays. I take it this is an important amendment.

The yeas and nays were ordered.

Mr. IVERSON. I wish to make an inquiry of the Chair. If this amendment of the Senator from Maine is adopted, it will be by way of substitute for the original bill, I understand.

Mr. FESSENDEN. No, sir; only additional sections.

Mr. BROWN. It substitutes a joint stock company.

Mr. IVERSON. What I want to ask the Chair is, will the amendment itself be open to amendment after its adoption by the Senate?

Mr. CLINGMAN. Certainly. It is an additional section, and will be open to amendment.

Mr. IVERSON. Not after it is amended.

Mr. CLINGMAN. Additions can be made to it.

The PRESIDING OFFICER. The amendment is now open to amendment, and will not be after it is adopted.

Mr. ANTHONY. I have paired off with the Senator from Maryland, [Mr. FRANK.]

The question being taken by yeas and nays, resulted—yeas 22, nays 18; as follows:

YEAS—Messrs. Bigler, Bingham, Briggs, Cameron, Colquhoun, Fessenden, Green, Grimes, Hartson, Humphreys, Iveson, Johnson of Tennessee, Kennedy, Nicholson, Polk, Pike, Southard, Sidel, Sumner, Ten Eyck, and Trumbull—22.

NAYS—Messrs. Brown, Clingman, Crittenden, Doolittle, Fitzpatrick, Foster, Hamlin, Iveson, Johnson of Arkansas, Kennedy, Lane, Mason, Rice, Sebastian, Sewall, Sumner, Ten Eyck, Trumbull, and Wade—18.

So the amendment was agreed to.

Mr. LANE. I think the further consideration of the bill to-day would not be profitable, and I therefore move an executive session.

Mr. BROWN. I hope not. We have been worried in the Committee on the District of Columbia for four years with this bill, and I hope

the Senate will settle it, if for nothing else, to relieve the committee from the eternal annoyance of these people.

Mr. SLIDELL. I would prefer to have this question disposed of; but it appears to me that there is an imperfection in this bill, which ought to be supplied.

Mr. LANE. Well, I withdraw my motion. Mr. SLIDELL. In section five it is provided that "the privileges hereby granted shall continue for the term of thirty years," and there is no disposition in the bill which indicates what shall be done of the railroad when those thirty years shall have expired. It seems to me that the proposed charter should revert to the cities of Washington and Georgetown. The inconvenience to the public may otherwise be very great. There is no provision at all for the extension of this charter, nor is there any disposition attempted to be made of the road at the expiration of thirty years. I therefore offer the following amendment, to come in after the second line of section five:

And at the expiration of said term, the road, with all its fixtures, running stock, and material of every kind, shall become the property of the cities of Washington and Georgetown, in proportion of the respective populations of said cities, as they may be shown to exist by the general decennial census of 1890.

Mr. BROWN. My objection to that is: that you dispose of private property by direct act of Congress. By your bill, you grant this franchise for thirty years, and leave it to yourself the right to alter, amend, or change the charter at pleasure. The Senator from Louisiana proposes, after thirty years, by direct act of Congress, to violate a compact with these parties, if they accept your bill, to dispose of two hundred and fifty or three hundred thousand dollars' worth of property. That is unjust. Whatever thirty years' experience shall show to be right, Congress doubtless will do. I think the bill is right as it was originally drawn, and therefore I shall vote against this amendment.

Mr. CAMERON. The amendment, I think, is all wrong. It is more than probable the Senator from Louisiana and I shall not be here thirty years after this, and probably no man who subscribes to the stock will be living thirty years after this; but we will not mind that. We will leave it to their families, supposing it to have value for all time to come. It would be wrong to destroy the value of it. I do not think any man would buy the stock at thirty years' purchase. I think you defeat the whole object of this bill, which is to make a railroad for the benefit of Congress. When we shall die, and all about us be dead and forgotten, Congress will be here; somebody will be here representing this great country, and they will dispose of this matter thirty years after this as they think wise. I would not take that stock at one-fourth its par value if you put this amendment in, and I do not believe anybody who has a dollar to spare will put it into the road with such a provision as this in the bill.

Mr. SLIDELL. It is a simple question for their honor, whether they will accept this franchise on the terms proposed to them by Congress. If they do not choose to accept it, of course no injury is done them; no burden is imposed on them. I do not recollect whether it was the Senator from Mississippi, or the Senator from Pennsylvania, who said the bill was a species of confiscation—one or the other certainly. Now, I can appeal to the Senator from Pennsylvania for a case which ought to be within his recollection. A canal connecting New Orleans with Lake Pontchartrain was made at the expense of upwards of two million dollars. The Senator from Pennsylvania was one of the principal contractors, I believe, for the making of that canal. By the terms of the charter, the canal, with all its fixtures and property, reverted, at the end of the term, to the franchisee for thirty, forty, thirty or forty years—to the State. It is quite as competent for Congress to impose such a condition as any other condition, as one of the terms of the franchise. I think it is eminently just and proper, because although it is not for any benefit to derive from it—one who has any personal advantage from a provision of this sort—we ought to be careful, to some extent, of posterity. What will be the situation of Pennsylvania avenue thirty years hence when this franchise expires, if there are any allowed to tear it up and destroy it? A friend near me has suggested that

perhaps it might be as well to omit the running stock and materials; and, with the consent of the Senate, I will strike that part out, and simply provide that the road and its fixtures shall revert to the city corporations. I think it an eminently proper provision. I do not know that I shall vote for the bill at all; certainly not without this provision.

Mr. LANE. Mr. President—

Mr. CAMERON. Let me have the floor for a minute.

Mr. LANE. I will make a suggestion; and then the Senator can see whether he will want the floor. The bill is now in a shape which I do not very well understand, and do not like very well; and I should like to have a little further time to look at it, and have the amendments all printed, and set apart next Saturday for its consideration. It is necessary to transact some executive business this evening; and, with a view of going into executive session, I propose that the amendments adopted be printed, and that this bill be made the special order for next Saturday.

Mr. BROWN rose.

Mr. LANE. I hope the Senator will interpose no objection to that; for I want time to look at this bill. I want time to think of it, and to understand it, and to vote with a knowledge of the character of the bill and its provisions; and I am aware that an executive session is necessary—inasmuch as it is indeed—and ought to be attended to this evening.

Mr. BROWN. The proposition to postpone this question to next Saturday is a proposition to give outsiders—not that I say my friend from Oregon wants it, but that is what it amounts to—an opportunity to get in a conflict with one another, to embarrass us, annoy us, worry us, and bedevil us, as they have done all day to-day with this railroad proposition. This is our proposition. It does not belong to this company, or that company, or another company. It belongs to the people. The privilege of making a railroad upon the avenue, do it now; do it to-day; do it at once; do it independently of it like Senators; and do not postpone it to give one company an opportunity of conflicting with another. That is all the work we need. If I had listened to the Saturday to the advice of my friend from Arkansas, and insisted on a vote, I should have got clear of the annoyance of this bill. For four long years this bill has been a thorn in my side. I want the Senate to let it lay. You have got very near to consummation of it. For God's sake, this evening dispose of it; let us be done with it. I am tired and sick at heart with it. Give the franchise to anybody; but for God's sake, take it out of my hands.

Mr. CAMERON. I desire to say a single word in reply to the Senator from Louisiana. He has made a mistake in regard to the charter of the canal he referred to. It is true that canal was, by its charter, to go to the State; but he has forgotten that that was a bonus for a bank charter. The charter of the canal was the right to operate for thirty years, and then return it to the State as a bonus for the right of banking, out of which they made a good deal of profit; but the fact that the right of the company was limited to thirty years, made the canal self-sustaining. It was of great service to the city of New Orleans, and to the surrounding country. I remember the circumstances very well. There are to me a great many pleasant associations and recollections connected with that canal. Among the rest is, that I made it clear of two hundred and twenty thousand men in New Orleans, who held, then, great power and who treated me with great kindness and hospitality, and they are now both Senators here. But he is mistaken as to its pecuniary effect to the company. It was entirely valueless because of the great expense of its construction.

Now, I want this railroad made, and I do not care who makes it; and I want the people who invest their money in it to have a fair compensation for their investment. It will be a benefit to all of us. Why not pay them properly; and why should we differ about who is to make it? Let anybody make it. I have voted for the amendment of my friend from Maine; but if that does not meet the approbation of the Senate, I will move to reconsider. [Oh, no!] I want the road made, and I will give it to anybody who will make it.

Mr. FOSTER. I move that the Senate do now adjourn.

Mr. POLK. Oh, no! let us have an executive session. We must have an executive session to-day.

Mr. FOSTER. I insist on my motion.

The motion was not agreed to.

Mr. CAMERON. I desire to move a reconsideration of the Senate's vote on the amendment of the Senator from Maine.

Mr. LANE. Will the Senator from Pennsylvania yield to me for a moment? I think now it is very manifest to every Senator that we cannot get through with this bill this evening. I stated before that it was absolutely necessary that executive business should be transacted this evening. It is very important that it should be, and I hope Senators will agree now to go into executive session; and I make that motion.

The PRESIDING OFFICER. Will the Senator indulge the Chair in referring some House bills?

Mr. BROWN. By taking up House bills, I do not like to have it assumed that the motion of the Senator from Oregon is going to be adopted. I think the Senate will dispose of the bill to-day.

The PRESIDING OFFICER. Does the Senator object to the reference of the bills?

Mr. BROWN. I insist on taking the questions as they come.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Louisiana, as modified by the mover.

Mr. LANE. Have I a right to make a motion for an executive session?

The PRESIDING OFFICER. The Chair understands the Senator to withdraw it.

Mr. LANE. No, sir.

The PRESIDING OFFICER. The motion is in order.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Louisiana.

Mr. LANE. I desire to offer two or three amendments to the bill, and I want to talk about them, and I am not ready to do it now; and I ask delay, that I may have time to prepare the amendments and the reasons why I shall go in favor of the amendments I shall offer; and I ask the Senate therefore to postpone further action on this bill. There is no occasion for hurry; there is no reason why it should be pushed right through the Senate without giving us time to understand the bill; and in its present shape I do not understand it. I desire to understand it; and I therefore ask again that this bill be postponed until next Saturday, or until any other day you please, and that we now proceed to executive business; and I hope the Senate will permit us to have an executive session.

Mr. BROWN. There is not a man in all this wide Republic to whose appeal I would yield more readily than to my friend from Oregon; but if this bill is postponed to Saturday, and Saturday, and from Saturday to Saturday, it will be postponed to all eternity. There will be somebody always ready with just such appeals as my friend makes to-day. He ought to recollect that this bill has been here for four long years. It cannot be allowed that a bill of such importance, a particular Senator who will be postponed a whole week. I have got sick and tired, and the Senate will excuse me if I say disgusted, with this thing. I want to get clear of it, and I hope the Senate will not adjourn without disposing of it in some way.

Mr. POLK. I think that whenever and as long as there shall be a Senator in this body who stands affected towards the bill as the Senator from Oregon says he does, we ought to postpone it, if it takes four years to get it through. I must say that this bill has been amended in such a way as to make it a very different proposition from what it was when it came from the committee. Senators have other amendments to offer. This Senator from Oregon has amendments to offer, and he wishes to prepare them and make his appeal, to prepare them, and I think it is important to get through with the bill this afternoon. It is now half-past four o'clock, and I do not see that we are much nearer to an end, or any nearer, in fact, than we were four hours ago. I must say that I propose to go into executive session. It is im-

portant that some executive business should be transacted. I repeat, that it is very important that it should be transacted. It will not take long; but I know if this bill is gone on with until it is disposed of, we shall not have a quorum here to go into executive business. I hope, therefore, that the proposition of the Senator from Oregon will be accepted.

Mr. BROWN. It turns out as I predicted in the early part of the day. You have got a parcel of capitalists here, who are fighting one another. Here is your Metropolitan Railroad Company and your citizens' company, and this company in favor of which the committee reported. They fight one another. Sir, there is nothing of substantial public interest in this contest. It is an attempt to make private profit, and why should this grave Senate yield to an idea of that sort? Why not select one of these claimants and say, "we give you the right to lay this road," and be done with it; not wait a week until somebody may get up some scheme to embarrass us more the next Saturday than we are embarrassed to-day.

Wait a week, and the ingenuity of these people will get up all manner of schemes upon you, as they have done last week. If I had yielded to the request and solicitation of my friend from Arkansas, and my friend from North Carolina, last Saturday, I would have urged the passage of this bill; we should have had it over, and been done with it. Wait a week longer, and you will be still more embarrassed. I beg of the Senate to dispose of the question to-day. We have had in the District committee no more business, more in this portmanteau, more remonstrances, and more of everything that annoys a committee, over this question, than we have had over everything else beside. I beg and implore the Senate to dispose of the question, and let us be done with it; decide it any way, I do not care, so long as I may finger how, so that you take it out of my hands.

Mr. KENNEDY. I have but a single word to say. I have refrained from entering into the debate to-day. I always regard it as a very ungracious task to oppose that which may be deemed by some of my own constituents a matter of interest to them. I can only acquiesce in and endorse the views of the honorable Senator from Mississippi, the chairman of the Committee on the District of Columbia, in saying that I myself have been so persecuted, so harassed and annoyed by this question, which has resolved itself simply into one between the ins and the outs, that I am myself now inclined to move the indefinite postponement of the whole thing. This is the third year since I have had the honor of a seat on this floor that I have been annoyed with this piecemeal bill. Much has been said in regard to the vast profits to result from this franchise. I myself do not accord at all—

The PRESIDING OFFICER. Will the Senator suspend his remarks until order can be restored in the Chamber? It is utterly out of the question to transact business with so much confusion.

Mr. KENNEDY. I have but a word or two to say, and that is to enter my protest now to the postponement of this bill. I have been here to-day, with a full understanding here that I give now to the Senate that, rather than be subjected to the annoyance that I have been for three years to the detriment of my other important business here, I am prepared to move the indefinite postponement of the whole thing, and to wash my hands of it forever. If we are to go into executive sessions here upon the ere of a final vote, by which this whole question is to be carried over, and be renewed at some other day, I know perfectly well myself that it is in renewal of the whole subject on new schemes, and amendments and new projects, to be harassing us, from hour to hour and from day to day, and I wash my hands of it now.

I am prepared to vote on the bill. I have carefully considered and weighed the views that have been presented to the Committee on the District of Columbia, of which I am a member. I have acquiesced in the report made by that committee in favor of the bill on your table. One party, constituents of my own, have presented no views that have had weight with me. I have regarded—I say it with deference, not meaning to impugn the veracity, the honor, or the character of any gentleman—the corporations of the Metropolitan bill

as being here under false pretenses, and upon that view I have acted. I wish the question disposed of now. I voted for this bill substantially last year. I made my remarks then—which have been considered very ungracious on my part, as seeming to oppose the interests of my own people—but I have acted in accordance with my honor and my sense of justice and of truth in the matter. I beg that the question may be taken to-day.

Mr. LANE. One single word, and I will not trouble the Senate again with this question. I understand that the amendment of the Senator from Maine [Mr. FENNER] was adopted as a substitute for the bill as presented to the Senate. It is a new bill. It is one that I have not seen. It has not been printed; and the bill pending now is not the one introduced by the committee. It is not anything like the bill presented by the committee.

Mr. KENNEDY. It is substantially. Mr. LANE. Not at all. It is different in all its provisions. It is not the same corporation by any means. I want the bill printed, so as to be able to examine it. I have been more fortunate than other Senators in relation to this matter. I have had no annoyance. I have never spoken to a gentleman, and no living than to me, outside of the Senate Chamber, on the subject. I have read none of the memorials; none of the remonstrances; none of the printed papers, and nothing like in relation to it. I have read the bill. I read it as it was reported by the committee and printed, and as I found it on my files, and I understand it as it came from the committee, but this is a new proposition that I do not understand. I want to look at it; to see it. I desire time to consider it and understand it; and I hope the Senate will not press a vote. I do not see what inconvenience there can be in letting it go over. Who is there that will feel that he will be annoyed in relation to this bill before next Saturday? I will venture that I experience no annoyance—not a particle. Now, with these remarks—

Mr. TRUMBULL. If the Senator from Oregon will allow me, I have voted steadily against adjournment and adjournment to to-morrow with a view to finish this matter; but I do not see how we can resist what the Senator from Oregon says. He wants to examine the bill. I think we had better acquiesce at once, and I am prepared to do so; and I think if he will let the question be taken we will agree to go into executive session, and let the bill go over.

Mr. LANE. Then I will say no more, with the hope that the bill may be postponed, and that we may have an executive session.

Mr. TRUMBULL. I make that motion, that the Senate proceed to the consideration of executive business.

Mr. DOOLITTLE. I desire to inquire what is the state of the case. Is Saturday of next week set apart for District business? ["No."] Then this will go over as the unfinished business until Monday if we now go into executive business.

The PRESIDING OFFICER. That will be the order, as the Chair understands.

Mr. HARLAN. I ask the Senator from Illinois to withdraw his motion for a moment. I desire to move a reconsideration of the vote on one of the amendments which has been adopted.

The PRESIDING OFFICER. The Chair will receive that motion, if there be no objection.

Mr. HARLAN. I move a reconsideration of the vote by which the amendment offered by the Senator from Maine was adopted. I do not ask the question to be taken on the motion.

The PRESIDING OFFICER. Before putting the question on the motion that the Senate proceed to the consideration of executive business, the Chair will cause some House bills on the table to be referred.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as introduced to the Committee on Private Land Claims.

A bill (No. 85) for the relief of R. K. Doebler—to the Committee on Private Land Claims.

A bill (No. 262) for the relief of the legal representatives of Francois Guillory, deceased—to the Committee on Private Land Claims.

A bill (No. 264) for the relief of Mrs. Y. H. H. Underwood, and the legal representatives of Samuel Rockwell—to the Committee on Indian Affairs.

A bill (No. 264) for the relief of Charles Stillman—to the Committee on Military Affairs and Militia.

A bill (No. 265) for the relief of Frederick Stephens—to the Committee on Military Affairs and Militia.

A bill (No. 130) to pay to the State of Missouri the amount expended by said State in repelling the invasion of the Osage Indians—to the Committee on Military Affairs and Militia.

A bill (No. 266) for the relief of Brevet Lieutenant Colonel Martin Burke, and Captain Charles S. Winder, of the United States Army—to the Committee on Military Affairs and Militia.

A bill (No. 267) for the relief of Mrs. A. W. Angus, widow of the late Captain Samuel Angus, United States Navy—to the Committee on Naval Affairs.

A bill (No. 269) granting a pension to James Lacy, of Granger county, Tennessee—to the Committee on Pensions.

A bill (No. 270) granting a pension to John Madden, of Campbell county, Tennessee—to the Committee on Pensions.

A bill (No. 271) granting a pension to Cyrus C. Blackman, of St. Helena parish, Louisiana—to the Committee on Pensions.

A bill (No. 272) granting a pension to Adelaide Adams, widow of Commander George W. Adams, United States Navy—to the Committee on Pensions.

A bill (No. 273) for the relief of Micajah Hawkins—to the Committee on Pensions.

A bill (No. 276) for the relief of Mrs. Hannah McDowell—to the Committee on Pensions.

A bill (No. 277) for the relief of Webster S. Steele—to the Committee on Pensions.

A bill (No. 284) for the relief of John W. Taylor, and certain other assignees of preemption land locations—to the Committee on Public Lands.

A bill (No. 600) for the relief of the children and heirs of Alexander Montgomery—to the Committee on Pensions.

EXECUTIVE SESSION.

Mr. TRUMBULL. Now I renew the motion for an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 7, 1860.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. BROCKTON. The Journal of yesterday was read and approved.

APPOINTMENT ON A COMMITTEE.

The SPEAKER appointed Mr. NISBICK a member of the committee appointed under the resolution submitted by Mr. HAZARD on the 6th ultimo, to supply the place of Mr. DIMMICK, excused.

RATE D. TAYLOR.

Mr. MOORE, of Kentucky. I desire now to call up the matter I moved yesterday to reconsider the vote by which Senate bill (No. 250) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P. Taylor, was referred to a Committee of the Whole House. I desire to put the bill upon its passage; and before that is done, I desire to make a few remarks.

Mr. SMITH, of Virginia. I object.

Mr. TAPPAN. I move that the House resolve itself into a Committee of the Whole House upon the Private Calendar.

Mr. GURLEY. I rise to a question of privilege.

Mr. ELY. I ask the gentleman from New Hampshire to yield to me a moment.

Mr. MOORE, of Kentucky. It will occupy not more than two minutes to pass this bill.

The SPEAKER. The gentleman from Kentucky asks the unanimous consent of the House to put the bill for the relief of Kate D. Taylor upon its passage.

Mr. MOORE, of Kentucky. I desire to make a simple explanation of the bill.

Mr. SMITH, of Virginia. If the gentleman is allowed to make his explanation as an argument in favor of taking it up, but not assuming that it is up, I have no objection to hearing it.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 10, 1859.

NEW SERIES, No. 101.

Mr. FLORENCE. The gentleman from Kentucky has his motion to reconsider, and he cannot be deprived of the right to be heard.

The SPEAKER. In the opinion of the Chair, the motion to reconsider is debatable, and the gentleman from Kentucky can avail himself of that right, if he desires.

The bill, which was read, directs the Secretary of the Interior to place the name of Kate D. Taylor, widow of the late Dr. Captain Oliver H. Taylor, on the pension roll, at the rate of thirty-five dollars per month, from the 17th of May, 1858, for during life or widowhood, deducting the amount received through the office of the Third Auditor of the Treasury, at the rate of \$36 66 2/3 per month, under the fifteenth section of the act of 16th of March, 1852.

Mr. HOUSTON. I would like to hear the report read, or an explanation made of the case.

From the report, which was read, it appears that the husband of the petitioner was a cadet in 1842; brevet second lieutenant dragons, 1st July, 1845; brevet first lieutenant, 4th February, 1847; brevet captain, September, 1852; killed in conflict with an overpowering band of Indians in Washington Territory, 17th May, 1858. The petitioner has been allocated five years' half pay at the rate of \$26 66 2/3 per month, as a widow of a first lieutenant of dragons. She now pays the half pay of captain of dragons, as her late husband was a brevet captain, and discharging the duties of a full captain at the time he received the wound in the battle with the Indians, and from which he died as above stated. It appears that in the battle of the 17th May, 1858, between the United States forces under Colonel Steptoe and several tribes of Indians, and while Colonel Steptoe's command was in retreat, under the force and pressing pursuit of the Indians, "the difficult and dangerous duty was assigned to Captain Taylor and Lieutenant Gaston of flanking the column; that in their heroic efforts thus to protect the main body from the availing arrows, they both fell severely with wounds and loss of blood." It also appears that the petitioner herself was left to support her two infant, orphan children, and is destitute of means for their maintenance.

Mr. HOUSTON. I desire to ask the gentleman from Kentucky a question to see whether I understand this bill. If I understand it, the effect of the bill will be to give the petitioner thirty-five dollars per month instead of twenty-six dollars?

Mr. MOORE, of Kentucky. Yes, sir, and during her widowhood instead of for two years.

The bill was then read the third time, and passed.

Mr. MOORE, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. Hays, their Chief Clerk, informing the House that the President of the United States did, on the 6th instant, approve and sign an act (S. No. 81) for the relief of Elizabeth M. Cooke, widow of Major James H. Cooke, late marshal of the district of Texas; and an act (S. No. 302) in relation to the return of undelivered letters in the Post Office.

Also, that the Senate did, on the 5th instant, order to be printed the memorial of Duff Green, President of the Sabine and Rio Grande Railroad Company, in the State of Texas, praying such amendment of the powers and privileges of said company as will enable them to extend their road to the Pacific at or near Mazatlan.

Also, that the Senate had passed joint resolution and bills of the following titles, in which he was directed to ask the concurrence of the House:

A resolution (No. 15) for the relief of Lieutenant John C. Carter;

An act (No. 51) for the relief of James Macca-bay;

An act (No. 96) for the relief of Olivia W. Cannon, widow of Joseph S. Cannon, late midshipman in the United States Navy;

An act (No. 119) for the relief of A. M. Mitchell, late colonel of Ohio volunteers in the Mexican war;

A bill (No. 113) for the relief of Eli W. Goff;

A bill (No. 87) for the relief of Lee Deauche and John Deauche, or their legal representatives;

A bill (No. 130) for the relief of William Wallace, of Illinois;

A bill (No. 123) for the relief of Elizabeth Spear;

A bill (No. 124) for the relief of Nancy M. Guinnally;

A bill (C. C. No. 126) for the relief of Michael Nourse;

A bill (C. C. No. 127) for the relief of John Robb;

A bill (C. C. No. 129) for the relief of Asbury Dickson;

A bill (C. C. No. 130) for the relief of Richard Fitzpatrick;

A bill (No. 134) for the relief of James Smith;

A bill (C. C. No. 135) for the relief of Cornelius Boyle, administrator of John Boyle, deceased;

A bill (C. C. No. 136) for the relief of Thomas Follen-bow;

A bill (No. 143) for the relief of Francis Hottmann;

A bill (No. 144) for the relief of Jeremiah Pendragon, of the District of Columbia;

A bill (No. 145) for the relief of Otway H. Berryman;

A bill (No. 151) for the relief of Ebenezer Ricker;

A bill (No. 154) for the relief of Randall Peck;

A bill (No. 169) for the relief of Elijah H. Merriam;

A bill (No. 170) for the relief of H. H. Howard;

A bill (No. 174) for the relief of William Mosey;

A bill (No. 175) for the relief of George Phelps;

A bill (No. 176) for the relief of R. W. Clarke;

A bill (No. 177) for the relief of John R. Nourse, deceased;

A bill (No. 182) for the relief of Nicholas Underhill;

A bill (No. 183) for the relief of Cornelius Hughes;

A bill (No. 184) for the relief of Rebecca A. Correll;

A bill (No. 185) for the relief of Mrs. Ann P. Derrick, widow of W. S. Derrick, deceased;

A bill (No. 186) for the relief of Mills Judson, surveyor on the official bond of the late Patser Andrew D. Crosby;

A bill (No. 187) for the relief of Henry G. Carson, administrator of Curtis Grubb, deceased;

A bill (No. 189) for the relief of Franklin Peale;

A bill (No. 191) to provide for the quieting certain land titles in the late disputed territory in the State of Maine, and for other purposes;

A bill (No. 192) for the relief of the legal representatives of James Ball, deceased;

A bill (No. 194) for the relief of F. M. Gunnell, a passed assistant surgeon, United States Navy;

A bill (C. C. No. 206) for the relief of Emilio G. Jones, executor of Thomas P. Jones, deceased;

A bill (C. C. No. 207) for the relief of James L. Edwards, administrator of Thomas R. Godney, deceased;

A bill (C. C. No. 209) for the relief of Thomas Allen, and

A bill (C. C. No. 210) for the relief of Augustus H. Evans.

MILES DEVINE.

Mr. MAYNARD. I wish to enter a privileged motion. Yesterday I reported back from the Committee of Claims a bill (S. No. 99) for the relief of Miles Devine, with a recommendation that it do not pass. It was laid on the table, and ordered to be printed. I move to reconsider the vote by which the bill was laid on the table.

Before I resign the floor, I wish to suggest that the large number of private bills which have been brought in from the Senate should be taken up, and referred to their appropriate committees.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. ELY. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That all public documents of which extra copies are ordered to be printed by this House, previous to the Thirty-Fifth Congress, which have not been delivered, and are now in possession of the officers of this House, shall be equally distributed among the members thereof for distribution among their respective constituents.

Mr. PETTIT. I move that the resolution be referred to the Joint Committee on the Library.

Mr. FLORENCE. That is the better way to dispose of it.

Mr. HOUSTON. I would like to know what documents are referred to here? Are they books, or are they Patent Office reports and such documents, that are printed for distribution? What are they?

Mr. ELY. In answer to the gentleman from Alabama I would say that I refer to the public documents of which extra copies were ordered by Congress prior to the Thirty-Fifth Congress.

Mr. HOUSTON. I understand they were printed prior to the Thirty-Fifth Congress; but I want to know what documents are intended to be included in this resolution?

Mr. ELY. I mean all the public documents that are in possession of the officers of the House, not distributed, and that were printed prior to the Thirty-Fifth Congress.

Mr. HOUSTON. It seems to me very strange, Mr. Speaker, that the gentleman from New York cannot tell what these public documents are; and I therefore object to the resolution.

Mr. PETTIT. I desire to ask the gentleman from Alabama, that a reference to the report of the Secretary of the Interior shows what these documents are. The various volumes referred to in the resolution are set out by catalogue in the report of the Secretary of the Interior. There is a large mass of miscellaneous matter, beginning with the reports and Journals of the First Congress under the Constitution, and coming down to the present time. Of some books there are but a few sets. Of some the sets run up to a hundred. With two exceptions—the works of John Adams and the works of Mr. Jefferson—there is nothing else but what I have already indicated. The matter has been before the Joint Committee on the Library during the last two Congresses. There is doubt, at this time, as to the construction of the law passed by the last Congress and it is the purpose of the committee to attempt to have the question settled by a matter of legislation, which it will bring before the House during the coming week, if an opportunity be afforded.

Mr. HOUSTON. I objected to the resolution, but with the explanation of the gentleman from Indiana, I am willing to withdraw it, and let the resolution go to the Joint Committee on the Library. So far as I understand the subject, I believe that it is utterly impossible to make anything like a fair distribution of these books among the members; and it is much better for the Committee on the Library to report some plan by which they may be deposited in the library institutions and schools of the country.

Mr. PETTIT. The gentleman from Alabama is probably familiar with the act of last Congress on this subject.

The resolution was referred to the Joint Committee on the Library.

PRINTING OF A BILL.

Mr. GUILLEY. The Committee on Printing have instructed me to report the following resolution:

Resolved, That there be printed for the use of the House, one thousand extra copies of the bill to provide for the retirement of the claims of officers and soldiers of the revolutionary war, and the widows and children of those who died in the service.

The resolution was adopted.

GEORGE FISHER.

Mr. EDWARDS. I rise to a privileged motion. I move to reconsider the vote by which the Senate resolution relating to the claim of George Fisher was referred to a Committee of the Whole House.

The motion was entered.

WILLIAM H. SCOTT.

On motion of Mr. ANDERSON, of Missouri, the case of William H. Scott was referred to the Committee on the Post Office and Post Roads.

Mr. TAPPAN. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

MEMORIAL AND CHARTS OF MISSISSIPPI SOUND.

The SPEAKER laid before the House the reply of the Secretary of the Treasury to the resolution of the House of Representatives of March 2, 1863, calling for the memoir and charts of the Mississippi sound, and for information relative to appropriations for the naval and military defenses of the Gulf coast of Mississippi; which was referred to the Committee on Naval Affairs, and to be printed.

PRIVATE BUSINESS.

Mr. TAPPAN. I now insist on my motion, that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House. (Mr. BRANCH in the chair,) and proceeded to consider the business on the Private Calendar.

This being "objection day," the bills to which no objection was made were laid aside, to be reported to the House with a recommendation that they do pass.

The committee considered the bills, &c., in their order on the Calendar, commencing where they left off yesterday.

ABRAHAM CRUM.

A bill (H. R. No. 313) granting a pension to Abraham Crum.

The bill directs the Secretary of the Interior to place the name of Abraham Crum, of the State of Ohio, on the invalid pension roll, and pay him a pension, at the rate of eight dollars per month, from the 1st of April, 1858, and to continue during his natural life.

It appears from the report that Abraham Crum enlisted as a private soldier under Lieutenant Becker, in August, 1812; and was afterwards attached to the company of Captain Elletts in the eighteenth regiment, commanded by Colonel Miller; that he continued in the service, and was in many battles, until the 25th July, 1814, when the battle of Landy's Lane was fought. In that engagement the mercenary acted as color guard under General Jessup; that, while in the line of his duty as a member of said guard, a bomb-shell was thrown in the midst of said guard, and five men out of the six were instantly killed by the explosion; that the petitioner was severely wounded and burnt in the face by said explosion; that he was taken off the field, bearing in his hands the flag of his regiment, by order of the adjutant.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

EMMA A. WOOD.

A bill (H. R. No. 314) for the relief of Emma A. Wood, widow of the late Brevet Major George W. F. Wood, of the United States Army.

The bill instructs the Secretary of the Interior to place the name of Mrs. Emma A. Wood, of Utica, New York, widow of the late Brevet Major George W. F. Wood, of the United States Army, on the pension list, at the rate of twenty-five dollars per month, to commence on the 29th day of April, 1856, and to continue during her life.

The petitioner sets forth that her husband, Brevet Major George W. F. Wood, late of the United States Army, was a cadet, and entered the Army at the age of nineteen years, in 1828, and died at Indianola, Texas, November 9, 1851, while engaged in the military service of the United States; that he served in the Florida war until its close; was stationed at different military posts until the spring of 1846, when he went to Mexico; was in the battle at Monterey, afterwards

joined General Scott's division, and was engaged in the "army of invasion" under that officer during the war, after which he returned to New Orleans, bringing up the rear guard; that in consequence of having contracted in Mexico a disease known as "chronic diarrhæa," while in the line of his duty, he was confined for several months in New Orleans, and that he never recovered nor was entirely free from said disease. He was appointed assistant quartermaster March 3, 1847; and subsequent to his sickness at New Orleans he was on duty at Jefferson barracks until 1849, when he was ordered to accompany the troops stationed on the Oregon river; he remained at Fort Kearny until 1851, when he was ordered to the principal depot, in advance of Fort Washita, west of Arkansas, on upper Red river; he arrived at Preston in October, 1851, and remained until the fall of 1852. He was then ordered to Austin, Texas, where he remained until the spring of 1854, when he was ordered to Indianola, Texas, to take charge of the depot at that point in April, 1854, where he continued on duty until his death in November of that year.

Mr. SMITH, of Virginia. The report disposes of this case; but I will not make any objection to the bill.

Mr. BURNETT. If the gentleman who reported this bill will consent that the pension shall commence from the passage of the act, I will not object.

Mr. MARTIN, of Ohio. I will agree to that. The bill was amended accordingly; and was then laid aside, to be reported to the House with a recommendation that it do pass.

ANTHONY W. BAYARD.

A bill (H. R. No. 315) for the relief of Anthony W. Bayard.

Mr. WHITELEY. I would inquire of the gentleman who reported that bill if he has not been since dead? Twenty-Ninth Congress.

The CHAIRMAN. Does the gentleman object to the bill?

Mr. WHITELEY. Yes, sir; I object.

ELMIRA WHITE.

A bill (H. R. No. 316) for the relief of Elmira White, widow of Captain Thomas R. White.

The bill and report were read.

Mr. SMITH, of Virginia. I desire those who report these bills, to report the reasons why the Pension Office does not allow pensions.

The CHAIRMAN. Does the gentleman object to the bill?

Mr. SMITH, of Virginia. I am compelled to object to it. There is no satisfactory reason given. We might as well throw open the Treasury at once.

ANTHONY W. BAYARD—AGAIN.

Mr. KELLOGG, of Michigan. I ask unanimous consent to take up the bill for the relief of Anthony W. Bayard again. The committee considered it a very meritorious case; and I hope the gentleman from Delaware will withdraw his objection.

The CHAIRMAN. It is not in order to call upon any gentleman for his reasons for objecting. The bill is objected to.

Mr. KELLOGG, of Michigan. I ask unanimous consent to go back to that bill, in order that the gentleman from Delaware may have an opportunity of withdrawing his objection.

Mr. GARRELL. I do not object to the bill; but I object to going back.

SMITH & HUNT.

A bill (H. R. No. 317) for the relief of Smith & Hunt, of Toledo, Ohio.

The bill and report were read.

Mr. CRAWFORD. I object to that bill.

The Clerk proceeded to read the title of the next bill.

Mr. WASHBURN, of Illinois. I desire to make an appeal to the gentleman from Georgia.

The CHAIRMAN. It is not in order.

Mr. WASHBURN, of Illinois. By unanimous consent I can be permitted to do it, and I presume there will be no objection. Will the gentleman from Georgia give me his attention?

The CHAIRMAN. Is there any objection to the gentleman from Illinois making an appeal to the gentleman from Georgia?

Mr. TAPPAN. I must object.

Mr. WASHBURN, of Illinois. Why do you object?

Mr. TAPPAN. Because I have a right to.

Mr. CRAWFORD. I will withdraw my objection, if the gentleman from Illinois can give any good reason why I should do so.

Mr. JOHN COCHRANE. I hope the gentleman from Illinois will be allowed to proceed.

The CHAIRMAN. The gentleman has once been propounded to the committee, and objection has been made.

Mr. WASHBURN, of Illinois. I desire to make a statement in behalf of one of our associates, [Mr. WADSWORTH, who is absent from the House.]

Mr. TAPPAN. I objected because I want to get on with the business; but I will withdraw my objection.

The CHAIRMAN. Is there objection to the gentleman from Illinois making a statement to the committee?

Mr. BURNETT. The bill is objected to, and there is no necessity for any statement.

Mr. WASHBURN, of Illinois. Will the gentleman from Kentucky hear one word?

The CHAIRMAN. Objection is made, and the gentleman from Illinois is not in order.

Mr. WASHBURN, of Illinois. I do not understand that there is any objection.

Mr. COX. I think there is no objection to his proceeding.

The CHAIRMAN. The Chair twice propounded the question to the committee, and objection was made each time.

Mr. COX. Who objected?

Mr. JOHN COCHRANE. The objection is withdrawn.

Mr. TAPPAN. I withdraw my objection.

The CHAIRMAN. Is there any objection?

Mr. BURNETT. I do hope that hereafter, when objection is made, the Chairman will insist on it. I did object, and I object now, because we had passed the case.

The CHAIRMAN. The Chair recognizes the right of the gentleman from Kentucky to object, and the Clerk will report the next case.

MAJOR JOHN F. HUNTER.

A bill (H. R. No. 219) granting a pension to Major John F. Hunter.

The bill directs the Secretary of the Interior to place the name of John F. Hunter on the list of invalid pensioners, and pay him a pension, at the rate of thirty dollars per month, from the 27th of January, 1858, and to continue during his natural life.

From the report it appears that John F. Hunter was a major in the eleven infantry during the war with Mexico; that on the night of the 19th of August, 1847, just previous to the battle of Contreras, he, together with the troops belonging to his regiment, was compelled to be out in a storm of rain, the severity of which was unparalleled. On account of such exposure he was seized with rheumatic pains, &c., which continued to such an extent that the tendons and leaders of his arms became so inflamed and swollen that he has been unable to use his hands since for the purpose of earning a living.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

ANDREW E. MARSHALL.

A bill (H. R. No. 318) for the relief of Andrew E. Marshall.

The bill directs the Secretary of the Interior to place the name of Andrew E. Marshall, of Pennsylvania, who was a private soldier in the Mexican war, upon the pension roll, at the rate of eight dollars per month, to commence on the 13th of April, 1857.

It appears from the private in this case, that Andrew E. Marshall was a private in Captain John Hersey's company, K, first Pennsylvania regiment, commanded by Colonel F. M. Wyndkoop, enrolled and mustered into the service of the United States on the 16th of December, 1846, to serve during the Mexican war; that he was discharged on or about the 26th of July, 1848, at Pittsburgh, with the rest of the company, on account of disability produced by running sores, the result of typhoid fever, brought on by exposure at different times from the commencement of the siege of Puebla, in September, 1847, until returned

as unfit for duty. It further appears that the exposure was all in the line of his duty, and that previously he had been a hearty and sound soldier.

Mr. COBB. I call the attention of the gentleman from Kentucky [Mr. BENNETT] to this case. He objected just now to the time when the pension of a widow was to commence.

The CHAIRMAN. The gentleman from Alabama is not in order.

Mr. COBB. I propose to make this bill conform to the rule adopted by the committee in that case, on the motion of the gentleman from Kentucky.

The CHAIRMAN. Does the gentleman from Alabama object to this bill?

Mr. COBB. I move to amend it so as to make the pension commence from the time of the passage of the bill.

The question was taken; and the amendment was not agreed to.

The CHAIRMAN. Is there objection to the bill?

Mr. COBB. I object.

Mr. MOORHEAD. It is too late to object.

Mr. COBB. Not at all.

Mr. MOORHEAD. The gentleman did not object to the bill; he offered his amendment.

The CHAIRMAN. The amendment was lost, and the Chair propounded the question to the House: Is there any objection to the passage of the bill?

Mr. MOORHEAD. I hope the gentleman from Alabama will withdraw his objection.

Mr. COBB. I will withdraw it, if the gentleman is willing that the bill shall be so amended as not to make a distinction between a widow and a gentleman.

Mr. BURNETT. Would it be in order for me now to offer the amendment offered just now by the gentleman from Alabama?

The CHAIRMAN. The Chair supposes so.

Mr. BURNETT. Then I move to amend the bill so as to make the pension commence running from the passage of the bill.

Mr. MOORHEAD. I will accept that amendment, rather than lose the bill.

The amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

COLONEL BENJAMIN WILSON'S HEIRS.

A bill (H. R. No. 319) for the relief of the heirs of Colonel Benjamin Wilson, deceased.

The bill and report were read.

Mr. COBB. I should like to know how much money that bill appropriates?

Mr. VANCE. I think about two thousand dollars.

Mr. BURNETT. I am opposed, as I said yesterday, to this whole principle of going back eighty years, and voting from the public Treasury money for the benefit of the descendants of revolutionary soldiers, and making special cases of relief. If the principle is to be recognized, let a general bill be passed that will apply to all.

Mr. MALLORY. I rise to a question of order.

Debate is not in order.

Mr. VANCE. If the gentleman objects, let him do so in many words. I want to reply to his speech, if he is allowed to make one.

Mr. BURNETT. Very well; I do object.

Mr. WILSON. Will the gentleman from Kentucky withdraw his objection, provided a vote by the yeas and nays may be taken on it in the House?

Mr. BURNETT. No, sir.

JAMES CRAIG'S HEIRS.

A bill (H. R. No. 320) for the relief of the heirs of Rev. James Craig, deceased.

The bill and report were read.

Mr. CRAWFORD. I desire to ask the gentleman who reported that case whether the property which it is proposed to pay for was destroyed by the enemy in consequence of its being in the hands of American troops?

Mr. VANCE. That is certainly the fact. The facts are fully set forth in the report. The claimant's ancestor had a large milling establishment, which was used as a grain depot by the American troops, and it was destroyed by the British troops in consequence of this fact.

Mr. FARNSWORTH. I object to this claim.

CHARLES JAMES LANMAN.

A bill (H. R. No. 340) for the relief of Charles James Lanman. [Objected to by Mr. PAYOR.]

JAMES PHILAN.

A bill (H. R. No. 342) for the relief of James Philan.

The bill and report were read.

Mr. OLIN. I object.

Mr. BARKSDALE. I hope the gentleman will withdraw his objection. It is a very small amount. The services were rendered to the Government.

Mr. MAYNARD. I ask the unanimous consent of the committee to make a statement in reference to this bill, and I am sure there will be no objection. I reported this case last year, and it is a very meritorious claim.

Mr. PRYOR. I object to debate.

Mr. MAYNARD. If the gentleman will hear the explanation, he will not object, I am very sure.

Mr. HOARD. My colleague [Mr. OLIN] objected to the claim; but he does not object, as I understand, to the statement being made.

Mr. OLIN. Certainly not.

Mr. BARKSDALE. I am satisfied the gentleman from New York will withdraw his objection to the bill if he understands the case.

The CHAIRMAN. The rules of the House require that such cases as are taken up, shall be decided without debate. If there be no objection, the bill may be laid aside, but no debate can be allowed.

Mr. JOHN COCHRANE. The committee may do anything by general consent, and if no one expresses an objection, the gentleman from Tennessee may certainly make his statement.

Mr. COVODE. 46 object to debate.

So the bill was passed over.

DR. EDWARD JARVIS.

A bill (H. R. No. 343) for the relief of Dr. Edward Jarvis. [Objected to by Mr. PAYOR.]

SILVSTER DAY.

A bill (H. R. No. 344) for the relief of the legal representatives of Sylvester Day, late a surgeon in the United States Army.

The bill directs the Secretary of the Treasury to pay to the legal representatives of the late Sylvester Day, a surgeon in the United States Army, the sum of \$400, in reimbursement of that sum paid for medical services at Alleghany Arsenal.

It appears from the report that the deceased was an assistant surgeon in the United States Army, and stationed at Alleghany Arsenal, Pennsylvania.

After having faithfully performed his duty for a long series of years, in December, 1849, he became unable, in consequence of impaired health, to perform the services required, and the commanding officer of the post contracted with a private physician for the necessary assistance.

This arrangement was disapproved by the Surgeon General, and it was intimated that it might become necessary to assign another medical officer to that post. Dr. Day, fearing that this might result in his displacement from his quarters, assumed the payment of the expense of the necessary services.

It appears from the report that Dr. Day remained at the quarters (having been placed upon the sick list) until the 21st of February, 1851, when he died. The memorial asks the reimbursement of the sum of \$425, paid by Dr. Day and his representatives for the services thus rendered, being at the rate of thirty dollars per month from December 26, 1849, to February 21, 1851, on the ground that the medical officer is entitled to relief from duty during his own sickness as well as other officers, and that it is unequal and unjust that he should be deprived of his means of support during such sickness.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

THOMAS FILLEBOWN.

A bill (C. C. No. 91) for the relief of Thomas Fillebown.

The bill directs the Secretary of the Treasury to pay to Thomas Fillebown the sum of \$439, in reimbursement of the loss of the services of the commissioners of the Navy hospital fund from February 7 to May 16, 1827, and for commissions on the disbursements of said fund between the years 1825 and 1829.

Mr. BURNETT. If I understand it, that case has been rejected by the Court of Claims.

Mr. HUTCHINS. Not at all.

Mr. BURNETT. It must have been, or else how came it before the Committee of Claims?

Mr. SMITH, of Virginia. All reports from the Court of Claims go there.

Mr. HUTCHINS. It was reported favorably upon by the Court of Claims.

Mr. BURNETT. Then I have no objection.

Mr. BARKSDALE. I object. The gentleman from New York made an objection to the bill for the relief of James Philan, one of the most meritorious cases on the Calendar. And now I desire to say, that if gentlemen on the other side are object to our cases, without understanding them, I will object to everything.

Mr. OLIN. I will say to the gentleman, that I think I understand the case to which the gentleman from Mississippi alluded; and I objected to it with the understanding I had. I do not mean to object factiously to any bill; let it come from where it may.

Mr. BURNETT. I think if the gentleman from Mississippi understood this case he would not object.

Mr. BARKSDALE. I will withdraw my objection.

Mr. WASHBURN, of Illinois. I will state that the Senate have passed a bill precisely similar to this. I ask the consent of the committee to substitute the Senate bill for this.

There being no objection, the Senate bill was substituted, and was laid aside, to be reported to the House with a recommendation that it do pass.

DAVID MYERLE.

A bill (H. R. No. 345) for the relief of David Myerle.

Mr. MALLORY. The report in that case is voluminous, and I will, without having it read, state that I make objection to the claim for two reasons: first, upon the merits of the case; and secondly, because of some knowledge I have of the matter aside from what is related in the report.

The CHAIRMAN. The gentleman has the right to object to the case before the bill and report are read.

Mr. MALLORY. I object to it. I object now, because I wish to save time.

Mr. FLORENCE. I will say that there is no report from the Court of Claims in this case. This comes from the Committee of Claims. That committee have investigated all the facts of the case, and have reported in its favor upon its intrinsic merits.

The CHAIRMAN. Discussion is not in order, and the case will be passed over, objection being made.

P. P. HALL.

A bill (H. R. No. 346) for the relief of the legal representatives of P. P. Hall.

The bill directs the Secretary of the Treasury to pay to the legal representatives of P. P. Hall, deceased, the sum of \$400, which payment shall be in full for the services of P. P. Hall in taking the seventh census in California.

It appears from the report, which was read that P. P. Hall was an assistant marshal in taking the seventh census in California, but his returns never reached the Census Office here, they having been destroyed by fire in the configuration at San Francisco on the 3d day of May 1851. Soon afterwards Mr. Hall died, and his heirs applied to the Interior Department for compensation for his services. The Department replied that there was "no authority to make compensation for returns lost or destroyed, therefore the heirs must apply to Congress for relief." In another letter, dated February 2, 1860, Secretary Thompson says: "The only data in possession of the Department, whereby to form an estimate of the amount of his services, consists of the deposition on oath made subsequently to the loss of his returns. As there is no reason to suppose that this deposition does not fairly represent the amount of labor performed, I have directed an estimate to be made therefrom of what Mr. Hall would have been legally entitled to upon the same basis of payment as made to the other assistants." The result of this examination would make it appear that Mr. Hall would have been entitled to about four hundred dollars addition."

Mr. BURNETT. The name in Hall is the report and Hall in the bill—which is the right one? Mr. TAPPAN. I think it is Hall. I move that it be amended.

The amendment was agreed to. The bill, as amended, was laid aside, to be reported to the House with a recommendation that it do pass.

JAMES PHILAN.

Mr. BARKSDALE. I ask the unanimous consent of the committee that it will recur to House bill No. 342, for the relief of James Craig. I understand that objection which was made to it will be withdrawn.

The CHAIRMAN. Is there objection to a recurrence to that bill?

There was no objection. The bill directs that \$250 be paid to James Phelan, for his services in prosecuting — Craig, indicted before the district Federal court of the United States for the northern district of Mississippi, under the appointment of Hon. Samuel J. Gholson, on a charge of robbing the United States mail.

It appears from the report, which was read, that Mr. Phelan was called by Hon. S. J. Gholson, United States district judge for Mississippi, to aid the district attorney at the trial of one Craig, who was charged with robbing the United States mails. The fee charged by Mr. Phelan was \$250, which the Department of the Interior declined paying, on the ground that the employment was not authorized by the "head of the Department," or by the authority of the President of the United States. In reference to the charge, Hon. REUBEN DAVIS, of the House of Representatives, writes:

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I know, of my personal knowledge, the services charged for by Mr. Phelan were rendered by him, and as a lawyer, I give it as my opinion that the charge is not too high. I should have charged not more than five hundred dollars for the same services. I demanded Craig.

Respectfully, REUBEN DAVIS.

The Secretary of the Interior, in a letter dated May 26, 1854, says: "I have a personal knowledge of the case, and have no doubt that the services were rendered; neither have I any doubt that if the necessity of the employment of additional counsel in this case had been brought to the attention of the Honorable General or my predecessor by Judge Gholson or the district attorney, such employment would have been authorized at a reasonable compensation." On this letter HON. REUBEN DAVIS indorsed as follows: "This case came up suddenly. The bill of indictment was found at the time the trial was in progress. In my estimation, a necessity for the employment of Mr. Phelan, and the distance from Pontotoc to Washington was so great that it was impossible for Judge Gholson to have communicated with the authorities at Washington city."

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JAMES CRAIG'S HEIRS—AGAIN.

Mr. HARRIS, of Virginia. I ask unanimous consent to recur to a bill (H. R. No. 320) for the relief of the heirs of Rev. James Craig. The gentleman from Illinois [Mr. FARKSWORTH] objected to that bill when it was up, and I think, under some misapprehension. If the committee will consent, I will make a statement. Mr. FARKSWORTH. I understand that the report in that case does not state that the property referred to was in the occupation of the American Army.

Several MEMBERS. Yes it does. Mr. HARRIS, of Virginia. I ask the gentleman from Illinois to withdraw his objection.

Mr. WASHBURN, of Illinois. I hope that that objection will be withdrawn, and that there will commence an era of good feeling. I want to recur to a case in which the gentleman from Ohio, [Mr. WADE], is almost, if not interested.

The CHAIRMAN. Is there objection to returning to the case of Rev. James Craig?

There was no objection. The bill directs the Secretary of the Treasury to pay to the heirs of the Rev. James Craig, deceased, late of Lexington, Virginia, namely, to James Craig, Edward C. Craig, John A. Orgain, and Ann, his wife, — Carver, and Maria, his wife, Rebecca Gregory, George E. Gregory, Richard C. Gregory, and James C. Gregory,

the sum of \$10,000, in full compensation for property belonging to said James Craig, which was destroyed by British troops under Colonel Tarleton, in 1781, in consequence of its being in the use of the American Army.

It appears, from the report, that James Craig, a minister of the Gospel at the time of the war of the American Revolution, and residing in Lunenburg County, Virginia, was a lending, active, and distinguished patriot. Being a man of considerable property, he owned, with other species of it, common at that time to Virginia farmers, a very large milling establishment, located on a stream called Flat Rock creek. Said milling establishment consisted of a large saw manufacturing mill, a corn mill, and a fulling mill. There were also located near to these a house used for receiving grain, and a house used for dyeing cloth, and also a blacksmith's shop. During the progress of the war, this milling establishment became a place of deposit and storage for supplies of grain and provisions for the American troops. Mr. Craig himself being actively engaged in collecting said supplies, and aiding by every means in his power the patriot cause.

In the year 1781, the contest was transferred from one State, where it had been carried on with great animation, chiefly by the Virginia, in October of that year both the campaign and the war were closed by the brilliant and ever-memorable victory at Yorktown, in that State. But in the early part of the year the line of operations was greatly in the country around to Londonburg. And to meet the wants of the American troops, Parson Craig had collected at his mills, about the month of July, in the year 1781, a large quantity of grain and provisions, some from his own and some from his neighbors' stores. At that time the British officer, Colonel Tarleton, with a detachment of troops, being in that vicinity, and hearing of Parson Craig's activity and zeal as a patriot, and of the supplies which were in store at his mills for the use of the Americans, marched to his estate, took Mr. Craig himself prisoner, carried off a number of negroes, two of whom were never recovered, and burned and destroyed the whole, or nearly the whole, of the said establishment, with the supplies of grain, provisions, &c. The flour manufacturing mill, the corn grist mill, the cloth fulling mill, the house used to receive grain, and the blacksmith's shop, were all consumed and destroyed, with the contents of each, including implements, fixtures, tools, utensils, &c. That these ravages, and the imprisonment of Parson Craig himself, were all owing to his aiding the British army in the war, and to the fact that said mills were in the use of the American Army, or filled with supplies for their use, cannot admit of a reasonable doubt; and it would be just that his heirs should be compensated for the entire loss. But not to violate usage or transgress the principle clearly established in such cases, it has been determined to allow for nothing more than the property devoted to the use of the American troops at the time of its destruction, and destroyed on that account.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

KEDWARD JARVIS—AGAIN.

Mr. WASHBURN, of Illinois. I want the committee to hear a word in reference to the case of Smith & Hunt, to which I desire it to recur.

Mr. BURNETT. I have no interest in this Private Calendar. I have never made a caption objection since my service commenced upon this floor. There is a bill upon the Calendar, for the relief of Dr. Jarvis, of which I know nothing, except from my examination of the bill and report. Mr. BURNETT. It is a just case, and objected to by the gentleman from Virginia, [Mr. PAVEN]. I understand that objection will be withdrawn if the bill be recurred to.

Mr. PRYOR. I will withdraw my objection to that bill. The CHAIRMAN. The gentleman from Illinois has the floor; and if a case is to be recurred to, the one stated by him must be first disposed of.

SMITH & HUNT.

Mr. WASHBURN, of Illinois. The bill I refer to is House bill No. 317, for the relief of Smith & Hunt, of Toledo, Ohio. It is a case in which the gentleman from Ohio [Mr. WADE] takes a great deal of interest. I understand ob-

jection was made to the bill by the gentleman from Kentucky. Mr. BURNETT. The gentleman is mistaken. I did not object to the case he indicates; objection was made by the gentleman from Georgia, [Mr. CRAWFORD].

Mr. WASHBURN, of Illinois. I hope the gentleman from Georgia will withdraw his objection.

Mr. CRAWFORD. I will hear the bill and report again read. I understand that the object of the bill is to pay \$20,000 to this firm for freights and expenditures upon certain railroad iron.

Mr. WASHBURN, of Illinois. If the bill be laid aside, I will agree that there shall be a vote taken on it in the House.

The CHAIRMAN. Does the gentleman from Georgia object to taking up the case?

Mr. CRAWFORD. I will not say that I will object to it. I want to hear a statement from the gentleman from Illinois.

There being no objection, the case was taken up again.

Mr. WASHBURN, of Illinois. My name appears as having reported this bill. It was reported, and I am, I think, the gentleman from Ohio. Mr. WADE. He takes a great interest in the case. He investigated it with great care. He has been called from the city by sickness in his family, and he has written here to ask that it be taken up and passed. I think that the case is one of very great interest. I understand that the gentleman will let it go into the House. If a separate vote is wanted upon it, I will not object.

Mr. JOHN COCHRANE. I understand that this is a case for the payment of commissions for freights, &c., of which the claimants have been deprived by the action of the Government. It is a case appealing to the equity and justice of this House, and I trust that it will be passed.

Mr. BURNETT. I have examined this case with a great deal of care, and I do not agree with the gentleman from New York. I suggest, however, to my friend from Toledo, [Mr. CRAWFORD], to withdraw his objection, and to let the bill go to the House, with the understanding that it shall be voted on separately, upon the yeas and nays.

Mr. CRAWFORD. If that be the understanding, I will not object.

Mr. WASHBURN, of Illinois. That is my proposition.

The bill directs that there shall be paid to Smith & Hunt, of Toledo, Ohio, the sum of \$296,90, being the amount paid by Smith & Hunt as freight and freights on the Toledo and Cleveland railroad in bond from New York city to Toledo, Ohio.

It appears from the report that during the years 1853 and 1854 the petitioners were storage, commission and forwarding merchants, resident and doing business at Toledo, in the State of Ohio, the same being the port of entry for the United States collection district of Miami. During the said years of 1853 and 1854, the petitioners, as such carriers and commission merchants, brought from New York city, under the provisions of the warehousing act, in bond for the payment of the duties thereon, to Toledo, four thousand tons of railroad iron, and paid freight, storage, &c., the charges thereon; the said iron having been imported into the port of New York for the Cincinnati, Logansport and Chicago Railroad Company. These charges, paid by the petitioners while the said iron was in bond, constituted a legal lien on said iron in favor of the petitioners, to the amount of \$296,90, subject, however, to the prior lien of the United States for the payment of the import duties chargeable on said iron. While this railroad iron was in the legal custody and control of the petitioners at Toledo, as above stated, subject only to the paramount lien of the United States for the duties chargeable against the iron, the said railroad company was insolvent and unable to pay the duties due the Government on said iron, or to pay the duties thereon. The petitioners, on the same, and that this fact was fully made known by the petitioners to the then Secretary of the Treasury.

The CHAIRMAN. Is there any objection to House bill No. 317? The Chair hears no objection.

Mr. HARRIS. Is it understood that there shall be a separate vote upon it in the House? [“Yes.”] [“Yes!”] There is a report of the Secretary of the Treasury which I would like to have read.

Mr. WASHBURN, of Illinois. I will not

call the previous question upon the bill in the House.
No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

EDWARD JARVIS—AGAIN.

Mr. BURNETT. I now ask the unanimous consent of the committee to go back to the bill (No. 343) for the relief of Dr. Edward Jarvis, which was objected to by the gentleman from Virginia, [Mr. FAY.]

Mr. WALTON. The gentleman has withdrawn his objection.

Mr. THOMAS. I object.

HENRY EITING.

Mr. WINSLOW. I ask the consent of the committee that the act (S. No. 91) for the relief of Henry Eiting may be reported back to the House with the recommendation that it be referred to the Committee on Naval Affairs. There was some misunderstanding about the matter. I make that motion.

The motion was agreed to.

CHARLES JAMES LANMAN—AGAIN.

Mr. WALTON. I ask the unanimous consent of the House to go back to the consideration of the bill (H. R. No. 340) for the relief of Charles James Lanman, which was objected to by the gentleman from Virginia.

Mr. PRYOR. I withdraw my objection.

Mr. NOELL. I do not object to the consideration of the bill; but I believe we are getting into a system of doing business which will embarrass us, and I give notice that after this I shall object to going back.

Mr. THOMAS. I object.

ANTHONY W. BAYARD.

Mr. KELLOGG, of Michigan. I ask the unanimous consent of the committee to go back and take up the bill (H. R. No. 315) for the relief of Anthony W. Bayard. It was objected to, and passed over; but the objection has been withdrawn.

Mr. CURRY. I object.

OLIVER HARRIS.

A bill (H. R. No. 347) for the relief of Oliver Harris.

The bill and report were read.

Mr. BURNETT. I must object, unless there can be some something from the Department to show that this man has an equitable case; and there is nothing in the report, or anywhere else, of that character, that I know of.

HANNIBAL GRAHAM.

A bill (H. R. No. 348) for the relief of Hannibal Graham. [Objected to by Mr. CRAWFORD.]

PETER ROBERTSON & SON.

A bill (H. R. No. 349) for the relief of Peter Robertson & Son, of St. John's, Newfoundland, owners of the British brig Jessie.

The bill directs the Secretary of the Treasury to pay to Peter Robertson & Son, owners of the British brig Jessie, for losses incurred by reason of the rescuing of the passengers and crew of the American ship Northumberland, in December, 1857, when in a sinking condition, and conveying them to Cork, Ireland, the sum of \$7,598 75, or so much thereof as it may be necessary; provided the proper proportionate part thereof, according to the number of British subjects rescued, shall be paid by the British Government.

From the report, it appears that the British brig Jessie, the property of Peter Robertson & Son, of St. John's, Newfoundland, while on a non-fishing voyage in the month of December, 1857, fell in with the American packet ship Northumberland, in a foundering condition. That by great exertions and at personal risk, during a violent gale and heavy sea, the passengers and crew, consisting of more than sixty persons, some of whom were women and children, were transferred on board the Jessie, which was then necessarily put under way for Cork, Ireland. That the delay consequent thereon brought up the voyage, which was of a lucrative character, and entailed heavy expenditures upon her owners. That for these disbursements and contingent profits lost the proprietors of the Jessie believe themselves entitled to some compensation from this Government. The loss re-

sulting from this humane conduct of the captain of the Jessie amounts to \$7,598 75.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

FRANCIS HÜTTMANN.

An act (S. No. 78) for the relief of Francis Hüttmann.

The bill authorizes and directs the Secretary of the Treasury to adjust the claim of Francis Hüttmann for return of tonnage and light duties illegally exacted and paid by him on Persian, Danish, and German vessels as the port of San Francisco, California, and to pay him the amount due, with interest at the rate of six per cent. per annum, from the date of the exaction of the duties. Mr. JOHN COCHRANE. This is a Senate bill, which comes to the House with no report. The facts are so simple that no report is necessary; and, with the consent of the committee, I will state that, in 1849, Hüttmann entered in the port of San Francisco four vessels—one a Danish schooner, one a Hamburg bark, one a Hamburg brig, and another a Peruvian bark—and paid duty upon them to the amount of \$549. Tonnage dues are not exacted by our laws from vessels of those countries with which we have reciprocity treaties. These tonnage dues, with interest thereon, amount now to \$900; and the purport of the bill is to refund that sum.

Mr. SMITH, of Virginia. I would ask the gentleman from New York whether those treaties were subsequent to the exaction of these dues, or prior thereto.

Mr. JOHN COCHRANE. They were prior thereto, and they continue up to the present time. The Department has recommended the repayment of the dues.

Mr. BURNETT. I move to amend the bill by inserting in the provision, that the amount shall not exceed \$900. If that amendment is adopted, I shall not object to the bill.

The amendment was agreed to.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

TENCH TILGHMAN.

An act (S. No. 79) for the relief of Tench Tilghman.

The bill authorizes and directs the Secretary of the Treasury to pay to Tench Tilghman, out of any moneys in the Treasury not otherwise appropriated, the sum of \$1,000, for losses sustained by him in consequence of his appointment to a consulate, which was abolished by the Spanish Government while he was on his way to take charge of the same.

Mr. JOHN COCHRANE. This bill is in the same position as the last one to which I called the attention of the committee. General Tench Tilghman, of Maryland, was appointed, in 1849, as consul to Mayaguez, Puerto Rico. While on his way, he was notified by the Government that the consulate had been suppressed. Our Government was not aware of it, until notified by the Spanish Government. Upon receiving that notification, they informed Mr. Tilghman of it. The object of this bill is to recompense him for his expenses upon that journey. These expenses have been recommended to be paid by two Secretaries of State. The Committee on Commerce asked for a bill particulars, and that bill amounted to \$1,025, allowing only a reasonable rate of expenses.

Mr. SMITH, of Virginia. Did he enter upon the discharge of his duties?

Mr. JOHN COCHRANE. He did not enter upon his duties; nor did he receive any compensation.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

ARTHUR EDWARDS AND OTHERS.

A bill (H. R. No. 221) for the relief of Arthur Edwards and others.

The CHAIRMAN. The Chair has been informed that, by order of the House, a Senate bill has been introduced for the House bill; and the question will be on the Senate bill.

The bill was read. It directs the Postmaster General to audit and settle the account of Arthur Edwards and his associates, for transporting the

United States through mail in their steamers, during the years 1849 and 1853, and intervening years, from Cleveland, in Ohio, to Detroit, in Michigan, and from Detroit to Cleveland; from Sandusky, in Ohio, to Detroit, in Michigan, and from Detroit to Sandusky; and from Toledo, in Ohio, to Detroit, in Michigan, and from Detroit to Toledo; and to allow and pay them not less than \$28 60 for each and every passage of the steamers between said places, during that time, when the mails were on board.

The report was read.

Mr. CRAWFORD. I object to the bill. Mr. SMITH, of Virginia. I would say to the gentleman from Georgia that I have examined this case, and am satisfied the bill ought to pass.

Mr. CRAWFORD. I will state my objection to the bill. I take it for granted—

The CHAIRMAN. It is not in order for the gentleman to debate the bill.

Mr. SMITH, of Virginia. I examined this matter, and the bill ought to pass.

Mr. CRAWFORD. I desire to say that I understand the bill to give extra compensation for carrying the mails from 1849 to 1853.

Mr. SMITH, of Virginia. The gentleman is under a misapprehension.

Mr. CRAWFORD. Then I misunderstood the meaning of the report.

Mr. COLFAX. If there be no objection, I will state the facts of the case.

Mr. CRAWFORD. I will hear the gentleman's statement.

Mr. COLFAX. Those men were carrying the local mails between Cleveland, Sandusky, Toledo, and Detroit, receiving therefor the pitiful sum of \$2 25 per trip. They were also sometimes required to carry the through mails. They declined to do so, at first, on the ground that there was no appropriation made to pay them. The agent of the Post Office Department assured them that he was instructed by the Department to say, if they carried these through mails, they would be paid a reasonable compensation. Under this assurance they carried the through mails, often at great inconvenience. They frequently had to wait an hour and an hour and a half for the arrival of the mail trains, to receive the through western mail from them. When the matter was submitted to the Department, the only question was, how much they should be paid. General Cass, now Secretary of State, saw Mr. Campbell, the Postmaster General, on the subject. The Postmaster General promised to set it up, but upon a close measure of business the matter was overlaughed and neglected.

There is no question as to the service having been performed; no question as to its having been by authority. The evidence, which is voluminous, shows that sometimes they carried as much as one hundred and twenty-eight bags—over eight tons—of through mail matter; for all which, continued as it was for four years, they have not received a single cent.

Mr. CRAWFORD. I ask the gentleman from Indiana how much is appropriated for the carrying of this mail?

Mr. COLFAX. Twenty-eight dollars and sixty cents for every time that they carried the through mail. The Postmaster General is to determine how many times that was. The mails were carried during the season of navigation.

Mr. CRAWFORD. How long is that?

Mr. COLFAX. About six months.

Mr. STEVENSON. Why has payment been denied so long?

Mr. COLFAX. It was delayed by Postmaster General Campbell, who told General Cass that he would have the account examined and settled; but it was overlaughed and not paid, and the present Postmaster General cannot now pay it, as it occurred under a former administration, unless Congress should ratify it. The bill was unanimously reported by the Senate Committee on the Post Office and Post Roads; it was passed unanimously by the Senate; and it has been unanimously reported by the Post Office Committee of this House.

Mr. MONTGOMERY. It is the cheapest mail service that has been ever rendered in this country.

Mr. SMITH, of Virginia. I have examined the bill, and believe it ought to be passed.

Mr. CRAWFORD. I withdraw my objection; and I pledge myself to make no further objection.

because of the fact that members appeal to me to withdraw objections, and they make it a personal matter.

THE CHAIRMAN. The Chair will state that all these appeals are entirely out of order; and the Chair has made every effort to suppress them. No member of the committee has a right to call upon another member, who may have objected, to give a reason for his objection. It is out of order, and a breach of the rules of the House. The Chair has done all he could do to suppress it. **Mr. WASHBURN,** of Illinois. Does the Chair say that one member of the committee may not, by unanimous consent, appeal to another member?

THE CHAIRMAN. It can only be done by the unanimous consent of the committee.

Mr. COLFAX. I beg pardon of the gentleman from Georgia. I only desired to state the facts for the information of the committee; and I understood distinctly from him that he was willing to hear them. If I objected, and a member satisfied me that the bill was a just one, I should cheerfully withdraw my objection.

THE CHAIRMAN. The Chair has no reference to the gentleman from Indiana, because he was proceeding by the express permission of the committee.

Mr. CRAWFORD. We have to allow discussion under pressure, and contrary to the rules of the House.

Mr. BURNETT. I desire to know how much money this bill appropriates?

Mr. COLFAX. It allows \$28 for each trip. The trips were for four years. They were performed by the authority and sanction of the Post Office Department. It is a reasonable amount; and my impression is that it ought to be higher. As to what the aggregate amount will be, I have not calculated.

Mr. BURNETT. I ask the unanimous consent of the committee, while I call out an additional answer from the gentleman from Indiana.

Mr. WASHBURN, of Illinois. I hope the gentleman from Kentucky will be heard. There was no objection. **Mr. BURNETT.** The first objection to this bill is its vague and indefinite character. It proposes to give to mail contractors for extra services—the gentleman from Georgia was right when he so stated it—from 1849 to 1853, as much per trip. Neither in the bill nor report is the time stated that it took to make these trips, the number of trips made, nor the amount of money to be drawn from the public Treasury.

But the gentleman from Georgia is applied to to withdraw his objection; and we are called upon here, by unanimous consent to permit the bill to be reported to the House with a recommendation that it do pass, while it neither fixes the amount to be paid, nor the number of trips made, and while it does not have a single recommendation from the Post Office Department that the bill ought to pass—not one so far as we have it before us. Now I say to gentlemen that they may appeal to me; and when I make an objection here, if the objection be based on merits, I will not withdraw it for any appeal. Believing that the bill is wrong, I do object to it.

The bill was accordingly passed over.

ALLEN L. PORTER.

A bill (H. R. No. 351) for the relief of Allen L. Porter. [Objected to by Mr. SMITH, of Virginia.]

SCOTT, HOUSE, AND HOUSE.

A bill (S. No. 22) for the relief of John Scott, Hill W. House, and Samuel O. House. [Objected to by Mr. KILGORE, of Michigan.]

Mr. CRAWFORD. It is now three o'clock, and we have a bill to vote upon in the House by yeas and nays. I move, therefore, that the committee do now rise.

Mr. GARTRELL demanded tellers. Tellers were ordered; and Messrs. GARTRELL and SCHWARTZ were appointed.

The committee divided; and the tellers reported—yeas seventy-one, nays not counted. The motion was agreed to.

PRIVATE BILLS PASSED.

So the committee rose; and the Speaker having resumed the chair, Mr. BRAXTON reported that the Committee of the Whole House had had the Private Calendar under consideration, under the

30th rule of the House, and had instructed him to report back the following bills:

A bill (H. R. No. 312) granting a pension to Abraham Crum;
A bill (H. R. No. 314) for the relief of Emma A. Wood, widow of the late Brevet Major George W. P. Wood, of the United States Army, with an amendment;

A bill (H. R. No. 319) granting a pension to Major John P. Hunter;
A bill (H. R. No. 318) for the relief of Andrew E. Marshall, with an amendment;

A bill (H. R. No. 320) for the relief of the heirs of Rev. James Craig, deceased;
A bill (H. R. No. 342) for the relief of James Phelps;

A bill (H. R. No. 344) for the relief of the legal representatives of Sylvester Day, late a surgeon in the United States Army;

A bill (C. C. No. 91) for the relief of Thomas Fillebrown;

A bill (H. R. No. 346) for the relief of the legal representatives of P. P. Hall, deceased;

A bill (H. R. No. 349) for the relief of Peter Rogers and Sons, of St. John's, Newfoundland, owners of the British brig *Jessie*;

An act (S. No. 78) for the relief of Francis Huttman, with an amendment;

An act (S. No. 79) for the relief of Tench Tilgham, of Toledo, Ohio.

A bill (H. R. No. 317) for the relief of Smith & Hunt, of Toledo, Ohio.

THE SPEAKER. If there is no objection, the bills will be voted on *en masse*, excepting House bill No. 317, on which a separate vote is desired. There was no objection.

The amendments were then agreed to; the House bills were engrossed, and then the bills were read the third time, and passed.

SMITH & HUNT.

A bill (H. R. No. 317) for the relief of Smith & Hunt, of Toledo, Ohio, reported from the Committee of the Whole House, with a recommendation that it do pass.

Mr. WASHBURN, of Illinois. I ask the yeas and nays on that bill.

Mr. SMITH, of Virginia. They were ordered. It was the unanimous understanding in committee that they should be taken. It was also understood that a brief statement of the case, *pro* and *con*, should be presented for the consideration of the House.

Mr. WASHBURN, of Illinois. I do not propose to call the previous question.

Mr. SMITH, of Virginia. I think that the friends of the bill should present it in its most engaging aspect, and those who dissent from the view thus presented will, of course, present the opposite views. I give way, therefore, to the gentleman from Illinois to give the reasons why the House should pass the bill.

Mr. WASHBURN, of Illinois. I do not want to state any further reason than is stated in the report. I will say to the House, however, that Mr. WASH, who has served in this House many years, and who is known to be one of the most careful men, and best lawyers in the House, has given this case a very attentive consideration. The report, which is here under my name, was made by him, and I think the case fairly stated in it.

Mr. SMITH, of Virginia. I desire, my very briefly, to make a statement for the consideration of the House.

Mr. TAPPAN. Will the gentleman give way one moment? Are there not some other bills that are not counted?

THE SPEAKER. This is the only bill undisposed of.

Mr. TAPPAN. I move to reconsider.

JAMES CRAIG'S HEIRS—AGAIN.

Mr. BURNETT. I desire to inquire about bill No. 320, for the relief of the heirs of Rev. James Craig, deceased. It was objected to, and there was an agreement that the yeas and nays should be called. That cannot be one of the bills that has been passed. The gentleman from Illinois (Mr. FARNSWORTH) objected, but afterwards withdrew his objection, on the condition that the vote would be taken by yeas and nays in the House.

Mr. SMITH, of Virginia. If required.

Mr. HARRIS, of Virginia. With the permission of the House, I will state that I was instrumental in getting Mr. FARNSWORTH to withdraw his objection. The remark which he made to the committee was to this effect, that he desired the privilege of demanding a vote upon the bill, and of making a division, which he should not pass. Mr. FARNSWORTH is not now in the House; and I make this statement in the hearing of his friends, that they may do the same for him as he would perhaps do if he were present.

Mr. BURNETT. I desire to say one word in explanation of the position which I took in the House.

THE SPEAKER. The bill was passed. **Mr. BURNETT.** Then it was passed by mistake, and I shall be compelled to move to reconsider the vote by which it was passed. There was an express agreement, and I so marked on the Calendar, that on this bill the yeas and nays should be called.

THE SPEAKER. The Chair thinks that course should be taken. The vote will be regarded as reconsidered. The question will be on the third reading of the bill.

Mr. CURRY. When that bill was before the Committee of the Whole House, I offered an amendment to it, which was adopted. Subsequently to the adoption of my amendment, the gentleman from Illinois objected to the bill. Afterwards, while I was sitting at my desk, the bill was called up again, and laid aside, to be reported without amendment. I think that unanimous consent might be given to having the amendment offered here.

THE SPEAKER. If there be unanimous consent, the amendment may be considered.

There being no objection, the amendment was offered, and agreed to, as follows:

Provided, however, That the money hereto appropriated shall be paid to the heirs of said James Craig, in person, or to such agent or attorney of said heirs as shall appear to the accounting officer of the Treasury to be in no way interested in the same, or any part thereof.

The bill was then engrossed, and read the third time.

Mr. BURNETT. I move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under its operation the bill was passed.

Mr. TAPPAN. I move to reconsider the vote by which the bill reported from the Committee of the Whole House was passed; and to lay the motion to reconsider upon the table.

Mr. STANTON. I think the House that it is hardly proper that that should be done. If by any accident it should be discovered that any bill has been improperly passed, we ought to be able to correct it.

Mr. TAPPAN. I believe it is understood that they are all right now.

Mr. STANTON. That may be, but I cannot see the necessity for the motion.

THE SPEAKER. Does the gentleman from New Hampshire waive his motion?

Mr. TAPPAN. Yes, sir; I am willing to waive it. My object was to have the bills disposed of.

SMITH & HUNT—AGAIN.

The House resumed the consideration of the bill for the relief of Smith & Hunt, of Toledo, Ohio.

Mr. SMITH, of Virginia. I really have no feeling of repugnance to this bill, and I propose to occupy not more than five or six minutes upon it; and then I will leave it with great good temper to the judgment of the House.

I understood the facts of this case to be these: A certain railroad company in one of the western States—I do not remember which now, but I think Ohio or Illinois—imported four thousand tons of railroad iron. The iron was shipped by their order to a house in Toledo, this house of Smith & Hunt—I do not know if Mr. Smith is any kinsman of mine, but he is a very clever gentleman. The goods were brought to Toledo at their expense and charge, and were there bonded, in conformity to our revenue laws, to the Government of the United States for its duties. While they remained there in that position, the railroad company, desiring to use the iron at another place, and not being prepared to pay their duties, directed it to be shipped to a place upon the Ohio river, and under the ice, as then existing, and as now existing, the goods were landed

for that place. The company, in the mean time, while the goods were in *transit*, managed to get hold of them in violation of all the duties it owed to its contract and engagements, and it was the iron upon the road. The Government of the United States sent an agent to assert its right to the goods for the payment of the duties, and they recovered possession of the iron, and the duties were paid. In the mean time, there was a subordination on the part of Smith & Hunt, and the expenses which they had paid upon the shipment of the iron from New York to Toledo, and the question is about those expenses, amounting to about nine thousand dollars.

Now, why should the Government of the United States be made responsible for this claim? No one pretends that the Government of the United States, in all its action in connection with this subject, did anything more than assert its unquestioned legal right. The United States had a right to their lien upon these goods for the duties, and they asserted that right. They asserted that right, and ultimately received the amount that was due them—no more, and no less. It so happens, however, that in consequence of these conflicting liens, this particular commission house, which was making a profit out of the transaction, failed to secure their lien upon the goods, and in consequence of the possession of the railroad company, and as to their claim, I suppose, coming under another obligation, they thus losing possession of the goods. But they did not lose possession of the goods. I want gentlemen to understand, by my fault of the United States, and the whole question for this House is, shall the United States make good the bill of the commission house for costs and charges paid by that house, for which the United States were in no sense whatever, in the slightest degree, responsible.

Mr. CRAIG, of Missouri. Will the gentleman allow me to ask him a question? I desire to see if I understand this case. I understand this railroad iron to have been shipped from Europe to Toledo, Ohio, and there bonded, and in the possession of these warehousemen, and the gentleman to say that the revenue laws allowed the railroad company to have it ordered by the United States to Evansville, Indiana, or some other place, where it might be bonded; that the United States did order the iron out of the hands of Smith & Hunt; and that the bonds of Evansville, by a trick of the railroad company, it was stopped in *transit*, and thereby these men lost their iron. Are those the facts?

Mr. SMITH, of Virginia. The gentleman will understand that the goods in Toledo were under bonds to answer the demand of the United States, the duties to be paid under those bonds whenever the goods were consumed by the railroad company. Under the law they had a right to have them transferred to another port. The company, in obedience to the law, regulating such questions, and in conformity with their unquestioned right, directed the public agent at Toledo to ship these goods to Evansville, in Indiana. They gave bonds to answer the demands of the United States at that point, and the goods accordingly, as the United States was bonded to be shipped. It is true, that on the way the company, by a trick, got possession of the iron; but it was by a trick which the United States were not a party. They had nothing to do with it. The company complied with the law, and the United States complied with the law. The goods were bonded and shipped to Evansville, Indiana, and, on the route, the company managed in some way to get possession of them. But it was no fault of the United States. It was no fault of these gentlemen either, it may be; but the company stopped the goods in *transit*, and the goods were lost. They did not want the goods at Evansville, but at Logansport, where their road commenced.

Now, that being the case, I ask what fault the Government of the United States committed which should subject it to this demand? Do you mean to say that the Government of the United States is to embarrass itself by the private contracts of individuals? Do you mean to say that the Government should become responsible for goods brought and bonded to the United States? You do so as if you make the Government responsible for the amount. There is no escape from it, wherever there are these ports of entry; and I am sorry to see a disposition here to extend the system. The

other day, Macon, in Georgia, was made a port of entry.

Mr. GARRELL, Only temporarily.

Mr. SMITH, of Virginia. Now, then, that being the state of the case, I ask what merit there is in it? Why, sir, as I said, a bill was passed the other day sinking Macon, in Georgia, a port of entry. Well, if the Government enters upon the system of making these interior towns ports of entry, and Macon, and if the principle upon which this bill is based is to be recognized, there is no telling the amount which the Government will be called on to pay in the shape of damages.

Mr. STEVENS, of Pennsylvania. Were these claimants the owners of the warehouse at Toledo, or how do they claim their share? Were they merely the consignees of the iron, or were they the agents of the Government for warehousing the iron?

Mr. PETTIT. They were both.

Mr. SMITH, of Virginia. Yes, sir; they were commission agents at Toledo. They had the iron transported to Toledo, and there received it, as consignment, into their warehouse; which, for that purpose, became a bonded warehouse of the Government.

Mr. STEVENS, of Pennsylvania. What I wanted to inquire was, whether the Government owned the warehouse, or whether it was merely the private warehouse of these parties?

Mr. SMITH, of Virginia. It was their private warehouse.

Mr. STEVENS, of Pennsylvania. Then the whole case is a matter of private contract, and has no more in it.

Mr. SMITH, of Virginia. I have now presented the facts of this case substantially as I understand them. I repeat, that if I have not understood the facts, the Government of the United States has committed no wrong, yet it has done nothing that is not in conformity to law. Mr. Guthrie was Secretary of the Treasury at the time. He understood the law and his duty, I take it for granted, as well as any man here; and he sought to enforce the law to all the stages of the route. I repeat, that the Government of the United States has proceeded strictly in conformity to the law in every particular; and it is not even alleged that it has not done so.

Mr. MAYNARD. Before the gentleman from Virginia takes his seat, I wish to ask whether there could be a claim, in fact, sustained any actual loss in this transaction?

Mr. SMITH, of Virginia. I think they have. As far as I am informed, the law failed thus far to collect their costs and charges on the iron.

Mr. MAYNARD. Then, is it not incumbent on the Government to reimburse them?

Mr. SMITH, of Virginia. That brings me to the consideration of the question which the gentleman suggests. The question I ask is, whether these parties have not a substantial demand upon the railroad company? They have such a demand. Nobody questions that. On the contrary, they have brought a suit in Toledo, and recovered the costs and the charges they had paid on account of their importing this iron. I say, they have recovered a judgment against the company; but was not the judgment, in this case, that the claimant was negligent, as I understand—utterly incompetent? But is that an answer to the question why Uncle Sam should foot the bill?

Mr. COX. It is a question of equity.

Mr. SMITH, of Virginia. I ask the gentleman from Ohio, if, because these parties fail in enforcing their claim against the railroad company, that is a sufficient reason why they should come to the Government of the United States and ask us to appropriate a sum sufficient to reimburse them? For it comes to that, I repeat, Mr. Speaker, that these parties come here, and, without any pretense, have done nothing that is not in conformity to law. These petitioners have a private demand on this railroad company for the money they had advanced, but which they have not collected because of the insolvency of the company, and they now come here, and, without any pretense, peaching the good faith of the Government in any particular, demand that their losses shall be made up to them. I say there is no law, nor is there any equity, to sustain the claim, and it involves principles which are dangerous and alarming for the country.

Mr. WASHBURN, of Illinois, obtained the floor

Mr. PETTIT. I ask the gentleman to yield to me, for the purpose of making a statement of the facts connected with this claim to the House. Mr. WASHINGTON, of Illinois, then said: I have wished to hear any further statement in reference to the facts of this case, I will yield to the gentleman from Indiana.

Mr. PETTIT. Mr. Speaker, the gentleman from Virginia has, in the main, made a correct statement of the facts of this case. I follow him; but his statement embraces some errors which, perhaps, I can correct more conveniently by referring to the prominent facts of the transaction.

It is hardly necessary to say that this was British iron. It came to New York to the care of Smith & Hunt as consignees, and was sent to the railroad company. They laid, therefore, from the beginning, a possessory right over the property. Under the direction of the Secretary of the Treasury, and in pursuance of the course which is pursued under the warehousing system, Smith & Hunt, having received the iron, caused it to be transported to the Port of Toledo. This was a recognition of their right to direct the transmission of it from one warehousing depot to another. Now I beg the House to consider that the possession of the iron continued with them up to this time. They had their right of possession, and they were to retain it until its arrival at Toledo where they acquired a new right. The Government had no warehouse at Toledo. It became necessary to provide a private warehouse. Smith & Hunt had a warehouse at Toledo; and the gentleman suggested that to store the iron in their warehouse, receiving their receipt for it, they binding themselves by the act to stand responsible to the Government for the duties due on the iron. Here was a second right of possession over the iron—a double right; first as consignees for their advancement of charges, which entitled them to possession; and next, by the possession given them by the Government.

The railroad company had no control over this matter; and whenever it was subject to be removed, it was not on order of the railroad company; or it was upon their order, and at all steps in the process, having obtained the consent of Smith & Hunt as consignees; and as they were acting in the character of consignees and bailees, they were entitled to have the first satisfaction for the advances which they had made upon it, before they could be called upon to satisfy the claims of other parties but the Government. I believe I am correct so far in stating the facts of the case.

Mr. SMITH, of Virginia. I have only to say that the facts, as stated by me, are not controverted in the report, nor even by the parties themselves. The iron came into their possession, and if they had rights above those of the United States, I ask why it is that they did not avail themselves of their rights? If they lost their claim through their own negligence, they ought not to come here for redress.

Mr. PETTIT. I have stated the facts just as they exist in the report. Before the iron had reached Toledo, this railroad company was notoriously bankrupt, and the Secretary of the Treasury was notified of that fact. The stock of the company was worth nothing, and it was at that step in the process of the work was being made at that time. But it became desirable that those persons who stood in the position of bondholders should obtain possession of the iron, as security for their own payment, without the necessity of paying the claims of Smith & Hunt for costs and charges, for which they had a lien upon the iron; and the sequel of the transaction was only the execution of that purpose. A person affecting to have connection with this company made application to the Secretary of the Treasury to have the iron removed from the bonded warehouse, to the place of its new destination. The warehouse was situated of Lake Erie, to Evansville, in the southwest part of Indiana. Sir, it ought to have been within the knowledge of the Secretary of the Treasury, if it were not, that when he was asked to transfer this iron to the bonded warehouse, the point is its new destination. The warehouse was three hundred miles from any point of this road; almost twice as far as the port of Toledo. Such a request was enough to arouse suspicion.

Mr. HOARD. Let me call the attention of the gentleman from Indiana to what the report of the Treasury says in this respect. He says:

"The law gave the latter the option to enter the iron for consumption at Toledo and pay the duties there, or to enter

to transportation in bond to some other port, and carry it away from Toledo. But the Department has said that the company intended to do this. It is a matter as to how to take away the lien of Smith & Hunt, and has no power to prevent them from transporting the iron from the port of Toledo to another port, in giving the requisition by the regulations under the warehouse laws."

Mr. PETTIT. I submit that that is not a correct interpretation of the law.

Mr. HOARD. It is the interpretation of the present Secretary of the Treasury upon the rights of the parties.

Mr. SMITH, of Virginia. That is the test. I want the gentleman from Indiana to make this plain. If he does it, I will be glad to see the bill passed. Had these gentlemen, Smith & Hunt, superior rights to those of the United States?

Mr. PETTIT. Smith & Hunt's right was one of possession, consented to both by the railroad company and by the Government, confirmed equitably by large advances of money which they had made, which established a lien everywhere allowed, and which made their possession absolutely against the railroad company, until their charges were paid. The United States had but one right, and that was to demand that its duties should be paid. Beyond that, it had no right. It had no right of possession, except as accessory to this.

Now, Mr. Speaker, with a distinct knowledge on the part of the Secretary of the Treasury that this company was insolvent, with the knowledge that there was a purpose of diverting this iron and diverting that lien, the order was made which did this large injury to Smith & Hunt, when they were present protesting against the act and ordering to the Government the full amount of its duties. I repeat, that Smith & Hunt tendered to the Government, for the purpose of saving their lien, the full amount of its duties.

Mr. SMITH, of Virginia. I ask this question to the gentleman. He said, in his opening remarks, that these men had a double lien upon this property. I want him to tell us why, if they had equal or superior rights, they could not have asserted their lien?

Mr. PETTIT. If the gentleman will hear me through, I will reply to the point he has made, and will show why that second right, derived from the Government itself, was one which the Government could not defeat until first Smith & Hunt were put in that position where they got all their own. But I wish to go on and state these facts.

Mr. STEVENSON. Where was that money tendered, and why was it refused?

Mr. PETTIT. I will answer the gentleman. It was tendered to the collector of Toledo, in his office in the city of Toledo, and the Government here was notified that fact.

Mr. MAYNARD. I would like the gentleman to tell me whether the transfer of the iron from Toledo to Evansville, or the order of transfer, was protested against at the time by these claimants?

Mr. PETTIT, of Virginia. No, sir, it was not.

Mr. GOCHIL. I object to interruptions of the gentleman's speech, until after he makes all his statements. If he is allowed to proceed without interruption, he will make a statement, probably, that some of us can understand. That will not be the case if twenty or more men are allowed to interrupt him at every step.

Mr. PETTIT. I will avoid being interrupted hereafter. But it is most convenient here to answer the question of the gentleman from Tennessee. [Mr. MAYNARD.] The question is as to whether these parties did any act in the character of a protest against the removal of this iron from their possession. Smith & Hunt, as shown by this report, did protest against it in terms; and, in addition, attempted to protect their rights by the intervention of the courts of Ohio but, under the authority of the Secretary of the Treasury, the United States district attorney, supported by the marshal and a posse, entered their private warehouse and took possession of this iron and gave it into possession of the agent of this railroad company. Have I answered the gentleman from Tennessee?

Now, Mr. Speaker, let us look at what was occurring at the time, for it was not all accomplished in a few days; the transportation of this iron having dragged on many days, as it was moved forward, in small parcels, by canal boats. The Secretary of the Treasury, at the moment, absent from Washington. The shipment

of this iron, according to the shipping bills, did not contemplate that it should go further than Loganport, less than one hundred and fifty miles from Toledo. It came to the knowledge of the collector at Toledo. The shipment of the iron was made in the way at Loganport, and was diverted from that point, and was being laid down upon the road, and he communicated the fact at once to the Department of the Treasury, at Washington. The acting Secretary of the Treasury here in Toledo, and for the removal of the lien of the iron, Mr. Guthrie was at Louisville. The agent of the railroad company went to Louisville, and obtained from him there an order countermanding and subverting the order of the acting Secretary here. In pursuance of that order countermanding the order of the acting Secretary, this property, by the violent act of the officers of the United States, was removed from the possession of Smith & Hunt.

I have said that Smith & Hunt, at the time of receiving this iron in Toledo, besides the possessory right belonging to them as consignees, derived an additional right, from the fact that they became, by the Government's consent, the private warehousemen of the Government, and executed to the Government their receipts for this iron. It is a legal consequence of this fact that it was not the duty of the Government to remove this property by the violent and arbitrary action of its officers. This is the reason why, in answer to the gentleman from Virginia, [Mr. SMITH.] I have called attention to this point. So that the wrongful action of the Government in its official order which diverted the control of this property from Smith & Hunt and impaired and destroyed their lien, and the act of violence by which it was seized from their possession, are alike undefeatable.

Mr. STANTON. There is one fact which I wish to inquire about, and which will be no conclusion. I want to know by what authority this property was taken out of the possession of Smith & Hunt? Was it by order of the Secretary of the Treasury, by the United States marshal, or by the party which claimed it?

Mr. PETTIT. It was done by the order of the Secretary of the Treasury, made at Louisville, countermanding the order made by the acting Secretary of the Treasury at Washington; and then the possession of the iron was put by force, through the instrumentality of the United States marshal, into the hands of the Government.

Mr. WASHBURN, of Illinois. I call for the previous question.

Mr. JOHN COCHRANE. I want to say a word or two, and I hope the call for the previous question will be withdrawn.

Mr. PETTIT, of Illinois. Having an hour after the debate is closed, I will yield a part of my time to the gentleman.

The previous question was seconded, and the main question ordered.

Mr. JOHN COCHRANE. Mr. Speaker, I wish to say a word in justification of the vote I propose to cast upon this bill.

Mr. WASHBURN, of Illinois. I yield to the gentleman a portion of my time for that purpose.

Mr. JOHN COCHRANE. I examined this question at the last Congress very carefully, and it was fully of the impression then that these applicants, Smith & Hunt, should be remunerated. I have now a general recollection of the facts, and upon that general recollection I have pronounced my opinion and voted thus far, and propose now to do hereafter. My recollection is to this effect: That Smith & Hunt had a lien as special warehousemen. Whether they had assignments, or not, is immaterial to the question, in my judgment. It would strengthen their claim, to be sure, but the Government is not simple to sustain this case. The goods were entered at the port of New York. They were entered for this railroad company. They were transported under the warehouse act from New York to Toledo, a port of delivery. They were put in bond; and when they were withdrawn from the duties were obliged to be paid to the Government. Smith & Hunt were the special bonded warehousemen. They asserted that they had a lien for their warehouse dues. The Government asserted that it had a lien for its duties. As warehousemen, they undoubtedly could claim a lien for a certain amount of duties to the Government; those assigned, or they who entered the goods

at the port of New York, alone having that power. The lien, therefore, of the Government of the United States was at that time, as it always must be, in order to allow the Government to perform its functions, superior to the lien of any individuals, in whatever capacity they may be, and which

Mr. STEVENS, of Pennsylvania. Do I understand that this claim is simply for warehouse dues?

Mr. JOHN COCHRANE. For the charges that accrued to Smith & Hunt, and for which charges they professed to hold a lien, and to which charges they undoubtedly did hold a lien as against everybody except the United States.

Mr. STEVENS, of Pennsylvania. When they became, by their own consent, the owners of a warehouse, did they not convert the goods into the warehouse free from all that lien?

Mr. JOHN COCHRANE. No, sir.

Mr. UNDERWOOD. I desire to ask the gentleman—

Mr. JOHN COCHRANE. I cannot yield now. I am merely stating these facts in defense of my own vote; and after I have finished, I will answer the gentleman's questions.

Mr. UNDERWOOD. But the gentleman says that the Government of the United States had a superior lien. Now, does he hold that an individual lien is superior to the lien of the Government? Is the superior lien before he can take the property to satisfy his own lien?

Mr. JOHN COCHRANE. As an abstract question of law, the gentleman from Georgia is right; but if he will listen to what I have to say, he will understand that this proposition, as an equitable proposition, is equally as clear as the legal one which he has proposed for my consideration, namely: that if the Government possessed a lien, and used that lien designedly for the destruction of individual property, that Government should, by all rules, be obliged to compensate for the injury which it does.

Mr. SMITH, of Virginia. Will the gentleman say that the Government did this thing designedly?

Mr. JOHN COCHRANE. I must proceed with my statement of the facts of this case; which facts are necessary for a proper understanding of this case by the House. In reference to these custom-house laws, the laws of the land require reform, and demand reform, for they are oppressive and unjust to the people, and have caused great injuries done by the operation of these custom-house laws. Under this warehouse law, and the regulations of the Department which depend upon it, is it that the Government is authorized, in parts where there are no ports of delivery, to transport goods, and to make constructive warehouses along the route. And so all along the line of this railroad the Department were authorized to, and did, make constructive warehouses; so that, in fact, an ambulatory warehouse was all along the route of this railroad, and there were no laws of the company required that it should be created.

And thus it was, in passing this railroad iron from Toledo to Evansville and elsewhere, that the railroad iron was secured by the company itself and laid down upon the rail, and at the time it became a constructive warehouse along the route, these gentlemen here claiming relief was destroyed, even after the lien of the Government was destroyed by the payment of duties to the Government. I say this: that under the administration of the warehouse law, the Department unwarrantably creates these constructive warehouses along the route, and having done so in this instance, furnished an instrument in the hands of these bondholders, or the corporators of this railroad company, by which, having discharged the lien of the Government for their duties by the payment of them, they were enabled to make claims for the injury done by spiking the rails upon the road. This is the wrong done in this case. Therefore it was that I gave my assent to this bill; and although the lien of the Government is first in order, and should be discharged according to the laws of the land, yet that lien has been seen to be a constructive warehouse, and the Government having indicted a wrong, it should remedy that wrong.

Mr. WASHBURN, of Maine. Did not these gentlemen—Smith & Hunt—have such a lien upon the iron as to give them the right to pay the duties, in order to protect themselves?

Mr. JOHN COCHRANE. No, sir. If they

had that right and did not avail themselves of it, they would be no redress here.

Mr. WASHBURN, of Maine. It would seem that they had the right, by making a tender to the Government; and when they did that, their rights were superior to those of the Government; and when the Government, by its power, by its political force, took the iron from their hands, punishment, the Government became, not only equitable, but legally, liable to pay their bills. I understand these gentlemen did tender to the collector at Toledo the amount of duties due to the Government on the iron. They were the assignees; they were legally they had an interest in this iron; and they had the right, in order to protect themselves, to make a tender to the Government. They did so so; and from that time, it seems to me, that their rights were paramount to the rights of the Government.

Mr. JOHN COCHRANE. If the facts assumed by the gentleman from Maine be correct, there can be no doubt at all about this question; for in that case, the tender of the amount of the lien would be a discharge of the lien. But in this case, Smith & Hunt were not the persons who carried the goods in the port of New York; they were entered in the names of other persons, and these men were only special warehousemen.

Then, if that be right, the position which I originally took is the one which now presents itself to my consideration: whether the Government, having injuriously administered its right of lien, and its power over this merchandise, so that the apparent and legitimate lien of other parties was injured, should not in equity be held responsible for the loss sustained thereby.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

The question being on its passage,
Mr. WASHBURN, of Illinois. I have agreed that the yeas and nays shall be called on the passage of the bill.

Mr. BURNETT. I propose to the gentleman to let the vote first be taken by division, without calling the yeas and nays. Then, if any gentleman who can, we can have the yeas and nays.

Mr. WASHBURN, of Illinois. Very well. The question was taken by division, and the Speaker declared that the "yeas" had it.

Mr. BURNETT. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 48; as follows:

YEAS—Messrs. Adams, Adams, Aldrich, Allen, Ashley, Balch, Bangs, Barlow, Brainerd, Briggs, Bullfinch, Burck, Butterfield, Carter, John C. Calhoun, Colla, Cowley, Cox, James Craig, Curry, Deland, Duell, Dunn, Edgerly, Edwards, Elliot, Fly, Ferry, Ferguson, Foster, Frank, Gresham, Hale, Hall, Hattin, Hendrick, Howard, Hughes, Huclien, Francis W. Johnson, William Kellogg, DeWitt C. Leach, Loomis, Marston, Charles D. Rice, Maynard, McKelzie, Myers, Moorhead, Merrill, Moore, Nelson, Reed, Pettit, Potter, Potter, Postle, Rieker, Christopher Robinson, Royce, Schwartz, Scott, Sherman, Spalding, Spenser, Stanton, Ross, Tappan, Thayer, Young, Van, Trumbull, Van Wyck, Walden, Wallcut, Townsend, Washburn, Edwin B. Washburn, Tarant Washburn, Thomas Wells, Wilson, Windom, Woodruff, and Woodson—68.

NAYS—Messrs. Thomas L. Anderson, Ashmore, Branch, Briggs, Burdett, Burch, John C. Calhoun, Chandler, Conkling, Cory, Edmundson, Garrett, Garrett, Gilman, Hamilton, John T. Harris, Hindman, Howard, Hutcheson, James, Joseph, Jackson, Jones, Leach, Leach, Mallory, Elbert B. Martin, McVernard, Milson, Montgomery, Lohan T. Moore, Steadman, Stone, Niblack, Smith, Smith, George S. Rogers, James W. Rogers, William Smith, Stratford, Stevens, Stevenson, Stokes, Thomas, Underwood, and Vance—48.

So the bill was passed.

During the vote.
Mr. ASHMORE stated that Mr. KERR was paired off with Mr. STEVENS, of Pennsylvania, and Mr. BENHAM with Mr. OLIN.

Mr. BRANCH said: I ought to state that Mr. BURLINGAME was called out of the House to-day, and I agreed to pair with him on all questions, in a political character that might come up. Not considering this question a political one, I have voted myself. But I ought to make this statement in justice to Mr. BURLINGAME. It is on political questions that we are paired.

Mr. CRAWFORD stated that Mr. FARNSWORTH having been called away from the Hall on some necessary business, had asked him to pair off with him. That was the reason why [Mr. CRAWFORD] did not vote on this bill. If he had voted he should have voted "no."

Mr. CURTIS said: I have paired off on political questions. I do not know whether this is a motion or a matter of Mr. Hays, to print it was referred to the Committee on Printing.

Mr. DUNN stated that Mr. KILGORE was paired off with Mr. TAYLOR.

Mr. VAN WYCK stated that Mr. GRAHAM was paired with Mr. DANIEL.

Mr. FRANK stated that Mr. KENYON was paired.

Mr. OLIN moved to dispense with the reading of the names.

Mr. BRANCH. I object. This is on the passage of a bill, and the names should be read.

The vote was then announced, as above recorded.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. THEAKER, from the Committee on Enrolled Bills, reported that he had examined and found truly enrolled, bills of the following titles; when the Speaker signed the same:

An act (C. C. No. 12) for the relief of Moses Noble;

An act (C. C. No. 82) for the relief of Charles T. Scenic, administrator of Gilbert Stalker;

An act (C. C. No. 92) for the relief of Mariano G. Vallejo;

An act (C. C. No. 93) for the relief of Lydia Frazer, widow and administratrix of John Frazer, late of the city of New York;

An act (C. C. No. 96) for the relief of William Geiger; and

An act (H. R. No. 243) for the relief of the legal representatives of Charles Porterfield, deceased.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. James Buchanan, his Private Secretary, informing the House that he had approved and signed an act for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York; and a joint resolution constituting Macon, Georgia, a port of entry for the time being, for the purposes therein specified, and for other purposes.

JOHN SONDLERS.

Mr. GARTRELL. I move that the House do now adjourn.

Mr. SMITH, of Virginia. I ask the gentleman from Georgia to withdraw his motion for an instant.

Mr. GARTRELL. I will do so.

Mr. SMITH, of Virginia. There was a private bill before us yesterday (H. R. No. 312) granting a pension to John Sondler, and I objected to it. With a view to correct, if possible, the injustice I then perpetrated, I move to discharge the Committee of the Whole House from the further consideration of that bill, and to have it put upon its passage.

Mr. BURNETT. I do not recollect the case; but the gentleman ought not to have objected unless he had good reason for his objection; and if he had, he certainly ought not to come back now and ask to have the committee discharged.

Mr. SMITH, of Virginia. I misunderstood the case.

Mr. GARTRELL. I renew my motion to adjourn.

The motion was agreed to; and thereupon (at twelve o'clock and fifteen minutes, p. m.) the House adjourned till Monday.

IN SENATE.

Monday, April 9, 1860.

Prayer by the Chaplain, Rev. Dr. CUMLEY.

The Journal of Saturday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of Captain W. B. Franklin, in charge of the Capitol extension, made in compliance with a resolution of the Senate, on the feasibility and expense of moving the Senate Chamber from its present position, so that it will take in the win-

dows on the north end or east or west side of the Capitol; which was ordered to lie on the table, and a motion of Mr. Hays, to print it was referred to the Committee on Printing.

The VICE PRESIDENT also laid before the Senate a letter of the chief clerk of the Court of Claims, communicating, in compliance with a resolution of the Senate, the papers in the case of Augustus Steele; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. FORNEY, its Clerk, announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (No. 313) granting a pension to Abraham Crum;

A bill (No. 314) for the relief of Emma A. Wood, widow of the late Brevet Major George W. F. Wood, of the United States Army;

A bill (No. 319) granting a pension to Major John F. Hunter;

A bill (No. 318) for the relief of Andrew E. Marshall;

A bill (No. 320) for the relief of the heirs of Rev. James Craig, deceased;

A bill (No. 342) for the relief of James Phelan;

A bill (No. 344) for the relief of the legal representatives of Sylvester Day, late a surgeon in the United States Army;

A bill (No. 346) for the relief of the legal representatives of P. H. Hall, deceased;

A bill (No. 348) for the relief of Peter Rogerson & Son, of St. John's, Newfoundland, owners of the British brig Jessie; and

A bill (No. 317) for the relief of Smith & Hunt, of Toledo, Ohio.

The message further announced that the House had passed the bill of the Senate (No. 78) for the relief of Francis Huttonsman, with an amendment, in which the concurrence of the Senate was requested.

Also, that the House had passed the following bills of the Senate:

A bill (No. 89) for the relief of Tench Tilghman;

A bill (No. 126) for the relief of Thomas Fillebrown.

The message further announced that the House had ordered, on Saturday last, the 7th instant, at twelve o'clock and for the purpose, the printing of a letter from the Secretary of the Treasury, in answer to a resolution of the House called for a memoir and charts of Mississippi sound, and for information relative to appropriations for naval and military defenses of the Gulf coast of Mississippi.

PETITIONS AND MEMORIALS.

Mr. BROWN. I received from Dr. Charles B. New, of Mississippi, a series of resolutions which he represents to have passed and been adopted by a convention held at Nashville, on the 10th of October, 1859. Dr. New was a prominent member of that body. The convention was called for the purpose of taking into consideration the grievances of southern planters, especially the navigation of the Mississippi river, and the proper means for preventing the overflows that annually occur on that stream. Dr. New requests me to have these resolutions referred to a select committee.

I must decide complying with that request, and ask the Senate to receive the resolutions and communication, and I move to refer them to the Committee on Commerce.

The motion was agreed to.

Mr. FITZPATRICK presented the petition of Archibald G. Campbell, praying to be allowed to enter the northwest quarter of section thirty, in township eighteen, range nineteen, in the old Cahawba, now the Greenville, land district, in the State of Alabama, at \$1 25 per acre, or to take it up in a survey land warrants, which was referred to the Committee on Public Lands.

Mr. CAMERON presented a petition of members of the Senate of Pennsylvania, praying that a pension be granted to Mrs. Mary Bennett, widow of Captain Charles W. Bennett, late of the revenue service; which was referred to the Committee on Pensions.

Mr. SEWARD presented testimonials in favor of Captain George C. Stouffer, of the ship Antares, for his gallant conduct in rescuing the officers and soldiers of the Army and other passen-

gers from the sinking steamer San Francisco, in 1854; which were referred to the Committee on Naval Affairs.

He also presented a petition of Nathan Wilkins and others, praying that the heirs of the militia of the Indian war, and of the war of 1812, may be placed on the same footing in regard to bounty paid as those who served in the war with Mexico; which was referred to the Committee on Pensions.

He also presented a communication from Grinnell, Munroe & Co. and others, praying the amendment of "An Act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851; which was referred to the Committee on the Judiciary.

He also presented the petition of James A. Galloway and Lewis Kent, praying that pensions may be allowed the soldiers of the war of 1812; which was referred to the Committee on Pensions.

He also presented the petition of Francis Bates and others, praying that pensions be allowed to the survivors of the militia of the war of 1812, who served fourteen days, or were actually engaged in battle, and to the widows of those who have died or may hereafter die; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of Amory L. Babcock and others, citizens of Sherborn, Massachusetts, and the petition of Noah Field and others, citizens of Weymouth, Massachusetts, praying the repeal of the fugitive slave law of 1850, the abolition of slavery in the District of Columbia and in the United States Territory, the prohibition of the inter-State trade, and the passage of a resolution pledging Congress against the admission of any slave State into the Union, the acquisition of any slave Territory, and the employment of any slave by any agent, contractor, officer, or Department of the Federal Government; which were ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. FITCH, from the Committee on Printing, to whom was referred a motion to print the report of Captain W. B. Franklin, in charge of the Capitol extension, made in compliance with a resolution of the Senate, on the feasibility and expense of moving the Senate Chamber from its present position, so that it will take in the windows on the north end, and side of the Capitol, reported in favor of printing the usual number; and the report was agreed to.

He also, from the same committee, to whom was referred a motion to print the message of the President of the United States, communicating, in compliance with a resolution of the Senate, the correspondence between the judges of Utah and the Attorney General, with reference to the legal proceedings and condition of affairs in that Territory, reported in favor of printing the usual number; and the report was agreed to.

Mr. GRIMES, from the Committee on Pensions, to whom were referred papers in relation to the claim of Stephen Bunnell, a quartermaster's sergeant in the war of 1812, to a pension, asked to be discharged from their further consideration; which was agreed to.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 220) for the relief of Anson Dart, reported it without amendment.

Mr. LANE, The Committee on Public Lands, to whom was referred the bill (S. No. 145) making appropriations to supply a deficiency in the appropriations for the completion of the geographical survey of Oregon and Washington Territories, have directed me to report it without amendment. I ask that the papers accompanying the bill be printed.

The bill was read, and passed to a second reading; and the papers were ordered to be printed.

Mr. THOMSON, from the Committee on Pensions, to whom was referred the memorial of Nancy Stout, widow of Joseph Stout, a soldier in the war of the Revolution, praying to be allowed a pension, submitted an adverse report; which was ordered to be printed.

MICAHIAH HAWKES.

Mr. THOMSON. The Committee on Pensions, to whom was referred the House bill (No. 273) for the relief of Micajah Hawkes, have di-

rected me to report it without amendment, and recommend its passage. I shall be gratified if the Senate will take it up now, and put it on its passage. The Committee on Pensions have had the case before them heretofore, and made a favorable report.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 273) for the relief of Micajah Hawkes, which proposes to place his name on the invalid pension roll, at the rate of fifteen dollars a month, being half of his pay proper, to commence January 1, 1853, and continue during his natural life.

Mr. KING. In there a report in that case?

The VICE PRESIDENT. There is.

Mr. KING. Let it be read.

The Secretary commenced to read the report.

Mr. KING. I withdraw the call. I have heard a satisfactory explanation of the case.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN R. BARTLETT.

Mr. BRAGG. The Committee on Claims, to whom was referred the memorial of John R. Bartlett, late commissioner to run the boundary line between the United States and Mexico; and also the memorial of Thomas W. Tansil, late quartermaster of that commission, have instructed me to report a joint resolution. If there be no objection, I ask that the joint resolution be put on its passage now, as it merely refers this matter to the settlement of the Department of the Interior.

There being no objection, the joint resolution (S. No. 27) authorizing the settlement of the accounts of John R. Bartlett, late commissioner of the United States to run and mark the boundary line between the United States and Mexico, and for other purposes, was read twice, and considered as in Committee of the Whole.

It proposes to authorize the Secretary of the Interior to adjust the accounts of John R. Bartlett, late commissioner of the United States, under the treaty of Guadalupe Hidalgo, upon principles just, fair, and equitable to Bartlett and to the United States, and in conformity with the usage in such cases; and also to ascertain, in making the adjustment, whether Bartlett has received a credit in his account with the Government, and of the money of Guadalupe Hidalgo, if any, made by Thomas W. Tansil, late quartermaster, and commissary of the boundary commission, to officers and men in its employment, and claimed by Tansil to be due to him at the time of his turning over his transfer list of the officers and men, by order of Bartlett, to George W. Thurber, his successor; deducting from the amount such sums as have been paid to Tansil, so as to ascertain the balance, if any, due to him by Bartlett. On the adjustment of the accounts, the amount, if any, ascertained, is to be paid to him. If it shall appear that he has not received and satisfied any amount that may be ascertained to be due by him to Thomas W. Tansil.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CHICAGO HARBOR.

Mr. CLAY. On Friday last, when I was detained from the Senate by indisposition, the House resolution No. 11, being a resolution to provide for the manner of expending the balance of an appropriation for the works and piers in order to preserve and secure the light-house at Chicago, Illinois, was called up by the Senator from Illinois, [Mr. DOUGLAS], and was passed by the Senate. I presume the Senate did not at this time enter into the reasons; but I will do so to-morrow, with the indulgence of the Senate, in deference to the convenience of others.

Mr. DOUGLAS. I desire to state that before I came into the Senate on Friday morning, I received a message that there was a bill pending in which I felt an interest. I came in and made the motion to take up this joint resolution, without

noticing the absence of the Senator from Alabama. It occurred to me immediately after the resolution was passed, and on reflection I remembered, that I had made a personal request of him that he should not call it up for action in my absence. In view of that, I did not think it proper that it was not courteous for me to call it up in his absence. For this reason I feel bound to move a reconsideration, to give him an opportunity to submit his objections to it. Then I shall ask the Senate to make a test question against reconsideration; but I intend making the motion to reconsider the purpose of letting the question go over until to-morrow morning, when we can take the vote. I now move that the vote by which the resolution was passed be reconsidered.

The motion to reconsider was recorded; and, by common consent, it was passed over until to-morrow.

NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill for the more effectual suppression of the slave trade.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 385) to incorporate the Prospect Hill Cemetery; which was read twice by its title and referred to the Committee on the District of Columbia.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 386) explanatory of an act entitled "An act supplementary to an act to authorize notaries public to take and certify oaths, affirmations and acknowledgments in certain cases," passed twice by its title, and referred to the Committee on the Judiciary.

WASHINGTON JAIL.

Mr. HALE. I want to call the attention of the chairman of the Committee on the District of Columbia to a single fact. Some time since there was a resolution introduced into the Senate, and passed, instructing that committee to inquire into the state of the prison in this city. I have had occasion to visit it within a day or two; indeed, I did yesterday, and I do think that the prison of this city would be a disgrace to any savage people. I found it filled with blacks, from head to foot, from turret to foundation; and I suppose the fact that the arts and crafts of this city have failed to account for that; but, in the midst of all that, I found a white boy, about thirteen or fourteen years of age, a resident of this city, who, by the order of some justice, who, I suppose, thought there was a law for it, was taken from the protection of his mother, without the suspicion of crime or the allegation of it; but the justice thinks some two or three weeks hence he may have a justice's trial, in which it will be convenient to have this boy testify; and in this city, by order of law, that boy has been torn from the protection of his mother's house, and locked up in the midst of the crime and filth of the filthy jail that can be found on the face of God's earth, and that boy has to stay there for two or three weeks. That is the condition of this prison; and I do beg the Committee to take care that if they inquire, they will give some attention to it; and if the chairman of the committee is here, I wish he would inform us if there is to be anything done in that respect.

Mr. BROWN. I am ready to answer the inquiry of the Senator. The committee has, for several years had this subject under consideration, and have constantly agreed with the honorable Senator, and three or four times been prepared to report in favor of no appropriation for the construction of a new prison; but every time we get the question up we are met by some influence against building a house on the old site, or on any new site that we have been able to select. That is the trouble. If the outside influences were disregarded in the Senate, we should long since have settled this difficulty; but reports of Congress are born down by the influence brought in through members of this body. More than four years since—I think about five years, now—we reported an item in the appropriation bill in favor of constructing a new prison. It was attacked from every quarter; and there was no more to be got out of the old site; for that was offensive to everybody, and destroyed everybody's property. Then we

tried to have it put near the arsenal, where the penitentiary now stands; and we were not by any influence, saying that it would not do, because that ground was wanted for the arsenal extension. We then proposed to purchase a piece of ground. Everybody wanted to sell. We could not get from one place, because other people would come and say, "You pay that person too much;" and thus we were thwarted at every point, and have been since. If the Senate will agree to stand by the committee, you will have a proposition before you before to-morrow night to build a prison on a model plan—a proper one, such as ought to be erected; but we want to know, before we bring our report here, if these pestiferous outside influences are to overturn us, as they have done heretofore—not only on this question, but on half a dozen others. That is the whole case.

Mr. HAMLIN. I want to say a word about this jail. There has been a good deal of talking about it here. All that the chairman of the District Committee has said in relation to the efforts that have been made to make the jail is true; and we have had a great deal of patriotic indignation here about this jail. It is a very bad one, I agree; but I should like to have some gentlemen tell me what obligation we are under to build a jail here. I should like to have gentlemen tell me what obligation there is imposed on the General Government to expend his money dollars to build a jail for this District? When they answer me that question, I will go with them to build it.

Mr. BROWN. A single word. I know this discussion is out of order, but I will answer the honorable Senator from Maine why we are under an obligation to build it. The country that settles these people are our courts; the marshal and his deputies who take them into custody are our officers. The prisoners are fed at our expense, because they are arrested by our authority; and, being our prisoners, we are under an obligation, as the Government, to furnish a prison-house in which to incarcerate them, as much as for Portland is bound to furnish a jail there, or any county in the Senator's State is bound to furnish a jail. The Federal Government furnishes court-houses in all the States for the accommodation of its courts, and when the States refuse to receive prisoners, it is compelled in all the States to furnish its own prison-houses. There is the whole explanation. They are our prisoners. The Mayor of this city never sent a man to jail here in his life, nor did he order his local officers to go and men to lock-up in the city, to station-houses, and not to the county jail. Those who are sent to prison in this city are sent there by the authority of the Federal Government—by officers bearing its commission. Therefore, they are the prisoners of the United States; and the United States is as much bound to furnish a house in which to retain them as prisoners as it is to furnish houses in the States in which to try civil or criminal offenses.

FORT ATKINSON RESERVATION.

Mr. HARKAN. I move that the Senate take up the bill (S. No. 371) for the relief of certain settlers in the State of Iowa. This bill, as it is now proposed substantially, passed the Senate at the last session; and it will consume no time, I suppose.

The motion was agreed to; and the bill (S. No. 371) for the relief of certain settlers in the State of Iowa, was read the second time, and considered as in Committee of the Whole. It proposes to declare the east half of section eight, section seventeen, and the east half of section eighteen, in township ninety-six north, of range nine west, in the State of Iowa, formerly reserved for Fort Atkinson and an Indian agency, and since released and abandoned, as being no longer needed for public uses, to be subject to the ordinary disposition of the public lands, and the same conditions as are provided by law; and that such persons as may have hitherto settled thereon, and who would have been entitled to the right of preemption under the act of September 4, 1841, had the reservation not been made, be entitled to preemption in the same manner in accordance with the provisions of that act, by making proof, payment, and entry at the proper district office within twelve months.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CITY OF BATON ROUGE.

Mr. SLIDELL. I ask the indulgence of the Senate to take up a private bill that I am sure will not lead to any discussion when the bill is read, with the report of five or six lines. I move to take up the bill (S. No. 378) to relinquish the title of the United States to certain lands occupied by the city of Baton Rouge, in Louisiana.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. By the bill, all the right, title, interest, or claim of the United States in and to the land occupied by the city of Baton Rouge, lying between Florida street on the north and the South Boulevard on the south, as shown by an original map of the city, on file in the office of the clerk of the sixth judicial district court of Louisiana, at Baton Rouge, on the 14th of March, 1860, will be relinquished to the Mayor and Council of the city of Baton Rouge, in trust for the general use and benefit of the owners of lots therein, according to their respective interests. This act is only to be construed as a quit claim on the part of the United States, and is not to affect the interest of the parties, nor to preclude a judicial investigation in relation to the title to all or any portion of the lands relinquished.

Mr. SLIDELL. Let the Secretary read the report. It is very short.

The Secretary read the following report:

The Committee on Private Land Claims, to whom was referred the petition of the Mayor and Council of the city of Baton Rouge, have the honor to report:

That from the titles and documents produced by the petitioner, it appears that a considerable part of the city of Baton Rouge was laid out on certain lands granted by the French and Spanish Governments long anterior to the revolution of Louisiana to the United States; but that said grants never having been presented to any board of commissioners for confirmation, the lands still appear as public lands on the maps of the Land Office, and the claims are enforced by appropriations not for the city but for the interest of the United States, and it is recommended that appropriations that have been so made to Congress for the past several years be discontinued.

The Committee on the General Land Office, to whom the matter was referred for information by the committee, has drafted one answer for the purpose of putting an end to the matter, and it is recommended, approving the same, now recommended to pass.

Mr. KING. I should like to inquire whether this land has been used by the United States for any public purpose heretofore.

Mr. SLIDELL. Never. It forms part of the town of Baton Rouge. I suppose there are three or four different proprietors. It is an ancient title.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

RAILROAD LANDS IN ARKANSAS.

Mr. JOHNSON, of Arkansas. I am instructed by the Committee on Public Lands, to whom was referred a resolution of the Legislature of Arkansas, to report a bill, and ask that it be passed.

The bill (S. No. 387) for the relief of certain actual settlers on land granted to the State of Arkansas for railroad purposes, was read the first time, and ordered to a second reading.

Mr. JOHNSON, of Arkansas. I will state to the Senate that the bill relates entirely to lands that have already been granted to the State of Arkansas for railroad purposes. I will read the concluding part of a letter of the Commissioner of the General Land Office, which bears on the subject, so that the Senate may see what it is.

He says:
"I have before me herewith inclose the draft of a bill, in accordance with your request. The effect of this will be, if introduced into a law, to confirm the preemption rights upon the lands which were reserved for the purpose of 'marking the line of the roads on the face of the earth,' under the date of the filing of the maps or plats of survey of the line of the roads."

The bill provides that those parties who settled on lands upon the line of the Cairo and Fulton road, and were preparing for preemption, and have since, under the belief that they were entitled to them, matured those preemptions, and paid their money into the Treasury of the United States for the same, if it turns out they were previously granted to the railroad, shall be entitled to the land, provided the State of Arkansas will release her interest. If the bill is not passed, the parties who have paid into the Treasury of the United States for these lands the price asked by the Government, will have to call upon the Government to

refund their money to them. They will then lose all their improvements, and the benefit of all their labor go to the railroad company. I do not know that the act itself will be a welcome one to the stockholders in the railroad; because it calls on them to release their title to valuable lands, together with the improvements thereon, the labor of others have placed on them. I do not think it right, however, that the railroad should get the benefit of the labor of these people. The Government having already received pay for those lands, is only asked to consent to a release on the part of the State or her legal representatives, or in other words, the railroad stockholders, and to allow the railroad to take other lands in lieu—those other lands being specified. Where the lands thus released by the railroad company are within the six-mile grant, they are to take other lands within six miles in place of those released. Where the lands are outside of the six miles, and within the fifteen miles, then the railroad company may take lands within nine miles outside of the six in lieu of those they release, or may go out on any other of the public lands that are subject to private entry. These are the conditions of the bill. I ask that the Senate allow it to be passed. The Government loses nothing whatever by it.

The bill was read the second time, and considered as in Committee of the Whole. No amendment being proposed, it was reported to the Senate, ordered to be engrossed, read the third time, and passed.

CAPTURE OF MEXICAN STEAMERS.

Mr. SUMNER. I offer the following resolution, and, as I see the chairman of the Committee on Foreign Relations is not in his place, I merely offer the resolution, to lie on the table for the present:

Resolved, That the Committee on Foreign Relations be instructed to enquire by what title or title the steamship, or ship, or vessel, belonging to the United States, has undertaken, in time of peace, and without the sanction of Congress, to use force against the vessels of other nations, or of Mexican waters, and, after a bloody encounter, to capture the same, and bring them, so-prevented prize-of-war, into a port of the United States, looking to the capture of the same, and also to consider if any action of Congress be required to prevent the recurrence of such a collision and such mistaking to make prize of war and prisoners in time of peace.

M. C. GRITZER.

Mr. BIGLER. I move to take up the bill (S. No. 238) for the relief of M. C. Gritzer. It will take but a minute.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate \$379 77, to be paid to M. C. Gritzer, out of the patent fund, for compensation and damages on account of the rescinding by the Government of a contract made with the Commissioner of Patents, on the 30th of March, 1857, for the execution of descriptions and illustrations of the Patent Office report for that year, before the work was completed; this sum, if received, to be in full satisfaction for his claim under the contract.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DISTRICT BUSINESS.

The VICE PRESIDENT. The Chair must call up the special order at this hour, which is the unfinished business of Saturday. The Secretary will read the pending amendment.

Mr. BROWN. On Saturday we made a good many amendments to the railroad bill, which has complicated the question all the way through. I shall certainly not dispose of it before half past one o'clock, at which hour, I know the Senator from South Carolina desires to address the Senate; and I think, perhaps, the better way would be to postpone the further consideration of the bill until Saturday, and that the bill and amendments be printed, there have got to be so many of them, and they are so complicated. Senators say, "Do not take Saturday." I am sure I shall get no other day but that for the consideration of District business.

SEVERAL SENATORS. See Thursday.

Mr. BROWN. I am willing to take Thursday, if Senators will allow us to have it. Then, I propose Thursday, and that this bill and the other District bills be postponed until that day, and made the order of the day in the order in which they

impious ignorance bow to the wisdom of God's decrees?

Mr. President, we have seen what this spirit has accomplished for England; what it has accomplished for the race emancipated. Now let us see what it would do for the United States if the anti-slavery party can succeed. Let us regard this matter in relation to the northern States, the free States they are in a commercial aspect, and then in its effects on the industrial classes, the honest, hard-working men and women of the country.

I find from official authority that the exports of the country in the year 1859, were \$478,392,092. Of these, the

Free States furnished exclusively.....	\$5,981,490
Free and slave States together.....	\$4,417,492
Slave States exclusively.....	\$5,000,000

It is stated that one third of that eighty-four million justly belongs and should be credited to slave labor, or to the slave States, as they are called. Thus the value of the exports for the year 1859, from the slaveholding States, would be over two hundred million dollars.

The commercial and navigating interest of the country, which is almost entirely at the North, feeds, lives, and fattens on these exports. To what extent these branches of industry are involved, would be a question not only to those who are concerned. But, sir, in times past—in 1788—there were some wise men in New England, as there are some now. They understood this business; and I will ask to read from the debates of the Massachusetts convention, showing to what extent they regarded their interest involved in the carrying of the southern productions. I will ask my friend to read for me from Elliot's Debates, volume 2.

Mr. WIGFALL read, as follows:

"But it is not only our coasting trade—our whole commerce is going to ruin. Commerce has been established on a trade law, which shall continue the importation of foreign goods to the ships of the producing or consuming country. And such a law, we should not expect to be adopted for the good of our nation; nor would British vessels be the carriers of American produce from our sister States. In the States south of us, the largest share is agreed to be fourths of the produce are exported, and three fourths of the produce are made in British vessels. It is said that our exporting timber, our half the property goes to the carrier; and of the produce in general, it has been computed that, when it is shipped for London from a southern State to the sum of \$1,000,000, the British receive one fourth of the sum \$300,000, in the means of freight and charges. This is money which would be in the hands of England, more than the money which would be in the hands of the United States. It is said that the British receive as much more than the United States. —Extract from the speech of Mr. Dawes, in the Massachusetts Convention, Elliot's Debates on the Federal Constitution, vol. 2, p. 58.

Mr. CHESNUT, from a second extract from the speech of Mr. Phillips, a member from Boston:

"But we see the situation we are in. We are verging towards destruction, and every one must be sensible of it. I suppose the New England States have a treasure offed to them better than the mines of Peru; and it cannot be to the disadvantage of the southern States. Great Britain and France come here with their vessels, loaded with our carrying our produce to those countries in American vessels, navigated by our citizens. When I consider the extensive trade carried to the States south of us, and the commerce, viewing matters in this light, I would rather sink all this commerce to sea, than into the power should be withheld from Congress."

There was a Mr. Russell in that convention, who seemed to have a very lively conception of the benefits of this trade. After showing that the carrying trade would increase the navigation interests of New England, furnish a nursery of seamen, give employment to the people, &c.,

"There (he said) were some of the blessings anticipated from the adoption of the Federal Constitution; and so conceived was for its utility and necessity, that while he resisted them, the good of the country and the people might not be our dearest voice, if he was allowed, he would hold up both hands in favor of it; and he concluded, if his mind was not convinced to be true with his heart, in this all-important decision, he would cut it off as unworthy of him, and less it should infect his whole body."

—Idem, pp. 138. If you take the estimate furnished by Mr. Dawes, of one third, you would have as the profit of freights some sixty-six million dollars annually; but this is too large, for the North would not get it all. I have a closer and more correct estimate, which shows that the profit for the exportation of the produce of slave labor by the ships of the North amounts to \$36,000,000 annually. If you add the \$150,000,000 in value which the northern States sell in manufactured articles

to the South, or if you include the West, with another \$50,000,000, you have \$300,000,000 that the northern States sell annually to the South, the slave States, which slave labor enables them to buy. Add, also, the profits of the coasting trade, which are very great, and of which the North has a monopoly, and then superadd the bonus of \$50,000,000 annually which is derived from the importation of raw sugar, which is a small price of their manufactures to that amount, and you may have some conception of the importance of slavery and of the South to the people of the North.

Destroy these resources, and what becomes of the shipping, manufacturing, mercantile parts of your States, and of the vast interests dependent on them? One cannot fail to see at a glance. Now let us regard its effects on the industrial classes, individually, the honest hard-working men and women of the country. There are three articles of tropical production, chiefly of slave labor, which touch very closely the necessities and comforts of the laboring people of this country; and those are sugar, coffee, and cotton. The sugar consumed in the United States for the fiscal year 1858-59, was:

Of cane, by slave labor.....	950,007,863 lbs.
" by free labor.....	42,153,017 "
Domestic maple, and from Pa-	
ciety, (free).....	79,520,000 "
	1,072,330,880 "
Strike off slave-grown sugar.....	950,007,863 "

And there will be left..... 121,623,017 " in supply the wants of the country, and would be about one sixth of the necessary quantity. Nearly two thirds of this would be maple sugar. But if we regard the cane sugar alone—which is that chiefly fit for general use—and strike out that produced by slave labor, you will have about one twenty-fifth the quantity left in the country to supply its demand.

What effect this would have upon the enhanced price of this article, which has become such a necessity, as well as a luxury to the people, and how far it would be put out of the reach of the poor and laboring man, one may well imagine. We may from some distant shore, however, import to the United States of England in 1840. I quote from *Prior's Progress of the Nation*, page 547:

"The cost to the people of this country (England) of the differential duty on sugar, imposed for the benefit of the English sugar planters, is estimated to be £1,000,000, the cost, exclusive of duty, of three million seven hundred and sixty thousand seven hundred and ten hundred weight retained for consumption in 1848, was £2,136,375, calculated at the Atlantic average prices. The cost of a like quantity of Brazil or Havanna sugar, of equal quality, would have been £2,135,361, and, consequently, we paid in one year £1,001,694 (over twenty-five million dollars) more than the price which the inhabitants of other countries in Europe would have paid for an equal quantity of sugar. This, however, is an extreme view of the case. If our markets had been open to free trade to the sugar of all countries, the price of foreign sugar would have been lower than it is now, while that from the British possessions would have been lower; and it may be confidently said that, even in that case, the saving would have been more than four millions of money."

Thus, on a diminution of about one eighth of the supply, the cost was more than double. What the cost or the price would be if only one sixth of the supply in the country, I leave Senators to imagine.

The article of coffee furnishes a condition of things not less striking. The amount produced in the world, in the year 1859,

From slave labor.....	422,000,000 lbs.
From free labor.....	320,000,000 "

Total..... 742,000,000 " Amount of coffee consumed in the United States, in 1859, 222,882,550 lbs.; say, one third less than the whole production of free labor. Strike out the production of slave labor, and you leave a little more than enough to supply one single country. What would be the price of coffee, occasioned by a diminished supply of more than one half? Senators may well imagine, from what I have said in relation to the condition of affairs in England, in 1840, touching the cost of sugar. Those two articles may then be considered as beyond the reach of the every-day and hard laborer, when you abandon the products of slave labor.

In relation to cotton, it is still more striking. The amount produced in the world in 1858-59, not including local consumption, except in the United States, was, by slave labor:

	Bales.
United States.....	3,351,481
Brazil.....	125,000
	3,976,481
By free labor:	
East Indies.....	510,000
Egypt.....	101,000
West Indies.....	7,000
	618,000
Total.....	4,614,481

Consumption for same period:

United States, north of Virginia.....	769,218
Elsewhere in United States.....	167,433
	937,651

The remainder is consumed in other parts of the world.

Strike off that produced by slave labor, and the supply will not be sufficient even for the northern market.

Then strike out this article of cotton, with which sustaining humanity is enabled to clothe itself abundantly with decency and cheapness, and cease to consume the seven hundred and fifty thousand bales in your factories in the North, and thereby destroy the investments for that purpose, by which you are enabled to make profits and pay wages to the thousands dependent on them, and what becomes of the power, the prosperity, the respectability of your States? Your commerce gone, your ships decayed, your industry paralyzed, your people unemployed, or, if employed at all, pressed to the maximum of labor with the minimum of wages—thus deprived of the easy means of procuring the necessities and comforts of life: cursed by fanaticism, anarchy and demagogues come upon your ruin, grim ruin, gloom over your unhappy land—and why? Why do the anti-slavery party purpose a course so unchristian and destructive? Is it because slavery is a sin? Sir, it does not concern them under the provisions of our Constitution; they have naught to do with its intermeddling in self-righteous and unseemly; but if it is a sin, it concerns us much. I need not urge upon God his high regard for truth, and if you pursue your inquiry to its source, is it a sin? Do you say it is against the law of nature, which is the will of God? How do you get at the will of God in this particular? Do you go to His revealed word? Then I say to you, search the Scriptures, for they were written for your instruction, and if you pursue your inquiry to its source, is it a sin? Do you say it is against the law of nature, which is the will of God? How do you get at the will of God in this particular? Do you go to His revealed word? Then I say to you, search the Scriptures, for they were written for your instruction, and if you pursue your inquiry to its source, is it a sin? Do you say it is against the law of nature, which is the will of God? 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point you to Tunis; I point you among yourselves, compare the condition of the freed negroes morally, mentally, and physically, in the colonies, with the condition of the slaves here, and draw your own conclusions. In the general march of human progress there is no one interest of humanity which has advanced more rapidly than the institution of African slavery in the southern States. It has stood the test of every trial. In spite of the efforts of the anti-slavery party, so well calculated to retard its improvement, it has gone on improving and to improve, until its mission and its end shall be accomplished. Its mission is to subdue the unbroken regions of the warm and fertile South, and its end is the happiness and civilization of the human race, including the race of the slave, in all respects.

But, perhaps, some Senator, as I have heard already, perhaps some Senator, for my testimony, Now, Mr. President, for the impulses of the human heart, rightly instructed and educated, I have great sympathy and respect; but we are told that the human heart is "deceitful above all things, and desperately wicked," and when it is set on fire by the wind of passions, surely it is the most unwise and unsafe of all guides, and ought not to receive either sympathy or respect.

History and experience prove that the negro has now reached a new degree of civil liberty. His own good, as well as the good of the world, require that he should be guided and restrained. Yet the anti-slavery party weakly and wickedly attempt to force emancipation upon us.

But, Mr. President, it may seem strange that a Senator from the South should seek to advocate the interests of the North. The truth is good for all sections; and while I am not unwilling to contribute facts and arguments that may enable all to perform a common duty, I have a purpose beyond. I desire to show the world the wisdom and folly of the anti-slavery party. I desire to point out its tendencies to the people of my section. I desire to reassure the people of the South of its impregnable power. I desire to convince them of the capacity of our system to maintain its moderation and its moderation. I desire to show, from deep conviction, to say, that unless this madness shall cease, the sooner she puts herself on that reliance, the better for her, the better for civil liberty, and the better for mankind.

I have spoken hypothetically. I have supposed that this party shall be triumphant. I will now say that it cannot be triumphant. I will say to the anti-slavery party, you cannot abolish slavery; no, not though you have opened to you all the treasures of Exeter Hall. There is but one way by which you can abolish slavery; that is, to destroy your factories, burn your mills, and cease producing the products of slave labor, and induce England and other European Powers to do the like; desolate your country, and with it some others; and then you may. But you have not the nerve to do this. You cannot do it, and you cannot accomplish it in any other way. You may do that which is so disastrous to us, but fatal to you. You may destroy our system of governments, and my word for it, you will. Great Britain is not so ready at this time to make direct and destructive war on our system of slavery. It turns out that the combined production of free and slave labor is insufficient for the supply of the civilized world. The factories of Great Britain and her whole power and prosperity rest on it, and she knows it. She, therefore, cannot do it, and she gets her system of slavery fully developed, and then you may look for the blow. To show you that this is true, I will ask my friend to read an extract from British authority:

Mr. WIGFALL read, as follows:

"The entire failure of a cotton crop," says Mr. Ashurst, "which is ever over, would be a disaster, perhaps for ever, all the manufacturing power of the world, though the growth in any one year be only one million of bales of cotton. India, Egypt, and the United States, and all the cotton-growing countries would be involved in losses which, in many cases, would amount to irretrievable ruin. Millions of our consumers would become deprived of

employment and food—and, as a consequence, the million tons could, in a moment, be converted into a political, social, and commercial, such as cannot be compensated without active and direct aid."

These considerations strongly point to the necessity of encouraging the growth of cotton in the British colonies in India, in Africa, and in the West Indies, and the perils which we are to incur in our relying so exclusively for our supply, as we do at present, upon the products of African slavery.—*London Quarterly Review*, January, 1859, p. 4.

Mr. CHESNUT. Thus, Mr. President, it appears that while England is torturing her ingenuity to relieve herself of her dependence upon us, while she is resorting to every possible method to build up her own system of slavery in Africa, in Asia, in the West Indies, we find the anti-slavery party of America going hand in hand with her. We find the anti-slavery party of America doing all they can to destroy that which gives this country its commerce and power. It is not a fact that it does not occur to you that this party is, in effect, a foreign party? It is a British party; and if the people of the United States are so far afflicted as to aid in its success, may God have mercy on their faculty, for they know not what they do.

Mr. President, I have said in the preceding misconception of our system of governments might be found one of the important causes of the present unsatisfactory condition of the country. As to the foundation and principles of government, we differ far and wide. Our party in this country seems to hold that the Declaration of Independence is the basis of the Constitution, and argue as if the Federal Government derived its powers from that famous instrument, and was organized for the express purpose of carrying the same into effect. It may seem, still, it is not so, when the anti-slavery party generally come to speak of the powers and duties of the Government, in relation to the domestic affairs and social systems of the several States, they strangle their opinions, and argue on these about equal opinions.

The purposes of the Declaration of Independence were clear and specific; which were to announce an existing fact; and, in defence to the opinion of the world, to assign the reasons which induced and justified that fact. Besides this, it had no other end. It is true, still, it is a fact that that instrument saw fit to announce certain political and social dogmas, some of which are true and philosophic, while others, in the sense in which they seem to be understood and used by the anti-slavery party, are fantastic and false; yet they seize on that last and present them as indubitable evidence of the correctness of that theory which they advocate. By what authority the dogmas of the Declaration of Independence are made the basis of the Constitution, or how they are made as principles of the Government, I am unable to say. Those who take that course must prove a fact in contravention of history and in the face of well-established truth.

The Constitution rests upon no such rickety basis. It arose out of the necessities and convenience of the States. It was formed for a local purpose; which was, to institute a common Government for common purposes, practical and plainly apparent in the instrument itself. Although the States were free and independent, still they were feeble, and not much respected by the other Powers of the earth. In order to preserve the liberty and independence which they had so lately won, and to enjoy peacefully the incidents flowing from such a condition, it became necessary that they should unite more closely and concertedly their power, to be exercised in matters of foreign relations through a common agent.

The exterior relations among themselves were embarrassing, and forebadowed conflict and disaster. Hence, also, it became both convenient and necessary, for the continuance of peace among the States of this kind, that they should be regulated and controlled by the same common agent. In all matters arising under these two relations, it was supposed that the common agent could exercise the combined powers of the States more conveniently and beneficially than each State could for itself. To accomplish this, the Constitution was

adopted which formed the Government. To carry into effect these objects was and is the main purpose of the Government. The interior and domestic affairs of the States were never intended to be affected by it, except in special cases provided, or in so far as as the proper exercise of the powers granted to the common Government would necessarily do so. The majority of the States in the fundamental idea, and the relation which the State governments and the Federal Government bear to each other is not that of inferior to subordinate, but as parts of one system, deriving their powers from the same source; namely, the people of the States severally. The people of each State has two governments, neither complete, inasmuch as it exercises a portion of its sovereign powers through one separately, and another portion conjointly, by agreement with other States through another power; namely, the Federal Government, its appointed spheres, and within the limitations, exercise the sum of powers that constitutes a complete Government.

But sovereignty resides neither of these Governments. They exercise only the powers delegated to each respectively. It is not a sovereignty in each of the several States, which initiated both, precisely in the same manner and to the same extent as it did before the adoption of the Constitution. The people of each of the several States, therefore, can, in no manner, be delegated to either or both. This results from the sovereignty of the States and the nature of the compact between them. I use the words "States" and "people of the States," in this connection, in the same sense.

From this doctrine it results that the Constitution rests on the will of the States; and that the Government formed by it is purely Federal—can have no other purposes, powers, or principles, than those derived from the Constitution itself; which are all delegated, defined, and limited. What the States intended to do, and what they did not intend to do, they did not intend and did not agree to cannot be imported; and I feel a curiosity to see how any one of the Republican party can point out in the Constitution, as among the delegated, defined, and limited powers of the Government, their favorite and fantastic dogmas announced in the Declaration of Independence.

There are yet others of the anti-slavery party, embracing in their number many able and distinguished men—chiefly those who have rescued themselves from the wreck of the old Whig party, by uniting their fortunes with a more promising cause. These, while they agree with us as to the history of the Constitution, do nevertheless hold, that by ratifying it, the States surrendered their sovereignty, at least to the extent of the delegated powers, which are irrevocable; that the Federal Government is that of a single unit, extending over all the people of the United States as a single community, united socially, and not politically, as States; that the Government therefore has national and not Federal powers; that the exercise of the extent of its own powers, and has the right by force of arms to exact obedience to such interpretation from the States who made it. They deny that the several States who are the custodians of the record, as the Federal Government, the delegated powers, have any right to judge of the infractions of the Constitution, and the mode and measure of redress. If I had time, I would go into a complete and full refutation of all these fallacies; but it is not now in the line of my purpose to argue them. Perhaps it may become proper to mention another occasion.

These doctrines break down all the barriers of the Constitution, and prostrate the States, consolidate the Government, and enable it, by construction, to absorb all of the reserved powers. Instead of a Federal Government, as intended by specific purposes, with its powers defined and strictly limited, it becomes a Government for any and every purpose that a majority may desire. In fact, its purpose and character being entirely changed, it is a mischievous and odious despotism; the meanest and most hateful of all—a vulgar despot.

ism of mere numbers. Beneath the incubus of such a monster civil liberty would die in a day.

The theory which holds that the dogmas of the Declaration of Independence are the principles and powers of the Government, and the theory which consolidates the Government, which holds that we are united socially as one people, and therefore may rightfully intermeddle with each other's concerns, and by construction would permit majorities to extend the action of the Government beyond the limits defined by the Constitution, leave the amplest scope for the violent clash of all those adverse opinions pertaining solely to the social system and domestic affairs of the several States—the shock of which now shakes the Confederacy from center to circumference; whereas the true view would confine all conflicts to political questions arising under the Constitution, and legitimately within the sphere of the common Government.

If the people of New England and Ohio and other States could but understand the true relations of the States to each other, and of the Federal Government to the States; that outside of the purposes of the Government, and beyond the powers expressly enumerated in the Constitution, they are, in fact, as foreign to each other as are Great Britain and France; and would demean themselves in accordance with the logic of such a belief, peace might be restored, and our system of governments, like the great system above, move harmoniously on, yielding daily light and life and happiness for generations to come. But this may not be.

The idea that there exists an "irrepressible conflict" between the two systems of labor prevailing in the States, is fanciful and superficial. No such conflict exists. On the contrary, the two systems mutually aid each other. There is, however, a conflict—a conflict of ideas irreconcilable. The opinions of those who give life and energy to the anti-slavery party touch the very life of the society, the relations of man to both and to each other, are radical and revolutionary. If these prevail, there can be no peace, North or South; for they are bred in confusion, and will develop anarchy. These gentlemen seem to believe that the Government may be improved into a sort of machinery which is invented, can be patented, and may be made in the same mould to suit the customers of every clime, whether of Asia, Africa, Europe, or America. They argue as if society was the artificial, and not the natural, system. Hence they speak of the natural rights as matters outside of, and in antagonism to, the claims of society, and of which society deprives him.

According to this theory, his relation to society and government is naturally one of war. Thus they would lay the foundations of government in anarchy. This fatal error arises, too, out of the untenable postulate that all men, under all governments, are naturally and equally entitled to liberty, without reference to the well-being of society or to their own future enjoyment of power. It is thus in the very face of history, in the face of nature, and in contravention to the every day experience of the world, they hold "that all men are created equal; that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness." Let us see whether these rights are original, absolute, and unlimited, or qualified, relative, and subordinate. That all men are not created equal, especially the negro, as compared with the white man, I think our opponents begin to see, and are partially inclined to admit. I draw this inference from certain passages in the speeches of the Senator from Illinois [Mr. TRUMBULL] and the Senator from New York [Mr. SEWARD].

First, the Senator from Illinois holds this language in a speech which he delivered here early in the session; he confesses the inequality of the races, in my judgment:

"I know that there is a distinction between two races, because the Almighty himself has marked it in their very faces, and in any judgment which is not otherwise, produce perfect equality between these races."

The inference I draw from that is, that the Senator from Illinois begins to see, and is inclined to admit, that the African is not the same as the white man. I also quote from the Senator from New York a passage, which I think points to the same conclusion. He says:

"Suppose we had the power to change your social system: what warrant have you for supposing that we should create negro equality among you? We cannot, and would not. We will only give level, that the equality which our system of labor works out is the equality of the white man."

In the South the equality of the white man is already established. It is not the equality of the negro that the system works out. I infer from that, that the Senator from New York begins to see the inequality of the races, and is inclined to admit it. I therefore pass over that subject; take it for granted that mankind are not equal, because the fact states them in the face. We have only to make profert. Bring one of each into court, and who acknowledges the equality? No one.

That all men are endowed with life is unquestionable; but whether it may be rightfully taken away, without the consent of its possessor, is another question. This goes to the root of society. Its well-being, its preservation, upon which the existence and development of the human race depend, often require that it should be done. Hence it is done in every age, in all countries, and under every form of government, it has been done. Thus we have the testimony of all ages and all mankind that even this precious boon may become rightfully aliened or taken away, and is made subservient to the safety and well-being of society.

When gentlemen affirm this inalienable right to liberty, what do they mean? Do they predicate this right of man in a condition of absolute solitude, and disconnected from human society and all government? If they do this, we can have no quarrel with them, for they speak of a condition in which man has never been found in history, and in which he cannot exist. Their argument, therefore, must be inconsequential and futile. But if they affirm this as a perfect right in a political condition, and thus speak of civil liberty, their assumption is no less absurd. The idea of civil liberty is complex. It embraces not only the liberty of the individual, but also the civil and political idea. It comprehends grants and restrictions, and the rights and duties of the citizen. In fact, the liberty of the citizen springs out of, and is wholly dependent on, constitution and government. To assert, therefore, that liberty thus derived and thus sustained is an original, independent endowment, which cannot be rightfully taken away, is to assert an absurdity.

We hold to the teaching of the great Saggiere, that as the human race cannot exist, continue, or develop without society, no society without government, and hence the political, including the social, is the natural condition of man. It is never otherwise found. The individual, therefore, must be subordinate to the social, and government may rightfully exercise just so much power as is necessary to secure peace and internal violence and injury. And the citizen ought to possess as much liberty as he is fit to enjoy, and as may be consistent with the well-being of the State.

I will not leave here to read an extract from Mr. Calhoun, which, pursuing the idea of Aristotle, shows the limits of comprehensibility, yet so succinctly and clearly, that I will adopt it:

"It follows from all this that the quantum of power on the part of the Government, and of liberty on the part of individuals, instead of being equal to each other, according to their different conditions. For, just in proportion as a people are ignorant, stupid, and vicious, the power necessary for their governance in peace, in order to preserve society against anarchy and destruction, and to secure the greatest and individual liberty less and less, until the lowest condition is reached—where absolute and despotic power becomes necessary on the part of the Government, and the citizen liberty extinct. So, on the contrary, just as a people rise in the scale of intelligence, virtue, and patriotism, and the more perfectly they become acquainted with the nature of Government, the less for which it was ordered, and less it ought to be administered, and the less the tendency to anarchy and disorder, the more necessary and the power necessary for Government becomes less and less, and individual liberty greater and greater. Instead, then, of the equal right to liberty, equality is claimed by those who hold that they are all born free and equal, liberty is the noble and highest reward of the noble and moral development, combined with favorable circumstances. Instead, then, of liberty and equality being born with men, instead of all men and all citizens being equally entitled to them, they are high prizes to be won, and are in their most perfect state not

only the highest reward that can be bestowed on our race, but the most difficult to be won, and when won, the most difficult to be preserved."

Mr. CHESnut. Here, Mr. President, is a theory of government comprehensive and just; the only theory upon which any free Government can permanently maintain liberty. It is the basis of that system of freedom which prevails in these States, and the social policy which makes England a great and free country; it is the system on which the British constitution rests, and no other system can ever be permanent, exist where it will.

But, again; when gentlemen affirm a right to the pursuit of happiness as an original endowment, what do they mean? Is happiness to be alienated or rightfully taken away, what do they mean? Do they mean to assert that every man may, at his will, pursue his notion of happiness without restraint of human law, or regard to the well-being of society? If so, where will it lead? Men often form their ideas of happiness. The happiness of many, it is true, consists in pursuit of noble, useful, and innocent employments. Such have a right to pursue them. But the happiness of some men consists in turbulence and brutality; some in carnage; others love self; some in idleness, in ease, while others seek happiness in the bold walks of highway plunder; while some, again, revel in revenge, treason, and murder. Ay, pursue your happiness, gentlemen, all, without restraint of human law. You but exercise a God-given right, which is the doctrine for the race of Browns, with pike, and torch, and flaming hate!

But, gentlemen, you do not mean this. You cannot. You are compelled to take these rights with our interpretation, and with the limitations and restraints which are the basis of human law and human life. But if you do this, you are honestly bound to cease to produce them in proof and reproof against us.

Mr. President, a notable experiment of these principles of unqualified liberty, fraternity, and equality, "has been tried in the world. We have seen constitution and government improvised by philosophy, but "the constitution would not walk." Philosophers could not make the men to live under it. These men required a government growing out of their passions, and capacities. So they trampled on the pearl of philosophy, and soon turned to rend the philosophers. Thus will it ever be. The government must grow and be suited to the people. With these wild ideas, the men of France, no matter how wise, and how virtuous, very soon for a little while. All barriers, all Nationalities, all restrictions were broken down—the world was one. *Le genre humain* was the only bond, and *le genre humain* of all races, colors, classes, and costumes, showed themselves very joyous—almost exultant—at a feast of pillage and blood. But when they were led on by Anarchists Cloutz. Notable Anarchists! Glorious Cloutz!—type of man which is to be seen again in America. Happy men! for they were all free and equal, and fraternized. They were all free and equal, and fraternized. And this time mixed with women, in long queues, swinging to and fro from the doors of all the baker's shops in the city, crying "Bread or blood!" Was such cry ever heard in American city? How ominous!

Liberty and equality, liberty and equality, fraternal and fraternal. Henceforth fraternity disappears; but, happy men, they are all free and equal; free at least to drink each other's blood, and equal in diabolical atrocity. And is this all liberty, fraternity, and equality can accomplish? Has been a guide and chastener of man's savage heart, pure religion? Can not these new-born principles do something for that? Yes; do not see them bring the painted courtesan—symbol of divine renege—which they have made a bodily renege? Happy men! Are they not still free and equal? Ah, but they have not witnessed the new type—symbol of the anti-slavery God, emblem of murder and treason—the gallows, now higher and holier than the cross.

The truth must not be blind-like causes will prevail. Happy men. Are not these same ideas of unqualified liberty, fraternity and equality, communism, agrarianism and infidelity, now sedulously and thick throughout the literature and teachings and preachings of the anti-slavery party of the North? You may depend upon it, gentle-

men, these seeds will spring up and bear bitter fruit for you.

I cannot erase from my mind the impressions made by events and the condition of things around me. I believe that the active, characteristic principles of the Republican party of this day in America are identical with the Bed Republicanism of France. Here it has changed its complexion. "It has blacked its face," that is all. If these ideas of which we have been speaking are pressed into action—nay, more, if they be not speedily arrested and made to atone, civil liberty dies when they triumph, and our system of government ends. Then, gentlemen, too late will come your lamentations—as come they surely will. You will be held as "false theorists of false liberty"—hollow chanters over the ashes of a dead Republic, "destroyed by yourselves."

In such an event I will feel some consolation, arising from the belief that we have done our duty, and from a deep conviction that the South, under wise counsel and firm action, can hold these principles at bay; that she will weather the storm, and be able to reconstruct the temple of her safety on a firm and enduring basis.

Mr. CLINGMAN. I thought, Mr. President, of saying something about these resolutions at some time or other. I do not like, though, to weary the Senate; and, indeed, I am not anxious about the peculiar time. I thought of asking the Senate to allow me to make a short explanation of my views on this subject before the vote is taken. I do not know what is the wish of Senators. I am ready to acquiesce in it, whatever it may be.

Mr. CLAY. I suggest to the Senator from North Carolina that, as the author of the resolutions is not here—he is detained, as he is probably advised, by serious indisposition—it would be better just to let them lie over. They can be called out at any time. I think they will be here to-morrow, unless something should occur to prevent it. They may go over without any formal assignment of them.

Mr. CLINGMAN. If it is understood that I do not lose my right to keep the floor by that course, I have no objection to it.

Mr. CLAY. That will be according to you, no doubt.

Mr. CLINGMAN. I would rather know, however. We shall ascertain to-morrow, though, what the result of the resolutions does or does not do.

Mr. CLAY. If any other person be prepared to go on now, I suggest to the Senator to let him do so; or if the Senator himself is prepared, let him go on now.

Mr. WADE. I barely wish to say that I am anxious for a vote on the homestead bill; and to-morrow I shall feel it my duty, if no other Senator moves to take it up, to move to take it up, and, if I can, to keep it before the Senate until we dispose of it.

Mr. CLINGMAN. I yield to the suggestion of the Senator from Alabama. Indeed, I prefer, in what I have to say, that the Senator from Mississippi should be here. I think that is all right. I will consent to that course, if it is agreeable.

Mr. WIGFALL. I beg leave to introduce a bill, and ask its speedy printing.

THE PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The resolutions under consideration must be first disposed of.

Mr. CLAY. I move to lay them on the table for the present, so that they may be called up at any time.

The motion was agreed to.

THE HOMESTEAD BILL.

Mr. WIGFALL. I ask leave to introduce a bill, as an amendment to the homestead bill, and I ask that it be printed for the use of the Senate.

Mr. CLAY. I have an amendment which I intend to offer to the homestead bill. I intend to offer it as a substitute for the whole bill. It is substantially a bill to cede the public lands within the limits of the land States on certain conditions therein mentioned. It is one which I think the representatives from all the land States may well vote for in preference to any other proposition which has been made, and it is one which I think the representatives of the old States should greatly prefer to the homestead policy, and by which it is proposed to obtain something to the Treasury from the public lands. I move that it be printed.

Mr. PUGH. The Committee on Public Lands already have this subject of ceding the lands to the States under consideration, by virtue of a resolution of the Senate. I would suggest to my friend from Texas, and my friend from Alabama, that their bills be read by their titles twice, and referred to that committee and printed. They are then both in the power of the committee under that resolution, and it will be in the power of the Senators to offer them as amendments.

Mr. CLAY. I would accede to that proposition of the Senator from Ohio, if the Senate would receive the homestead bill along with them; but I do not want to bury my bill in the Committee on Public Lands while you are passing the homestead bill.

Mr. PUGH. The Senator can move to have his bill printed, and then can offer the printed copy as a substitute for the homestead bill. My object is, in case the homestead should be defeated, or substantially amended, that the committee may not lose their hold on the question in that phase.

Mr. CLAY. I will have no objection, if it was as simple as I have referred to the same one. If I lose none of my rights, by the reference of the bill to the Committee on Public Lands, I shall not object.

Mr. PUGH. Certainly not. I ask that the bill be read twice by their titles, and referred to the Committee on Public Lands, and both printed.

The bill of Mr. WIGFALL (S. No. 388) to dispose of the public lands in the States, and the bill of Mr. CLAY (S. No. 389) to cede the public lands within the limits of the land States, on certain conditions therein mentioned, were severally read twice by their titles, and referred to the Committee on Public Lands.

Mr. PUGH. I move that the bills be printed. The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. FORTNEY, its Clerk, announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President.

A bill (S. No. 250) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P. Taylor;

A bill (S. No. 233) for the relief of Alice Hunt, widow of the late Henry Hunt;

A bill (S. No. 71) for the relief of the American Board of Commissioners for Foreign Missions.

ORDER OF BUSINESS.

Mr. HUNTER. I now move to postpone all prior orders for the purpose of taking up the Indian appropriation bill. My object is to make what progress we can this evening, and have it the first business in order for to-morrow.

Mr. WADE. I hope that motion will not prevail, for I am very anxious to dispose of the homestead bill. I do not believe there will be any great debate on the subject; I believe those in favor of the bill do not wish to debate it, and I am anxious for a vote on it, and if this motion does not prevail, I will not make that bill up; and I call for the yeas and nays on the motion to take up the Indian appropriation bill.

Mr. JOHNSON, of Tennessee. What is the question before the Senate?

THE PRESIDING OFFICER. To postpone all prior orders.

Mr. JOHNSON, of Tennessee. That is the motion; but in the absence of that motion, what would be before the Senate? I understand the homestead bill was left as the unfinished business on Thursday, and would come properly before the Senate now.

Mr. CLAY. I think the unfinished business is the bill to grant a pension to Mrs. Humber. Mr. HUNTER. I hope the motion will be put, no matter what the unfinished business may be. If my motion succeeds, the Indian appropriation bill will come up.

THE PRESIDING OFFICER. (Mr. POE.) The Chair will say to the Senator from Tennessee that the bill indicated by the Senator from Alabama is the first business in order.

Mr. CLAY. That is the unfinished business. Mr. JOHNSON. Do I understand you to stand the Chair to say, that when business is taken up on private bill day, a private bill which

is left unfinished supersedes public business on Monday?

Mr. CLAY. You are mistaken. The facts are these: prior to taking up the resolutions of the Senator from Mississippi, which were discussed by the Senator from South Carolina, on motion, the Senate took up a bill to grant a pension to Mrs. Laura C. Humber, the mother-in-law, and while that was under discussion, the hour arrived for the special order, and thereupon the Chair called up the special order, and the bill for the relief of Mrs. Humber was not disposed of; hence it is the unfinished business, and first in order.

Mr. JOHNSON, of Tennessee. It would be the unfinished business of the morning hour, but not the unfinished business of Thursday last, which now comes up in regular order.

Mr. CLAY. It was not taken up in the morning hour. It was at half past one o'clock. The bill was being discussed when it went over.

Mr. JOHNSON, of Tennessee. I understand the motion before the Senate to be to postpone all prior orders, and take up the Indian appropriation bill.

THE PRESIDING OFFICER. That is the motion made by the Senator from Virginia.

Mr. JOHNSON, of Tennessee. I have only a word to say. The homestead proposition has been before the country for years. It was introduced at an early day of this session. The friends of the measure have given their attention to it, and others on the right and on the left, I think, the time has arrived when we ought to have definite action on the subject. It is proposed to take up the Indian appropriation bill. Is there anything in relation to it that is so pressing on the country? It makes appropriations for the next fiscal year, commencing the 1st of July, 1860. If you pass the bill to-day, it makes no appropriations contingent to meet any emergency now existing; but they commence on the 1st of July next.

But, it seems to me a measure of so much importance as the homestead proposition, affecting thousands, not to say millions, demands as much consideration as appropriation bills which will carry themselves through by their specific gravity. If the Committee on Finance was to throw itself against them and resist their passage, they would pass themselves lives through this House. There is no danger of the appropriation bills. Whenever you want to take money out of the Treasury, to appropriate millions out of the people's pockets, there is no difficulty in getting the appropriation scrip through. Why, then, press them with so much pertinacity to the exclusion of all other bills?

THE PRESIDING OFFICER. The question is on the motion of the Senator from Virginia, to postpone all prior orders for the purpose of taking up the Indian appropriation bill.

Mr. WADE. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 24; as follows:

YEAS—Messrs. Benjamin, Briggs, Brown, Chesnut, Clay, Claiborne, Crittenden, Edwards, Hammond, Hemphill, Hunter, Iverson, Johnson of Arkansas, Kennedy, Lane, Latham, Mason, Polk, Powell, Sebastian, Sill, Tillam, Van Dusen, and Wilson.

NAYS—Messrs. Anthony, Bingham, Candler, Clark, Colburn, Doolittle, Durkee, Fessenden, Fox, Foster, Grimes, Harlan, Johnson of Tennessee, King, Nicholson, Pugh, Rice, Shepard, Simmons, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—24.

So the motion was not agreed to.

THE PRESIDING OFFICER. The unfinished business at the time the Senate proceeded to the consideration of the special order was a bill called up on motion of the Senator from Alabama; and that is now the question before the Senate.

Mr. WADE. I move now to postpone all prior orders, and take up the homestead bill of the House of Representatives.

Mr. CLAY. I trust the Senate will dispatch this little bill. It is one which I am sure appeals as strongly to the justice and more strongly to the charity of the Senate than any which has been considered here for a long time.

Mr. MASON. I ask for the yeas and nays on the motion of the Senator from Ohio.

The yeas and nays were ordered.

Mr. HEMPHILL. I paired off with the Senator from Minnesota. (Mr. WILSON.) Do you believe I have given one vote. I shall not vote now, having paired.

The question being taken by yeas and nays, resulted—yeas 26, nays 22; as follows:

YEAS—Messrs. Anthony, Bingham, Chandler, Clark, Doolittle, Douglas, Durkee, Fessenden, Fish, Ford, Foster, Grimes, Hale, Harlan, Johnson of Tennessee, King, Nicholson, Pugh, Rice, Stewart, Sumner, Sumner, Ten Eyck, Trumbull, Wallis, and Wilson—26.

NAYS—Messrs. Benjamin, Briggs, Brown, Chas. C. Clay, Cleggman, Crittenden, Davis, Fitzpatrick, Hammond, Hunter, Iverson, Johnson of Arkansas, Kennedy, Lane, Morgan, Polk, Powell, Sebastian, Sibley, Thompson, and Wigfall—22.

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 280) to secure homesteads to actual settlers on the public domain.

MR. THOMSON. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, April 9, 1860.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. Thomas H. Stockton.

The Journal of Saturday was read and approved.

ALEXANDER THOMPSON.

MR. PETTIT. On Friday last, House bill No. 567, for the relief of Alexander Thompson, late consul to Maranhão, Brazil, was ordered to be referred to the Committee on Commerce. It appears by the Journal, that it was erroneously referred to the Committee on Foreign Affairs. I ask that the correction be made.

It was so ordered.

BILLS ON LEAVE.

The **SPEAKER**, Under the rule, the Chair will now proceed to call the States and Territories for the introduction of bills on leave, commencing with the Territory of Nebraska.

WAGON ROADS IN OREGON.

MR. STOUT introduced a bill making a grant of lands, in alternate sections, to the State of Oregon, to aid in the construction of certain wagon roads therein; which was read a first and second time, and referred to the Committee on Public Lands.

SIMON GONOR'S HEIRS.

MR. BOULIGNY introduced a bill confirming the claim of the heirs, legal representatives, and assigns of Simon Gonor to a tract of land; which was read a first and second time, and referred to the Committee on Private Land Claims.

J. F. POIRET'S HEIRS.

MR. BOULIGNY also introduced a bill confirming the claim of the heirs, legal representatives, and assigns of Jean Florentine Poiret, (P. P. C.) to a tract of land; which was read a first and second time, and referred to the Committee on Private Land Claims.

COMPENSATION OF MEMBERS OF CONGRESS.

MR. LEACH, of North Carolina, introduced a bill to repeal an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856; which was read a first and second time, and referred to the Committee on Mileage.

CHARLES RADCLIFF.

MR. WELLS introduced a bill for the relief of Charles Radcliff; which was read a first and second time, and referred to the Committee of Claims.

PASSENGERS AND FREIGHT.

MR. JOHN COCHRANE introduced a bill for excluding all Government vessels, foreign or otherwise, from carrying passengers or freight, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

BREAKWATERS AT BUFFALO AND OSWEGO.

MR. SPAULDING introduced a bill to authorize the payment to the State of New York of expenses of the construction of the breakwaters at Buffalo and Oswego; which was read a first and second time, and referred to the Committee on Commerce.

DAKOTAH LAND DISTRICT.

MR. THIAYER introduced a bill to constitute the Dakota land district, and to provide for the

admission to the House of Representatives of a Delegate therefrom; which was read a first and second time, and referred to the Committee on Public Lands.

MR. GROW. I move to reconsider the vote by which that bill was referred to the Committee on Public Lands. It should go to the Committee on Territories.

If I understand it, it proposes to organize a Territory.

MR. THIAYER. It does not propose to organize a Territory. It is to provide for the sale of the public lands.

MR. GROW. Very well. Then I will withdraw my motion.

The **SPEAKER**, By express rule, the motion to reconsider would not be in order.

MICHAEL L. BAILEY.

MR. MORRILL introduced a bill granting a pension to Michael L. Bailey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

PENSION BILL.

MR. WASHBURN, of Maine, introduced a bill giving full pay pensions to the widows of officers, seamen, and marines, who have died or may die in consequence of wounds or injuries received while in the public service; which was read a first and second time, and referred to the Committee on Naval Affairs.

The **SPEAKER** having concluded the call for bills on leave, proceeded to call the States and Territories for resolutions, beginning with the Territory of Kansas.

SURVEYOR GENERAL OF WASHINGTON.

MR. STEVENS, of Washington, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of retaining the salary of the surveyor general of Washington Territory, re-elected on the 1st of March, 1859, and to report by bill or otherwise.

BOUNDARIES OF CALIFORNIA.

MR. SCOTT, by unanimous consent, introduced a bill to authorize the President of the United States to enter into a convention with the State of California, to run and mark the boundary lines between the territories of the United States and the State of California; which was read a first and second time, and referred to the Committee on Territories.

ARTHUR EDWARDS AND ASSOCIATES.

MR. LEACH, of Michigan, submitted the following resolution; upon which he demanded the previous question:

Resolved, That the Committee of the Whole on the Private Calendar be discharged from the further consideration of Senate bill No. 39, being a bill for the relief of Arthur Edwards and associates, and that the same be considered as if it had failed.

MR. HOUSTON. I desire to know whether it will not take two thirds to discharge the Committee of the Whole House from the consideration of that bill?

The **SPEAKER**. It will take a two-thirds vote to pass the resolution, as the Chair understands.

MR. HOUSTON. I should like to have the bill and report read.

The bill was read. It directs the Postmaster General to audit and settle the account of Arthur Edwards and his associates, for transporting the United States through mail, in their steamers, during the years 1849 and 1853, and intervening years, from Cleveland, in Ohio, to Detroit, in Michigan, and from Detroit to Cleveland; from Sandusky, in Ohio, to Detroit, in Michigan, and from Detroit to Sandusky; and from Toledo, in Ohio, to Detroit, in Michigan, and from Detroit to Toledo; and to allow and pay them not less than twenty-eight dollars and sixty cents for each and every passage of said steamers between said places, during the aforementioned time, when the mail was on board.

It appears from the report, which was read, that the claimants were the managing owners of the steamboats Arrow, Baltimore, Southerner, John Owen, and Bay City, between the years 1849 and 1853, inclusive; that during that time their boats were employed by the persons having charge of the United States mails to transport the same to

and from the following ports on Lake Erie: on steamer Arrow, on Sundays excepted, at both ways, between Sandusky City and Detroit, from the 1st of March to the 1st of December, 1849; also from the 1st of March to the 1st of December, 1850; also from the 1st of March to the 1st of December, 1851; also from the 1st of March to the 1st of December, 1852; and on steamer John Owen, from the 1st of March to the 1st of December, 1853. On steamer John Owen, between Toledo and Detroit, daily, from the 31st of March to the 30th of December, 1851; and on steamer Arrow, from the 31st of December, 1851, to the 31st of December, 1853. On steamer Southerner, between Detroit, Michigan, and Cleveland, Ohio, daily, from the 7th of March to the 21st of November, 1850; also from the 19th of March to the 21st of November, 1851; and on steamer Baltimore, from the 12th of April to the 21st of November, 1852.

They transported both the through and local mails during the above-mentioned periods, but have been paid for transporting the local mails only, at the rates allowed under the order of the Postmaster General of 1st March, 1849, instructing the postmasters to "discharge the mail, to make up and forward mails daily between their respective offices in boats making the greatest expedition, at one cent each for letters, and half a cent each for newspapers, to be paid at the office to which the letters or newspapers were delivered;" notwithstanding the through mails were transported at the request of the Department officials, with the understanding that the claimants should be compensated therefor. That they applied to the Postmaster General for compensation for said service, but he has refused to make such compensation, although, as the claimants are informed and believe, it has actually been done in several other like cases. That, whatever may have been the usage, the claimants received and carried said through mail at the request of the postmasters and special agents of the Department, and have faithfully transported the same during the time above specified, and the Government, having derived the benefits and advantages of such transportation, are bound to pay a reasonable and fair compensation therefor. That the service was performed, as claimed, with the sanction of the Post Office Department and under the express orders of its officials. The proof thereof is abundant and conclusive.

It is also clear and indisputable that the claimants have incurred no compensation for transporting said local and through mail beyond what was allowed for carrying the local mail alone, and the ground assumed by the Department is, that the amount allowed for the local mail was understood to be in full for the whole service. No evidence appears to sustain this assumption of the Department. On the contrary, the testimony of the postmasters and special agents upon that point shows that the captains of the claimants' boats uniformly demanded pay for transporting the through mail, in compensation for the local mail, and of which demands the Department was advised at the time.

The Court of Claims declined to report a bill for the benefit of the claimants, because the express contract testified to by A. C. Harris, the special agent of the Post Office Department, made by him with the claimants, and authorized, as he avers, by the Post Office Department, does not appear by the testimony to have been expressly authorized by the Postmaster General himself. But the committee are of opinion that when an agent of the Post Office Department testifies that a contract made by him, within the fair scope of his agency, was sanctioned by the Post Office Department, it may fairly be inferred, in the absence of any testimony to the contrary, that it was authorized by the Postmaster General himself, the head of that Department. That the service was performed the court had no doubt, but for any compensation beyond what the claimants received for the local mails "they must depend upon the discretion of Congress." The equitable right of the claimants to compensation for the service was, therefore, not denied, and the decision of the Court of Claims should not, in the opinion of the committee, prejudice the appeal to Congress for a just remuneration. That the service which the claimants performed under the assurance and expectation of remuneration was in the interest of the Department and useful to the public, and such as

would have been incumbent upon the Department to supply, aside from the local mail service, there can be no doubt.

It appears, from the testimony of Mr. Harris, that the captains of the claimants' boats used every means within their power to facilitate the through mails; and that it often occurred that the mail could be got to the claimants on the arrival of the boats by the time of leaving; and in such cases the captains, at his request, delayed starting their boats from half an hour to an hour and a half, until the mails could be put on board. Every accommodation, therefore, seems to have been extended to the claimants; and the Department, by its efficient or regular service could have been performed had they been regular contractors. In view of all the facts in the case, the committee believe that the claimants are justly entitled to a suitable recompense for their services. The amount paid for carrying the local mail appears to have been a very moderate one, from the fact that it was for letters; but one third of the amount, (namely: three cents,) to which the Department was limited by law, by computing the number of letters the claimants bore during which they carried the mail, it appears that the average compensation received (being for the whole time \$10,544 95) would be less than three dollars and seventy-five cents per passage. Calculating the through mail to be (at the average of the testimony) seven and five-eighths times as fast as the local mail, at the ratio of compensation received, it would amount to \$28 60 per trip, which the committee believe should be paid to the claimants for said service.

Mr. CRAWFORD. I make a point of order upon that resolution, if I understand it.

The SPEAKER. The gentleman from Michigan offers a resolution to discharge the Committee of the Whole House on the Private Calendar from the consideration of a certain bill, and bring it before the House.

Mr. CRAWFORD. So I understood. I now make the point of order, that the gentleman has no right during the morning hour, at this time, to move to discharge the committee from the consideration of the bill, and put it on its passage. No business is in order, under the new rule, during the morning hour, except the call of the States and Territories for bills and resolutions; and I submit that the gentleman has no right to move to bring up a bill to be put on its passage until the expiration of the morning hour.

The SPEAKER. The Chair supposes the motion of the gentleman to be in order. It is not a motion to suspend the rules; it is a resolution brought in by the gentleman from Michigan, under the call of that State for resolutions; and the Chair supposes that, in order to pass the resolution, he must have a two-thirds vote, the effect being to change the order of business.

Mr. BURNETT. Suppose I propose to debate the resolution?

The SPEAKER. The gentleman from Michigan has called the previous question.

Mr. BURNETT. Then that destroys the effect of the new rule which we have adopted. If a gentleman may take the floor and move to discharge the Committee of the Whole House from the consideration of a bill, and put it on its passage, the rule which we have adopted for the offering of resolutions during the morning hour, on each alternate Monday, is of no avail.

Mr. HOUSTON. It seems to me that if the Chair will look for a moment at the point presented, possibly he may reach the conclusion that the resolution which the gentleman from Michigan offers is really nothing but a motion. If that be so, and if I have the right under this new rule to offer a resolution, but not to make a motion, I cannot take advantage of a call of the States for resolutions, and introduce a motion in that shape. If it would not be in order to move to discharge the Committee of the Whole House from the consideration of that bill, and thereby bring it into the House, and put it upon its passage, then it would not be in order to introduce a resolution upon a call of the States for the purpose of accomplishing the same thing; for that would operate—though not so intended—as a fraud upon the rules. I think it is important for the success of the new House of the United States that the Chair would rule correctly upon this point; and I am inclined to think that if he will consider the point which

has been made, he will decide the motion to be out of order.

The SPEAKER. Upon the present understanding of the Chair, he decides the resolution to be in order.

Mr. CRAWFORD. Under the new rule?

The SPEAKER. There is no change in the rule, so far as the decision of this question is concerned, that the Chair can perceive.

Mr. CRAWFORD. The decision of the Chair, if carried out, would defeat the entire object of the new rule, and deny to the other States and Territories which have not been called, the privilege of submitting their resolutions. If the morning hour had expired, then the resolution would be in order; but if the morning hour has not expired, then, I think, his decision is evidently wrong. I would therefore ask the Speaker to have the rule read.

The SPEAKER. The Chair will direct the rule to be read.

The 26th rule was read, as follows:

"All the States and Territories shall be called for bills on leave and resolutions on each alternate Monday during each session of Congress; and if necessary to secure the object on said days, all resolutions which shall give rise to debate shall be overruled, and the rules of the House already established; and the whole of said days shall be appropriated to bills on leave and resolutions, until all the bills and resolutions are called through. And the Speaker shall first call the States and Territories for bills on leave; and all bills so introduced during the first hour after the call of the States and Territories shall be referred to the appropriate committees: *Provided, however, That a bill so introduced and referred shall not be brought back into the House until the motion to reconsider it.*"

Mr. CRAWFORD. I think the Speaker will hardly now insist on the decision which he has pronounced.

The SPEAKER. The Chair will ask that the practice of the House under the rule may be read.

The Clerk read as follows:

"The previous question may be moved on a resolution submitted under a call of the States, and thus prevent the debate which, under the rules, requires it to lie over."—*Journal*, 28th, p. 102; 1, pp. 110, 128.

The SPEAKER. The Chair understands the decision he has made to be founded upon the practice of the House. The Chair decides the resolution to be in order.

Mr. HOUSTON. I do not understand the gentleman from Georgia as questioning the practice of the House under the old rule. The point is that under the new rule it would not be in order to make a motion to suspend the rules during the morning hour to bring this bill before the House; and if the effect of the resolution is to accomplish the same thing, then the resolution is not in order.

Mr. MOORE, of Kentucky. I submit the question of the motion that no debate is in order.

The SPEAKER. No debate is in order. The question is on the demand for the previous question.

Mr. BURNETT. I understand that it will take two thirds to pass the resolution.

The SPEAKER. It will.

Mr. BURNETT. Then I ask if it will not take two thirds to second the demand for the previous question.

Mr. CRAWFORD. I call for tellers on according the demand for the previous question.

Tellers were ordered; and Messrs. CASTRA and Cox were appointed.

The House divided; and the tellers reported—aye, 75; nay, 81; a further count not having been demanded.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined, and had found truly enrolled; bills of the following title, which were signed by the Speaker:

An act (S. No. 250) for the relief of Kate D. Teylor, widow of the late Breck Captain Oliver H. P. Taylor.

An act (S. No. 71) for the relief of the American Board of Commissioners for Foreign Missions; and

An act (S. No. 233) for the relief of Alice Hunt, widow of Thomas Hunt.

ARTHUR EDWARDS AND ASSOCIATES—AGAIN.

Mr. CRAWFORD. Do I understand the Speaker to say that the vote about to be taken is upon the introduction of the resolution?

The SPEAKER. It is not upon the introduction of the resolution; but upon the passage of the

resolution. The yeas and nays have been ordered, and two thirds must be had before the resolution can be adopted. If the resolution is adopted, it will have the effect to bring the bill before the House for its action.

Mr. CRAWFORD. Then let the resolution be read.

The Clerk again read the resolution.

The question was taken; and it was decided in the affirmative—yeas 136; nays 46; as follows:

YEAS—Messrs. Charles F. Adams, Greys Adams, Admrs. Adair, Allen, Alfrey, Thomas L. Anderson, William C. Anderson, Adam A. Baldwin, B. B. Bagley, John B. Baker, Butler, Burlingame, Brainerd, Bryson, Briggs, Buford, Blake, Boies, Boulogne, Butterfield, Campbell, Carey, Carter, John L. Clark, Collier, Cook, Cooper, Cowen, Covode, Cox, Curtis, Davidson, H. Winter Davis, Dawes, Delano, Scott, Dunn, Edgerton, Edmunds, Edwards, Elliot, Dwyer, English, Elder, Farrar, Farnish, Ferry, Foster, Foster, Frank, French, Giddens, John G. Gurley, Hale, Hall, Hamilton, Hammon, George T. Harris, Hartley, Batson, Helms, Hickman, Howard, Howard, Humphrey, Hutchins, Jankin, Francis W. Kellogg, William Kellogg, Kenyon, Kilgore, Larnache, LeVell C. Leach, James M. Leach, Lee, Loomis, Lovett, Malster, Marston, Charles H. Martin, Maynard, McMillan, McKee, McKnight, McPherson, Montgomery, Lebas, T. Moore, Moulton, Moore, Morse, Nelson, Nichols, Nixon, Olin, Perry, Keith, Porter, Potter, Pottle, Quarles, Rice, Christopher Robinson, Rogers, Rusk, Stansbury, Scott, Seelye, Sedgwick, Seward, Sherman, Sigsbee, Spaulding, Williams, Stoddard, Stokes, Stratton, Tappan, Thayer, Thayer, Thompson, Train, Trimble, Van Wyck, Walker, Walcott, Watson, Caldwell, C. Washburne, Webster, Wells, Wilson, Windom, Woodruff, and Woodson—136.

NAYS—Messrs. Beach, Brewster, Barry, Clegg, Clifton, Cobb, Burton Cragg, Crawford, Curry, Fiske, Garrett, Gurnell, Hawkins, Holman, Houston, Hughes, Jackson, Johnson, Keith, Lester, Leach, Legan, McCarren, McKee, Miles, Milton, Sydenham Moore, Isaac N. Morris, Noell, Phelps, Fryer, Pugh, James S. Buchanan, Radin, Sumner, William N. Smith, Sigler, Stillworth, Stevens, Thomas, Underwood, Vailandham, Whiteley, and Winslow—46.

So the resolution was adopted.

During the vote,

Mr. HARRIS, of Virginia, stated that his colleague, Mr. M. RATIN, was called home by the severe illness of his wife.

Mr. BOULIGNY stated that his colleague, Mr. LAWRENCE, was paired with Mr. CASE.

Mr. NIBLACK stated that Mr. STEWART, of Maryland, was paired with Mr. MILLWARD until Thursday next.

Mr. AVERY stated that he was paired with Mr. KILLINGER for to-day.

The vote was then announced, as above recorded.

The SPEAKER. The bill is now before the House for action. Shall it be read a third time?

Mr. LEACH, of Michigan. I call for the previous question on ordering the bill to be read a third time.

Mr. BURNETT. I ask the gentleman from Michigan to permit me to offer an amendment to the bill. This bill, sir, ought not to pass in its present shape.

The SPEAKER, of Maine. Is debate in order?

The SPEAKER. It is not.

Mr. BURNETT. I appeal to the gentleman to withdraw the call for the previous question, and permit me to move an amendment, which will serve to prevent any fraud being practiced upon the Government.

Mr. LEACH, of Michigan. I must insist on my demand for the previous question.

The previous question was seconded, and the main question ordered.

Mr. CRAWFORD. Has not the morning hour expired?

The SPEAKER. It has; but the main question has been ordered, and the bill must now be disposed of.

Mr. BURNETT. Has not the main question been ordered only on discharging the Committee of the Whole House from the further consideration of the bill?

The SPEAKER. No, sir; the main question is ordered on the third reading of the bill.

Mr. MALLORY. Is it in order to move a reconsideration of the vote by which the main question was ordered on the third reading of the bill?

If it is, I would ask the gentleman from Kentucky [Mr. BURNETT] may get his amendment before the House.

Mr. LEACH, of Michigan. I cannot yield for any such purpose as that.

Mr. MALLORY. If that amendment is not allowed to come in, and this bill is to be pushed

pertinaciously upon the House, without a chance to perfect it, I do not know but that I will be forced to vote against it.

Mr. SMITH, of Virginia. I wish the Chair to tell the House whether the last vote was not upon discharging the Committee of the Whole House from the further consideration of this bill?

The SPEAKER. That was on the resolution itself, and when that resolution was adopted, the bill was brought before the House.

Mr. HATTON. There are a number of gentlemen who would like to hear that bill again read, in order that we may accurately understand its terms.

The bill was again read.

The bill was then ordered to a third reading; and it was accordingly read the third time.

Mr. LEACH, of Michigan. I demand the previous question on the passage of the bill.

Mr. CRAWFORD. The previous question has exhausted itself upon the third reading of the bill; and I ask whether, the morning hour having expired, it is not in order to demand that we shall proceed to the consideration of the regular order of business?

The SPEAKER. The gentleman from Michigan has demanded the previous question on the passage of the bill.

Mr. CRAWFORD. That does not change the nature of my proposition. The main question has not been ordered on the passage of the bill.

The SPEAKER. The bill is before the House in the regular order of business, and it must be disposed of.

Mr. BURNETT. I submit to the Chair whether, the morning hour having expired, and the main question not being ordered upon the passage of the bill, the bill is now before the House? The previous question has exhausted itself upon the third reading of the bill. The gentleman from Georgia (Mr. CRAWFORD) has been answered that the morning hour has expired.

The SPEAKER. The morning hour has expired; but it appears to the Chair that the bill must be disposed of.

Mr. CRAWFORD. Can I move that we shall proceed to the consideration of the business upon the Speaker's table?

The SPEAKER. The Chair thinks not.

Mr. CRAWFORD. The morning is in order except the passage of this bill.

Mr. HATTON. I call the gentleman to order. The previous question has been demanded; and debate is not in order.

Mr. BURNETT. I desire again to appeal to the gentleman from Michigan to withdraw his call for the previous question, in order that I may propose an amendment to the bill. I want to perfect the bill before it is passed. I want to protect the Government against fraud.

Mr. LEACH, of Michigan. I insist on my demand for the previous question.

Mr. BURNETT. The amendment I propose is to authorize the Postmaster General to require proof of each mail carried.

Mr. FARNSWORTH. That is, in the bill already.

Mr. BURNETT. No, sir; the bill only provides that he shall not allow more than twenty-eight dollars a trip.

The previous question was seconded, and the main question ordered.

Mr. THOMAS. I demand the yeas and nays on the passage of the bill.

Mr. COLFAX. I hold in my hand the affidavit of the special agent of the Post Office Department who ordered these mails to be carried. Mr. Edwards did this service by instruction of the Post Office Department.

Mr. BURNETT. I object to debate, unless both sides can be heard.

The SPEAKER. Debate is not in order. The question was taken; and it was decided in the affirmative—yeas 128; yeas 49; as follows:

YEAS.—Messrs. Adams, Adams, Aldrich, Allen, Almy, Williams, C. Anderson, Ashley, Babbitt, Banks, Bingham, Blair, Blake, Boister, Boulogne, Brainerd, Brighton, Briggs, Brinson, Buffum, Burdick, Burlingame, Butterfield, Caudwell, Carter, Chase, John R. Clark, Coffey, Conkling, Cooper, Corwin, Covode, Cox, James T. Craig, Curtis, Davidson, H. Winter, Davis, Deady, Deane, Deane, Conkling, Edwards, Elder, Eli, Elmer, Farnsworth, Ferry, Florence, Foster, French, Gilmer, Good, Green, Garfield, Hale, Hamilton, Harts, Hild, Himes, Hiram, Hiram, Hindman, Howard, Hughes, Humphrey, Junkin, Francis W. Kellogg, William Kellogg, Kenyon, Kilgore, Larrabee,

DeVitt C. Leach, Lee, Loomis, Lovejoy, Mallory, Mason, Maynard, McCreeland, McKean, McKim, Mr. Pherson, West, J. Moore, Moorhead, Moore, A. Isaac, Morris, Morse, Nelson, Niblack, Nixon, Olin, Pendleton, Perry, Pettit, Porter, Potter, Potts, Reagan, Rice, Rice, Christopher Robinson, Royce, Russ, Schwartz, Sherman, Sedgwick, Sherman, Spaulding, Stevens, William Stewart, Stokes, Stratton, Tappan, Thacker, Thompson, Train, Tremble, Van Wyck, Waldman, Walter, Wells, C. Washburn, J. Washburn, Webster, Wells, Wilson, Woodruff, and Wolcott—128.

NOES.—Messrs. Boyce, Bennett, Burnett, Clifton, Cobb, Burton, Craig, Crawford, Curry, Edgar, Johnson, Hayes, Russell, Schwartz, Sherman, Sedgwick, Sherman, Spaulding, Stevens, William Stewart, Stokes, Stratton, Tappan, Thacker, Thompson, Train, Tremble, Van Wyck, Waldman, Walter, Wells, C. Washburn, J. Washburn, Webster, Wells, Wilson, Woodruff, and Wolcott—49.

So the bill was passed.

During the vote, Mr. HILL stated that, not having an opportunity to understand the merits of the bill, he voted in the affirmative.

Mr. HOARD stated that, for the same reason, he likewise voted in the negative.

The vote was then announced, as above recorded.

Mr. LEACH, of Michigan, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

STEAMBOAT ANTELOPE.

Mr. MALLORY. I was absent when my State was called, and I ask the unanimous consent of the House to introduce a bill to change the name of the steamboat Antelope.

There was no objection, and the bill was read a first and second time; and referred to the Committee on Commerce and Canals.

SLAVE TRADE.

Mr. MORSE. I ask leave to present a resolution.

Mr. WINSLOW. I rise to a privileged question. I call up the report made by the gentleman from Pennsylvania (Mr. COVODE) from the special committee on alleged corruptions at elections.

Mr. MORSE. I have the floor. I offer the following resolution:

Resolved, That the President of the United States be respectfully requested to communicate to this House, at the next session, copies of all correspondence, copies of all correspondence with foreign Powers, and copies of all correspondence with our naval officers and consuls on the west coast of Africa, relating to the subject of the African slave trade, with the instructions given said officers and consuls not heretofore sent to either House of Congress; a copy of the instructions adopted by England and France for the government of their naval officers in identifying the nationality of vessels suspected of being engaged in the slave trade on the coast of Africa, and communicated to the Government of the United States, with a request to assist with them in their adoption; the number of slaves taken and sent to the United States by our African squadrons, specifying the number condemned in our courts as slave traders, and not heretofore communicated, and the number, and any later in part of the United States, before sailing for the coast of Africa, or after their return from said coast, specifying the number condemned, the instructions given to officers of the United States in ports of call, and the instructions are stated out in reference to the prevention of the slave trade; and also all information of the President whether any further legislation is necessary to secure a more effective fitting out for slave trade voyages in ports of the United States, and for the punishment of persons engaged therein; and any information in possession of the United States which will tend to show the extent of the African slave trade, the mode of carrying it, and the best and most efficient means of extinguishing it.

Mr. BOCCOCK. With the consent of the gentleman from Maine, I will insert in that resolution a clause to this effect:

Also, that there shall be communicated to this House, at the next session, copies of all correspondence, copies of all correspondence with foreign Powers, and copies of all correspondence with our naval officers and consuls on the west coast of Africa, relating to the subject of the African slave trade, where said vessels were built, in, or out of port, and, by whom fitted out.

Mr. MORSE. Certainly. We want all the information we can get on the subject. I accept the amendment.

Mr. RUST. I ask the gentleman to have inserted in his resolution a clause calling for information of the places of nativity and present residences of the commanders, crews, and owners of vessels so condemned.

Mr. MORSE. I accept the modification. I am in favor of getting all the information possible upon the subject before the House.

Mr. KEITT. As far as the resolution has developed itself, I will not object to it per se. In

order, however, that amendments should be put upon the resolution properly, I suggest that it be laid over. If that be not agreed to, I must object.

Mr. MORSE. Then I move that the rules be suspended, in order that I may introduce the resolution.

Mr. HOUSTON. The gentleman from Maine cannot do that, if the gentleman from North Carolina (Mr. WINSLOW) insists upon taking up the privileged question.

Mr. MORSE. I have been referred to the SPEAKER. The Chair has not entertained that question.

Mr. HOUSTON. The Chair cannot avoid entertaining it, if the gentleman from North Carolina insists upon it. The gentleman from North Carolina called on that privileged question before this resolution was read. If he desires, he can insist that it shall be now proceeded with.

The SPEAKER. The resolution is in order before the House.

Mr. MORSE. I demand the yeas and nays on the motion to suspend the rules.

Mr. HOUSTON. Does the Chair decide that the gentleman from North Carolina cannot take the floor on his privileged question?

The SPEAKER. That question will come next.

Mr. HOUSTON. I am very glad that the Chair has adopted the miller's rule—first come, first served. [Laughter.]

The SPEAKER. The Chair takes the ground that is sufficient unto the day of the evil thereof. [Renewed laughter.] When the gentleman from North Carolina presses his point it will be time enough for the Chair to decide.

Mr. HOUSTON. I press it myself.

The SPEAKER. The Chair is of the opinion that the resolution is in order.

Mr. KEITT. I withdraw the objection. My only object was to get the amendments in.

Mr. MORSE. I call the previous question upon the resolution.

Mr. SMITH, of Virginia. Let the resolution, as amended, be read.

The resolution, as amended, was read.

Mr. HINDMAN. I desire to offer an amendment. I move to amend by adding—

And also the cost per annum, since the date of the Ashburnton massacre, of the African squadron, the number of slaves on board of captured vessels, and the cost of their support and return to Africa.

The amendment was agreed to; and the resolution, as amended, was adopted.

Mr. MORSE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TERRITORIAL BUSINESS.

Mr. GROW. I desire to ask the consent of the House to set aside some days for the transaction of territorial business. I would suggest Wednesday and Thursday, the 21st and 22d days of May. But I will defer to the question of the admission of Kansas, which comes up to-morrow.

No objection being offered, an order to that effect was made.

Mr. WINSLOW obtained the floor.

BILL INTRODUCED.

Mr. MORRIS, of Illinois. I desire, before the gentleman from North Carolina raises his question of privilege, that he will allow me to introduce a bill for reference. I listened attentively when the States were being called, but I did not hear Illinois called.

Mr. WINSLOW. I have no objection, if the House has not.

Mr. MORRIS, of Illinois, by unanimous consent, then introduced a bill to repeal part of an act therein specified; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. MORRIS, of Illinois. I desire also to offer a resolution.

Mr. FARNSWORTH. I object to the gentleman from North Carolina holding the floor and farming it out in this way.

The SPEAKER. The gentleman cannot yield the floor if it is objected to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKENS, their Secretary, informing the House that the President had approved and signed

an act (S. No. 46) authorizing the Secretary of the Treasury to make presents to the abolitionists Helen Blood and Sarah Bond, of Oswego, in the State of New York.

Also, that the Senate had passed an act (No. 172) concerning the courts of the United States in the district of Arkansas, in which he was directed to ask the concurrence of the House.

EXECUTIVE INFLUENCE, &c.

Mr. WINSLOW. I now ask that the report of the select committee, of which Mr. COVODE is chairman, be taken up.

Mr. HICKMAN. Before anything is done upon that matter, I trust that the gentleman from North Carolina will allow me to make a report from the Committee on the Judiciary upon the matter of the President's protest to the action of that committee.

Mr. UNDERWOOD. I object.

Mr. HICKMAN. It will take but a few minutes. I desire to have the report read and ordered to be printed.

Mr. WINSLOW. I must object to having the report read to the House. I will not object to having it printed.

Mr. HICKMAN. I suggest that the matter I now desire to bring before the House is a matter of the highest privilege. The Committee on the Judiciary was authorized to report at any time, and I desire to make that report now, to have it read, to have an order made to print it, and then to postpone the consideration of it until some future day. It will take but a very few minutes, and I hope there will be no objection.

Mr. WINSLOW. I know of no degrees of privilege in this House. All privileges question stand upon the same footing. I am willing that the report should be printed without being read.

Mr. COVODE. I suppose I shall be entitled to the floor upon the matter called up by the gentleman from North Carolina. I will move to postpone the consideration of the report, for the purpose of allowing Mr. HICKMAN to get his report in to be printed. I move to postpone the consideration of the report until Wednesday week.

Mr. WINSLOW. I know of the floor, and I call for the reading of the report.

The SPEAKER. The Chair supposes that the gentleman has a right to have the report read.

Mr. COVODE. And then I will move to postpone it for a week.

Mr. WINSLOW. If the gentleman can get the floor to do it.

Mr. UNDERWOOD. I rise to a question of order. I cannot hear a word of what is going on, as there are some thirty or more members upon the floor, all talking. I object to any further proceeding until the House is brought to order.

The SPEAKER. Gentlemen will preserve order, and take their seats. It is very difficult to hear, when there is so much talking in the room. The point made by the gentleman from Georgia is that one and we must have order. The Chair is crying out "Order!" all the time.

Order being restored, the Clerk read the majority and minority reports.

Mr. WINSLOW took the floor.

Mr. COVODE. I was going to state that, as this report—

Mr. WINSLOW. I cannot give way for any motion.

Mr. COVODE. I can make a motion if I have the floor.

Mr. WINSLOW. I have the floor, and I cannot give way to any motion. If the gentleman wants to address the House, I will give way for that purpose.

Mr. COVODE. I will address the House, and then make my motion.

Mr. WINSLOW. The gentleman cannot do that. It would be taking an unfair advantage.

Mr. CLARK, of New York. Mr. Speaker—

Mr. WINSLOW. I will yield to the gentleman from New York in a moment.

Mr. COVODE. I desire to inquire of the Chair whether it is in order for a minority of a committee to bring the majority report before the House, thereby controlling the action of the House upon it?

Mr. WINSLOW. I suppose it is the right of anybody to call up anything at his pleasure. I would for the chairman of the committee to do so; and, as he did not call it up, I took it upon myself to do it, as I think I have the right to do.

Mr. COVODE. My object in postponing this matter is to give opportunity to Mr. HICKMAN to get in his report. I am satisfied that the investigation upon that subject will cover this whole ground. Therefore, with the leave of the gentleman—

Mr. WINSLOW. I cannot give way to any motion.

Mr. COVODE. After having made inquiry, to see whether this matter was going to give rise to debate, and being informed that it would, I suggested that I would move to postpone it to a day certain, to allow Mr. HICKMAN to get in his report from the Judiciary Committee. I am satisfied that the report of the Judiciary Committee will cover the whole ground covered by the minority report in this case.

Mr. WINSLOW. The report of the Judiciary Committee cannot possibly give rise to a question at all similar to this.

Mr. HOUSTON. This question of privilege involves the right of a witness.

Mr. HICKMAN. I rise to a point of order, and I wish to have it submitted to the House. It is in the minority of the committee to have the right, under parliamentary law, to make a report and to produce the report of the majority and their own at the same time, and ask the House to take action on them. I raise the point, that this whole matter is regularly presented to the House, and I make a decision of the Chair upon it.

Mr. WINSLOW. The minority of the committee had leave to report on Friday, and this morning was assigned for its consideration, as the Chair will recollect.

Mr. HOUSTON, of Maine. I understand the gentleman from Pennsylvania had the floor, and that when he made the report, it was postponed until to-day. And to-day it was competent for the gentleman from North Carolina, or for any other gentleman, to move to take it up, but when he did, I submit, the gentleman who made the report of the majority of the committee is entitled to the floor.

Mr. WINSLOW. The Chair has assigned the floor already to another gentleman.

Mr. HOUSTON, of Maine. It seems to me that the gentleman from Pennsylvania is entitled to the floor whenever the report is taken up; and I understand that he does claim the floor to make a motion in regard to it.

The SPEAKER. Does the gentleman from Pennsylvania claim the floor upon that ground?

Mr. COVODE. I do.

Mr. WINSLOW. How can the gentleman get the floor when the Chair has assigned it to me? Under what rule of the House is it?

The SPEAKER. The Chair understands that, under the rules of the House, the proposer of a proposition is entitled to the floor whenever the proposition is taken up, if he claims it. Such has been the practice under the rules.

Mr. WINSLOW. I ask for the reading of the rule in regard to assigning the floor.

The SPEAKER. The 34th rule, as follows: "No member shall occupy more than one hour in debate on any question in the House or in committee; but a member reporting the measure under consideration from a committee may open and close the debate. Provided, That where debate is closed by order of the House, any member desiring to speak in connection therewith must explain any amendment he may offer, &c."

Mr. WINSLOW. That is not the rule I desired to have read. I asked for the reading of the rule in reference to assigning the floor to the member first presenting the question.

Mr. COVODE. It is under the rule which has been read that I claim the floor.

Mr. STEVENS, of Pennsylvania. Until a member states for what purpose he rises, the Speaker cannot tell whether he is entitled to the floor.

Mr. WINSLOW. The member stated distinctly that he rose to a privileged motion, and the Speaker assigned the floor to him.

The SPEAKER. The Chair would be glad to state his view of the question. The gentleman from North Carolina (Mr. Wadsworth) has addressed the Chair, and says he rises to a privileged question. What that privileged question is, it is impossible for the Chair to tell, but as the gentleman says he rises to a privileged question, the Chair gives him the floor. It seems, then, that the gentleman rises to a subject on which he would give the gentleman in the House the right to open and

close debate. Now the question is, whether the mere fact of the gentleman from North Carolina getting the floor under these circumstances can deprive the gentleman from Pennsylvania of his right, he being chairman of the committee that reports the proposition. It is the decided opinion of the Chair that he cannot be deprived of it.

Mr. WINSLOW. Suppose the chairman of the committee does not choose to open the debate; can nobody else speak?

The SPEAKER. The Chair thinks that the gentleman from Pennsylvania, as the proposer of the matter, is entitled to the floor.

Mr. BRANCH. I submit this as a matter of fact and of order at the same time. As I understand it, the gentleman from Pennsylvania, the chairman of this special committee, reported this matter on Friday last, and had it, on his motion, postponed until to-day.

Mr. COVODE. No, sir; upon my motion. I wanted the question postponed till Thursday next, for the purpose of letting Mr. HICKMAN's report come in, believing that it would cover the whole of the legal grounds involved in this matter.

Mr. BRANCH. Then the gentleman from Pennsylvania, on Friday last, reported a measure, and moved to have it postponed to a given day. The fact of the House having overruled the motion of the gentleman from Pennsylvania, and ordered the matter to be taken up at once, settles all. The gentleman from Pennsylvania submitted a motion to dispose, temporarily at least, of the question which he had brought before the House; and I now submit to the Chair that the fact of his having made that motion has satisfied the requirement of that rule which gives him the right to open the debate. In parliamentary language, debate does not mean the discussion of a question on its merits, but it means the making of a motion to dispose of it.

Mr. HATTON. I rise to a question of order. Mr. BRANCH. I am on the floor on a point of order.

Mr. HATTON. I submit that, after the Chair has decided the question, it is not in order for the gentleman from North Carolina to debate it.

Mr. BRANCH. Submit to the Chair whether, while I am on the floor on a point of order, another member can rise to a point of order?

The SPEAKER. No, sir; not if the gentleman is proceeding in order.

Mr. HATTON. I do not understand the gentleman from North Carolina as making a point of order. He, sir, is discussing the propriety of the decision of the Chair already made, which, under the rules, he has no right to do.

The SPEAKER. The gentleman from North Carolina will please state his point of order.

Mr. BRANCH. I have stated all I wish to state.

The SPEAKER. The Chair overrules the point of order.

Mr. HATTON. If gentlemen wish to appeal from the decision of the Chair, let them do so. They have the right, in this manner, to be raising a debating society of the House, especially as there is nothing before it to discuss.

Mr. WINSLOW. I appeal from the decision of the Chair.

The SPEAKER. In the opinion of the Chair, the chairman cannot be deprived of his right to open and close debate on this question.

Mr. BRANCH. Does the Chair decide that the motion to postpone is not the opening of debate?

The SPEAKER. The Chair has not received any such point of order.

Mr. BRANCH. The point of order that I submitted was, that as the gentleman from Pennsylvania, on reporting this measure, moved to postpone to a day certain, he thereby exercised his right to open and close debate.

The SPEAKER. The gentleman from Pennsylvania claims that he has a right to open the debate; and while he has the floor to do so, he has the right to make whatever motion he thinks proper.

Mr. WINSLOW. The Chair has not stated my point; which is, that the floor having been assigned to a member, and that member occupying it, it cannot be taken from him. And then, allow me to state, with all due respect to the Chair—I do entertain a great deal of respect for the Chair—that it is exercising an extent of arbitrary

Mr. HICKMAN. Certainly not.

The SPEAKER. The Chair understands that the majority and minority reports are received, and they will now be read.

Mr. HICKMAN then read the report of the Committee on the Judiciary; and subsequently the minority views of Mr. HORTON and of Mr. TAYLOR were submitted.

Mr. HINDMAN. (interrupting the reading of Mr. TAYLOR's report.) If the gentleman from Louisiana will permit me, I would suggest that he suspend the reading. It is now quite late, and he may go on and finish the reading in the morning.

Mr. TAYLOR. I will do so if such be the wish of the House.

Mr. HICKMAN. I have no objection to that course; but I wish, before the House adjourns, to move that the majority and minority reports be printed, and that the further consideration of the subject be postponed until to-morrow week, after the morning hour.

Mr. HOUSTON. If my friend from Louisiana wishes to finish the reading of the report, of course he has the floor and has the liberty to do so.

Mr. HICKMAN. Of course I do not wish to interfere with his reading of the report.

Mr. HOUSTON. If, however, he wishes that the House should now adjourn, and finish also reading in the morning, I think we should adjourn.

Mr. TAYLOR. I yield to the wishes of the House. If they wish to adjourn now, I will give way, with the understanding that I have the right to finish in the morning.

Mr. HINDMAN. The gentleman from Louisiana will understand that I am desirous, as are we all, to hear his report. I asked him to give way merely on account of the lateness of the hour.

Mr. HICKMAN. With the understanding that the gentleman from Louisiana shall have permission to read his report in the morning, I will now move that the reports be printed, and be postponed until to-morrow week.

Mr. VALLANDIGHAM. I hope that day will not be fixed. I move to amend that motion by striking out "one week from to-morrow," and inserting "the 10th day of May." Many of us will be completely unable to attend the Charleston convention.

Mr. HICKMAN. I have no objection to that. Mr. MAYNARD. I hope that day will not be fixed. Some of us will desire to be absent in Baltimore at that time who may wish to take part in the debate.

Mr. HOUSTON. I would suggest that it would be better to allow the matter to lie over until to-morrow.

Mr. HICKMAN. I prefer to insist on my motion that all the reports be printed and postponed until to-morrow week.

Mr. PHELPS. I would ask the gentleman to include in his motion to print, also the special message of the President upon the subject, and the resolutions constituting the committee.

Mr. HICKMAN. I have no objection to that.

The SPEAKER. The Chair would suggest that the question of postponement had better lie over till to-morrow.

Mr. GROW. To-morrow is the day fixed for the Kansas bill. I want it understood that this is now to interfere with it.

Mr. HICKMAN. I will withdraw that portion of the motion which relates to postponement.

The motion to print the reports, together with the special message of the President and the resolutions on which the Governor's committee was constituted, was adopted.

Mr. HINDMAN. I move that the House adjourn.

The motion was agreed to.

And thereupon (at ten minutes past five o'clock, p. m.) the House adjourned.

IN SENATE.

Tuesday, April 10, 1860.

Prayer by the Chaplain, Rev. Dr. GREENE.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a statement showing the amount of

revenue collected annually in each collection district from June 30, 1854, to June 30, 1859, together with the amount expended and the number of persons employed in each district; which was ordered to lie on the table; and a motion by Mr. HAMLIN to print the report was referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had passed the bill of the Senate (No. 29) for the relief of Arthur Edwards and his associates.

ARREST OF FRANK B. SANBORN.

Mr. LANE. I move to take up the bill (S. No. 82) to amend the fourth section of the act for the admission of Oregon into the Union.

Mr. SUMNER. I hope the Senator will allow us to present memorial.

Mr. LANE. This is a bill that nobody will object to, I am sure; and it is very necessary that it should be passed; but I will yield.

Mr. SUMNER. If it is only for a moment, I shall not object.

Mr. LANE. I yield the floor.

Mr. SUMNER. I have a memorial, Mr. President, from Frank B. Sanborn, of Concord, in Massachusetts, setting forth a gross attempt to kidnap by certain persons pretending to act in the name of the Senate of the United States.

The memorial is authenticated by his affidavit before a notary public. It sets forth that on the evening of the 3d of April, certain persons who had been prowling about his neighborhood, under the shelter of night, with a fraudulent pretense, drew him to his door, seized him, handcuffed him, and then by force undertook to convey him to a carriage.

By the courageous interposition of a refined lady, (his sister,) neighbors were aroused; the village was next aroused by the ringing of bells, and the great friend of the oppressed in our country—our great civil corpus—arrived on the ground. By the intervention of that writ, he was taken from the custody of the kidnappers. The next day a hearing was had before the supreme court of Massachusetts; and Chief Justice Shaw, in giving his opinion, pronounced the justice of Massachusetts, whose opinions, I believe, are respected in every part of the country, representing the full bench, without undertaking to pass upon the question of jurisdiction in the Senate in this matter, went on to declare that the power delegated to the Senate by the Congress of the United States could not be delegated to another, and that therefore all these proceedings were void, and the prisoner was discharged.

Now, Mr. President, this act, it seems to me, is conspicuous both from the person against whom it was directed and from the place where it was attempted. It was directed against Mr. Sanborn, a quiet citizen, engaged in the instruction of youth, a scholar of excellent attainments, of perfect purity, and much beloved by his friends and neighbors. He was arrested in Concord, in his own seizure was once attempted, which began that revolutionary contest which ended in independence. I submit, Mr. President, that a person like Mr. Sanborn, having suffered this outrage at the hands of persons claiming to act in the name of the Senate, has a right to redress in this body, and I submit still further, that this body owes something to its own character; it ought to wash its hands of such an outrage. I offer his memorial and ask its reference to the Committee on the Judiciary; and that the Senate may better understand it, I think it ought to be printed. I move also its printing.

The VICE PRESIDENT. The memorial will be referred to the Committee on the Judiciary, if there be no objection. The question on printing will be taken up by the Committee on Printing.

Mr. MASON. I shall, of course, not make the slightest objection to the presentation of this memorial. I do not know its contents; but I would object, if it be in order, to its being printed or distinguished from any other memorial that comes from any citizen of the United States. The statement that has fallen from the Senator from Massachusetts, as the facts cannot be known to him, I suppose is a statement based on what is contained in the paper. I do not know what the contents of the paper are; but I know that the following are the facts, so far as the Senate is concerned, or

the committee of the Senate, at whose instance this process issued.

This man, Sanborn, was in correspondence, either with the man who was not long since hung in Virginia for his conduct as a traitor and murderer at Harper's Ferry, or with some of his associates; I do not recollect which. I do not remember now the extent of his correspondence. A correspondence that was found with the papers taken on the person and among the effects of Brown, at the time he was captured; and thus his name, and his connection with that affair, whatever it was, was brought to the knowledge of the committee of this body. He was summoned in the usual manner—by a letter of request to appear before the committee, as a witness, to give whatever information might be in his power connected with the inquiry submitted to the committee. He wrote a letter to the chairman of the committee, acknowledging the summons, and protesting that he had no disposition in the world to be disrespectful or discourteous to the Senate; but, as far as I recollect his letter, which I have not seen now for two months nearly, he either said that he would attend, or that he would give reasons for non-attendance; I do not remember which. Eventually, however, he refused to attend.

Mr. FITCH. The chairman will recollect that the reason for not attending was, a pretended fear that his life was in danger here.

It is a matter of course that this was a part of it. Amongst the other things alleged in his letter was, that he had reason to apprehend that if he came to Washington he would be subjected to personal violence. There were some vague intimations of that sort, which I confess I did not consider.

However, it resulted that he refused to attend on the summons of the committee; and, at the instance of the committee, a warrant was issued by the Senate against him—*as against certain other persons*—to be taken into custody and to arrest him and bring him here for contemptary. The Sergeant-at-Arms was sent to Boston—I do not recollect whether with the warrant for Sanborn; I presume, though, it was, but I do not remember particularly about that; he was sent to Boston, at any rate, some way. He was there, I recollect, and the witnesses against whom the warrants were directed after a reasonable time, that he should depose his authority to the marshal of the United States at Boston, or some of his deputies. The Sergeant-at-Arms, as is known, did treat one witness somewhat roughly. He afterwards ascertained that this man Sanborn, his authority was depuied by him, as I presumed he had a clear right to do—I did not examine the subject very particularly—to one of the deputy marshals of Massachusetts. So far the facts are known to me.

Now it appears, by a subsequent correspondence with the marshal of the United States at Boston, and with the district attorney of the United States at Boston, that when the warrant of arrest was served upon this man Sanborn, at Concord, he refused to attend, and he afterwards refused to attend them, by personal resistance; and, as they inform me, it was not until they found that it was impossible to take him under the warrant, except by force, that he was subjected, as he ought to have been subjected, to the confinement of his person in the city of Boston. He was afterwards informed by the correspondence with the marshal and with the district attorney of the United States, rescued by a mob in the town of Concord; and after he had been taken out of the possession of the officer who had him in custody, a writ of *habeas corpus* was issued; and, upon the trial of that writ of *habeas corpus* in the city of Boston, he was discharged by the judges of the supreme court there, whose opinion I have read—I presume it was a correct copy which I saw printed in the Boston papers. He was again taken into custody, without inquiry into the authority for making the arrest, they were satisfied in law that if the Sergeant-at-Arms was properly warranted in the arrest by the process of the Senate, he could not depuie that authority; and upon that ground Sanborn was discharged on the *habeas corpus*.

I think these facts are due in reply to the statements that have fallen from the Senator from Massachusetts. What subsequent proceedings may yet be taken, I am not advised. I have not yet received the formal return made by the officer, the deputy of the Sergeant-at-Arms, upon the war-

rant; but I understand that it will be here in the course, probably, of the day—in some few hours. It is delayed until they can get certified copies of the proceedings in court. When that arrives, I will be further advised.

Mr. FESSENDEN. I should like to have the memorial read.

The Secretary read it, as follows:

To the Honorable the Senate of the United States:
Respectfully represents, P. B. Sanborn, of Concord, Massachusetts, that when he, as a benighted man, refused to obey the summons of the "select committee" of the Senate, and has desired, in a legal and proper manner, to contest his rights as a citizen, of which he has before this informed the Senate, by the memorial of February 18, 1860, submitted to them on the 27th of February, 1860, after persons claiming to act under the authority of the Senate, have unwarrantably usurped power, and disgraced themselves, by their acts and doings; that on the 27th of the said 18th of April instant, between the hours of nine and ten o'clock, p. m., he was called to the door of his own house by a young man, who handed him a fraudulent letter, and that, while in the act of taking this, he was seized by another man; that to his often-repeated demands for the names and addresses of these men he could get no sufficient or definite answer; and that, on his refusing to go with them, unless he could see the precept under which they were acting, he was violently seized, his arms were torn from him, handcuffed, and there, without hat or shoes, was dragged by these men and three others, who had been called by a white dog, from his house into the streets, where he was violently pushed, lifted, and shoved to and upon a carriage, which was standing in front of his house; that great efforts on his part, assisted by those of others, were made for preventing these men from placing him in the carriage, and, his hands being given to his neighbors and friends, he was again surrounded by them, when, in the confusion and tumult of himself and others, the ruffians finally gave their names as "Fessenden," "McNair," "McNair," "McNair," "McNair," "Foss," and, for their authority, read a precept, purported to be directed to Dunning R. McNair, Sergeant-at-Arms of the United States Senate, and to the "Honorable the Vice President of the United States, commanding the arrest and bringing before the Senate, by the said McNair, of your name, and of the name of the person named Mr. Sanborn, to appear before the Senate, and to answer to the said precept was a clause, by which the said McNair professed to be his authority to issue Carthage, and to state that none of the four men holding him were known to your memorialist, or to any of his neighbors then present, and that, in the absence of authority, or indication of authority, as represented to me, I will say I do not wish, if any-wildly as it may seem, to be responsible for the arrest; but it seems to me that the proper disposition of this paper is to lay it on the table, at least until we get the official return made upon the warrant of the Senate. I move to lay it on the table for the present.

The VICE PRESIDENT. Objection being made to the reference of the paper to the Committee on the Judiciary, the Chair suppresses the motion of the Senator from Virginia has precedence, to lay on the table.

Mr. SUMNER. That is not a debatable question.

Mr. MASON. Certainly, I withdraw it if the Senator wishes to say anything.

Mr. SUMNER. I merely wish to remark that the memorial does set forth a great grievance, and it is authenticated by the oath of the memorialist, and it asks for remedy; and now I understand the Senator proposes to lay the memorial on the table. Is that customary with this body when memorials are presented, containing important facts properly ascertained, and from responsible persons, and which ask for the action of the Senate?

Mr. MASON. The Senator will allow me to interrupt him?

Mr. SUMNER. Certainly.

Mr. MASON. I said I would move to lay the memorial on the table, only to await the official, formal, legal return of the process of the Senate, which refers to the very matters to which the memorial relates, that they may be considered in connection, if they are considered at all. That is what I intended to say.

Several Senators. That is right.

Mr. CRITTENDEN. Why could not this be referred now, and get rid of the memorial for the present, and refer also that official return when it comes, and see no necessity for delaying the matter. If that return also is necessary for the consideration of the subject, let it be referred when it comes. I see no reason why the memorial should not be referred.

Mr. MASON. The Senator from Kentucky would like me to suggest that this matter is in charge of the committee of which I am the organ, and I respectfully submit to that Senator—and I know there is no Senator to whom I could more respectfully make the submission—that it would be possibly better to permit the organ of that committee to suggest the direction that the thing should

And, as in duty bound, will ever pray.
CINCINNATI, April 6, 1860. B. SANBORN.

CONGRESS, April 6, 1860.
COMMONWEALTH OF MASSACHUSETTS, ss.
County of Middlesex.

Then personally appeared the above-named P. B. Sanborn, and made oath that the facts contained in the above Memorial are true according to his best knowledge and belief.

In testimony whereof I have hereunto set my hand and affixed my seal notarial this 6th day of April, in the year 1860.
NATHAN P. NORTON, Notary Public.

Mr. SUMNER. Mr. President—
Mr. MASON. The Senator will allow me to make one word in objection. My impression was that I had sent this warrant by Sergeant-at-Arms, to Boston, with the instructions that I mentioned, to depute the authority if he could not find the man; but I am corrected in a conversation with the Sergeant, and find that I had sent this warrant, together with another for the arrest

of a man named Redpath, of Boston, to the marshal, the authority of the Sergeant being deputed here before the paper went away. When the Sergeant was sent to Boston, he was sent there with a warrant to arrest the man who is here now, (Hyatt); but it seems that I had sent this warrant to the marshal of the United States, and with a deputation from the Sergeant, here, some time in the month of February—and my letters from the marshal subsequently informed me that the process had not been served, after many attempts to find this man Sanborn, because he either absented himself from the State or was concealed and kept out of the way. He was unable to find him up to the time that he made the arrest, according to his statement.

Mr. SUMNER. I merely wish to correct one error into which the Senator has fallen. He stated, it will be remembered by the Senate, that Mr. Sanborn was taken from the custody of those who were also a majority of the Sergeant, nothing is within my knowledge except what is authenticated by that paper under oath, and there the statement is express that he was not taken from the custody of these pretended officers except by the intervention of the writ of habeas corpus, sustained by the *posse comitatus* of the neighborhood.

Mr. MASON. The Senator will allow me to say in reply that that course I have no personal knowledge, nor has he, of the circumstances. The representations made to me, according to my recollection—and I think it is distinct, for I was immediately informed by telegraph, and afterwards by letter from the marshal—are, that after Sanborn was arrested by the deputy of the marshal, he was taken into the custody of the officer by a tumultuous body of people, whom I call a mob, and that thus being out of his custody, the *lebas* corpus was issued. Those are the facts, as represented to me. I will say I do not wish, if any-wildly as it may seem, to be responsible for the arrest; but it seems to me that the proper disposition of this paper is to lay it on the table, at least until we get the official return made upon the warrant of the Senate. I move to lay it on the table for the present.

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Mr. MASON. The Senator from Kentucky would like me to suggest that this matter is in charge of the committee of which I am the organ, and I respectfully submit to that Senator—and I know there is no Senator to whom I could more respectfully make the submission—that it would be possibly better to permit the organ of that committee to suggest the direction that the thing should

take. What I shall propose to do with it, I am not advised; but I only ask that it shall lie on the table until the warrant comes back which the Senate issued, with a formal, legal return upon it, showing by the officers to whom it was intrusted, what were the facts connected with the subject, as they understand them. That is all. After that, the Senator from Massachusetts may take it up and propose any disposition of it he thinks proper. My motion was only with a view to await the process, which will be here in a day or two.

Mr. SUMNER. I understand, then, from the Senator, that he expects a return from the officer to that warrant.

Mr. MASON. Certainly. I received a letter—I think I have it in my pocket—from the district attorney. I should state that as soon as I was advised that this process had issued to release the witness, I telegraphed to the marshal and directed him to engage the services of the district attorney to defend the arrest; and last night I received a note from the district attorney—being one of several I have received from him—telling me that the warrant would be returned. I have telegraphed to the marshal to send back the warrant and make upon it a formal return of the facts that attended the release of the witness; and I got a letter from the district attorney last night, in reply to that, saying that it would be sent, and was delayed only until they could obtain properly certified copies of the proceedings in the court. It will be here, I presume, in the course of the day. I move to lay the memorial on the table.

Mr. SUMNER. I consent, but with great reluctance, however, to let it lie on the table to await the return of the process; but I do that with the understanding that then it shall be referred.

Mr. MASON. No; with the understanding on my part that the Senator may call up the petition and make any proposition he pleases in reference to it. What course I may think it prudent or wise to adopt, I am not prepared to say; possibly I may consent that to the reference; but I do not commit myself to that. The Senator may call it up and make any motion upon it he thinks proper. What may be my action on that, I do not know.

The VICE PRESIDENT. It is moved and seconded that the memorial lie on the table.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. LANE. I now move to take up the bill (S. No. 53) for the amendment of the fourth section of the act for the admission of the Territory of the Union, so as to extend the time for selecting salt springs and contiguous lands in Oregon.

Mr. SIMMONS. I hope the Senator will allow us to make reports.

Mr. LANE. This is a bill that ought to pass, and I am sure there is no objection to it.

Mr. CAMERON. I have no objection, as soon as I get permission to offer a petition.

The VICE PRESIDENT. The motion is in order.

Mr. CAMERON. Does not a single objection prevent the bill being taken up in the morning hour?

The VICE PRESIDENT. No, sir.

Mr. TRUMBULL. I hope we shall be allowed to get rid of this petition in the morning. I have always understood the rule of the Senate to be that petitions were first in order in the morning hour.

The VICE PRESIDENT. The Chair will state again, for the information of Senators, the ground on which he has acted, and it has been sustained by the Senate. After the fourth hour has been read the Chair first calls for memorials; then for reports of committees. That is the regular order of business; but it is in the competency of the Senate to take up any business it chooses, and it is always in order for a Senator to move to take up a bill.

Mr. LANE. After the fourth hour has been read, if I can have an understanding that the bill will be taken up afterwards. It is important that it should be taken up and passed.

The VICE PRESIDENT. Does the Senator from Oregon insist on the motion?

Mr. LANE. I prefer to have the bill taken up.

The VICE PRESIDENT. Then the question is on the motion of the Senator from Oregon, to take up the bill indicated by him.

Mr. FESSENDEN. Several of us have peti-

tions and reports to make; and it is not customary to insist on taking up a bill while there is business of that kind to be presented. I do not know how long the bill will take. At any rate, I will call for the yeas and nays, if the Senator insists on his motion, to see if the morning business is to be postponed.

Mr. LANE. I am not disposed to be in the way of Senators with their business; but I am sure I have not taken much time of the Senate. This is a bill in relation to lands granted to the State of Oregon under the provisions of the law providing for her admission, by which the lands granted must be selected within a given time. That time is about expiring. These lands have been given for the advantage of the State of Oregon; and they have not had an opportunity, for want of the meeting of the Legislature, to provide means for locating the lands; and as it is entirely local, relating to her interests exclusively, and providing for selecting lands granted to the State by law, I trust that Senators will allow it to be taken up and passed.

The VICE PRESIDENT. On the motion to take up this bill the yeas and nays are demanded.

The yeas and nays were ordered.
Mr. TRUMBULL. I trust the Senator from Oregon will not persist in a motion to take up a bill before we have relieved the legislative business. He will gain nothing by this. The resistance to his motion is not opposition to the bill which his wishes to call up. It is because we wish to relieve ourselves of these papers.

Mr. LANE. I will do any thing in the world to oblige Senators. If they say "withdraw it, and let it be," I will do so. I am willing to yield. Let them present their papers.

The VICE PRESIDENT. If there be no objection the motion may be withdrawn, the yeas and nays having been ordered. The Chair hears no objection.

PETITIONS AND MEMORIALS.

Mr. HAMILIN presented resolves of the Legislature of the State of Missouri for the establishment of a uniform decimal system of weights, measures, and currencies, fixing the standards or units of each measure, with their sub-divisions or multiples in the most concise and simple manner; and that the more effectually to promote this desirable reform, a special national commission be recommended for the purpose of producing a uniform system of metrology throughout the commercial world; which were referred to the Committee on the Library, and ordered to be printed.

Mr. CHANDLER presented the memorial of Abraham Edwards, of Kalamazoo, Michigan, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. GREEN presented a communication from T. T. Grant, of St. Louis, Missouri, relative to the judiciary act of 1793, and in favor of changing the time allowed for taking appeals and writs of error to the Supreme Court of the United States; which was referred to the Committee on the Judiciary.

Mr. GRIMES presented papers relating to the claims of Miriam Hungerford, Jacob Paulin, Milton Carpenter, Nathan Fish, and Buren Hungerford, to indemnity for Indian depredations in Utah; which were referred to the Committee on Claims.

Mr. TEN EYCK presented the petition of William C. Morris, for himself and the representatives of Joseph Morris, deceased, an officer in the revolutionary war, praying commutation pay; which was referred to the Committee on Revolutionary Claims.

Mr. TRUMBULL presented the petition of Joseph D. Greecy, praying compensation as a clerk in the Post Office Department; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS presented a petition of citizens of Jackson, Mississippi, praying the erection of a suitable building at that place for a post office; which was referred to the Committee on the Post Office and Post Roads.

Mr. FESSENDEN presented the petition of Miriam Davis, widow of Lot Davis, who died of wounds received in the Dartmouth prison, praying for a pension; which was referred to the Committee on Pensions.

Mr. CAMERON presented a petition of citizens of the township of Upper Tulpehocken, Pennsylvania, praying that a pension be granted to Michael Lauck, a soldier in the war of 1812; which was referred to the Committee on Pensions.

He also presented a memorial of Livingston, Coalbrook & Co., Lyon, Shaker & Co., and other manufacturers of Pittsburgh, Pennsylvania, praying for the passage of a law to prevent and punish fraud in the use of false labels, trade-marks, &c.; which was referred to the Committee on Finance.

Mr. SIMMONS. I present a petition of citizens of Washington and Georgetown, praying that the bill to prohibit corporations in the District of Columbia from issuing notes or bills of any kind for circulation in the District may be passed by a vote. I move that it lie on the table, and be printed.

The VICE PRESIDENT. The memorial will lie on the table, and the motion to print will go to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. TEN EYCK, it was Ordered, That the petition, on the files of the Senate, of the representatives of Joseph Morris, late a major in the revolutionary war, praying commutation pay, be referred to the Committee on Revolutionary Claims.

BILL INTRODUCED.

Mr. CLAY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 301) for the relief of certain persons who made entries in the district of lands subject to sale at St. Stephens, Alabama; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Pensions, to whom was referred the memorial of Hester Stoll, widow of Urban Stoll, late a soldier in the Army, praying a pension, submitted a report, accompanied by a bill (S. No. 300) for the relief of Hester Stoll, widow of Urban Stoll. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. FITCH, from the Committee on Indian Affairs, who were instructed by a resolution of the Senate to inquire into the expediency and propriety of relieving A. M. Fridley, late agent for the district of Minnesota, of the United States, judgment obtained against him in the district court for the second district of Minnesota, in consequence of his having, under orders of the Indian department, disobeyed an injunction obtained against him in said court in regard to the payment of certain moneys belonging to the Winnebago Indians, submitted a report, accompanied by a joint resolution (S. No. 28) for the relief of A. M. Fridley, late agent for the Winnebago Indians. The joint resolution was read, and passed to a second reading; and the report was ordered to be printed.

Mr. TEN EYCK, from the Committee on Revolutionary Claims, to whom was referred the petition of Hetty G. Dorr, daughter of John D. Alvey, postmaster of the American army, at headquarters, during the revolutionary war, praying that she be paid for the relief of her father and soldiers of that war, or their widows and orphans, may be so construed as to include his heirs or legal representatives, submitted an adverse report; which was ordered to be printed.

Mr. KENNEDY, from the Committee on the Districts of Columbia, to whom was referred the petition of the Baltimore and Ohio Railroad Company, praying for authority to extend the Washington branch of their road to the Potomac river, and across the same, by means of a pile structure connected with the Long Bridge; and the bill (S. No. 377) to authorize the Baltimore and Ohio Railroad Company to extend the Washington branch of their road to the Potomac river, and across the same, by an extension of the present structure known as the Long Bridge, for the purpose of connecting the railway services and a sufficient set of tracks, reported the bill with amendments.

Mr. NICHOLSON, from the Committee on Revolutionary Claims, to whom was referred the petition of Catharine Wilkie, daughter and only heir of Joseph Ezine, praying relief on account of the military services and sufferings of her father during the revolutionary war, submitted an adverse report; which was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims,

to whom was referred the memorial of Joseph C. G. Kennedy, praying a repeal of the joint resolution of December 23, 1852, relative to the salary of the secretary of the census board, submitted a report, accompanied by a bill (S. No. 302) for the relief of Joseph C. G. Kennedy. The bill was read and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Joseph C. G. Kennedy, praying indemnification for damage to buildings belonging to him, done while they were used by the Government, submitted a report, accompanied by a bill (S. No. 303) for the relief of Joseph C. G. Kennedy. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. GWIN, from the Committee on the Post Office and Post Roads, to whom was referred a resolution of the Legislature of California, in favor of the establishment of a daily mail between some point on the Mississippi river and some point in California, and a resolution of the Senate, instructing the Committee on the Post Office and Post Roads to expedite the expediency of establishing a semi-weekly mail from St. Joseph, in the State of Missouri, to Placerville, in the State of California, reported a bill (S. No. 304) to provide for the transportation of the mails in California, between St. Joseph and Placerville, California, within twenty days; which was read, and passed to a second reading. He gave notice that he should ask the Senate to consider the bill to-morrow.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, announced that the House had passed a bill (H. R. No. 617) conferring on Atlanta, Georgia, the privilege of a port of delivery; in which the concurrence of the Senate was requested.

The message further announced that the House had ordered this day, at one o'clock and fourteen minutes, the printing of resolves of the State of Mississippi to a uniform decimal system of weights, measures, and currencies.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

A bill (S. No. 29) for the relief of Arthur Edwards and his associates;

A bill (S. No. 79) for the relief of Tenech Tilghman;

A bill (S. No. 136) for the relief of Thomas Filibrown; and

A bill (H. R. No. 273) for the relief of Micajah Hawks.

HOUSE BILL REFERRED.

The bill (H. R. No. 617) conferring on Atlanta, Georgia, the privilege of a port of delivery, was read twice by its title, and referred to the Committee on Commerce.

SALT SPRINGS IN OREGON.

The VICE PRESIDENT. The hour of one o'clock having arrived, the Chair must call up the special order, which is the unfinished business of yesterday—the homestead bill.

Mr. CHANDLER. There was another special order made for one o'clock, some time ago—the St. Clair salt bill.

The VICE PRESIDENT. The bill in relation to the St. Clair salt would be the special order, but for the fact that the homestead bill is the unfinished business of yesterday.

Mr. CHANDLER. I do not wish to antagonize the St. Clair salt with the homestead bill, although I would with any other measure before Congress.

Mr. LANE. I now ask the Senate to take up the bill (S. No. 62) to amend the fourth section of the act of Congress, approved March 3, 1850, relating to the time for selecting salt springs and contiguous lands in Oregon.

The VICE PRESIDENT. The Senator from Oregon asks unanimous consent to take up the bill S. No. 62.

Mr. WADSWORTH. I am sorry that I cannot consent to that. I want to get rid of the homestead bill. Mr. LANE. This bill, as I said before, is important to Oregon. It extends the time allowed

the Governor of that State for selecting lands granted. The time allowed him is about to run out, unless this bill shall be passed. It was referred to the Committee on Public Lands, and by their unanimously reported, with a recommendation that it ought to pass. I am sure there is no Senator who can have any objection to it. It will not take a minute to pass it; and I hope the Senator will allow it to be taken up and passed.

THE VICE PRESIDENT. Objection being made, the Chair will state that there is but one motion, and that will be a motion to postpone the previous question.

MR. WADE. If this bill is not to lead to any debate, I shall not be captious about it; but if it leads to any debate, I shall move to postpone it.

MR. LANE. It cannot lead to any debate.

MR. WADE. Very well.

THE VICE PRESIDENT. Then the Senator from Oregon asks unanimous consent to suspend informally the special order, with a view to take up Senate bill No. 82. The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 82), to amend the fourth section of the "Act for the extension of Oregon into the Union," so as to extend the time for selecting salt springs and contiguous lands in Oregon; to provide to extend the time for selecting the salt springs and contiguous lands, according to the provisions of the fourth section of the "Act for the admission of Oregon into the Union," approved February 14, 1859, to three years from the passage of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COLONEL WILLIAM THOMPSON.

MR. CRITTENDEN. I hope gentlemen will indulge me by granting me five minutes; it shall not be longer. A bill was passed last Friday, when private bills were considered, granting to the heirs of Colonel William Thompson certain moneys for his military services done under the resolution of Congress. It was discovered after the passage of the bill that there was an error in the amount granted. I asked for a reconsideration of the vote by which the bill was passed, and that it might be deferred until I could have an opportunity for correcting it. I am prepared now to make the correction, and ask that the bill may be taken up. It will occupy but a moment.

THE VICE PRESIDENT. The Chair is informed by the Secretary that the vote passing the bill was reconsidered.

MR. CRITTENDEN. It was reconsidered.

THE VICE PRESIDENT. Then the question is on the passage of the bill (S. No. 189) for the relief of the surviving grandchildren of Colonel William Thompson of the revolutionary army of South Carolina.

MR. CRITTENDEN. I must ask for a reconsideration of the vote by which the bill was ordered to a third reading. I desire to offer an amendment.

The motion was agreed to.

MR. CRITTENDEN. Now offer this in lieu of the first section of the bill, after the enacting clause:

That there be paid, out of any money in the Treasury not otherwise appropriated, to William E. Haskell, Charles Lewis, Charles Rhoads, widow of James R. Rhoads, Mary E. Darby, widow of A. B. Darby, Charlotte Lewis, widow of Isaac John B. Lewis, Charles A. Goodwin, widow of Robert H. Goodwin, the grandchildren and heirs of William Thompson, who was a colonel of the third regiment of South Carolina mounted continental troops during the revolutionary war, the sum of \$7,200, being the half pay for life to which their ancestor, the said William Thompson, was entitled under the resolution of Congress that he survive as a colonel aforesaid throughout the war of the Revolution.

MR. FUGHI. I would suggest to my friend from Kentucky, in order to avoid any controversy hereafter, to add the words "said Colonel William Thompson having elected not to take the command of five years' full pay," before the words "to amend the amendment, by adding these words."

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HOMESTEAD BILL.

The Senate, as in Committee of the Whole, re-

sumed the consideration of the bill (H. R. No. 280) to secure homesteads to actual settlers on the public domain.

MR. DOOLITTLE. Mr. President—
MR. JOHNSON. of Tennessee. Before the Senator proceeds I wish simply to present an amendment to the bill to offer to the bill, for the purpose of having it printed.

The motion to print was agreed to.

MR. DOOLITTLE. Mr. President, before proceeding directly to the discussion of the merits of the proposition pending before the Senate, I desire to make a few observations by way of reply to some of the remarks which fell from the honorable Senator from South Carolina (Mr. CUMMERS) yesterday. I listened with great pleasure and with great attention to that Senator. His clearness of statement, his dignity of tone and manner, no less than the deep earnestness and sincerity with which his views were presented, were such as to command my respect; and while I dissent from him in some of the conclusions at which he arrived, I do concur in some things advanced by him.

I have not yet seen the report of his speech, nor did I take any notes of it as delivered; but there were some three or four points which I desire to notice before coming to the consideration of the homestead bill.

First, the honorable Senator says upon this side of the Chamber to correct our philosophy and become truer and better students of nature; that we should learn the laws stamped by the Creator upon the human race, and upon the physical world; and that we should endeavor to align our course, as legislators and statesmen, in accordance with those laws. In the principle thus laid down, I most fully concur. I do believe that it is the duty, and the highest duty, of the statesman and legislator, to study the laws of nature and to legislate in accordance therewith. I do not mean to say the doctrine of the great Senator from Massachusetts (Mr. Webster) that we should not respect the will of God; that it is useless for us in legislation to consult the laws of nature, and to make our enactments conform to them.

But I mean to say that the honorable Senator from South Carolina that we should study nature and nature's laws; but the result of that study teaches us no such doctrine as the honorable Senator maintains, that one of the races of mankind has superiority in natural and political rights, entitling him to the equality of all men in the eyes of the law, which their equality was declared by our ancestors in 1776. Although this subject has been a hundred times discussed upon this floor and elsewhere, I desire in a single word to state what I believe was the true understanding of that declaration. I do not believe that our ancestors intended to declare, that in the temperate latitudes and upon the same soil, and side by side, the Indian or the negro was mentally, and physically, and morally, in all respects, the equal of the white man; that descendants of the same race; nor do I believe that they intended to declare that the white man in the tropical regions and under the burning sun, side by side with the negro, the child of the tropics and of the sun, was in all respects, both intellectually and physically, the equal of the negro.

Ay, sir, study the laws of nature—those higher laws, which God, the Almighty, has stamped upon this earth, and stamped upon us. Under its highest law, the white man cannot live in the tropics; and under its supreme law, his supremacy and superiority over the children of the tropics. He must mingle with the colored race, or cease to propagate his species. He has tried it, and has always failed. Such has been the result of his efforts to drive and to drive out of nature. The white man has never yet invaded tropical Africa, and under its burning sun and in its tropical regions, established his supremacy over the negro race. And why? Because the laws of nature are stronger than the will of man, and he must yield to their supremacy.

Mr. President, the history of the world demonstrates this. How is it in San Domingo? The white man, under the greatest empire of modern times, endeavored to assert and maintain his supremacy over the colored race, but he could not. The laws of climate, of disease, of health, overcame the white man, and the best soldiers of Napoleon were compelled to yield to the colored man. The most powerful nation of the age when

America was discovered, the Spanish nation, conquered and took possession of the tropical regions of this continent, but their race is losing its power in all those regions. Nature asserting her supremacy, and in the tropics, the children of the tropics, superior to the white man there, physically at least, will, by the laws of climate and population, overwhelm him at last.

Now, Mr. President, what did our forefathers mean when they declared that all men are created equal? Not that they are equal in fortune, in talent, in physical strength, or in moral character; not an equality of powers, but an equality of rights to life, liberty, and the pursuit of happiness. There is not an equality of powers, even among our own race. We see some men highly gifted by nature, some in mental and some in physical superiority to others. One of the strongest necessities for any Government at all grows out of this very inequality of powers, in order to secure the equal rights of the weak from the oppressions and exactions of the strong. The strong can take care of themselves, but to secure the equal rights of the weak, Government is necessary. Come down to the fundamental element in human society—man. His family relations. One man has just as good a right to himself and to his wife and to his children as any other man has to himself or to his wife or to his children. I do not mean to say, in this proposition, that one people is inferior to another, it by no means follows that therefore the stronger has the right to enslave and sell the weaker, or his wife, or children. It is a perfect non sequitur on the ground of natural right.

I know it has been said on this floor that Jefferson, who drafted the Declaration of Independence, did not intend to refer to the men of Africa. How any person can make that statement, after reading the original draft of the Declaration of Independence as written and signed by Mr. Jefferson, Mr. Adams, and Mr. Franklin, I am at a loss to determine; for in the *fac simile* before me, in the very same instrument in which they declared that "all men are created equal"—in the same instrument, and in the handwriting of Mr. Jefferson, is the most language denouncing the King of Great Britain:

"He has waged cruel war against human nature itself, violating its most sacred right of life and liberty in the persons of a distant people who never offended him, capturing and carrying them away into slavery; he has torn them from their homes and from their friends; he has subjected them to severe and inhuman treatment; and he has endeavored to destroy their lives and to ruin their posterity. This practical warfare, the oppression of a distant people, in the warfare of the world, has been continued, and he has determined to keep open a market where men should be bought and sold."

The word "men," in Jefferson's own hand, is printed in large capital letters, in Jefferson's own hand, to give double emphasis when he said that the children of Africa are "men" within the meaning of this very Declaration of Independence; and how any man can get up here and say that the committee did not mean to include all the races of men, even the African, is not more extraordinary than the contrary is demonstrated, made absolutely certain; there can be no doubt, no two opinions about what Mr. Jefferson, Mr. Adams, and Mr. Franklin meant when they submitted this Declaration to Congress.

Mr. President, I understand this to declare in general terms, and as applicable all over the world, that by the law of nature one man has just as much right to himself, to his wife, and to his children, as any other man has to himself, his wife, or his children. The honorable Senator from South Carolina also enjoined us to read the Scriptures; that we should "search the Scriptures," to use his language. Well, if I read the Scriptures aright, and I believe that I do, they declare that in the beginning God the Creator made man, a single person, male and female, but with no slave; and He gave to man dominion over the earth, the sea, and the air; but He gave him no dominion over his fellow man. The Declaration of Independence simply reiterates that great fundamental law of creation, and puts the question before any Senator: here are two families side by side in society—what right has one man to enslave another; take away his wife or his children? what natural right? What natural right have I, because I am white, or because I am black, or because I am colored, to hold another man because he is black, or because he is ignorant, because he is weak? Where is my natural right to do it? There is no foundation for it in the law of nature. Its only founda-

tion is in the law which man has created; by the law of the State where it exists, and by virtue of that law, and of that law alone. It does not exist by the higher law of nature.

The Senator also declared that we should study the experience of mankind. I agree in that proposition also; but does that Senator suppose that the experience of such men as Franklin, Jefferson, and Washington, is wholly to be disregarded? Slavery had existed one hundred and fifty years in Virginia when Washington and Jefferson declared their experience and desire to get rid of it; when Franklin, the great American philosopher, wrote his treatise on population in 1751, denouncing it in its severest terms. Is their experience nothing? Are we to assume that they knew nothing of this question?

But, Mr. President, I will call that Senator's attention to the declaration of General Marion, of South Carolina, on the subject of slavery, and what his experience upon that subject had shown. He declared that where the system of slavery exists it depresses the non-slaveholding white man, for the simple reason that the "rich have no need of the poor;" and, sir, he expressed the whole of it in that single sentence. Show me a class of society where the rich need the poor, and capital have no need of the poor, and I will show you a state of society where the poor laboring man is the absolute dependent of the capitalist. I know you sometimes say that in slave States there can be no conflict between capital and labor. For what reason? Because the capitalist absolutely owns his labor. There can be no conflict, for labor is the absolute and unconditional slave of capital. There can be no conflict where labor can have no voice whatever.

The other honorable Senator from South Carolina [Mr. HAMMOND] is reported to have said some years since, in speaking of the condition of nearly thirty thousand of a class of people in the State of South Carolina, the poor non-slaveholding whites, that their employment consisted in hunting and killing and catching birds, and what was still worse, he said, trading with the slaves upon the plantations and seducing them to steal for their benefit. Is there no lesson in this? What was the experience of Virginia also shown? In the State of Washington, the rich and the poor, the Potomac river was well cultivated and productive; a considerable portion of it. At all events, it is stated in the history of General Washington that the district where he resided was so populous that the location of the church of the parish was regarded as an important and vexatious question to the people of that day, but for all time to come; and its location was the subject of some controversy between him and Mr. Mason. It was finally located in the center of the parish, surrounded by many families, and large numbers attended regularly upon the services held in it. But time passed on. Plantation cultivation with slaves has done its work. The laws of nature asserted their supremacy. Everything fell into decay; and within the last ten years—I have it from the lips of one of the rich and the poor, which cost Washington so much labor to locate and to erect, had become a stow for cows and oxen; the country all around it growing up to those pine barrens where the very wolves are returning to howl over the desolations it has wrought, and that too in this beautiful and fertile country, which cannot shut off this capital. When, oh, when, will men learn from the lessons of experience?

Mr. MASON. The Senator will allow me one moment, I am sure; for, with all respect for him, he is positing a question on my Senator. The Senator is doing what many are advocating his position have been obliged to do—substituting a theory for fact. Now it so happens that the county of Fairfax, to which he alludes, was my place of nativity. One of the very eminent men of that day, to whom he had alluded, was my ancestor; and I think I know something of the facts relating to that county. Whether the land in the county of Fairfax was originally fertile or not, I do not know, because it was populated something more than two hundred years ago, nearly three hundred; but since I have known, or at least meditated, it has been the very opposite. The land was very much impoverished by a system of culture in tobacco, known as a part of the history of the southern States when it was their only and their great staple—their only article of export. Land

was so abundant that tobacco was cultivated until the land was exhausted; and when part of it was exhausted they turned it out and took up a new place.

As to the population of the county, the Senator will find, if he looks at the census tables, that Fairfax has, at this day, a much larger population, and of necessity much larger than it had in the days to which he has alluded; larger, because the great loss of the large estates of that day, by the gradual process of the melting down of the laws, been melted down and subdivided. The population has increased in proportion. The white population is increasing there faster—not in fact, but in proportion—than the slave population, because the white population was formerly unable to be translated to other parts of the State.

Then, as to the church referred to, for which I have a hereditary filial veneration, the Senator is again mistaken in the facts, at this time at least. I know the church well. It was the church that was visited by my ancestor, by General Washington. It was about equidistant between the residence of the two. There was a controversy about moving the church; but it was one of those county controversies, an amicable and a kindly one, and very often such between the gentlemen in matters of rural interest. The church is called the Pohick church. The estates in the neighborhood were very large—large landed estates—and at that day, of course the population was thin. The estates in that neighborhood are still comparatively large, but the land very poor. Mount Vernon is one of the estates to which I allude. That has been very much cut up and subdivided since the death of General Washington; but this church of Pohick is in the condition of many churches of the same character in the lower part of Virginia, where there was once a very populous neighborhood, but a wealthy one. By the gradual subdivision of the land, and the inroads that have been made by the sectarians upon the established Church of that day, those churches—built of materials brought from England, the bricks certainly, and very large and massive establishments—have found themselves in the midst of a territory where either the sectarians have got the advantage, or else the congregations have been scattered, as we called it, have become thin. That has been the consequence of the Pohick church; but, so far from its being abandoned, I know that, by a voluntary subscription of the descendants of those who built it, that church has been put in good repair and in a state of preservation, and will be preserved. I am sure that the honorable Senator and myself have been gathered to our fathers. That is the condition of that church, and that part of the State.

Mr. DOOLITTLE. The statement which I made was, that within the last ten years it was in the unfortunate condition to which I referred; but latterly, I understand within the last few years, it has been again restored.

Mr. MASON. It has been twenty years ago that a subscription was taken, I know; for I was quite a young man when I was taken.

Mr. DOOLITTLE. The precise point of time I shall not dispute with the honorable Senator. But his statement does not substantially conflict with the facts which I stated, that the operations of the system of slave labor, the cultivation of the land, large estates, and in tobacco, exhausting the soil.

Mr. MASON. Will the Senator allow me to add one additional fact, which happened to come under my personal observation? Some few years ago I was on a visit to New England, and at Plymouth, the historical interest of which we all know, and to my astonishment I found that within a very short distance of Plymouth, some two or three miles, there was a wilderness where they went to shoot deer, and I dare say wolves and bears.

Mr. DOOLITTLE. I am glad the honorable Senator has made a pilgrimage to Plymouth. I wish he might do it oftener. It has never been my fortune to go there; but I understand that the neighborhood about Plymouth is, and always has been, very pretty much a sandy and bleak which never has in fact been cultivated to any considerable extent. I referred to the once flourishing condition within the neighborhood of the Pohick church, and to the dilapidated condition into which it had lately fallen, as the consequence of

the system of cultivation of large plantations by slaves, and the exhausting of the soil, until they are abandoned to desolation and decay. I ask the honorable Senator from South Carolina, [Mr. CARLISLE] whether he does not agree in accordance with the same? Is not the experience of the whole country tending to show that when these large plantations are cultivated by slave labor the soil does become exhausted, and that most rapidly, in the rivers, by a single crop of like sugar, or cotton, or hemp, or any of the other great staples cultivated with slave labor; and does it not necessarily, in the end, give place to another kind of husbandry, which nothing but free labor can develop to make it successful?

Mr. CARLISLE. In reply to the Senator I will say that: in all new countries where land is abundant and fertile, and labor cheap, and there is difficulty in manuring and improving the soil, as a matter of course they go upon the new lands in preference to the reclamation of the old; but in the older States the fact is not so. I know from personal experience that lands now, which were owned a hundred years ago, are better to-day, more fertile, produce more than they did twenty years ago—to my own personal knowledge. We cannot, I believe, have a better system of agriculture, and I doubt if there exists a better system anywhere, in all the old States, than in my own State. But in all new countries, where you have abundant fertile land, it is the easier to abandon the old and cultivate the new; but in the older States it is whether the agriculture is improving more in South Carolina, or as much, as it is in New England, or anywhere else. The system of slavery with us does not tend to exhaust and destroy the plantation interest. That is my expectation, and I am sure to that question.

Now, sir, while I am up, I will notice one or two observations which the Senator made in relation to the Declaration of Independence and the equality of the races. I do not think the Senator has met the points which I presented yesterday. In all I believe I have been correct, and I repeat them; but I will notice one observation in relation to the intentions of those who proclaimed the Declaration of Independence. He cites certain passages of that Declaration, particularly the passage which is made its application to the negro. The Senator has drafted the Declaration of Independence presented that passage; but what did the Congress? This proclamation was not the proclamation of the committee who drafted it; it was the proclamation of the continental Congress; and when they drafted it, they were not very much struck over the very passage which the Senator has quoted. Therefore, it is evident that those who made the Declaration of Independence did not intend its application to the negro. I think that point is concluded against him. I am very glad that the Senator admits the inequality of the races. I do not agree with him in one point. He admits the equality of the races in different respects: first, they are unequal; in temperate latitudes the white man is superior; but when you go to the tropics, the negro, he says, is superior; so that he proves in all respects that the white man is better than the negro happen to be together. I think that is an abandonment of the whole argument of the question of equality.

Mr. DOOLITTLE. In the statement which I made in relation to the Declaration of Independence, I did not go further than to state that this was conclusive evidence of what was the meaning of Jefferson, Adams, and Franklin, when they drafted the Declaration; but as the Senator has referred to the fact that the Congress which adopted it, struck out those words, it is proper that I should remind him of the fact, which I believe Mr. Jefferson states, that they were so struck out by Congress out of complaisance to the representatives of South Carolina and Georgia, who desired still to continue the African slave trade, which was, in the same sense, as strongly denominated.

Now, Mr. President, one single other observation in relation to the positions taken by that Senator yesterday, and I will proceed at once to the discussion of the question before the Senate. The Senator has been going on, and on, and on, in the condition of the West India Islands, endeavoring to show that the state of the West India Islands was such as to demonstrate that nowhere on the face of the earth could the colored population, in a state of freedom, prosper to any considerable

Exent. In discussing this question, it is not my purpose to take the ground (for I never have taken that ground) that it would either be desirable, or that we should aim to effect any such result as to reduce the Gulf States of this Confederacy to the condition of the West India Islands. My purpose has ever been avowed and entertained by myself certainly; and I believe by none of the Republican party. But we do maintain that, if the colored population of the United States could be colonized in some place in a tropical climate, such as the West India Islands, the separation of States and individuals, without being in a state of slavery, they can maintain themselves in a state of very considerable advancement upon their condition among us, if not in the highest state of civilization; and we maintain that the colonization of the colored population is a fact. The reports made from time to time by the officers in charge of that colony demonstrate the fact that it has been a success, not a failure; and discouraging remarks are so often made on this floor and elsewhere in relation to the West Indies, that I have been induced to make a selection of a few extracts from the speeches of the able men of England in Parliament as late as 1859. Mr. Buxton, in rising to move for a committee to inquire into the present state of the West India Islands, said: "I am a strenuous promoter of immigration, in the course of his speech using this language, speaking of Jamaica:

[illegible]

These are the statements of Mrs Buxton, and he is followed, and sustained in his statements, by Mr. Labouchere, and others, in the House of Commons. I have read these extracts and referred to these facts in connection with the colony in Liberia and the condition of the West India Islands for the purpose of showing that it is possible somewhere upon this earth that even the

colored race can live and attain to a considerable degree of civilization, if not in a perfect state, without being subjected to the institution of slavery.

But, Mr. President, I have taken up much more time in these preliminary remarks than I had intended, and I propose now to direct myself to the question before the Senate. The resolutions of the Wisconsin Legislature, which I have already read, that not only the Republican party of that State favor the passage of a homestead bill, but that its people are almost unanimously in favor of the passage of the bill as it came from the Wisconsin Legislature, is a position well placed in a very different position from that occupied by the honorable Senator from Mississippi [Mr. Brown]. The other day he stated that the instructions and the opinions of the people of his State were in favor of the passage of the bill. A Senator representing them upon this floor, to vote against a measure which both his judgment and his heart approved. I find myself placed in no such position. The people of Wisconsin are almost unanimous in favor of the passage of the bill, and I am fully convinced that I am not, therefore, for myself alone, nor for the Republican party of Wisconsin, but for the whole people of that State, that I say that I can sustain this measure as it came from the House of Representatives, and sustain it heartily, and without any convictions of my judgment and understanding.

I shall again in it because it disposes of the public domain in accordance with natural right, founding title to land in individuals upon actual possession, and so that the land, which is now almost everywhere sufficient in size for a single family only, as God originally created society, for a single pair, male and female, with their infant offspring; and none the less because it does not tend to build up large landed estates, to be worked only by a few slaves, but to divide the land among the actual settlement to absenteeism, happy homes filled with brave sons and blooming daughters, with well-tilled fields and orchards and gardens, to the broad uncultivated wastes of grasping speculators; because, in all its provisions, it is made to be more than a law of accidents, and regards him more for what he is, than for what he has; in a single word, sir, it regards man more than money; because, in opening to settlement our domain, it makes no invidious distinctions against our brethren from other lands, and no such distinctions as would be a probable difference where a man happened to be born. "Thou shalt love thy neighbor as thyself," is the language of the New Testament. "We have land enough, and to spare"—Broad enough, and to spare, is the language of the old Testament, addressed only to the children of our own Stock, but to the children of all Christendom: "Come and enjoy them, without money and without price; all we ask of you, if foreign born, is your sworn allegiance before you enter upon your settlement, and your oath to shield and defend the rights of your title." In the providence of God, we hold, under the Constitution, this vast domain, not for ourselves of the present generation only, but for all generations; for all who may come, as our fathers came, and many of us come, to toil for the good of the child, the future alliance, and destiny with us and our children forever.

I support this bill also, for another reason, because it followed, as I hope it will be, by another enactment, which shall withhold from sale all the public lands until they shall have been opened for settlement under this bill for a long period of time, it will become, in my judgment, a measure of peace with the Indian tribes. The direct tendency of their joint operation would be to make our settlements on the borders more compact; and while those settlements themselves would enjoy almost all the advantages of older communities, they would become so strong for self-defense as to put an end to all Indian depredations, which are the prolific sources or pretexts for Indian wars.

I sustain this measure also, Mr. President, because, with a very simple enactment in connection with it, it can be made more efficient than all others, as a Pacific railway measure. I know not how it may be on the Texas route; but on the central and the northern routes, if you will but pass this bill, opening all the surveyed lands to settlement, and pass an act which shall direct the surveys of the land on each side of those routes for forty miles, reserving from settlement, to the

States and Territories through which they pass, the alternate sections for one half that width, subject always to preemption at \$2 50 per acre, one half of which shall be sold and expended as the work progresses, and the other half expended in the purchase of land for the settlement of those lines armies of emigration across this continent in almost solid columns. Behold those steadily advancing columns, planting, as they go, homesteads for freemen and their wives and little ones, peaceful in their progress, and yet more peaceful in their power. Behold the great Napoleon, cresting, at the same time, the necessity for, and the means to build and to sustain those lines of railway to the Pacific. Sir, where ever those columns move, they demand, and will receive, with or without Government aid, the great machine of modern civilization—railway communication.

Mr. President, by adopting this wise policy, you will develop across this continent, upon these plains, free and independent States, and thus bind forever in fraternal embrace the Atlantic and the Pacific coasts. By throwing such a column of emigration along the central route into Utah, you will overwhelm Mormonism and polygamy, as with a flood, wiping them out more efficiently than by penal enactments or with the Army. Take men with their wives and children, and plant them in sacred homes, and rear freedom's altars and firesides all over the Territory of Utah, and you will put an end to that blighting and cancerous curse now resting upon that Territory.

I sustain this measure also, because its benign operation will postpone for centuries, if it will not forever, all serious conflict between capital and labor in the older free States, withdrawing their surplus population to create in greater abundance the means of subsistence.

I support this measure, also, because it will enable the poor non-slaveholding white men of the slave States to escape from the crushing burden of a system, whose ablest advocates on this floor boast that in those States there never can be a conflict between capital and labor, for the simple reason that capital is the absolute master, and labor its captive, and, though well fed, its unconditional slave.

Mr. WIGFALL. Will the Senator explain what Senator he alludes to as having stated that proposition?

PROPOSITION 1. **THE BATTLE.** I allude to the Senator from Virginia, [Mr. HENRY.] I am not quoting his precise words, but the substance of his language, in which, if I recollect aright—and I believe I am not mistaken—the honorable Senator from Virginia contended that there could be no compromise between a State which was a slaveholding State; that there that conflict could never come; and he went further, and said that we of the free States were but making an experiment, which had not yet been fully determined; and on account of the conservative influence and power of the Union, we were not to attempt to prevent any such conflict among themselves, but that they, as our sister States in the Union, might help sustain us in carrying out our own great experiment of free labor. Of course, I do not pretend to say that the Senator was right or wrong, but the idea dropped by him in his speech.

Mr. WIGFALL. I merely wanted to draw the attention of the Senator, and asked him the question, in order that things might not go out here published as taken *pro confesso* against us on this side. His statement, as I understood it—and I was listening to him—was that it had been said by Senators from the South—and he now alludes to Mr. HUNTER—that capital in the South owned, not only the slaves, but the white men.

Mr. DOOLITTLE. I did not say that.
Mr. WIGFALL. That was the substance.
Mr. HUNTER. I certainly made no such statement.

Mr. WIGFALL. Allow me one minute. I beg, if there is a dispute about what the Senator said, that the reporter may read what he did say before he goes on.

Mr. DOOLITTLE. That would be an extraordinary thing; but I can repeat to the Senator what I did say.

Mr. WIGFALL. Well, repeat it.

Mr. DOOLITTLE. I can repeat the words.

MR. DOUGLASS. I can repeat the precise words, I think. I said, I sustain this measure also, because it will enable the non-slaveholding labor-

ing white men of the slave States to escape from the crushing burden of a system whose alien advocates upon this floor boast that in those States there never can be any conflict between capital and labor, for the simple reason that capital is the absolute master, and labor its captive, and, though well fed, its unremunerated slave.

Mr. WIGFALL. That is just between them and Mr. HUNTER. If the Senator from Wisconsin refers to me, what I have to say is, that I never said that capital owned the white labor. I was speaking of the relations between the slave and the master, and I said the masters owned the slaves, who constituted the great bulk of the laborers in the slaveholding States; and that there could be no difference between them, because the master owned the slaves and he represented the interests both of capital and of labor, and it was his interest in what was just between them. In speaking of the white laborer, I said he occupied a different position, and even the non-slaveholder had the use of slave labor; that he hired that just as he rented land. I never said the capitalist owned the white labor of the country.

Mr. DOOLITTLE. Mr. HUNTER said that the honorable Senator from Virginia did say so. It is not the language which I used. It is unnecessary for me to repeat it, because the reporter has undoubtedly taken down my words precisely as they were uttered.

Mr. WIGFALL. The Senator repeated just what he said at first. There is no doubt about that. It was merely an inference that I drew from his language.

Mr. DOOLITTLE. Mr. President, I support this measure because opening our territories to free white men will, in my opinion, tend to prevent their Africanization through the introduction of negro slaves, and thus secure in the end, what I believe God in His providence intended, that the temperate regions of this continent should become the permanent homes of the pure Caucasian race. The adoption of this policy will, in my judgment, tend to bring on a final settlement of this whole negro question. By the influence of our example in opening our territories to the Caucasian race, who are the children of the temperate regions, and by our treaty arrangements with our neighboring States upon the south, who occupy the tropical regions of this continent, we may induce them in those zones to open equally wide their beautiful territories to the children of the tropics, to the descendants of first-class men best adapted to dwell within them, and to cultivate and to develop them.

I believe, sir, that we may, while we open our own territories to the Caucasian race, induce those tropical States which are already in the possession of the colored races, where color is no degradation either socially or politically, to open wide their territories for the surplus population of the United States of African descent. Let us throw wide open our territories, which are within the temperate latitudes, to the white men, and let the free white men, who are the children of the temperate zones, whom God in His providence has planted in that zone; who have, through all history, controlled the destinies of that zone; and at the same time, by the influence of our example and by treaty, let us induce the tropical States of America to open equally wide their domain, capable of sustaining hundreds of millions of human beings, to colored men—the children of the tropics, the children of the sun—and thus open a way, when, in the providence of God, in the fulness of time, that destiny must be accomplished: THE PEACEFUL AND GRADUAL SEPARATION OF THE RACES, FOR THE HIGHEST GOOD OF BOTH.

Let no man misunderstand me. I would in no respect infringe on the rights of the States, nor of the individual States, nor of the Congress, nor of the Constitution of the United States, and by that higher law of reason upon which that Constitution rests, every State has, and must forever have, the undisputed, unquestioned right over its own destiny, and to provide for maintaining and defending its own domestic institutions. And, sir, while the policy I suggest would open a way for States and for individuals by which they could become free to rid themselves of slaves, if they should choose to do so, it would by no means, nor in the slightest degree, infringe upon the rights of the States, nor constrain their independent action. I would only make them free to act for themselves, in their

own time and in their own way. They would remain free, forever free, to hold or to emancipate slaves. That is their business, not ours. We have no more to do in this respect, and are no more responsible for the institution of slavery within the States, than we are for the monarchy of Great Britain, or for the serfdom of Russia. It is their business, not ours, for them to deal with in their own way and in their own time. If slavery be, as they say, a blessing, let them hold on to it, and be blessed; but if it be, as we verily believe, an evil, and they shall ever come to think so, let them get rid of it, as they see fit, as a necessity, rather than to bear something worse; for it would then be in their power to remove it from their jurisdiction. Does any man, however devoted to the defense of slavery, object to a policy which simply makes his State free to maintain it, or free to abolish it? Would he permit his State to maintain it at all hazards? Would he take away its power to rid itself of it, if it would desire to do so? It would then be a slave State, indeed, in more senses than one; not simply because the master holds the slave in servitude, but because he is subject to his control, but because if a chain of slavery would have its hold upon the neck of the sovereign State itself. It would be no longer the master of its own destinies—no longer sovereign, in fact.

And, sir, these questions of opening, directing, and regulating the settlement of this continent are questions of empire, and for all generations. They should be controlled by enlarged views. They should be controlled by a knowledge of the laws of human nature, of the human constitution, and the laws of geography and of climate, and of zones, and of races. They should be met in a spirit of Christian philanthropy and exalted patriotism. 'Not only the question of the foreign-born and the native-born Caucasian is involved in this, but the question of the positive rights of Territories under our control is also involved in its determination. The ultimate destiny of the Indian race is already, with the exception, perhaps, of the Cherokees and the Cherokees, a matter of history, too indubitably written to be overlooked or evaded. There are three positive races here—the Caucasian and the African; and the ultimate destiny of the negro race on this continent, which is a question that lies deeper and goes beyond the slavery question, is one of the gravest problems which has ever been presented to the American people. There is no power but the power of God as we every day at every corner, every turn we make. It is a question which is wrapped up with and involved in the destiny of this great Government.

This law has come, and is pressing harder every day towards its ultimate determination. It demands, in earnest tones, an explicit answer. The time has come when the American States must meet this question, and look it square in the face without flinching. If we open our eyes it is as we offend. There are no neutral positions here. The solutions to this question which have been proposed: one the solution of northern fanaticism; another the solution of southern fanaticism; and the third, and the only wise and practical solution, is that proposed by our ancestors early in the history of this Republic. The first race law—the unconditional emancipation of the four million slaves by force, it may be, to remain upon a footing of equality in all respects, side by side with the white race, and upon the same soil, which would call for the John Brown solution. The second looks to the acquisition—

Mr. HAMMOND. I have just come into the Senate, and am not so sure what the Senator is talking about; but I suppose the solutions are on the subject of slavery. I heard him say there was a solution to that question.

Mr. DOOLITTLE. The second, which I understand to be the solution of southern fanaticism, looks to the acquisition of Cuba, Mexico, Central America, all tropical America—the Senator from Vermont mentions the reopening of the African slave trade direct with Africa, as well as with the old slave-producing States of the United States, for the double purpose of planting slavery throughout the whole of the tropics, and of sending across all Central America and tropical America, it shakes hands with the empire of

Brazil, and at the same time bringing into this Union millions upon millions of the mixed race, for the purpose of counterbalancing the growing power, politically and otherwise, of the great Caucasian race in the North and West. Call this solution by what name you please—the solution of Walker and his filibusters; the solution of the slave-promoters, or of the Knights of the Golden Circle.

The third solution—and, as I have said, in my judgment, the only wise and practical one—is that which was proposed by Jefferson, concurred in and sustained by Washington, and Madison, and Monroe, and Clay, and Jackson; which looks to the time when the colonization and deportation of the emancipated race shall take place hand in hand, and pari passu, and in making provision not only for those who are now emancipated, but for those who shall hereafter become so; the voluntary action of States and individuals, in some place and climate congenial to their constitutions and adapted to their best happiness and highest development. That is, in my judgment, the wise, practical, Christian, and truly republican solution of this whole question.

I, for one, Mr. President—and I speak the voice of nineteen twentieths of all the people of the free States, not merely of the Republican party, but of the Democratic party—am utterly opposed to the annexation of Texas.

Mr. MASON. Will the Senator allow me to ask him how the deportation of four million slaves is to be provided for—whether at the expense of the slave owners, or by the Federal Government—in his theory?

Mr. DOOLITTLE. My opinion in relation to that question is this: the whole of these tropical States, if we will take them with a friendly hand instead of taking hold of them with the hand of the filibuster, will be induced to follow our example, and to open their territories to the children of the tropics, as we have done to the children of the temperate zones, as we are willing to do, not only for our own native-born citizens, but for the Caucasian race who are coming to us from every nation in Christendom. They will open their territories, and invite them to come and live among them, to enjoy with them equal political equality with them, where color is no degradation. This was the theory of the Democratic party but a very few years since.

Sir, the homestead bill itself was a daring measure of the Democratic party not long since. How many of those who are now in the majority of the Chamber to-day stand up to defend its passage? In the days when we annexed Texas to the Union—when I acted with the Democratic party in bringing Texas into the Union—it was the avowed policy of every member of the Democratic party North, and many of the Democratic party South, that there never should be an attempt made to bring Mexico into the Union, with its mixed races; but that if it should be opened in the end as a home for the colored race from among us in the course of time, it should be the final solution of the laws of population and of progress.

But, Mr. President, as I was saying, I speak the views of nineteen twentieths, I believe of ninety-nine in every one hundred of the people of the free States of the North, Republicans or Democrats, who will accept of that side of the question, and who are willing to see the United States composed to the amalgamation of races; and every declaration which has ever been made against the Republican party and its designs and its objects has been founded in a total mistake or gross misapprehension of the views of the people. There may be now and then one who is willing to go in for a promiscuous amalgamation of races, to be found at the North, I have no doubt, and I very much fear that there are some to be found even at the South.

Mr. President, as I would give homesteads to the free white laboring men of the Caucasian race in our temperate territories, so would I, both by treaty and by example, induce the tropical States of America to open their domains, and give homesteads and homesteads and civil and social equality to the free colored men who are among us. Sir, what are you going to do with these men? I put the question to Senators—what will you do with them and for them? They are being furnished from the slave States. Many of the free States of the North and South are unwilling to receive them in their jurisdiction.

I understand that, by the operation of a law

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which has just taken effect in the State of Arkansas, nearly six hundred free colored men have been banished from that State. Two hundred, as I am informed, have gone into Kansas. About four hundred of them have gone into the State of Ohio. What is to be done with them, and for them? You may say they are not citizens. You may say they are an inferior race; say what you please, they are still men; they have wives and children, and they have a right—even the Senator from South Carolina [Mr. Cassady] admitted yesterday they have a right—to life, if they had no other right.

Mr. WIGFALL. I will ask the Senator if he considers them citizens?

Mr. DOOLITTLE. That depends upon the law of the State where they are.

Mr. WIGFALL. Do you think they ought to be citizens?

Mr. DOOLITTLE. They ought to be citizens in the tropics, and I would like to send them all there who are willing to go; and I hope you will join in doing it.

Mr. WIGFALL. Then you do not think they ought to be citizens of the United States?

Mr. DOOLITTLE. I have not said on that question.

Mr. WIGFALL. Do you?

Mr. DOOLITTLE. It depends upon the law and policy of the State where they are. There are some States whose policy admits it. North Carolina and Tennessee, I believe, have done so. Mr. Bell was once elected to Congress, I am informed, when the majority that he represented was made up of the votes of colored citizens of Tennessee. I say it is a question of policy in the various States; some do and some do not make them citizens.

This solution of the negro question, to which I have referred, is a solution to which gentlemen must come. It is not to be postponed much longer, either. I submit, that nineteen twentieths of the people of the free States, and in my humble opinion, if you go among the slave States and go home to their hearts and hearths, three fourths of the people of the slave States—I mean the white people of the slave States—would to-day be in favor of providing some place where these people can live on God's earth, and enjoy life, and enjoy their wives and children. I do not believe that the people of the South would deny to them that boon.

• Mr. President, there is no point in this whole political contest upon which such great mistakes or upon which such gross misrepresentations have been made as to the policy and purpose of the Republican party. To send any such further misrepresentations or mistakes, and to put an end forever to any such misunderstanding and misrepresentations, I hope, as the honorable Senator from Ohio [Mr. Wadsworth] the other day declared he did, that the Republican party everywhere will declare openly and authoritatively in favor of this policy. While they declare themselves opposed to the Africanization of our Territories through the introduction of negro slaves, while they are inflexibly opposed to that, they are just as inflexibly opposed to any amalgamation of races; they are in favor of the policy which Jefferson proposed, and in which Washington, Madison, Monroe, Clay, and Jackson concurred. It is a fact, I believe, in the history of General Jackson's administration, that this matter was discussed in his Cabinet, and all know that at the time of the acquisition of Texas, by opening an immediate and vast outlet to the surplus of the colored population of the United States, it was contended that the colored race would be removed southward towards Mexico.

Mr. WIGFALL. I should really like to know how the annexation of Texas opened a vast field for colonizing free people of color. I want to know if he has stated that.

Mr. DOOLITTLE. I have not said that.

Mr. WIGFALL. Well, what did you say? What all defendants beg the Senator to repeat?

Mr. DOOLITTLE. I may have been not very

clear in my statement; but my recollection of it is very distinct. I stated that the acquisition of Texas opened immediately a very large outlet for the surplus colored population of the United States. I did not say the free colored population, for there are very few free ones there. I believe they are almost all slaves that are there, if I understand it.

Mr. WIGFALL. Yes, the colored people are. Then how is it that you anticipated that that would open an outlet for the colored people?

Mr. DOOLITTLE. Perhaps the Senator from Texas was not old enough to remember what took place during the great Texas campaign. Probably he was a young man at that time, and may not have given his attention to it so distinctly as some others did; but if he will turn back to the files of the Congressional Globe, and read the speech of Mr. Buchanan, and of Mr. Tibbatts, of Kentucky, and read the letter of Robert J. Walker, who became Secretary of the Treasury under the Administration which was brought into power more, perhaps, upon the avowal of that Texas policy by Mr. Walker than any other question which was discussed in the canvass, he will have no difficulty in understanding what was the understanding at the time.

But, Mr. President, I had concluded all the remarks which I desired to make upon this occasion when I said I hoped, as the Senator from Ohio had declared, that the Republican party would, in the most authoritative manner, proclaim their policy in its relation to this question, to put an end to the great mistake and misrepresentation which has been placed, and that they would declare in favor of humanizing their free people through the treaty-making power—for it is only through the treaty-making power that we control our relations with foreign States—to open a way by which those States can invite and offer homes to the free colored men of the United States, who are oppressed and downtrodden and banished from some of the slave States already, and threatened to be banished from many others; who are regarded as unwelcome in many of the free States, kept out of some of them, and who cannot enjoy the rights of the free States, and who are held in slavery throughout the whole country, any social equality, whatever political equality or citizenship may be conferred.

What can be the objection to this policy? What interest can be opposed to it? In my judgment every principle of humanity, the law of Christianity, which commands us to love our neighbors as we love ourselves; the law of philosophy, which teaches that this race is the child of the tropical zone—should induce us to this course. Nature will assert her supremacy—stronger in her laws than any human enactment. She will overcome; and if you succeed for a time in reestablishing slavery in Central America, as the Spaniards established it there three hundred years ago, it will die out, and for the same reason; because the white race cannot endure the tropical climate, and hold its preponderant power over the colored races which God, the Almighty, has planted in the tropics, and to whom He has given supremacy there.

Mr. HAMMOND. Mr. President, I owe the Senator from Wisconsin an apology for interrupting him just now. For I understood that in the commencement of his remarks he desired not to be interrupted. I was not present when he commenced; but since I have been so indiscreet as to interpose, I will say just one word. This idea of the solution of the slavery question seems to hang like a millstone, very heavy, very difficult to get me into an argument on this floor upon the solution of the question of slavery, when it is already solved. We have made up our minds. It is to stand as it is now, and to advance with the dominion of the southern States of this Confederacy. That is the solution, the only solution; and

it is a matter of nothing more than passing interest—I will not say of indifference—to us what Senators on the other side or what the North think about it.

Mr. DOOLITTLE. Mr. President, in reply, I would say that this whole question of slavery is discussed in the Congress of the United States simply on the ground of the territorial question. We have no right to discuss the question of slavery as a question of practical legislation, as it exists in the States, and we refer to it only because we are discussing our policy in the Territories. You propose to send the institution of slavery into the Territories; we think it ought not to go there, and discussing the question whether it should or should not go into the Territories necessarily involves on our part the consideration of the system of slavery in its bearings in the States where it exists. We mean not to discuss the question in any sense offensive to the States of the South, but when we insist that it ought not to go into the Territories, what answer do you give? You tell us that if we do not allow it to go into the Territories the necessary consequence will be that under the laws of population the colored race will become so numerous in the slave States that it will force on emancipation. That is what you say. You say if a limit be once put to the extension of slavery, the laws of population will force it out in the end.

Mr. HAMMOND. The Senator will excuse me. I have said no such thing. He answers me and says, "You say it." I think the South is anxious within the possibilities of maintaining a slave population of two hundred million.

Mr. DOOLITTLE. I am most happy to hear the honorable Senator from South Carolina avow that he does not apprehend any such fears as were expressed yesterday by his colleague, and which were expressed the other day in the House of Representatives, in a very able speech, by Mr. Cassady, of Alabama.

Mr. HAMMOND. Allow me one word. I do not wish to be misunderstood. While I believe we can support two hundred million slaves within our present limits, and I believe that that is an argument for expansion, I do not wish to be understood as surrendering any of our rights to territory and expansion at all.

Mr. DOOLITTLE. I do not so understand the honorable Senator from South Carolina that he desires, or is willing, to surrender his right to slavery expansion; but what I was saying was this: I was glad to hear that honorable Senator express no such apprehensions as were expressed by his colleague yesterday, when he denounced our policy of preventing the expansion of slavery as a needless policy, saying, I believe, the same language which was used by Mr. Cassady, of Alabama, in his able speech in the House of Representatives, when he said that if you once put a limit to the extension of slavery, the laws of population will press it to the point where it will grow down under its own weight. I am glad to hear that Senator express the opinion that he feels no such apprehension because it may not be extended.

Now, Mr. President, I desire to discuss that question for a single moment. It has so often been said upon this floor, and upon the floor of the other House, that we propose to deal unjustly with the men of the South, that I wish to discuss that question for a moment. Suppose, as the honorable Senator from South Carolina says, that the slavery question will press it to the point where it will exist as a permanent institution in the South for all generations, what, then, do we propose? We propose that the white race, the Caucasian race, to which we belong, shall enter into and take possession of the other temperate territories of the United States, and that every man of white blood, and which the Senator says will contain a population of two hundred million, is more in proportion than if you give the whole of the North American continent to the white race. You have four million slaves. What is the number of white men to enter into and occupy all this territory?

Just look at it for a single moment. The territories which you now have are more in proportion than if we took all the other territories of the United States, or all that we could acquire on the North American continent. Why, then, do you complain of injustice? You say, or some of you say, that the laws of population will press on the northern States to such a point as to produce actual war between capital and labor, and the population will become so dense as to press on the means of subsistence; but even then your territory is so broad and ample that, with your four million slaves, you have more room for development, more room for population, than we should have if we had all of North America besides. Why, then, complain of us of any injustice because we say that the institution ought not to be extended into the Territories?

Mr. HAMMOND. The Senator says, what is the injustice of giving the northern States all the Territories if we have got enough? No one said we had enough. I did not say that. But if we had enough, is not the territory the common property of all the States? and what right has one section to take it to the exclusion of another section? This is the injustice.

Mr. DOOLITTLE. Upon that point I desire to answer directly to the Senator.

Mr. WIGFALL. Allow me just a moment.

Mr. DOOLITTLE. I will answer one at a time, if the Senator from Texas please; because it will confine me to the same order of discussion to do otherwise. I wish to come directly now to the question propounded by the Senator from South Carolina; and it is a fair question to put to us, and a question which I will answer in the same sincerity with which it is asked. I hold that the Territories of the United States belong to the people of the United States, represented here in Congress—the States represented in this House, and the people represented in the House of Representatives. I hold, further, that the rights of the people of the United States are the same in every Territory of the United States; and I hold, further, that, although we propose to exclude the institution of slavery from the Territories, we do not trample upon the right of any citizen in this country. Look at it for one moment.

You are a citizen of the United States; you are a Territory just as I, a citizen of Wisconsin; you can take precisely into the Territory what I can take; I can take just what you can. You cannot take slaves; I cannot go and buy slaves and take them into a Territory. We are placed on precisely the same footing. The mistake grows out of this: we at the North have railroads, we have factories incorporated, if you please; can we take an incorporated factory into a Territory? What can we do?

Mr. HAMMOND. The Senator will allow me one word.

Mr. DOOLITTLE. I would like to go on.

Mr. HAMMOND. Just one word. I do not see why the Senator from Wisconsin could not take slaves there as well as I could, if I chose to take them. The Senator will tell me a right to take your property, whatever it is; and the Senator is at full liberty to take as many negroes as he pleases into a Territory.

Mr. DOOLITTLE. The mistake on this whole question arises out of a mistaken conception of what is meant by property. You say that each citizen should be permitted to take his property upon precisely the same footing with every other. I grant your premises; but your conclusion does not follow that slave property can go into a Territory. There are peculiar species of property existing in every State of this Union, may own an interest in a manufacturing company. Suppose I owned an interest in a manufacturing establishment, what can I do? I can go into the Territory, but I cannot take the manufacturing establishment into the Territory.

Mr. MASON. But there is no law prohibiting it.

Mr. DOOLITTLE. Certainly the law would prohibit it. The manufacturing corporation is the creature of a statute. It is a corporation created by the laws of the State in which you want I can do. I can sell out my interest in the corporation, put the money in my pocket, and remove into the Territory. You can do so with your plantation.

Mr. MASON. The difference is this, and no-

body sees it better than the Senator; if he has an interest in a manufacturing company and cannot take that into the Territory, it is because it is not susceptible of being taken there. There is no prohibition.

Mr. DOOLITTLE. Suppose we take a banking institution. I own the stock in a bank; I cannot take that bank into a Territory, but I will sell you what I can take. I can sell me stock in the bank and convert it into money, and remove into a Territory. You can do the same with your plantation. A plantation with slaves is a kind of close corporation created and sustained by the law of the State where it exists, and it is so.

Mr. HAMMOND. Will the Senator allow me to ask him two questions? I believe the Senator will agree that this Government exists by virtue of a Constitution called the United States Constitution.

Mr. DOOLITTLE. Certainly.

Mr. HAMMOND. Then I will ask him, if the highest judicial authority of this Government has not decided that, according to that Constitution, slaves are property?

Mr. DOOLITTLE. The word further before I take the question of the Senator. Slavery is, as I have stated, in the States where it exists, like a corporation. The natural condition of society is families in single pairs; but, as Mr. Calhoun stated in his speech, and was reiterated by Mr. Huxford the other day, society exists in the South in communities, of which the master is the head and the representative, representing not only the capital employed in it, but representing the laborers who are employed in it. By the laws of the slave States, that peculiar kind of close corporation is created, and it is so that you cannot move that corporation into a Territory, unless there is a law in the Territory providing for its removal, any more than we can remove a bank or a railroad. You can sell out your stock in a bank; you can sell out your stock in a railroad; sell out interest in a plantation and slaves; and put the money in your pocket, and go into the Territories, just as I would sell out my interest in a manufacturing institution, and go into the Territories. And now, Mr. President, in conclusion, I will come to the last question—let me ask the Senator. Suppose I do not choose to sell out?

Mr. DOOLITTLE. Then you need not. You may stay where you are.

Mr. HAMMOND. Stay where I am! Ah!

Mr. DOOLITTLE. If I do not choose to sell out my stock in the bank, I can stay where I am, or I can remove into the Territory, and tell my agent to take care of my interest in the bank; and I suppose you can remove into Kansas, and tell your agent to take care of your interest in South Carolina in the peculiar institution sustained by its laws and existing under its laws. You yourself can remove, but you cannot take this peculiar institution, which is the growth of law founded upon it, and exists only by virtue of its provisions in the State where it exists. Now I wish to direct your attention to the question of the honorable Senator, and I have done.

Mr. HAMMOND. Allow me to say that slaves are as easily removed as any other property.

Mr. WADE. Mr. President—

THE PRESIDING OFFICER, (Mr. FOSTER in the chair.) Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. WADE. What is the question?

THE PRESIDING OFFICER. The honorable Senator, before the Senate, (laughter,) the pending question being on the amendment of the Senator from Mississippi [Mr. BROWN] to the amendment reported by the Committee on Public Lands.

Mr. DOOLITTLE. It is somewhat traveling, from the instant the corporation of the homestead bill, to go to the Dred Scott decision; but the honorable Senator from South Carolina put the question to life. That Dred Scott decision is claimed by the friends of it, especially by the Senator from Mississippi, [Mr. BROWN], to establish the right to take this peculiar institution into the Territories; and that Congress has no power to prevent it, and the people or the Legislature have no power to prevent it.

Mr. HAMMOND. Not the court, but the Constitution has established the right.

Mr. DOOLITTLE. It is said the court have decided that the Constitution has done so.

Mr. HAMMOND. Exactly.

Mr. RICE. Mr. President—

THE PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Minnesota?

Mr. RICE. I merely wish to ask a question. The Chairman has decided that the homestead bill is before the Senate. I should like to ask my honorable friend from Wisconsin whether he is speaking to the Senate bill or the House bill? [Laughter.]

Mr. DOOLITTLE. I shall not be diverted from the answer to the question of the Senator from South Carolina, because that is a serious question and the question of my friend from Minnesota is a mere playful one. The question of the Senator from South Carolina is a serious question, and I desire, in a single word, to give it a serious and explicit answer. The Supreme Court of the United States have decided, or undertaken to decide, that Congress has not the power to prevent, by legislation, the extension of slavery into the Territories; but the Supreme Court have not decided, upon any fair construction of the language used by a majority of the members of the Court, that the Constitution of the United States, of its own force, carries into a Territory the right to hold slaves.

Mr. Buchanan in his message says that the Supreme Court of the United States has so decided; and I understand the honorable Senator from Mississippi, Mr. Davis, has resolved upon a resolution that the Supreme Court has so decided; but such I believe is not the real fact. They have decided, or undertaken to decide, that Congress has not the power to legislate; but that is a very different question from one. The Constitution of the United States, of its own force, carries the law of slavery into a Territory. Suppose you acquire Canada to-morrow, where slavery has been abolished these two hundred years, if it ever existed; your doctrine would be that the Constitution of the United States requires the extension of the law of slavery, and establishes the law of slavery. The Supreme Court has never decided any such thing as that. Judge Catron, in his decision, put his opinion, I believe, on the simple ground of the treaty with France, as the reason why Congress could not extend the law of slavery into the Territories, as a mere dictum at most of a single judge, I believe, which is relied upon by the President in the declaration which he makes in his message. But if the Supreme Court had decided so, and every judge of it, it would not contravene my opinion as a member of the Senate, that the Constitution, legislating for the Territories. We legislate upon our responsibility, upon our oaths to support the Constitution, and not upon the oaths of anybody else. That is my answer to the Senator.

Mr. MASON. Mr. President, the discussion of to-day, I think, has shed a flood of light upon this great political movement called the homestead bill. The bill came from the House of Representatives. A majority of the Senate, according to my recollection, having the entire control of the subject, have decided to send the bill to the House, shall pass this body. What form it is to assume, remains yet to be seen. The bill came from the House of Representatives; and I understand the honorable Senator who has just taken his seat, who is a leading, and a deservedly leading, member of the dominant party in the House, to announce here to-day that this bill is a measure intended for empire, command, control, over the destinies of this continent; and he is right. Sir, it is a flood of light upon the subject. The honorable Senator has chosen—what is it a part of the policy of this State of the Empire, as an indissolubly belonging to it, the whole slave question with the homestead policy. The honorable Senator has told us that the great feature of this policy is, by the gratuitous distribution of the public lands, to encourage the white country now open for settlement, and free white population to pre-empt it. The Senator is right; with the objects in view by the bill that has been sent to us by the other House, the question of slavery is connected with it, and cannot be separated from it. The Senator is now saying that it is not avowed, it would manifest itself; the purpose is avowed, by means of the gratuitous distribution of the public lands, to pre-empt the Territories by population from the free States, and thus incidentally, and, of necessity, to exclude slavery.

The Senator has been candid in that avowal. The Senator has proclaimed that it was a measure for emigration, for political control, and for political ascendancy.

Mr. DOOLITTLE. The language I used, if the Senator will allow me, was that it was a measure of empire, and for all generations—the question of the settlement of this continent.

Mr. MASON. Certainly, and the question of the settlement of this continent to be controlled and directed by means of this homestead policy. I do not misinterpret the Senator; I certainly do not misrepresent him. He is right. There is no question of the quarter from which this bill comes; there is no doubting the policy that it is intended to ingraft upon the excoity, and there is no doubt that the solid and compact plan which we here see on the right of the Chamber is embarked in that policy. Sir, I appeal to the honorable Senator from Tennessee, who comes from a different constituency, to see this thing now in its true light.

Mr. JOHNSON, of Tennessee. The Senator will allow me, I will call his attention to a law that will, perhaps, throw some little light upon this question. I find in the statutes of the United States, the following:

"That to every white male citizen of the United States, or every white male above the age of twenty-one years, who has declared his intention to become a citizen, and who is residing in said Territory prior to the 1st day of January, 1853, and who may be still residing there, there shall be reserved a homestead section, more bounded and sixty acres of land."

I want to call the attention of the Senator to the word "donated."

Mr. MASON. I would say to the Senator that it is not English. There is no such word as "donated."

Mr. JOHNSON, of Tennessee. I do not care whether it is English or not; it is law:

"And to every white male citizen of the United States, or every white male above the age of twenty-one years, who has declared his intention to become a citizen, and who shall have removed or shall remove to and settle in said Territory between the 1st day of January, 1853, and the 1st day of January, 1858, there shall in like manner be donated—"

Bad English again—

"one quarter section, or one hundred and sixty acres, on each and every vacant settlement and cultivation for not less than four years."

I should like to know of the Senator if he voted for that law.

Mr. MASON. Will the Senator tell me what law?

Mr. JOHNSON, of Tennessee. It was passed in 1854: "An act to establish the office of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes."

Mr. MASON. I don't know. I dare say I did. I think it very probable I did.

Mr. JOHNSON, of Tennessee. The Senator was calling my attention to the provisions of the homestead bill. It does seem strange that such extraordinary discoveries should be made recently in connection with the bearing and the growth of the policy of a homestead law. Here is a homestead bill in a broader and a larger scope than the one now under consideration.

Mr. GREEN. Let me call the Senator's attention to one single fact, and that is: this word "homestead" implies always something sacred to be preserved as home to the husband, wife, and children. Does that law make any such provision?

Mr. JOHNSON, of Tennessee. The Senator from Missouri, a few days since, gave us a very learned disquisition on the term.

Mr. MASON. I hope the Senator will not insist on occupying the floor. His object was to call attention to that law. I knew it very well, and I dare say voted for it, though I do not now remember the fact.

Mr. JOHNSON, of Tennessee. What I wanted to call the Senator's attention to was, that this was in 1854, when there was so much talk about emigrant aid societies. This extended to every man who had declared his intention to become a citizen of the United States, except to all who were there in 1853, and held out inducements to all who would go, up to 1858. Is it not remarkably strange if the present proposition, which requires a citizen to pay a certain amount and live upon it a certain length of time, and enter upon lands reserved—is it not remarkable—

Mr. MASON. The Senator may have all that opportunity in good time in his speech.

Mr. JOHNSON, of Tennessee. By permission of the Senator from Virginia, I think we are here directing—

Mr. MASON. Not for argument.

Mr. JOHNSON, of Tennessee. And addressing himself to me, perhaps there could be no better place to introduce and exhibit a homestead law that he saw passed here in 1854. That was a homestead proposition in its broadest sense.

Mr. MASON. The Senator need not call my attention to the policy of that law. I know very well that in the organization of the Territories of Oregon and Washington, according to my recollection, there was a policy to invite emigration there by giving men lands on the terms mentioned in the resolution that I introduced. I voted for it; I dare say I did. The policy there was to invite a population into a country without people.

Whether it was an ill or a wise policy I will not now undertake to say; but I demand the attention of the Senator from Tennessee—representing a different constituency, and a different constituency of gentlemen on the opposite side of the Chamber, and having a policy totally different in the political power, or the mode in which it is to be controlled in this Government—I demand his attention to the fact, no matter what the policy shall be, that I look at the purpose of the bill, and purpose avowed, openly avowed on this floor—and I know of no better means by which that policy could be attained than this very scheme of a gratuitous distribution of the public lands, which they may be located—and the purpose of playing a position there from the free States, and excluding the slave population.

If the bill passes, how will it be followed up? We have had some experience of the agencies that are introduced by the opposite party in the United States. I will pass that. I will pass that section of land to those who will go and take possession of it, you will have emigrant aid societies chartered for the purpose of sending people there to take possession, and you will have the honorable Senator from Tennessee and his constituency endorsing that policy, and who, in consequence of that, Sir, I give the honorable Senator full credit, if it be a credit—he is the best judge of that—for having been the early friend of what I think he miscalls "the homestead policy." He introduced it at an early day in this Chamber, soon after the passage of the act. According to the course which he represented his constituents in the other branch of the Legislature, he introduced the same policy there; and, if he thinks it a good policy, let him think so. I call his attention to the uses to which it is to be put now.

Why, sir, since I have been a Senator on this floor, no honorable gentleman who came, I think, from the State of Wisconsin—represented by the Senator who has so ably and so frankly discussed this question this morning—a gentleman who has introduced a bill, and who has been so candidly a Senator from Wisconsin, (Mr. Walker,) who is usually what he called his homestead bill. There was a congress at one time in the city of New York, and they memorialized the two Houses to give land to the landless, in the terms used in the resolution that I introduced, and who can afford to do it; it received here; the bill was introduced from year to year; it has been introduced by the honorable Senator from Tennessee since he came upon this floor. What countenance did it get? Generally a very meager vote. Where does it stand now? It is brought up and political energy from the other wing of the Capitol, introduced and sustained here by the compact vote of the Opposition. What is the Opposition? A party calling themselves the Republican party. What is their purpose? To get the control of this Government, that they may set directly on the condition of African bondage in the southern States.

Honorable gentlemen on the other side of the Chamber have, more than once, many of them, disclaimed any connection with the Abolition party. They have said that there is a party somewhere among them of Abolitionists, pure and simple fanatics; men who have no political purpose except that of destroying the condition of slavery. I have heard honorable Senators on that side of the Chamber say they had no political affiliation with such a party. Sir, I put it to the country

and to the world, what cohesion, what principle of cohesion, is there in this so-called Republican party but its opposition to the condition of slavery? Take that from them, and their life-blood is gone, and they would not exist a day.

Sir, are we to go back to our ABC's in politics, or in the affairs of nations? Have we not seen within the last few years the distinguished Senators here putting his standard far in advance even of that very Abolition party, for the purpose of compelling them to unite with this so-called Republican party? I allude to the speech made by a Senator from New York, (Mr. Seward,) somewhere in his own State—Trenton, or Syracuse, or some one of those places. In that celebrated speech he spoke of an irrepressible conflict, in which he declared, as the destiny of this country, that it must all be affected to the dominion of the white race, without any intermixture of African blood, or that African slavery must extend over the whole continent. That was his theory; and he illustrated it by saying that one of two things must happen—either that the slaveholders of the South would be cultivating with the cotton plant, or the white people of the North, or that the white people of the North would be cultivating exclusively the rice and cotton fields of the South. "We must be homogeneous," was his doctrine; and the illustration was, that there was a conflict irrepressible to bring it about. Now, Sir, I ask you, what is the party? That is the policy which is to be attained by this great engine of the distribution of the public lands. That is the intent and design of the bill which has been brought in from the other House, and even the compact vote of the Opposition on the other side of the Chamber; and that is the bill which the honorable Senator from Tennessee, representing a very different constituency, as I understand it, is prepared to give his countenance and his vote to.

Now, Mr. PUGH, I am indebted to the honorable Senator from Wisconsin for lifting the veil from this measure. It has no longer the narrow and contracted purpose of giving land to the landless, and providing homes for men who will never occupy them; it has no longer that diminished character, and the compact vote of the Opposition on the part of this Government, instituted for a very different purpose; it is a political engine, and a potent one. It has already received the sanction of the other branch of the Legislature, where there is a majority—I do not know whether a numerical—but a decided majority. It is a bill, and it is before us now, to be passed in the Senate, for the purpose of effecting that great object. It is the Emigrant Aid Society's policy upon a wider scale. It is not to be sustained by voluntary contributions, but it is to be purchased at the price of the public domain gratuitously given. That is the policy of the present homestead bill. I desire that my people should know it, if it is to pass into a law; I desire that my people should have another evidence of the practical working of this Federal Government, in the measure of the bill, and that not only, but who have sympathy with, but who have a determination to destroy that condition of society which is mixed up with the very existence of the South. I desire my people to see it, and to note it as another evidence of the practical working of this Government when it falls into those hands.

Sir, I have spoken of this measure altogether as a measure of policy, as a mode of attaining empire and of using it when it is attained. It is an agrarian policy. It is an unjust departure from the spirit, intent, and meaning of the Constitution which holds these States together. But, besides, it is bad policy as a measure of philanthropy; it is an encouragement to pauperism. The honorable Senator from Texas has been kind enough to show me. I am indebted to him for it—that is the bill quoted by the honorable Senator from Tennessee, the year and says were not called for, so as to vindicate my personal vote, if it is worth vindicating; but, as I said before, I am perfectly indifferent. I may have voted for such a bill as that, very possibly, I did, but not this policy, with a disposition to invite population into a territory without population. Whether it was wise or bad policy, I am not prepared now.

Mr. PUGH. The Senator misunderstood. The law which the Senator from Tennessee read was the New Mexico act, not the Oregon act.

Mr. MASON. It is immaterial. I do not desire to pursue such an inquiry.

Mr. WIGFALL. With the permission of the Senator from Virginia, I will read the proceedings in the Senate on the law which is referred to:

"Mr. DOANE, of Iowa, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 315) establishing the official land office at Fort Leavenworth, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes, reported it without amendment."

"The Senate proceeded to consider the said bill as in Committee of the Whole."

"No amendment being made, it was reported to the Senate."

"Ordered, That it pass to a third reading."

"The said bill was read a third time."

"Revised, That it pass."

No yeas and nays were called.

Mr. GREEN. That never became a law according to my recollection. Did it?

Mr. JOHNSON, of Tennessee. Yes, sir.

Mr. GREEN. For Kansas?

Mr. JOHNSON, of Tennessee. Yes, sir.

Mr. GREEN. I think you are mistaken.

Mr. MASON. I hope Senators will indulge me.

The PRESIDING OFFICER. The Senator from Virginia is entitled to the floor.

Mr. MASON. If the honorable Senator from Tennessee can find any vindication of a vote for this bill, in any policy that may have been adopted to bring population into territories where there is no people, he is welcome to it. Let him settle that with his constituents. I do not intend to hold him to an account; I have no right to do so; but I intended most respectfully and civilly to call his attention to the political uses which are to be made of the measure for which he is responsible on this floor. I confess that when I first saw that this measure had been taken up as a party measure in the other House by those who are in opposition to the party now in possession of the Government, upon the eve of a presidential election, the impression I mistook for a candid expression of opinion, was that it was only a magnificent bid for the Presidency, to conciliate or to buy up the popular vote. It seems I was mistaken. It has a larger, a wider, a grander end in view; one much more worthy of the great political struggle that must ensue between those in this country who profess to attain political power—I will not say fairly and honestly—but to attain political power by parceling out the public property gratuitously amongst those who would come and take it, and the end of the political power was to operate against the condition of slavery.

Mr. GREEN. Will the Senator allow me to interrupt him?

Mr. MASON. I would rather you would allow me to finish.

Mr. GREEN. Just one single word. I have examined the law to which the Senator from Tennessee referred, and I find it applies exclusively to New Mexico, and not to Kansas. The object of it was to infuse an American population into the Territory of New Mexico; and they were made donations.

Mr. MASON. I remember well enough about that. I did not recollect the particular law to which it applied. I thought the Senator from Tennessee was mistaken in saying it was a bill to provide a surveyor general for Kansas; but I did remember very well that it was a policy—which may have been a wise policy—to infuse a white population by these donations of the public lands to relieve the Government from the still greater burden of defending them by a soldiery. It is a vastly different thing between sending a population into a territory not populated, for political ends to be attained there, and a measure of this kind, by which the public lands are to be gratuitously given in every State and Territory where we have public lands, for the purpose of infusing a population, to attain a great political end of a political party. I say again, if the honorable Senator from Tennessee can vindicate his support of this measure by any policy of that sort, let him do it. The things are very different; widely different. We are to have, we have said, and have said again and said again, by the private contributions of individual members of a political party, but an emigrant aid society aided by the legislation of the Federal Government to bring about political ends hostile to the South, and intended to destroy the social con-

dution of the South. That is the purpose. It is in that light I present it to the honorable Senator and to the country.

I will not review now—I may do so at a future day—the provisions of the bill as a measure merely of policy in the disposition of the public domain. I charge upon it here, and upon the authority of the Senate, and of the whole fabric of the speech of the honorable Senator from Wisconsin, that the policy, as here disclosed to us—done frankly, honorably, and fairly on his part—is an engine devised to attain political power, and use it for purposes hostile to the slave States. It cannot have any other consequences than those.

Mr. DOOLITTLE. I wish to put a single question to the honorable Senator from Virginia. I may, in the course of this discussion, have rambled, perhaps, from the consideration of the direct question before the Senate—the homestead bill—and got into the discussion of the question which is very common on the floor of the Senate—the negro question. I ask the honorable Senator from Virginia to state whether he does not concur with me in my view of the propriety of inducing the tropic States of this continent to open their doors to the free colored race, and to give them homes and homesteads among them.

Mr. MASON. I will do so, Mr. President, very cheerfully and very frankly. I do not concur in it. I do not concur, because I cannot imagine a greater curse that could be inflicted on the black race—the negroes than to set them free to work out in freedom their own salvation, and thus the honorable Senator from Virginia must know, or will know if he looks at the condition of negroes in freedom—in their relapsing into utter and brutal barbarism. Why, sir, what is the experience of our country? If honorable Senators will open their eyes to the existing facts, which this country has before her, and to the comment, it has been elevated in the condition of slavery. Where they have been humanized, civilized, or christianized, it has been while they were in the condition of slaves; and when they have been emancipated, and gone to live by themselves, they have fallen from the degradation of their race, of necessity, from causes over which we have no control, and can exercise none—fallen into absolute, brutal barbarism.

Mr. DOOLITTLE. I will inquire of the honorable Senator from Virginia if he does not know the fact that our commerce with the island of Hayti, which is now under the control of the colored race, is more than it is with all Mexico, although they are in the condition of freemen; and that the commerce of Great Britain with her West Indies, although they exist in freedom, amounts to some forty million pounds annually.

Mr. MASON. When we come to look at the facts, they depend entirely on the statistics. I have looked at the statistics from time to time—

Mr. DOOLITTLE. The honorable Senator will not say that he is a single word. I will presume to speak on my own responsibility, but on the responsibility of able men in the British Parliament, speaking in the summer of 1859. Mr. Buxton shows that, by the statistics furnished by the Board of Trade—

"The imports and exports together of the West Indies and Guiana had amounted, in the four years ending with 1857, to £32,568,000; and in the four years ending with 1859, to £37,000,000—an increase of £4,432,000. The exports of sugar, coffee, rum, and cocoa, had greatly increased of late years."

He says, further:

"Probably it would be said that all this was mainly due to the immigrants. In the last five years, twenty-five thousand immigrants had come to all our West Indies, including the children of the children of the immigrants who had gathered about to imagine that this great prosperity was owing to the labors of those few thousand men; and in fact, the islands offered had not received immigrants, were quite as flourishing as those that had. Clearly, then, our West Indies were possessions of immense and increasing value."

Now, the honorable Senator will not understand me as contending that I believe the negro race will be improved and left perfectly independent, and would rise to the same degree of civilization as the Caucasian race of the temperate zone; nor do I believe even the Caucasian race, if they lived in the tropics, where men lived with so little labor, would be in as high a degree of civilization as in

the more temperate latitudes; but I say they can live there in a very tolerable degree of civilization. The statistics of Great Britain, and the statements of members of the House of Commons, show the fact that, although the Governors of the West India Islands for some years after emancipation took place gave a most mournful account of the condition of the negro race, and the statements to the absenteeism which wanted the islands before slavery was abolished, and the fact that the estates were all under mortgage, and that they were owned in England, and mainly carried on by persons residing in the West Indies; and when the first shock of emancipation came, the estates especially did go on under its operation; but within the last three or four years the Governors of those islands give altogether different and more encouraging accounts. Those are islands where this very condition of which the honorable Senator speaks, exists among the colored population. Those are the statements of British statesmen.

Mr. MASON. That is a question of fact, which the honorable Senator is not more able to determine than I am. He takes these statistics from those who have collected them. We all know that it is part of the business of the States, and is prone to make facts conform to our theories; and we all know that there is no part of the habitable civilized world where this idea of abolitionism has taken more hold than upon some of the British statesmen, and especially upon Great Britain; and I have seen, from time to time, as that Senator has, in their views and in their speeches in Parliament, directly opposite statements as to the condition of things in the British West Indies. I have understood, on the best information I can get since the emancipation of the negro race in the British West Indies, the value of property there, dependent altogether upon labor to make it productive, has diminished not less than seventy-five per cent.; and the reason of it is, that they have no labor. I know, because it has passed within my personal knowledge, that Great Britain was at one time ready and anxious to get an importation of free negroes, if they would go voluntarily from this country to her possessions in the West Indies, to see if she could use that labor, when there was abundance of the same sort of machines capable of labor that Great Britain. The honorable Senator from Wisconsin comes from one of the new States, where, I presume, there are very few negroes; but there are other Senators, who come from old States, where there are many negroes, and I put it to the Senator whether, in any of the old States, or in any State where there are a large number of free negroes, they ever find them, left to themselves, be it in a city or in a village or in the country, where they are not in a state a very few degrees removed from actual barbarism?

Mr. SIMMONS. I would state that in Rhode Island, which abolished slavery soon after the Revolution, the descendants of those slaves have made as much progress in that State as any class of population.

Mr. MASON. How many negroes have you there?

Mr. SIMMONS. I do not know—three or four thousand. Many of them are wealthy, respectable, well-behaved people.

Mr. WILSON. Will the Senator allow me a moment?

Mr. MASON. Certainly.

Mr. WILSON. I disagree with the Senator from Virginia altogether, in the statement he has made to-day in regard to the condition of the free colored population of the older States of the Union. In my State we have between eight and nine thousand colored people, and I say here to-day that they are intelligent; that they universally attend our schools; they can read and write; they are industrious, and I may say, that in intelligence and good habits, and knowledge of many things, superior to the average population of my State, or, in my judgment, of the country. I speak especially of the colored population of my own State, and I think my remarks apply to the colored population of all New England, of New York, of Pennsylvania, and of New Jersey. I have no objection to go into an examination of facts to show that the charges so often made on the floor of the Senate, without authority, that the free colored population of this country are tending to barbarism, are in no sense of the word correct.

That population is under the ban of this proud and arrogant white race of ours everywhere—in my section of the country, and in others, and although they are allowed their legal rights, still there is a prejudice, a feeling against them that weighs with crushing power upon that race; but, in spite of all this, the free colored population of this country, of the North and of the South, during the twenty years of the past, has made progress in all the attributes that belong to men. It is so in the South; it is so in Virginia; it is so in Georgia; it is so in every southern State of this Union to-day. The free colored population have made progress during the last quarter of a century, and the reports of the various commissions, the examinations of facts, all tend in one direction. Take the city of Washington. We have twelve or thirteen thousand free colored population here. Where is there a more peaceful or law-abiding population than in this city? You may go into an examination of the statistics, and you will find that they are increasing in education, in intelligence, and in property; and in some parts of the country they are making marked progress. It is hard enough for that race in the North and in the South to lead a quiet life upon them, without this perpetual and continual misrepresentation of their condition and their position. So far as my own State is concerned, I say here most positively, that the statements which are so constantly made are in no sense worthy of correction.

Mr. MASON. Mr. President, I made the inquiry, and it was said that it should be answered, whether, in the experience of Senators who came from those States where there remained a comparatively large colored population in freedom, they had not regretted, and whether, wherever they were found in masses, wherever they were congregated and left to communities by themselves, they did not show a strong proclivity to the barbarism for which they emerged when they were subjected to this condition. There has been my presence so far as I have had a personal knowledge, or so far as I have derived it from the observations of others. I may be that in the New England States, for aught I know to the contrary, and more especially in the State of Massachusetts, it would be true to say, as Mr. Mason says, that for a white man, to be idle and to be dependent. Everything works there. If a man or a woman gets poor, they pick him or her up and put him or her in the work-house and make them work; and I dare say if the statistics of the State were looked to, it would be found that a large portion of the negro population of that State were now subjected to coercive labor somewhere and in some form.

I remember very well when I really had the good fortune to be in the State which the honorable Senator represents—Massachusetts—that, riding through the beautiful country adjacent to Boston, appropriated to villas, magnificent country seats of hospitable, kind, and generous gentlemen, as far as my intercourse went with them, I saw an accumulated waste of the most beautiful taste; I was struck with the fact that, in three out of four of their most beautiful and highly adorned grounds opening upon the public highways, there was not a gate; and all the preserves of flowers and of shrubbery, and all that which required attention, and to be saved from depredation, were open to the highways, and wherever there was a gate—and there were very few—I never saw the gate shut. I was struck with the fact, and remarked to a gentleman who was near me, "How is this? no man whatever takes any deep of the depredation that would be committed by the cattle who are allowed to roam at large upon the highways." "Why," said he, "that is not allowed;" and, in all my ride, I never saw even a gate or a pig upon the highway anywhere. That is answered. "Well," said he, "in my country, and all through the South, the poor people pasture their milch cows on the highways, if they have no fields to pasture them in—and very good pasture they get—and their other stock run upon the public roads, and are not molested. How the poor people take care of their stock!" It was answered at once, and very philosophically, "We have no poor; there are none who would be dependent upon this sort of precarious subsistence for their stock." They did not mean to say that they had no poor in fact, because that would have

contradicted the Scripture, which says the poor are always with you. They certainly did not mean that they had no poor in fact; but it was disclosed when they went in their almshouse. There were the poor, carefully provided for, scrubbed clean, meat and drink given to them; but they were confined, and made to work. They had no poor—at least none that could be seen on the roads.

There is a very well known fact in the organization of such a society as that, that a negro who would live in Virginia under the sun, enjoying that which his race most enjoys, the basking rays of the hottest sun, in perfect repose and quite unmolested, would be picked up in Massachusetts and thrown into a work-house and scrubbed clean—and what! Made to work. I have no doubt about that, and therefore it may be that, with the negro population distributed through these States, from their organization—and a fortunate one for them it is, considering their general character—they are none of those idle, thriftless, vagabond negroes that you find elsewhere, because they are picked up and put in the work-house and made to work—coercive labor—shut out from the eye of man. We see none of it when we go there, unless we have entrance into their houses of correction.

But, sir, look at Canada, the great place of refuge now for the absconding slaves from the southern States—those who are helped off by the constituents of honorable gentlemen on the other side of the water, and get into a work-house in what is their condition at Chatham, and their neighborhood? I have never been there; but I see through the public press that the white people are rising there, because of the condition of the population that has been thrust upon them. They have got a population that they are determined to get rid of in some way. Why? Because the population who come there are those born to consume the products of the labors of others, unless they are made to labor themselves. I have seen, in the newspapers, that the people of that island have all around them a great deal of trouble. I have seen that the people have held public meetings to memorialize their provincial Legislature to take some measure to expel that race, as nuisances, in the country where they are found.

The honorable Senator from Wisconsin asks me whether there is not now a larger commerce between the United States and Hayti than between the United States and Mexico. I do not know anything about the fact; but I know that, from the unsettled condition of the States of the continent, such a political disturbance, the Mexicans have very little trade or commerce anywhere, and I presume that they have as little with any other country comparatively as they have with us. They have a larger commerce with England, I know, than they ever had with us, because England is more enterprising, because she offers more facilities and inducements. I know, however, if those are to be trusted who have been to Hayti, and who have seen the condition of the population there, that in the French colony, and in the English colony of Hayti proper, they are in a state of war constantly with the negroes; that the negroes have very little intercourse there; and in Dominica—if they are to be trusted, who have been there, and I have conversed with persons who have been there, who have resided there, and who know something of the character of that population—it is a common fact that the great mass of the negroes are obliged to live in the country because there is no place for them in the city, that those who live in the city are mere jobbers about the streets, picking up a few cents here and there, and doing nothing, which a negro is most prone to, a desultory jobbing kind of life, to pick up enough to answer the immediate necessities of the day, and then to go. Thrift, providence, accumulation, are unknown to them.

There is this of all individuals. There are individual exceptions to that; but the great mass of the negroes in the country are living in the primal forests, cultivating no more of the earth than their wives and little children scratch over, and, in time, to raise a common vegetable food—the plantain, pumpkin, sweet potato, and matters of that kind, that are most easily raised. The men do nothing. Nine or ten months in the year they are absolutely and utterly idle. They live in hovels. They have dirt

floors; they have no furniture of any kind or description, unless the gourds in which they tangle the water to drink. They have beds, or tables, or stools. They have no desire for, no idea of, any of the slightest advances in civilization. It is not in their nature. They are found there as they are found in the wilds of Africa; and the men come out periodically for a few weeks in the spring and in the fall, and they are paid by the hoganey for wages, and those wages are expended in rum. That is the condition, I am told, of the great mass of the population. Whether it be true or not, will depend on the facts which the observation of intelligent minds imparts to us.

But, to consider this very desultory conversation—for it is more of that character—I will say to the honorable Senator from Wisconsin that I should be opposed to his policy, from regard to the white race and from regard to the black race, of attempting to send them into Central America or anywhere in that region of country. What is to be done with blacks who are now emancipated, I am not prepared to say. It is a great problem that is to be worked out. We had thought at one time, when they were emancipated in the slave States, that they would find a refuge in the free States. The free States are expelling them. Why? If they formed a desirable population they would not do so. If they were not *fruges consumere nati* they would not be expelled; they would tolerate them. I agree that something is to be done with them. What is to be done with them I am not now prepared to say; but from regard for that, and regard which we ought to feel for everything that pertains to animal life, to ascend no higher, I would be the last to advise that they should be sent into that tropic to shift for themselves. Something better may be done for them at home. As to the slave population, I agree with the Senator from South Carolina: if a problem, it has worked itself out; the thing is settled here, so far as the South is concerned or the opinions and purposes of the South, or their ability to make their opinions and their purposes good. It will become, as it has already begun to be, the established policy of the South to have no more emancipation. Let them continue in bondage as they now exist, as the best condition for both races.

Mr. JOHNSON, of Tennessee, obtained the floor.

Several SEYMOURS. Let us adjourn.
Mr. JOHNSON, of Tennessee. The suggestion on the right and the left is for an adjournment. So far as I am concerned, I will be governed by the wishes of the Senate. I am prepared to go on and answer the Senator from Virginia, and prefer doing so, if the Senate will permit; but as it is suggested that an adjournment would be preferred, I have no disposition to resist the adjournment in order to make the remarks I intend to make. I feel prepared now, without wasting a night to sleep on it, to answer every position the Senator has assumed here to-day in reference to the homestead policy.

Mr. HALE. I do not doubt what the Senator says. I know that it is a cause in which anybody can make a mistake, but I do not wish to do so to-morrow; and I therefore move that the Senate do now adjourn.

Mr. JOHNSON, of Arkansas. Before that is done, I wish to move a reconsideration of a bill that has perhaps passed by mistake.

Mr. HALE. Certainly.

FORT ATKINSON RESERVATION.

Mr. JOHNSON, of Arkansas. The Senator from Iowa [Mr. HALLAM] called up a bill from the Committee on Indian Affairs, which I am to see by the report to-day—I was not in my seat at the time—and procured its passage. It is a bill relating to the lands of the Fort Atkinson reservation. I received a notification from the Interior Department some considerable time since, and if my memory does not carry me wrong, the notification was put with the papers in the case, requesting that the bill should not be acted on by the Senate until we could hear further from the Indian office connected with that Department; because they were investigating the facts in regard to some Indian title, which would render it necessary that we should have the information that might be developed in that investigation before we acted on the bill at all. It was my intention to resist it, if an effort was to pass

the bill; and I supposed the Senator from Iowa was advised of that fact.

I cannot now get at the papers, as they have gone to the other House. My motion will not affect the bill at all, if it ought to pass; and if so, it can be passed afterwards very readily. I ask that the Senate reconsider the vote by which the bill was passed, so that the measure be transmitted to the House requesting that the bill and papers may be returned to this body. I do not know that it is necessary, until we can have an investigation, to take the vote on the reconsideration; but we at least want the papers and bill here in this body.

Mr. HARLAN. I know not that I shall interpose any objection to the motion made by the Senator from Arkansas; but I think he is totally mistaken in relation to the facts that it is alluding to. A bill passed the Senate, at the last session, including all that is contained in this bill, and also providing for the sale of lands at two other points. The subject was thoroughly investigated by my colleague at that time, who is not now a member of the Senate, and I think the bill passed the Senate without objection.

Mr. JOHNSON, of Arkansas. Very well; and I will say that I know I have received the communication from the Interior Department requesting a delay. It may be that it is not applicable, and it will have no effect; but I ask to enter the motion to reconsider. I will not ask a vote on it now.

Mr. HARLAN. I will not interpose any objection. If there is anything that can be brought to light, I am willing it should be done.

Mr. JOHNSON, of Arkansas. I also ask that a message be transmitted to the House, asking the return of the bill and the papers, in order that we may examine it before discussing the motion to reconsider.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The papers now being in the possession of the Senate, the motion to reconsider would not, perhaps, be strictly in order. The motion to send a message to the House requesting the return of the papers would first be necessary.

Mr. JOHNSON, of Arkansas. I make that motion, then.

Mr. GRIMES. I desire to ask the chairman of the Committee on Public Lands is this an Indian claim to which he refers?

Mr. JOHNSON, of Arkansas. I am not able to give the Senator that particular. After the Secretary of the Interior had reported to us from the Land Office, and also from the War Department, that there was no difficulty in regard to our action on the subject, I subsequently received a letter, as chairman of the committee, informing me of the facts; it was after the bill had been reported to the Senate for passage—that information was about being developed, on an examination then in progress and being made in the Indian Office, that might affect materially our action concerning the bill. Certainly, the Senator does not want a bill passed that is not right.

Mr. GRIMES. No, sir.

Mr. JOHNSON, of Arkansas. Certainly, I would not want to object to the passage of a bill that is right. I think it is well that we should have the papers here, and that there are no other rights affected, and none other that may receive injustice at our hands. That is all I want. I never heard of such a thing being raised before. I hope it will not be repeated.

Mr. GRIMES. I am not resisting it. I only addressed an inquiry to the Senator from Arkansas for the purpose of eliciting from him some information in regard to this subject.

Mr. JOHNSON, of Arkansas. I am not able to furnish that.

Mr. GRIMES. I will now say to the Senator from Arkansas, I am not interfering with this subject. I know the Indian title was extinguished some ten years to this tract of country. I know it has been in the occupancy of white settlers, to whom the title will be granted by this bill, for the last eight years. They are exceedingly anxious that the bill shall pass, and I have no doubt the Senator, when he shall be satisfied that there is nothing wrong about it, will consent that the bill shall be taken up and passed through without delay.

Mr. JOHNSON, of Arkansas. I concur

in the proposition, and reported the bill to the Senate. I will not make any pledge about it. My action I think is good enough thus far in favor of the bill. I do not want to call it up in order to defeat a bill I reported myself.

The PRESIDING OFFICER. The motion is, that a message be sent to the House of Representatives requesting the return of the bill indicated by the Senator from Arkansas, with the papers connected with it, to the Senate.

The motion was agreed to.

On motion of Mr. HALE, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, APRIL 10, 1860.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. THOMAS H. STROCKT. The Journal of yesterday was read and approved.

IMPROVEMENT IN AGRICULTURE.

Mr. KELLOGG, of Illinois. Mr. Speaker, I ask the unanimous consent of the House to submit a resolution, to which I think there will be no objection.

Several MEMBERS. Let the resolution be read. The Clerk read the resolution, as follows:

Whereas Russell Comstock, of Dutchess county, New York, proposes by the recommendation of a majority of many persons, including eleven ex-United States Senators, and the professors of ten colleges and universities, namely: Seneca University, New Haven University, Albany (New York) University, College of Physicians and Surgeons in New York city, Union College, New York; New York State Agricultural College, Geneva; College of Physicians and Surgeons in New York city, Normal School, Washington (Pennsylvania) College, Ohio Farmers' College, and Ohio Female College, the most incredible fact that he has perfected a system of cultivating the vegetable kingdom so as to increase all agricultural products more than fifteen per cent., without additional expense or labor over that recommended by agricultural writers, which, when known and adopted by the people of the United States, will amount to a large amount annually. The proposition is such, of his country, the action of Congress seems to be demanded that this improved, or what is termed perfect, system of agriculture should be generally known and published in the Patent Office report on agriculture: Therefore,

Resolved, That a select committee of nine be appointed by the Speaker to inquire into the expediency of improving agriculture by publishing Russell Comstock's admitted discoveries in a report to Congress.

Mr. WHITELEY. I object to the introduction of that resolution. There probably was never such a humbug heard of before.

Mr. KELLOGG, of Illinois. I hope that the gentleman from Delaware will withdraw his objection, and let the resolution pass.

Mr. WHITELEY. I do not insist upon my objection. We have, sir, nothing more to do with the subject-matter of the preamble and resolution introduced by the gentleman from Illinois than we have with the solar system. This is the most unmitigated humbug ever introduced to the derision of Congress.

Mr. McKNIGHT. I endorse what has been said by the gentleman from Delaware.

Mr. KELLOGG, of Illinois. I think that the gentleman from Delaware is entirely mistaken in his assumption of the nature of improvement in agriculture, stated in the preamble and resolution.

Mr. WHITELEY. I object to it.

The SPEAKER. The resolution cannot be received.

SAMUEL J. HENSLEY.

Mr. SCOTT. I ask the unanimous consent of the House for leave to make a report from the Committee on Indian Affairs.

There was no objection.

Mr. SCOTT, from the Committee on Indian Affairs, then reported back Senate bill No. 349, for the relief of Samuel J. Hensley, with the recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. KELLOGG, of Illinois. I object to that report.

Mr. SCOTT. I hope that the gentleman from Illinois will not visit upon me retaliation for an action taken by the gentleman from Delaware.

Mr. KELLOGG, of Illinois. I withdraw my objection.

The SPEAKER. The report has been received, and the bill has been referred to a Committee of the Whole House.

MASON RATTY.

Mr. MAYNARD. I ask the unanimous con-

sent of the House to make a report from the Committee of Claims. I move that the Committee of Claims be discharged from the further consideration of the memorial of MASON RATTY, of Jackson county, North Carolina, asking compensation for a horse killed in the service of the United States, in the Florida war; and that the same be referred to the Committee on Military Affairs.

It was so ordered.

STAMBOAT BILL.

Mr. JOHN COCHRANE. Mr. Speaker, it is known to the House that the steamboat bill is the special order for this day. The gentleman from Illinois, (Mr. WASHBURN,) chairman of the Committee on Commerce, who has charge of the bill, is absent, because of illness, and I therefore move, with the consent of the House, that the further consideration of the bill be postponed until next Tuesday.

The motion was agreed to.

PRISONERS SENT HOME BY CONSULS.

Mr. HICKMAN. I ask the unanimous consent of the House that the Committee on the Judiciary be discharged from the further consideration of the application for appropriation for the payment of expense incurred in the transportation of prisoners sent home by our consuls in foreign territories. The Committee on the Judiciary are in favor of the allowance of the appropriation, and in order that such an appropriation may be made, I move that the papers in the case be referred to the Committee of Ways and Means. That committee ought to have them at the earliest moment.

It was so ordered.

PRESIDENT'S PROTEST.

Mr. HOUSTON. I demand the regular order of business.

The SPEAKER. The regular order of business is the reading of a minority report from the Committee on the Judiciary upon the protest of the President of the United States.

Mr. TAYLOR read his report from the Clerk's desk.

Mr. HICKMAN. In view of the further consideration of the report from the Committee on the Judiciary be postponed until next Tuesday, the 17th instant. I also move the adoption of the following resolution:

Resolved, That twenty thousand extra copies of the President's protest, and the majority and minority reports thereon, be printed, and the same distributed.

Mr. BOCKO. That resolution, under the rules, must be referred to the Committee on Printing.

The SPEAKER. It goes there, of course.

Mr. VALLANDIGHAM. I move to amend the motion to postpone, by substituting the 7th of May for the 17th instant.

Mr. WASHBURN, of Maine. That is too far off.

Mr. HICKMAN. I take it that my motion is not open to amendment.

Mr. VALLANDIGHAM. I have the right to propose another day.

Mr. SMITH, of Virginia. I suggest to gentlemen that they had better not fix a day of the week when the Democratic convention will be in session in Charleston. Congress may wish to adjourn over that week.

Mr. VALLANDIGHAM. I want to say a word assigning the reason why I propose a change of the day to which the further consideration of these reports shall be postponed. There are a great number of gentlemen upon this side of the House who will be absent next week, and who desire both to debate and vote upon the resolution reported by the majority of the Committee on the Judiciary. It is an important subject, more important than perhaps any other which will be presented to the Congress; and I trust that gentlemen upon the other side of the House will not compel us to take this question up in the absence of many who desire to participate in the discussion, and who want to be upon the record.

Mr. HICKMAN. Does the Chair decide that the motion is amendable?

The SPEAKER. The Chair decides that it is competent to move another day, and that the motion is amendable to that extent.

Mr. HOUSTON. If there is to be lengthy debate upon the resolution of the Committee on the

Judiciary, I suggest to gentlemen that the adoption of the 17th instant would necessarily run the debate into the time fixed for the meeting of the Charleston convention. I suggest that the further consideration of the subject be postponed until after the Charleston convention, to be called up by the chairman of the committee, the gentleman from Pennsylvania, [Mr. HICKMAN.]

Mr. HICKMAN. Mr. Speaker, it would be impossible to decide any day fixed which would suit all parties in this House. In order to meet the convenience of those who wish to go to Charleston, of course it would have to be thrown over into the early part of May. Then other gentlemen will object, who will necessarily be absent at that time for a week or two. There will be those wanting to attend the Baltimore and the Chicago conventions. I have found it impossible, sir, to fix a day which will meet the views of different gentlemen in the House, and I must therefore insist on my motion as I have made it.

Mr. VALLANDIGHAM. The Baltimore convention does not assemble until the 9th day of May.

Mr. HOUSTON. If it be objected that the 7th of May is too near the day fixed for the meeting of the Baltimore convention, why not fix the 2d day of May for the postponement of the further consideration of this question?

Mr. GROW. That is an act for territorial business.

Mr. HOUSTON. I am sure that the gentleman from Pennsylvania does not want to press debate and a vote upon the resolution when a large number of this side of the House will be absent from the city.

Mr. HICKMAN. If next Tuesday be fixed, it will be easy at that time to have the subject still further postponed. At present I do not see how it is possible to have a day fixed which will suit a majority of the House. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. VALLANDIGHAM. I demand the yeas and nays upon my amendment.

The yeas and nays were ordered.

Mr. MORRIS, of Illinois. Would it be in order to move to lay the amendment upon the table? I mean, I use that motion.

The SPEAKER. It could not be made without carrying the whole subject with it.

Mr. VALLANDIGHAM. If the object of the gentleman from Illinois is to prevent gentlemen attending the convention at Charleston, I will waive my amendment.

Mr. MORRIS, of Illinois. I say very frankly to the gentleman from Ohio, that the nomination of a President of the United States is no business of this House. That matter has been intrusted to delegates, and we ought to remain here to attend to our business.

The SPEAKER. Does the gentleman from Ohio withdraw his amendment?

Mr. VALLANDIGHAM. I do not.

Mr. STANTON. I would ask the gentleman from Ohio if he would not give the House time to have it set down for the 16th, instead of the 17th, which would give one day more for its consideration before gentlemen would have to leave for the convention?

Mr. KELLOGG, of Illinois. I object to this arrangement if it is in order.

Mr. VALLANDIGHAM. If the day mentioned by the gentleman from Ohio is agreeable to this side of the House, I would withdraw my amendment.

Mr. HICKMAN. I am perfectly willing to accept that day.

Mr. KELLOGG, of Illinois. I object to any arrangement.

Mr. KILLINGER. I object to the withdrawal of the amendment.

Mr. VALLANDIGHAM. I withdraw the demand for the yeas and nays, with the understanding that the 16th instant is to be substituted. If objection be made to that, I shall insist upon my amendment and the yeas and nays.

Mr. HICKMAN. I modify my resolution by substituting the 16th for the 17th.

Mr. KELLOGG, of Illinois. I rise to a question of order.

The SPEAKER. There is no question of order about it.

Mr. KELLOGG, of Illinois. There is a question of order; and I will be heard upon it. The yeas and nays have been ordered; and after they have been ordered, I raise the question whether it be competent for the mover of the resolution to change it by an amendment?

The SPEAKER. It can be done by unanimous consent.

Mr. KELLOGG, of Illinois. I object; and the question must be determined by the Chair.

The SPEAKER. The Chair did not hear any objection.

Mr. KELLOGG, of Illinois. Does the Chair entertain the objection?

The SPEAKER. If the gentleman says he means to withdraw, the Chair will entertain it.

Mr. KELLOGG, of Illinois. I did object.

The SPEAKER. Then the Clerk will call the roll.

Mr. HICKMAN. I trust it is still in the power of the House to withdraw the call for the yeas and nays. It is still in the power of the gentleman from Ohio to withdraw his amendment; and then it is in my power to substitute a different day in my resolution.

The SPEAKER. The Chair will state to the gentleman from Pennsylvania that he must have the unanimous consent of the House to do so.

Mr. MORRIS, of Illinois. I object.

The SPEAKER. The decision of the Chair was founded upon the fact that he did not understand that the gentleman from Illinois [Mr. Kellogg] meant to withdraw his amendment.

Mr. MALLORY. Cannot a gentleman withdraw the demand for the yeas and nays without unanimous consent?

Mr. COX. Cannot I call for tellers upon the yeas and nays?

The SPEAKER. It is too late. The yeas and nays have already been ordered.

Mr. VALLANDIGHAM. I do not understand that there is any objection to the withdrawing the call for the yeas and nays.

The SPEAKER. The yeas and nays have been ordered, and there is objection to that order being withdrawn.

Mr. VALLANDIGHAM. The objection has been withdrawn.

Mr. BARSDALE. I wish the Chair would state the question. There is so much noise that we have not been able to hear.

The SPEAKER. The gentleman from Pennsylvania [Mr. HICKMAN] proposes to postpone the consideration of this subject until the 16th instant. The gentleman from Ohio [Mr. Vallandigham] moves to amend by substituting the 7th day of May; and upon that the yeas and nays have been ordered. The Clerk will call the roll.

Mr. HICKMAN. I would inquire if it is not entirely competent at this time for the House to allow the withdrawal of the call for the yeas and nays, as no response has been made?

The SPEAKER. It can be done by unanimous consent.

Mr. VALLANDIGHAM. The objection has been withdrawn.

Mr. STANTON. The gentleman from Ohio can withdraw his amendment without the consent of the House; and the yeas and nays fall, as a matter of course. Then the gentleman from Pennsylvania may modify his motion.

The SPEAKER. The gentleman from Pennsylvania may move to reconsider the vote by which the yeas and nays were ordered.

Mr. VALLANDIGHAM. It can be done by unanimous consent; and I ask the Chair to put the question to the House, whether there is any objection.

The SPEAKER. Does the gentleman from Pennsylvania move to reconsider the vote by which the yeas and nays were ordered?

Mr. HICKMAN. I am willing to make that motion, and I do make it.

The motion to reconsider was agreed to; and then the yeas and nays were again ordered.

Mr. VALLANDIGHAM. I withdraw my amendment.

Mr. HICKMAN. I now modify my original motion, by inserting the 16th instant for the 17th.

Mr. KELLOGG, of Illinois. I again raise a point of order. After action has been taken by the House, I hold that it is not competent for a gentleman to withdraw his amendment, or to modify his motion. Action has been taken by the

House. The yeas and nays have been ordered, and the yeas and nays have been withdrawn; hence action has been taken by the House, and it is incompetent for the gentleman from Ohio to withdraw his amendment.

The SPEAKER. The House has reconsidered its whole action, if the Chair understands it correctly. Therefore, it seems to the Chair that the gentleman from Ohio had a right to withdraw his amendment, and the gentleman from Pennsylvania had the right to modify his motion.

The motion as modified was then agreed to.

DECIMAL SYSTEM OF WEIGHTS AND MEASURES.

Mr. WASHBURN, of Maine, by unanimous consent, presented a resolution of the Legislature of the State of Maine, in reference to a uniform decimal system of weights and measures; which was laid on the table, and ordered to be printed.

Mr. GROW. I now call for the regular order of business.

ATLANTA A PORT OF DELIVERY.

Mr. JOHN COCHRANE. Will the gentleman waive his call for a moment, until I can call the attention of the House to a question of public exigency? I refer to the bill reported from the Committee on Commerce conferring upon Atlanta, Georgia, the privileges of a port of delivery. It is necessary, in view of the pressure of public business at that port, that the bill should be passed, and that the House should have conferred upon it the privileges of a port of delivery. The bill contains only a few lines, and I am sure the House will pass it immediately.

No objection being made, the bill was read a first and second time.

It authorizes all goods that are entered at Savannah, within the collection district of Savannah, and the duties thereon accrued, to be transported in bond to Atlanta, within said collection district, where such duties shall be paid on the withdrawal of said goods from consumption, under the provisions of the law regulating the withdrawal of merchandise; and a surveyor is to be appointed for Atlanta, with a salary not exceeding \$1,000.

Mr. CLOPTON. I move to amend the bill by adding a clause making Montgomery, Alabama, a port of entry.

Mr. JOHN COCHRANE. I cannot consent to that amendment.

Mr. CLOPTON. I move that as an amendment.

The SPEAKER. The Chair does not suppose that the proposed amendment is germane to the bill; and therefore it is not in order.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JOHN COCHRANE moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and, under its operation, the bill was passed.

Mr. GATHELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AFRICAN SLAVE TRADE.

Mr. MRAE. I ask leave to offer a resolution.

Mr. GROW. I must insist on the regular order of business.

Mr. MRAE. It is only a resolution asking for additional information. There can be no objection to it.

Mr. GROW. If it give rise to no debate, I will not object.

There being no objection,

Mr. MRAE offered the following resolution; which was read, considered, and agreed to:

Resolved, That in addition to the information asked in the resolution adopted in reference to the African slave trade, the President be requested also to communicate to this House the number of officers and men in the service of the United States belonging to the African squadron who have died in that service since the date of the Ashburton treaty, up to the present time.

REGULAR ORDER OF BUSINESS.

Mr. MOORHEAD. I ask leave to report back from the Committee on Commerce a bill, which I ask to have put upon its passage.

Mr. MORRIS, of Illinois. I call for the regular order of business.

and, if so, two years' immigration would at least give sufficient population for a free State; and we ask not whether the population be twenty-five thousand or two hundred thousand. It is, in my judgment, under the circumstances, a matter of no earthly consequence. But I have cited the votes of the people of Kansas in order to show that the constitution men were right, and that it does not come here blackened with fraud and with an attempt to force upon the people a constitution which they abhor, and institutions they loathe.

Now, Mr. Speaker, as to the minority report I had one word to say, and I desire to say it now, in order to give the majority an opportunity to comment on what I say, if they desire to. So far as the rights of Indians in Kansas are concerned, the present bill is, word for word, on that point, like the bill which passed the Senate, and was voted for by nearly every Democrat in this House, for the admission of Kansas under the Lecompton constitution; and the gentleman from Missouri [Mr. CLARK] who presented the minority report voted for it. He was not then as jealous of the rights of the Indians as he is now. No greater safeguards or protections were there for the rights of the Indian tribes in Kansas in the Lecompton bill than are to be found in this bill, because upon that point the two bills are word for word the same; while the bill which is known as the English bill gives no protection to the Indians, and the gentleman who represents the minority of the committee voted for it without question. The rights of the Indians, it seems, were not at stake then; and their interests were surely overlooked.

But, sir, so far as the Indian tribes in Kansas are concerned, they are secured in this bill in the same phraseology in which they were secured in what is known as the Kansas-Nebraska bill. No more regard was paid then to these sacred and inviolable rights of the Indians under treaties with the Government, than is made in this bill, because the phraseology is almost identical in both. Then, sir, are the rights of white men to be disregarded now, because of the supposed rights of the Indian tribes, when they are secured and guaranteed in the bill? Shall the people of Kansas be forced to stand at the doors of the Union four years longer, with the liability of the reputation of the same outrages and wrongs upon them that were perpetrated for the last four years, when the bill, so far as the rights of Indians are concerned, is as strong as the English bill, or the Kansas-Nebraska bill and the Lecompton bill, and when, in the bill reported from the conference committee, known as the English bill, no attention was paid to the rights of Indians, and not one word was said in reference to their treaty rights and stipulations?

But, Mr. Speaker, I have been drawn further into this discussion than I intended. I desired simply to state the facts in the proceedings to form the constitution now presented, and I will enumerate them now in a more rapid manner.

The Legislature of Kansas passed a law submitting to the people of Kansas the question whether they would hold a convention to frame a constitution and State government. The provisions of that law were complied with in every particular. The vote of the people was taken, and in holding a convention; and delegates to that convention were elected under it. The convention was held, which adopted a constitution; which constitution was submitted to the people of Kansas, and ratified by a vote of two to one. Such are the proceedings in brief of the people of Kansas preliminary to this application.

Mr. CLARK, of Missouri. When I left the House a few minutes since, the Clerk had commenced to read the reports of the majority and minority of the Committee on Territories. I do not know whether the entire reports were read or not.

Mr. GROW. I will say to the gentleman from Missouri that the Clerk only read a paragraph or two of the report. I found that the members of the House had not read the report, and I have no hands, and I did not think it worth while to take up the time of the House with the reading.

Mr. JOHN COCHRANE. If the gentleman from Missouri will allow me a moment, I wish to propound one or two questions to the gentleman from Pennsylvania.

Mr. CLARK, of Missouri. I will yield, if it does not interfere with my right to the floor.

Mr. JOHN COCHRANE. I wish to ask the gentleman a question for my own information. I find in the bill, on page 2, a description of the boundaries under which it is proposed to admit Kansas as a State into the Union. I will ask the gentleman whether these boundaries are identical with the boundary of the Territory of Kansas as they now exist; and if not, in what respect they differ?

Mr. GROW. No, sir. The boundaries provided in this bill are just the boundaries specified in the Constitution. The State, as proposed, extends west to the one hundred and second meridian of longitude west from Greenwich, or the twenty-fifth degree west of Washington. The Territory itself extends beyond that meridian, and embraces what is known in common parlance as the Pike's Peak country.

Mr. JOHN COCHRANE. Are they identical with the boundaries contained in the Lecompton constitution?

Mr. GROW. I think not. I think the boundaries specified in the Lecompton constitution embrace the whole country embraced in the Territory of Kansas.

Mr. JOHN COCHRANE. I have one question further, which I propound to the gentleman. Is the population embraced within the Pike's Peak country, as the bill estimates, less than the population given of the population of Kansas?

Mr. GROW. No, sir.

Mr. JOHN COCHRANE. If I am informed correctly, the Pike's Peak country contains a population of some fifteen or twenty thousand.

Mr. GROW. About that number. I will state to the gentleman and to the House that it is about four hundred miles from the western boundary of Missouri to the proposed western boundary of the State of Kansas—the one hundred and second meridian of longitude. If I am not mistaken, it is about two hundred and fifty or three hundred miles from that line to the western boundary of the Territory of Kansas. It will be seen, therefore, that the limits of the proposed State leave out the intervening country known as the Pike's Peak country.

Mr. JOHN COCHRANE. There is one further question which I desire to propound to the gentleman from Pennsylvania; and then I will cease.

Mr. PARROTT. If the gentleman from New York will allow me, I wish to make a reservation in reference to the boundary. The boundaries fixed in this bill are the same as those fixed in what is known as the Toombs bill, which was reported to the Senate in 1856. They are likewise the same as those fixed in the bill proposed in the House the same year by Mr. Stephens, of Georgia, and which was very generally voted for by the Democratic members of the House.

Mr. GROW. If the gentleman will allow me, I will make a remark right now. At the last Congress a bill was reported to this House from the Committee on Territories, by Mr. Stephens, their chairman, proposing to establish the Territory of Jefferson, fixing the eastern boundary of that Territory one degree further east than the western boundary of Kansas, as now proposed. The western boundary of the State as now proposed is, as I stated, the one hundred and second degree of longitude. That fixed by the Committee on Territories last Congress, for the eastern boundary of the Territory of Jefferson, was one hundred and one degree.

Mr. JOHN COCHRANE. One more question to the gentleman from Pennsylvania. It is this: whether any portion of the population—the voting population—of Kansas estimated by the gentleman from Pennsylvania included in sixteen or seventeen thousand which it is admitted, I believe, are in the Pike's Peak region?

Mr. GROW. Not at all; for the people of Pike's Peak would have nothing at all to do with the territorial organization of Kansas. They being on far as the Rocky Mountains, have set up a kind of provisional government for themselves; they have elected a Delegate to Congress for themselves; have taken no part in these Kansas elections; and, therefore, they are not embraced in the statement of the number of votes within the limits of the proposed State of Kansas. There

is a strip of country, known as the Buffalo Plain, two hundred and fifty or three hundred miles in breadth, between the western boundary of the proposed State and the Pike's Peak country, which is not inhabited. They are, therefore, a distinct community, and form no part of the number of population or voters which I have given for the proposed State of Kansas.

Mr. McCLURE. I desire to ask the gentleman from Pennsylvania what is the distance between the western boundary of the proposed State and the western boundary of the present Territory of Kansas?

Mr. GROW. I have no exact information of the distance; but my information is, that it is about two hundred and fifty or three hundred miles. I desire to say, further, if the gentleman from Missouri will permit me, that Kansas, with the boundaries as now proposed, contains about eighty-five or ninety thousand square miles. I state this in answer to a question which has been asked.

Mr. CLARK, of Missouri. I ask that the first two paragraphs of the minority report may be read.

The Clerk read as follows:

"On the 4th of May, 1858, Congress enacted a law in relation to Kansas, which, among other things, provided that 'the people of said Territory are hereby authorized and empowered to elect a convention to frame a constitution for said Territory, by the name of the State of Kansas, according to the Federal Constitution, and may elect delegates for that purpose.' The law further provided, 'that the population of said Territory equals or exceeds the ratio of representation equal to or exceeds the ratio of representation of the States of the United States; and whenever thereafter such delegates shall assemble in convention, they shall first determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if, and shall proceed to form a constitution, and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to such regulations and restrictions as to the manner of the election of delegates as may be prescribed by the people of the proposed State as they may deem proper; and the said Territory shall be admitted into the Union as a State under such constitution thus fairly and legally made, with or without slavery, as said constitution may prescribe.'"

"A perusal of the law shows that Kansas was authorized to form a constitution, and apply for admission into the Union as a State. The law further provided, 'that the population of said Territory equals or exceeds the ratio of representation equal to or exceeds the ratio of representation of the States of the United States.' This step is taken to form a State government by the authorities of Kansas, and to ascertain whether the people are in accordance with the laws of the land, was, therefore, to ascertain whether Kansas contained the requisite population. Did the people of Kansas take that step? Did the law require it to be taken? No one so asserts. On the contrary, they proceeded as though there were no laws on the subject; or, at least, if there were laws, they claimed no authority adequate to their enforcement upon the people disposed to disregard them. Having a contempt for the law, and relying upon a powerful party for support in so doing, they disregarded the law."

Mr. CLARK, of Missouri. Mr. Speaker, the objections which I make to the passage of the bill reported by the gentleman from Pennsylvania, [Mr. GROW], for the admission of Kansas as a State, are fully stated in the report I have submitted, and which is before the House. If the House will bear with me, however, I will briefly state the reasons of my opposition to the pending bill. Whatever may have heretofore been the policy of the Government in relation to the admission of new States; notwithstanding the seeming disregard whether they had, or had not, the requisite population, under the ratio of representation, to entitle them to a member in this House, the whole question was determined by the last Congress in the case of Kansas. The people of the English Kansas bill, provided that Kansas should not be admitted as a State into the Union until it was ascertained, by a census legally taken, that it had the requisite population. This House and the Senate were constituted under a policy by which they gave upon that bill; they were both committed to it by the enactment of that bill. I understand that the policy of the General Government, in the admission of new States into the Union about the time that Florida became a State, was so far as the ratio of representation was concerned, to be controlled by the fact whether the new State had or had not a population sufficient under the ratio of representation to entitle it to a member upon this floor. However that may be, I doubt whether any fair-minded man will question the propriety of the General Government

adopting some rule on the subject. Will any member upon this floor deny that it is not a good rule that, before a new State is admitted into the Union, it shall be first ascertained, by a census duly taken, whether it has or has not a sufficient population to entitle it to a member in this House and the existing ratio of representation? Is there any reason, drawn from the science of government, any propriety deducible from common sense, why the people of a Territory should be erected into a State government, with all the sovereignty, and immunities, and privileges of a sister State in the Confederacy, while by the census it does not come up to the standard fixed by law for a representation in the House of Representatives? It is upon that ground I make my first objection to the pending bill, and I am fortified by the enactment by the last Congress of the English bill. The first section of that bill embraced in my report, and as it was read from the Clerk's desk, the House must perceive the force of the position I assume.

Now, sir, whether the passage of that bill was the result of party action, or not, is a question for this House to determine. I am free to confess that party considerations had something to do with it. Whatever may be the fact in that regard, nevertheless the principle of that English bill must be recognized as a true one. It is a principle which, in my opinion, Mr. Speaker, ought never to be departed from by any Congress, whatever party may have the ascendancy. Who doubts the propriety of the principle? Nobody that I know of. If it then be a good principle, can it be adopted too early? I think not. The Republican party stand here committed by the votes of its members during the last Congress and at this, to the declaration that Congress has the power to control the Territories of the United States. They stand here committed to that doctrine in some form or other. They declare that Congress has the constitutional right to direct the action of the Territories in reference to all the preparations preparatory to their admission as States into the Union.

The English bill provides how the fact of requisite population shall be brought to appear. How? By a census legally taken. Now, sir, when the people of Kansas undertook to make preparations for their admission into the Union as a State, what was their duty? It was, that they should have fulfilled the obligations imposed upon them by the people of the land. Did Governor Geary, who they pretend that they did, nobody pretends that the people ever intended to do so. That people defy the action of Congress, and the chairman of the Committee on Territories (Mr. Geary) sustains them in that defiance; and he says that they are justified, because Congress, at previous sessions, acted as if the taking of a census were wholly unnecessary. I hope that that argument will not obtain in this House. It ought not to obtain anywhere. The people of Kansas ought to have taken a census in some form or other. They were solicited and asked for admission as a State into this Union. If they have failed to take a census, and are unable to supply us with evidence that their population equals that of the ratio of representation for this House, then, sir, lay, under the English bill, can we admit the constituents of a State? What right, under all the circumstances, have we to admit Kansas into the Union in violation of express law? This is the reason of my objection to the passage of this bill.

The act of taking a census is easily performed. In the case of Kansas it ought to have been taken. If the people there were loyal to the Constitution and loyal to the Government; if they were disposed to obey the law of the land, they would have taken a census. They came here as a people, and as a people, but as a lawless, tumultuous community, acting themselves up in violation of law and in opposition to the directions given by the national Legislature. They condemn and defy the law of the land. They defy the action of the Union, of which they are members. They are the constituents of a State. They form a constitution and State government in defiance of the law, and then they present themselves at the bar of Congress, applying for admission under that constitution. When we ask in reference to a census, whether there is a requisite population, we are answered that perhaps there is such a population. We are referred

to votes which were taken in the Territory of Kansas before the Wyandotte constitution was framed. Those votes were taken in a Territory of different boundaries from the State now proposed to be admitted. That is my answer to that part of the case of the other side, and I think that it is sufficient.

Mr. Speaker, my next objection I present with full confidence, if there be justice still left in the American national Legislature, that it will not and cannot be overlooked. It is that the Wyandotte constitution of Kansas is a violation of treaty stipulations and obligations made over and over again upon the plighted faith of this Government, in the treaties with Indian tribes, concerning the lands of those Indians. I ask the Clerk to read the boundaries of the proposed State under the Wyandotte constitution.

The Clerk read, as follows:

"We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this constitution of the State of Kansas, with the following boundaries, to wit: Beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence south and west in a direct line to the fourth parallel of north latitude; thence east on said parallel to the western boundary of said State; thence south and west in a direct line to the western boundary of said State to the place of beginning."

Mr. CLARK, of Missouri. The boundaries of the Wyandotte constitution are the boundaries prescribed in the pending bill. I do not suppose that the gentleman from Pennsylvania (Mr. Geary) will pretend that the conditions and stipulations of the United States are to be disregarded.

He will not pretend, nor will any lawyer in this House pretend, that the provision in the act for the admission of Kansas into the Union, in respect to impairing the rights of person or property now pertaining to the Indians in that Territory, is not intended to be applied to treaty stipulations, amounts to anything at all. The boundaries of the State of Kansas, as prescribed by the constitution of Kansas, is the paramount law, and Kansas, when admitted, will go to her constitution to determine what her boundaries are. Hence, the provision of the bill is calculated to deceive and procure the admission of a State whose organic act will impair and injure the rights of the red man, and is calculated to bring about a conflict of State and Federal jurisdiction—such as once occurred in the case of the boundaries of the State of Georgia, who afterwards removed to the Territory of Kansas. Now, for the very purpose of preventing the recurrence of such a state of things, the right which this bill violates by its terms were guaranteed to those Indians by solemn treaty stipulations.

I now ask the Clerk to turn to my report, and read what I there say in reference to a violation of these treaties with the Indians, so far as regards the rights of the Indians of the land.

The Clerk read, as follows:

"But not only was the constitution of Kansas formed and sent here in disregard of the law, but some of its provisions are in direct conflict with treaty stipulations entered into with the Indians."

"All treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." So reads the Constitution of the United States. Now, let us examine the treaty of the United States with the Indians owning a portion of the Kansas Territory. In this treaty the United States, and see if Congress has violated the rights of the Indians of the Union with the boundaries which she claims in the constitution which was formed in contempt of the law of the United States.

"In May, 1826, the United States made a treaty with a portion of the chiefs and head men of the Cherokee nation of the western part of the Mississippi river, who ceded a portion of the proposed State of Kansas to the Cherokees for a permanent home, and which shall, under the most solemn guarantees, be forever theirs, and shall be held by them as a home that shall never in all future time be embarrassed by having extended over it the laws, or placed over it the jurisdiction of any Territory or State, or shall be subject to the extension in any way of any of the limits of any existing Territory or State."

"In 1828, another treaty was made by the United States with the same party of the Cherokees, which extended their lands in Kansas. On the 12th of December, 1828, the United States made a treaty with the Cherokees, by which they agreed for \$50,000,000 to remove from Georgia to their new country west of Arkansas. In this treaty the United States agreed to hold the Cherokees eight hundred thousand additional acres of land lying 'east of the Cherokees,' and 'bordering on Missouri fifty miles,' for \$20,000,000. (See second article

of the treaty.) To understand the greatness of the country given by the Cherokees in Kansas, the following extract from the second article of the treaty is made. The line described to the north and west of the Cherokees, and the line described to the south and east of the Cherokees, shall be the line assigned to the Senecas; thence on the south line of the Senecas to Great River; thence up said Great River as far as the mouth of the Cherokees; thence down the river, if necessary; thence up and between said south Cherokees line, extended west, if necessary, and the line of the Senecas, as far as a line running north and south from said Cherokees line in said line of the Senecas, and thence south as far as the western boundary of the United States within the whole described boundary."

Mr. CLARK, of Missouri. I now send to the Clerk's desk, to be read, a letter from the Commissioner of Indian Affairs in answer to a letter addressed by me to him, asking him what portion of the Cherokee lands, in the United States, he agreed should never be put within the limits of any State or Territory, and around which no line of any State or Territory should extend without their consent, were included in the proposed boundaries of the State of Kansas. I allege it as a fact, and the report, and it should not be included in the State of Kansas, prescribed in this constitution, include a portion of country fifty miles long by twenty-five miles wide, secured to the Indians by solemn treaty.

Mr. GROW. I ask the gentleman if the boundary of this bill, with reference to the lands of the Cherokees and other Indians, are not just the same as those contained in the Leconte bill of last Congress?

Mr. CLARK, of Missouri. The gentleman misunderstands my remarks. I allege that a breadth of land fifty miles long by twenty-five miles wide is taken by Kansas in violation of the express terms of the three treaties made by the United States, in which the United States Government, in the most solemn form, said that these lands, or any part thereof, should not be included within the boundaries of any State or Territory; nor should the jurisdiction of any State or Territory be extended over them, in all time to come, without the previous consent of the Indians.

Fearing that I might be deceived, after investigation, I presented to the Commissioner of Indian Affairs upon the subject, and I received an answer; which I ask the Clerk to read.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, April 9, 1858.
SIR: I have the honor to acknowledge the receipt of your communication in your letter of the 1st instant, as to whether the boundaries of the proposed State of Kansas, as defined in the Wyandotte constitution, include any lands belonging to the Cherokee nation of Indians, that said boundaries as described by you, embrace that portion of the Cherokee lands known as the "Neutral Territory," consisting eight hundred thousand acres, which was conveyed to them by the treaty of 1825, and secured by the subsequent treaty of 1826. (See Statutes at Large, vol. 7, p. 401; and vol. 9, p. 271.) Very respectfully, your obedient servant.

A. B. GREENWOOD, Commissioner.

Hon. JOHN B. CLARK, House of Representatives.

Mr. CLARK, of Missouri. That letter is a verification of what is apparent, by examining the treaties and laws, that that amount of land is under the jurisdiction of Kansas, by the constitution before the House. The question first recurs, suppose Kansas is admitted, can the United States Government cannot the State of Kansas assert jurisdiction over those Indians? Cannot the State of Kansas, by her organic act, cover by the operation of her laws all the Indian country, and subjecting those residing in that country to the operation of her State laws? or shall we say that the United States deny it—shall we not, by the admission of Kansas, be violating the plighted faith of the United States with the Indians? Are we not violating the express terms of the treaties made in the most solemn form?

Mr. MCCLERNAND. Do I understand my friend from Missouri to take the position that the treaty with the Indians comes in conflict with the act organizing the Territory?

Mr. CLARK, of Missouri. The treaty stipulations come in conflict with the Wyandotte constitution, and the new State would exercise unqualified sovereignty. The same question arose in Georgia, and that was the very difficulty that I have been trying to avoid.

Mr. MCCLERNAND. I ask whether, if a provision of the act of admission comes in conflict with the provisions of a treaty, it is not void *pro tanto*?

Mr. CLARK, of Missouri. Certainly. By the Constitution, a treaty is made the paramount law. I base my objection on that. Whoever the constitution of a new State prescribes her boundaries, and she is admitted into the Union with them, she is paramount therein hermits; and thus there grow up a sort of jurisdiction which might disrupt the Union. But, setting all that aside, I ask all honest men here whether they are willing to violate the plighted faith of the nation? Are they willing to make a treaty with a weak power like the Indians, and then at here and violate it? The Indians were recognized as the homes, and the graves of their fathers in Georgia, to a certain prescribed country, where they were told, in the most solemn manner, that they were to remain uninterupted in all future time; that they should not be put within any State or Territory, nor have the lines of any State or Territory put among them, without their consent. Are gentlemen prepared to give a vote which says: "We will disregard our treaty with you; we will press upon you; we will put you into a State or Territory; and we will assert our jurisdiction over you without asking your permission?" That is the question for Congress now.

But waiving all these technical objections, I know that in some days, and in some countries, in the history of the world, such things have been done; but I hope that in this country, where we are not prepared now—although it may be very important in a political point of view—to violate the faith of the nation by admitting a State which cannot be admitted without committing a direct violation on the lands and property of a weaker people, guarantee to them by this Government! I apprehend that gentlemen will muse before they take that step.

The chairman of the committee [Mr. Grew] seems restless, and has, on more than one occasion since I have had the floor, called attention to the important fact that the Lecompton constitution contained the same boundaries as are defined in this bill; and he desires to know whether I voted for the Lecompton bill. Now, I have an answer to give to that question; and it is a very simple one. I hope that all the gentlemen here, at least to some extent, a character for candor. I did vote for that bill; and it did contain precisely the same boundaries. But I did it without investigation. I declare, before high Heaven and my country, this day, that I did not then know those provisions of those treaties were to be found there. I did not know the obligations under which this Government lay to the Indians. If I had known then, I would have voted here till I had drawn my last breath before I had committed such a violation of national faith. I hope the gentleman is now satisfied with my explanation. Now, I want to ask the gentleman this question, and I hope he will answer it. It is, whether the fact that the Lecompton constitution defined the same boundaries, makes it right to violate treaties?

Mr. GROW. I will answer the gentleman if he will yield me the floor. I do not regard either this bill or the Lecompton bill as violating any rights of the Indians, for those rights are expressly reserved in both bills, and they were also reserved in the Kansas-Nebraska bill. Neither of the three bills violated any rights of the Indians. But the gentleman from Missouri made the point that they were violated in this bill, and then I retorted by saying that if this bill violated the treaties, then others must do so. I said, I would not vote to violate any rights of the Indians. They are reserved in this bill. They were reserved in the Lecompton bill, and they were reserved in the Kansas-Nebraska bill.

Mr. CLARK, of Missouri. That is not answering the question. I asked the gentleman whether, supposing that these other bills did violate the rights of the Indians, that fact would justify him in voting to violate them further by this bill?

Mr. GROW. Oh, no; I hope the gentleman will not expect me to state that everything in the Lecompton bill was right. But he will answer the gentleman very frankly, as I see he misapprehends my point. It was not because this thing was in the bill which the gentleman voted for, that therefore it was right or wrong. That was not my point. But it was simply to show that this bill and the Lecompton bill, and the Kansas-Nebraska bill all contained the same phraseology,

so far as the rights of the Indians are concerned; and, if the gentleman's objection lies against my bill, it lies against the whole legislation of the country in regard to Kansas since 1854.

Mr. CLARK, of Missouri. I will ask the gentleman another question. The treaty with the Indians gave them the lands all the way to the limits of any State. Now, when you do include them within the limits of the proposed State, do you not violate the treaty?

Mr. GROW. That is the very point. We do not; because there is an express provision in the bill on that point. Can you not admit a State into the Union, providing that certain territory within its limits shall not be within its jurisdiction? You may reserve the lands for any purpose, and exclude the State jurisdiction. So you reserve the Indian lands, and exclude the State jurisdiction. I call attention to the proviso on the second page of the bill, expressly excluding territory which treaties with Indian tribes declared should not be included within the jurisdiction of any State or Territory.

Mr. CLARK, of Missouri. Why did not the gentleman add to that provision of the bill, by declaring that the lands guaranteed to the Indians should form no part of the State?

Mr. GROW. Will the gentleman pardon me a moment. Let us understand the provisions of the bill. It expressly declares that "all these Territories shall be excepted out of the boundaries, and shall constitute no part of the State of Kansas, till said tribes shall signify their assent to the President of the United States to be included within any State or Territory."

Mr. CLARK, of Missouri. Now, Mr. Speaker, the treaty has three separate provisions, all of which are, in my judgment, violated by this bill. The first is, that they shall not be brought into any State or Territory. I have assumed, and attempted to prove, that the second, and the third, proposed by the State, and that the proviso would be inoperative. The second is, that the treaty provides that no line of any State or Territory shall be thrown around the Indians. Now, it is pretended that the line of the proposed State does not include the Indian lands? Is that not a violation? Then it is a violation of the express terms of the covenant of the United States in its treaty.

The third provision of the treaty is, that the Indian lands shall not be pressed upon by the line of any State or Territory now existing, or hereafter to be made. I say that all these provisions are violated, and have been violated all the time. They were violated under the Lecompton constitution, and they are violated under the Wyandotte constitution, and in the proposed State. Now this matter has been investigated, and my purpose is to present it to Congress, and to the country, in order that the country may see whether, when it is fairly presented, the treaty, the law, and the obligations of the Government, which no gentleman will controvert, are to be broken down, and the people of the country, the protection and exclusion of the weaker party to the treaty.

Well, now, if the Territory of Kansas had proceeded according to law, if there was sufficient population there to entitle them to a Representative upon this floor, under the present apportionment, they would be suffering from want of representation; there might be some reason for pressing her admission. But, sir, here is a people, lawless, disobedient, tumultuous, regardless of the obligations or laws of the country, seeking to be admitted into the Union; and when we ask them if they have the requisite population and representative power, we have to speculate as to that. My judgment is, that there is not sufficient population in Kansas to entitle her to one Representative. Why do you say? If there is, why did you not take a census of the land. Why do you not take a census, if there has been time enough to do so? The Wyandotte constitution was made for them to have manifested their strength by the taking of a census, as the English bill required them to do. But they have seen proper to disregard and to violate the law, and to refuse to take a census, but taken a census, by provision of their Legislature, or of the convention, since this constitution was framed?

Mr. MORRIS, of Illinois. I would like to ask the gentleman from Missouri a question.

Mr. CLARK, of Missouri. I will say, sir, Mr. MORRIS, of Illinois. I would inquire of

the gentleman whether he voted for the admission of Oregon into the Union?

Mr. CLARK, of Missouri. I shall not answer the gentleman's question, as he knows that I did it.

Mr. MORRIS, of Illinois. I supposed so. Mr. CLARK, of Missouri. I regard the question as impertinent. [Laughter.]

Mr. MORRIS, of Illinois. I would ask the gentleman, then, what evidence he had that Oregon had population sufficient to entitle her to a Representative in Congress when he gave that vote?

Mr. CLARK, of Missouri. I will refer the gentleman from Illinois to a very good speech which I delivered at that time in favor of the admission of Oregon. [Laughter.] If he will read that, in place of interrupting me, he will be much more in the line of duty. [Renewed laughter.]

Mr. MORRIS, of Illinois. I merely wish to say that the gentleman's suppositions in that speech are not conclusive evidence.

Mr. CLARK, of Missouri. Well, I did not suppose that you would be with me, but they are with most intelligent men. You are an exception to the rule. [Laughter.]

Mr. MORRIS, of Illinois. I supposed, when I made the interrogatory, that the gentleman would answer it frankly. The gentleman sees the position which Kansas occupies, and is trying, in a playful way, to evade it.

Mr. CLARK, of Missouri. I cannot allow the gentleman to take up my time. I was proceeding to show that Kansas presents no reason why the Congress of the United States should admit her into the Union, in violation of the compact subscribed by the act of Congress. She lacks the necessary population.

I call for the evidence that she has sufficient population. No census has been taken by the authority of the United States Legislature, or of the convention which framed the constitution. We know, and every lawyer knows, that when a party is required to produce evidence, and fails to produce the best evidence, the presumption is that he lacks the strongest evidence—that he possesses none. Now, the gentleman from Kansas proposes to prove the population here by fixing a proportion between the voters and the number of souls in the Territory. Does not every gentleman know that that is a fallacious test? In a Territory, the same proportion does not exist between the voters and the population that exists in the older States. In the Territories a great proportion of the population consists of adults, of enterprising young men and newly-married men. Their families have to be created in that new country, and to grow up with its growth and strength with its strength. In the old States one voter is equal to five or six souls; while in the Territories one voter is only equal to about two souls. Everybody knows that. But what evidence have we on the subject of population? They have taken a census; it is an imperfect census. I have no objection to its informing me, and regarding him as a candid gentleman, I give him the benefit of the protest that it is an imperfect census. That census was not taken, in accordance with the law of Congress, before they made their constitution, to show that they had the requisite population to protect themselves for another purpose, in reference to their own internal affairs; it has no connection with the United States; but it shows that they had only a population of sixty-five or seventy thousand last year.

But I am told that it is an imperfect census; that there were some counties from which no returns were made, and those, perhaps, the most largely populated counties in the Territory. We know that it is a common thing for defeated candidates to report based upon this objection, and that we intend to enforce the laws of the United States at all, we should enforce them all. All laws enacted by Congress should be obeyed, and all good citizens in the States and Territories will obey them until they are repealed. If they are repealed, they are repealed; but if they remain upon the statute-book unrevoked, they are obligatory upon

the people for whom they are enacted, and they must be obeyed. Good government requires it; personal safety requires it; the dignity and character of the law-making power demand it. This law—two years old—enacted for the government of the Territory of Kansas has been violated; and its violation is claimed as a merit, because it is said that it was contrary to equity and to the rights of Kansas.

Sir, the time has passed when such an argument could be used. It might have been a good argument against the enactment of the law; but it was enacted, and it ought to be and must be obeyed. It has been violated.

Mr. McCLERNAND. Allow me to say a word on that point, and not propose to me to make a speech upon this bill. The gentleman accuses the people of Kansas of default, and seeks to hold them responsible for the consequences of the default. The prior question arises whether the people of Kansas are in default in respect to this matter of taking the census.

Now, sir, I put this question to my friend, who has examined this question very thoroughly: whether it was not incumbent upon the Federal authorities to have taken a census of Kansas; or whether, if the Federal authorities failed to take such a census, they were not in default; and the people of Kansas relieved from any responsibility upon the subject?

Mr. CLARK, of Missouri. I will answer that question, because the gentleman who propounds it to a gentleman stands to great respect, and because it is a question that ought to be answered. I say that the Federal authorities are not in default, and for the following reasons: the Congress of the United States prescribed that the people of Kansas should take a census. Kansas was then an organized Territory, and had its machinery of government. I am answered by the gentleman from Pennsylvania, [Mr. Grew], that the Federal authorities did not do their duty. Well, sir, I have nothing to say about that. I did not have the appointing power of the Territory.

Mr. GROW. If the gentleman will allow me, I do not think the act requires the people of Kansas to take a census. The act provides that it shall be shown by census.

Mr. CLARK, of Missouri. It says by census legally taken.

Mr. GROW. Legally taken, but not by the people of Kansas.

Mr. CLARK, of Missouri. Yes, sir, by the people of Kansas. They constitute the authority which could legally and properly take the census of that Territory, and it was their duty to have it taken if they wished to apply for admission into the Union as a State. The Legislature of the Territory had full power to make the necessary provisions for taking the census. The policy of the Government has been to allow the people of the Territories to manage their own affairs in their own way, so far as appertains to rightful subjects of legislation; and when Congress prescribes that a certain thing shall be done before a Territory may come into the Union as a State, it is the will and the duty of the Territory to obey the law, to take such action as is required by Congress before making application for admission into the Union as a State.

Mr. McCLERNAND. I think the gentleman from Missouri is in error in saying that it was the duty of the territorial government of Kansas to have a census taken; I think it was the duty of the Federal Government.

Mr. CLARK, of Missouri. If the gentleman will examine the records, he will find that the history of this country does not furnish an instance where the taking of a census by the Territory to the admission of a State into the Union was not done by the territorial government itself.

Mr. SMITH, of Virginia. If the gentleman from Missouri will allow me, I desire to say one word in regard to the proposition that the Federal Government was bound to take the census of the people of Kansas. Admitting the power of the Federal Government to take that census, I ask the gentleman from Illinois how it could know that the people of Kansas wanted a constitution, or whether or not they wanted it, or whether the Federal Government was not bound to take any action in the matter.

Mr. McCLERNAND. I ask the gentleman whether he holds that the authority of Congress

to take a census in the Territory of Kansas depended upon obtaining the prior assent of the people of that Territory?

Mr. CLARK, of Missouri. Mr. Speaker, I cannot allow the kind of discussion to go on.

Mr. SMITH, of Virginia. I will answer the gentleman from Illinois with great pleasure, if the gentleman from Missouri will give me an opportunity.

Mr. SPEAKER pro tempore. [Mr. STAYTON in the chair.] The Chair suggests it is hardly regular for one gentleman to call up another, and ask him a question during the speech of still another gentleman.

Mr. CLARK, of Missouri. I am obliged to the gentleman who put me on my rights.

Now, sir, I was proceeding to argue that the people in the Territory of Kansas have violated the law in the first instance in not ascertaining that there was sufficient population, and if such be the fact, in not presenting it in a legal form to Congress for its information; and, in the second place, that this bill violates, upon the part of the United States, the obligations of a treaty which, by the Constitution of the United States, is made the supreme law of the land. Kansas cannot be admitted with longer delay, because the census required is a violation of the plighted faith of this nation.

I will now answer the question asked a few minutes ago by the gentleman from Illinois, [Mr. MOSES], whether I did not vote for the admission of Oregon. I did. The gentleman asks, further, whether the Congress passed the act which required a census of the Territory of Oregon, a sufficient population. I will proceed to give the gentleman my reasons, as I gave them at the time, in my speech upon the subject—which I ask the gentleman to read, because it contained facts which I can now only repeat from memory. Sir, Oregon and Kansas were admitted to the Union by the passage of a bill which passed through this House, in the nature of an enabling act, to form constitutions and State governments preparatory to admission into the Union. Oregon formed her constitution by the people, and the authority was given to form the Leecompton constitution under the same authority. Kansas was admitted with that constitution, upon certain conditions, which were referred later to the people for their acceptance. The people of Kansas refused to accept the conditions, and therefore refused to accept the territorial condition. Oregon claimed admission here with a constitution made under the same circumstances; and she had the right to claim it, because she was invited by the act which passed this House to form her constitution. Kansas refused to do so, and she was invited to do so, for reasons which I need not detain the House to give. Some gentlemen say that it was because the provisions of the English bill did violence to the will of the people of Kansas. But, sir, I will not argue that question now.

The gentleman from Pennsylvania, the chairman of the Committee on Territories, [Mr. Grew], in the Thirty-fourth Congress, when the bill was before the House to enable the people of Oregon to form a constitution and State government, stated upon the floor of the House that he investigated the subject thoroughly, and was satisfied that Oregon had then more than one hundred thousand people. Well, sir, I read the speech of the gentleman; he was then the leader of the House upon the subject of the Territories, and was well informed upon that subject; and of known veracity, whose testimony no one would question when given upon the floor of Congress; and that was the evidence he gave upon this subject. To that I can add also the evidence of the Delegate from that Territory, [Mr. Senator LAW], who was present upon the floor of the House in the presence, and in the presence of the House, that he, upon his authority as a gentleman, asserted that there were at least ninety-four thousand people there. In addition to that, I had the evidence of the gentleman from Oregon, [Mr. Smith], who was a Representative in this House, and who stated that the population of Oregon was not less than one hundred thousand. I had all this evidence from gentlemen who were right from that Territory. But, sir, my vote upon that bill was not controlled by any such considerations. I would have voted for Oregon, I intended, had the right to come in under the ordinance of 1787. The organic act of the Territory extended to it all the rights and privileges granted to the Territory of the Northwest;

and one of those privileges was, that when she had sixty-four thousand inhabitants—then the ratio of apportionment—she should be entitled to come into the Union. Oregon had, therefore, only to show that she had a population of sixty-four thousand—I speak in round numbers—to be entitled to admission into the Union by the terms of her organic act. All these questions I then discussed, upon a fresh examination, with much more care than I have done now.

These, then, I say to the gentleman from Illinois, were the reasons why I voted for the admission of Oregon. But, sir, the same reasons do not apply to Kansas. The people of Oregon were a loyal people; they obeyed the instructions of the Federal Government. Oregon sought not to contend with and asperse the Government of which she sought to become a part. Oregon stood out in defiance of the provisions of the laws of Congress; her people were law-and-order people. Oregon came before this House in accordance to law. In the Territory of Oregon, there was no violation of the laws of the country. Oregon brought strong evidence that she contained the requisite population. Kansas presents no evidence whatever to this House, in an official form, of her population.

Here the hammer fell.

Mr. PENDLETON. Mr. Speaker, I intend to vote for this bill, and that vote, in my judgment, will be entirely consistent with the vote which I gave two years ago in favor of the Kansas organic act. I do not propose to say that the people of Kansas should determine, by a popular vote, whether they would come into the Union with the Leecompton constitution as the organic act of the new State. It provided further, that in case the people should decline to be admitted, the Federal Congress should be given the formation of a new State, and another application for admission, whenever the population of the Territory should reach the number necessary for a Representative upon this floor. It also provided that, in order to ascertain whether such population was in the Territory, a census should be duly and legally taken. Now, sir, the main fact, the controlling fact, whose existence was to be a condition precedent to the ascent of Congress, was the number of people.

The question which it was to be ascertained, the method by which we were to know whether or not the population reached a certain number, was secondary. The bill provided a method, and perhaps the best method, but certainly not the only method, by which that fact could be ascertained. Congress was not to be deceived or misled by competent evidence—evidence satisfactory to the mind of a legislator—the essential requirement of the bill was complied with; and I think any lawyer will say so, upon the ordinary rules for construing statutes, as they are applied in every case of the country every day of the year.

Mr. BARKSDALE. Will the gentleman allow me to read a clause of the English bill?

Mr. PENDLETON. Certainly, sir.

Mr. BARKSDALE. In the act of May, 1858, entitled

"That the people said Territory are hereby authorized and empowered to form for themselves a constitution and State government, by the name of the State of Kansas, according to the provisions of the English bill, and to make laws for that purpose; and, not before, it is authorized by a census duly and legally taken that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States."

Now, sir, what is the plain and obvious meaning of that language? That a census should be taken according to the provisions of the English bill. I understand that a census has been taken in Kansas under a law passed by the Territorial Legislature of that Territory. I admit, then, that so far as the provision of the English bill is concerned, which requires that a census shall be taken according to the provisions of the English bill, I understand, from the returns of that census, there are but little more than sixty thousand inhabitants in the Territory. But if Kansas be admitted into the Union as a State under the Wisconsin constitution, it will be the direct violation of the provisions of the English bill, which declares, in unequivocal terms, that she shall not be admitted until she has a population of ninety-three thousand.

Mr. PENDLETON. Mr. Speaker, an answer to the objections of the gentleman from Mississippi, would comprise pretty much all I have to say on the subject. I intend, before I get through, to give what I deem a satisfactory answer to the suggestion made by the gentleman from Mississippi, and which necessarily occurred to my mind in considering this question.

Mr. ADRIN. Let me put a question to the gentleman from Kansas, [Mr. PARROTT.] I want him to tell this House what is the present population of Kansas.

The SPEAKER. The Chair supposes that it is hardly in order for a gentleman to rise up, interrupt the member who has the floor, and call up another member in reply to an inquiry.

Mr. BARKSDALE. I hope there will be no objection to the interruption. I desire that all the facts shall be presented to the House. The gentleman from Ohio does not object, I am sure.

The SPEAKER. Does the gentleman from Ohio yield?

Mr. PENDLETON. I do not object to the interruption.

Mr. PARROTT. I propose to address the House upon this question. When I get the floor, I will answer the gentleman from New Jersey fully.

Mr. ADRIN. Will not the gentleman be good enough to give an answer to the question?

Mr. BARKSDALE. Has not a census been ordered by the Legislature of Kansas?

Mr. PARROTT. Yes, sir.

Mr. BARKSDALE. I desire to know what is the population of Kansas under the returns of that census.

Mr. PARROTT. I decline to answer now. When I get the floor, I will give the House all the information I have upon the subject.

Mr. BARKSDALE. My information is, that under that census there are about sixty thousand people in Kansas.

Mr. PENDLETON. I make no objection to these interruptions. I stated, when I was interrupted by them, that the main fact to be determined was the number of the population of Kansas; and that the method of determining the number was secondary only. I think that that is a fair interpretation of the law which the gentleman from Mississippi has read. I think all lawyers will agree that that is the fair interpretation of the law. If the fact is satisfactorily and conclusively established, it is immaterial whether it is established by the taking of a census, or by any other means.

But, Mr. Speaker, if this were not so—and I call the attention of the gentleman from Mississippi [Mr. BARKSDALE] to what I am about to say—I find, upon examination of the records of Congress, that in December, 1858, the President, in his annual message, recommended that an appropriation be made for the purpose of taking this very census. I find that the Secretary of the Interior, in the circular which he issued, appropriated an estimate of \$30,000 for that purpose. Yet, sir, the Committee of Ways and Means of this House chose to ignore those recommendations, and to report the appropriation bills without that item. No member of this House, not even the gentleman from Mississippi, who I have thought it worth his while, or that the taking of the census was of sufficient importance to justify him in moving an amendment, or introducing an original bill, making the appropriation.

Mr. CLARK, of Missouri. The recommendation of the President was with reference to the next appropriation, and had no reference to the framing of a constitution for the admission of Kansas.

Mr. PENDLETON. On the contrary, I think, from a casual reading of the President's message during this session, that that recommendation was made for the purpose of determining the question whether or not the population of Kansas was sufficient to justify her admission under the conference bill. The appropriation bills which were reported to the floor without this appropriation, in disregard of the recommendation of the President and of the Secretary of the Interior, went to the Senate, and there, sir, the Committee on Finance recommended that an appropriation of \$30,000 be made for the purpose of taking this very census. It was voted into a bill by the Senate, as in Committee of the Whole, without a single dissent. Upon the next day, however, when

the amendment came up before the Senate for its concurrence it was voted out with almost equal unanimity, the yeas and nays not having been called; and that, too, in the face of a declaration, made by a Democratic Senator from my State, that the rejection of the amendment under the circumstances would be considered, and ought to be considered, a waiver upon the part of Congress of that clause of the conference bill which required a census to be taken.

Mr. BARKSDALE. Admitting the facts stated by the gentleman from Ohio, what is the result?

Mr. PENDLETON. Not just now.

Mr. BARKSDALE. I only want to refer to a mere question of fact.

Mr. PENDLETON. I do not desire to be discourteous. Go on.

Mr. BARKSDALE. Admitting the facts stated by the gentleman from Ohio, I state again, that for the purpose of holding a convention to frame a state constitution, my information is—and I believe it to be correct—that a census has been taken.

Mr. PENDLETON. I admit the fact, and I will come to it in a moment.

Mr. BARKSDALE. And that the population of Kansas amounts to little more than sixty thousand, according to the returns of that census. If, then, Kansas should be received into the Union under the Missouri compromise, it would be in direct and palpable violation of the act of 1850, which provides that a constitution shall not be framed by the people of Kansas until that Territory shall have a population of ninety-three thousand, and that fact duly and legally ascertained.

Mr. PENDLETON. I will answer the suggestion of the gentleman in a moment; and if he will be kind enough to allow me to proceed, I will be obliged to him.

Mr. BARKSDALE. My friend from Ohio is aware that I would not, under any circumstances, be sworn in to him.

Mr. PENDLETON. Of course not. I was about to say that the statement of the Senator from Ohio upon the rejection of that amendment was right. I think it was a waiver of the census, and I think it is entitled to be treated as such. In other words, for I cannot believe that the Congress of the United States would insist upon a census as a condition precedent to the admission of a State, when they refused to appropriate the necessary amount of money for taking it. I consider that, by the mere act of existing in the House and voting on the other House, the census has been waived by Congress itself.

This brings me to the consideration of the question of the population of Kansas. In the month of June, 1859, a census was taken under territorial authority—a census imperfect, incomplete, and unreliable, as I shall show to the House. I find that from the six counties of Clay, Dickinson, McGee, Oage, Wilson, and Dorr, there were no returns at all; and yet it appears, from investigation made by the hands of the Territorial Legislature, that in the western part of the Territory, where those counties there are a hundred and fifty voters and nearly six hundred people. From the county of Riley there were no returns, and yet the same investigation shows that the county of Riley has about six hundred and fifty voters and three thousand people. In many of the most populous counties of that Territory returns were only made from portions of the townships, the rest being omitted entirely. A notable instance occurs in the county of Doniphan, where the returns are from four townships only, and show that there are eleven hundred and odd voters and thirty-five hundred people, while it is notorious, established beyond reasonable question, that the voting population of that county reaches nearly two thousand, and that actual population nearly eight thousand. In other counties, where returns are made to be in full, where the returns profess to be from every portion of the county, the returns are notoriously too small. The county of Leavenworth is returned as having a population of twelve thousand, and twenty-two, when it is perfectly certain, and admitting of no more doubt than that the city of Washington contains a population of twenty thousand, that the city of Leavenworth alone contains a population of twelve thousand, and that the county outside of the city contains six thousand more.

Now, sir, this census, unreliable, incomplete, and partial, as I have shown it to be, reports

more than seventy-one thousand seven hundred people in the Territory. If you add to that number the population of counties not returned at all, of townships not returned at all, and the population of cities, townships, and counties but partially and imperfectly returned, you will find that the population will not fall far short of the population estimated by the chairman of the Committee on Territories—one hundred and ten thousand.

But I find it stated in the report of the Committee on Territories that the vote upon the adoption of the Wyandotte constitution reached seventeen thousand. I have seen the vote stated at least; but that is immaterial, inasmuch as the Delegate from Kansas himself, whose accuracy is vouched for by the gentleman from Missouri, [Mr. CLARK,] and in which I would place implicit reliance, has stated to me that at his election, which was held last November, the vote cast was more than seventeen thousand. Sir, that is an enormous vote. It shows that the population is greater than is necessary for a Representative upon this floor. There are but few gentlemen here who represent seventeen thousand voters. There are but few districts in the country which have a population sufficient to cast that vote.

Mr. GROW. Will this gentleman allow me to state a fact in this respect, for I have gone through the examination of the returns? There are one hundred and fifty-three congressional districts which polled less than that number of votes.

Mr. PENDLETON. I also went through the returns, and I found that in the States of Vermont, Massachusetts, Rhode Island, Virginia, Florida, Maryland, North Carolina, Kentucky, Georgia, Alabama, Mississippi, and Oregon, there is not a single district that casts seventeen thousand votes. The gentleman from Maryland [Mr. WESTES] says I am wrong as to his State. I think I am not. I did not see the returns. The State of New York has twelve districts; the State of Pennsylvania has two; the State of Ohio, seven; the State of Missouri, three; and the State of Tennessee, one. In all the States south of the Potomac there are not half a dozen districts which have a voting population of seventeen thousand, even if you include two thousand as the proper reduction on account of the application of the three-fifths rule.

Mr. BARKSDALE. Will the gentleman allow me to make a suggestion? Taking the facts stated by the gentleman from Ohio, another fact is well known—that the relative voting population of a Territory is always proportionally greater than the voting population of a State. And this applies with peculiar force to Kansas; for upon the organization of that Territory, and down until within a very recent period, it has been the scene of lawlessness, violence, and bloodshed.

Mr. PENDLETON. I admit that the voters and the population in a Territory do not bear the same relative proportion as in a State; but I say that if you find in Kansas a voting population more than six hundred thousand you will find an actual population there of at least ninety-three thousand two hundred.

Mr. BARKSDALE. But in the Territory of Kansas it is well known that there are few families and that the population consists mainly of voters.

Mr. ASHMORE. I wish to state one fact in reference to my North Carolina. If you apply the three-fifths rule, my district has more than seventeen thousand voters.

Mr. SMITH, of Virginia. I hope the gentleman will be allowed to proceed without interruption.

Mr. PENDLETON. I am very much obliged to the gentleman from Virginia for his suggestion. But, with his permission, when gentlemen interrupt me, I will not be obliged to determine whether I will submit to be interrupted or not.

Mr. SMITH, of Virginia. I believe I have a right to interpose my objection.

Mr. PENDLETON. Certainly. Mr. SMITH, of Virginia, I would and although I threw out the suggestion in courtesy, I wish the gentleman to understand that I know how to appreciate his comment and reply.

Mr. PENDLETON. The gentleman can exercise his right by a peremptory objection; but when he makes a suggestion by which he is to interpose himself as a protection between me and those who desire to interrupt me, I shall endeavor

to do that which I think proper courtesy towards them and a due consideration for myself require.

Mr. BARKSDALE. I repeat, that the gentleman from Ohio is aware I intended him no discourtesy.

Mr. PENDLETON. Certainly, sir.
Mr. ASHMORE. And that I do not.
Mr. PENDLETON. By no means. And it was because gentlemen were proposing their interrogatories in a proper spirit, and in a friendly manner, that I heard them. If the gentleman from Virginia chooses, he can, by a peremptory objection, cut them out.

Now, Mr. Speaker, in addition to the evidences furnished by this census that was taken, and by the number of votes cast in Kansas, as to which I have heard no satisfactory answer, I have this secondary evidence to offer: I have inquired of persons who reside in the Territory of Kansas—friends who went to that Territory from the city in which I live—truthful, observing gentlemen, some of whom have had a most excellent opportunity of knowing the population of Kansas, whose facilities for observation have been greatly sharpened by the fact that they were opposed to the adoption of the Wyandotte constitution, and have in favor for this bill; and, sir, I have not found one of these who dissents from the opinion, as the result of their observations, and of the accounts they have heard from other persons coming from all parts of the Territory, that the population of that Territory is to-day, as it was last June, less than it was last year. Now this is evidence satisfactory to me. It is not technically the best evidence, perhaps; but it completely convinces my mind, and misifies me that, even under the restrictive clause of the conference bill, Kansas is entitled to admission.

Now, sir, as to the other objection made by the gentleman from Missouri—the objection that the rights of the Indians are violated. It is sufficient to reply to the gentleman that he seeks now to put a construction upon the language of that treaty that has not been put upon it before; a construction that was not put upon it the time the Kansas-Nebraska bill was passed; a construction that was not put upon it at the time the Leecompton bill was passed; a construction which is now sought to be put upon it for the first time; as that the language of that treaty, which guarantees the rights of the Indians and all the guarantees of the United States in the treaties shall be preserved, and that nothing shall be done or recognized under this bill, or under the provisions of the State constitution, that can in any degree invade the rights of the Indians guaranteed them by the treaties of the United States—the same language which guarded their rights in 1854, when the Territory was organized, and which was intended to guard their rights in the Leecompton bill, if it had become law.

Mr. CLARK, of Missouri. I ask the gentleman from Ohio to name a single treaty with any tribe outside of Kansas making the same guarantees and limitations as are applied to the treaties set forth in my report.

Mr. PENDLETON. In reply, I will ask the gentleman from Missouri whether he knows of any Indian treaties that they are not in?

Mr. CLARK, of Missouri. All the Indian treaties made with the tribes that settled west of the Mississippi river, prior to the treaty made with the Cherokee, Chickasaw, and Chickasaw, have the limitation in different phraseology, and not to the same extent.

Mr. PENDLETON. I cannot name the treaties. I am not familiar with the names of these different Indian tribes, nor with the dates of treaties made with them. But I repeat, that the gentleman and I say that it is clearly all of the treaties made since the removal of the Cherokees from Georgia, is to be found language similar to that in the treaties to which the gentleman refers.

Before the gentleman asked me the question, I had said all that I meant to say on this question.

Mr. PARROT obtained the floor, and addressed the House for one hour in support of the bill. [His remarks will be published in the Appendix.]

Mr. MAYNARD obtained the floor.

Mr. GROW. I desire to ask if the House will fix some hour now at which the debate upon this question shall be closed?

Mr. SMITH, of Virginia. You can do that to-

morrow. I desire, as a member of the Committee on Territories, to make some remarks whenever I can get an opportunity to do so.

Mr. GROW. I propose that we take the vote at five o'clock, to-morrow. [Cries of "No" and "No!"]

Mr. MAYNARD. I am requested by several gentlemen on both sides of the House to give way for a motion to adjourn. I have a personal engagement which would make it very agreeable for me if the House would adjourn; but I will be governed in the matter by the wish of the House. [Cries of "Go on" and "Let us adjourn!"]

Mr. SMITH, of Virginia. With the permission of the gentleman from Tennessee, I move that the House do now adjourn.

Mr. GROW. Well, I desire to give notice to the House that if I can get the floor, I will move the previous question at three o'clock to-morrow.

The question was taken on Mr. SMITH's motion; and it was agreed to; and thereupon (at a quarter after five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, April 11, 1860.

Prayer by the Chaplain, Rev. Dr. GRUBLEY.

The Journal of yesterday was read and approved.

BILL RECOMMENDED.

On motion of Mr. MASON, it was Ordered, That the bill (S. No. 347) to devise the meaning of the act entitled "An act making further provisions for the satisfaction of Virginia land warrants," passed August 21, 1852, be recommended to the Committee on Public Lands.

PATENT LAWS.

Mr. BIGLER. I move to postpone all prior orders, and that the Senate proceed to the consideration of the bill (S. No. 10) amending the general patent laws.

Mr. HALE. I hope not. I hope the morning hour will be devoted to petitions, reports, and resolutions.

Mr. BIGLER. I think we can get through with the bill during the morning hour.

The VICE PRESIDENT. The question is on the motion of the Senator from Pennsylvania to take up the bill (S. No. 10) in addition to "An act to promote the progress of the useful arts."

Mr. HALE called for the yeas and nays; and they were ordered.

Mr. BIGLER. This is a very important public measure, and I think we can dispense of it during the morning hour. I am satisfied that it will lead to no protracted debate. It is one of those measures which we ought to consider, and to consider promptly. I shall be under the necessity of being absent, probably, for two weeks after Monday next, and I am exceedingly anxious to send this bill to the House of Representatives before I leave. I think the Senator from New Hampshire mistakes the character of the bill, or he would not object to its consideration. It is one of great public importance. It is one which has been well prepared by the Department, and considered by the committee, and I have no doubt it will receive the vote of the Senator from New Hampshire. Unless there be some pressing morning business, I hope the Senate will consider the bill.

Mr. HALE. I shall not object, if the morning hour is not closed; but this is a business that ought to be attended to this morning, and I shall object to taking up the bill until it is disposed of.

The question being taken by yeas and nays, resulted—yeas 19, nays 19, as follows:

YEAS—Newell, Bigler, Briggs, Chatham, Clingan, Colburn, Davis, Fitzgibbon, Gwin, Humphall, Johnson, Latham, Mason, Nicholson, Cowell, Rice, Shastley, Stoddard, and Thompson—19.

NAYS—Mason, Fitzgibbon, Chandler, Clark, Dixon, Donnell, Douglas, Fenimore, Foot, Green, Hale, Hamilton, Rice, Sewell, Simmons, Squam, Tice, Eyck, Transbalt, Wade, and Wilson—19.

The VICE PRESIDENT. The Senate being equally divided, the Chair determines the question in the negative; and petitions and reports are in order.

PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of G. W. St. John and others, citizens of Ashland county, Ohio, praying the passage of a judicious bankrupt law; which was referred to the Committee on the Judiciary.

Mr. LATHROP presented the memorial of John

Butterfield and others, contractors for carrying the mail overland from St. Louis and Memphis to San Francisco, remonstrating against the enactment of any law which would change or annul their contract, which was referred to the Committee on the Post Office and Post Roads.

Mr. HEMPHILL presented papers in relation to claims of citizens of Texas to indemnity for depredations by the Indians; which were referred to the Committee on Indian Affairs.

Mr. WILSON presented the petition of Jeremiah Greenleaf and others, officers and soldiers of the war of 1812, praying that pensions be granted to those who served in that war, similar in amount to the pensions granted to those who served in the revolution, and which was referred to the Committee on Pensions.

Mr. BRAGG presented the petition of John A. Winslow, a commander in the United States Navy, praying the passage of an explanatory act regulating the pay of officers of the Navy promoted in consequence of the action of the retired board; which was referred to the Committee on Naval Affairs.

Mr. CRITTENDEN presented the petition of E. D. Tippet, praying an examination of a new plan of ship-building; which was referred to the Committee on Naval Affairs.

Mr. WIGFALL presented a petition of citizens of Texas, praying for the establishment of a mail route from Marshall to Coffeeville, and a post office at Smyrna, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Milam county, Texas, praying the establishment of a mail route from Owensville to Cameron, in that county and State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Johnson county, Texas, praying the establishment of a mail route from either Hillsboro or Waxahatchie, to Buchanan, in said county and State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of Clay county, Texas, praying the establishment of a mail route from Gainville to Henrietta, in that State; which was referred to the Committee on the Post Office and Post Roads.

ROLL INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 397) for the relief of witnesses in criminal cases in the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. POWELL, from the Committee on Pensions, to whom was referred the petition of Lockey Simpson, praying an increase of pension, submitted a report, accompanied by a bill (S. No. 396) for the relief of Lockey Simpson. The bill was read, and passed in a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Lemuel Worcester, praying a pension on account of a disability incurred while employed as a waiter to a militia officer in the United States service during the last war with Great Britain, submitted a report, accompanied by a bill (S. No. 395) for the relief of Lemuel Worcester. The bill was read, and passed in a second reading; and the report was ordered to be printed.

Mr. POWELL, from the Committee to Audit and Control the Contingent Expenses of the Senate, submitted a report, accompanied by a bill (S. No. 394) for the relief of Lemuel Worcester. The bill was read, and passed in a second reading; and the report was ordered to be printed.

Mr. FITCH, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a statement showing the amount of revenue collected annually in each collection district from June 30, 1854, to June 30, 1859, together with the amount expended and the number of persons employed in

each district, referring in favor of printing the usual number; which was agreed to.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the petition of J. B. Williams, praying a grant to the heirs of Joseph Biggs, deceased, of the amount paid by boarding, nursing, and medical attendance, incurred on account of being wounded in an Indian war in 1788, asked to be discharged from its further consideration, and that it be referred to the Committee on Revolutionary Claims; which was agreed to.

Mr. FORT, from the same committee, to whom was referred the memorial of E. Steele, making suggestions for the better management of the Indians in California, asked to be discharged from its further consideration, and that the memorial lie on the table; which was agreed to.

Mr. THOMSON, from the Committee on Pensions, to whom was referred the petition of Alpheus T. Palmer, of Maine, a lieutenant in the war with Mexico, praying an increase of the pension heretofore allowed to him, submitted an adverse report; which was ordered to be printed.

He also, from the Committee on Naval Affairs, to whom were referred testimonials in favor of Captain George C. Stouffer, of the ship Antarctic, for his gallant conduct in rescuing the officers and soldiers of the Army, and other passengers, from the sinking steamer San Francisco, in 1854, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

He also, from the same committee, to whom was referred the petition of Thomas G. Corbin, a lieutenant in the Navy, praying to be allowed the difference between the pay he received and that of a master during the time he acted in the latter capacity, submitted a report, accompanied by a bill (S. No. 399) for the relief of Thomas G. Corbin. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Samuel R. Franklin, a lieutenant in the Navy, praying to be allowed the difference between his pay and that he received during the time he performed the duties of purser on board the United States ship Falmouth, submitted a report, accompanied by a bill (S. No. 394) for the relief of Samuel R. Franklin. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. PUGH, from the Committee on the Judiciary, to whom was referred the bill (S. No. 381) to provide for holding the circuit court and district court of the United States at Birmingham, in the State of New York, reported adversely thereon, and asked that the committee be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the memorial of Hon. Daniel S. Dix, and others, citizens of the State of New York, and a petition of Horatio Ballard and others, citizens of Cortland county, praying the passage of an act directing a term of the district and circuit courts of the United States for the northern district of New York, to be held at Fingert, as reported adversely thereon, and asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a communication from T. T. Gantt, of St. Louis, Missouri, praying to be allowed an act of 1789, and in favor of changing the time allowed for taking appeals and writs of error to the Supreme Court of the United States, asked to be discharged from its further consideration; which was agreed to, the committee having already reported full on the subject, which has been passed by the Senate.

Mr. POLK, from the Committee on Foreign Relations, to whom was referred the petition of E. George Squire, praying to be allowed an outfit as charged in arrears to each of the Governments of Guatemala, San Salvador, Nicaragua, Costa Rica, and Honduras, and also a balance of malarly which he claims to be due, submitted a report, accompanied by a bill (S. No. 400) for the relief of E. George Squire, late United States charged in arrears to the Republics of Central America. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James G. Clarke, praying compensation for his services as chargé d'affaires of the United States to Belgium, submitted a report, accompanied by a bill (S. No. 401) for the relief of James G. Clarke. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. CRITTENDEN, from the Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Henry Brochholt Livingston, a lieutenant colonel of the continental army, praying to be allowed half pay and arrears of pay, submitted an adverse report; which was ordered to be printed.

ADMISSIONS TO THE FLOOR.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Chaplains of the Senate and the House of Representatives, for the same being, be entitled to admission upon the floor of the Senate.

PROTECTION OF SAILORS.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire whether, since the abolition of flogging by the United States, and merchant service of the United States, any corporal punishment has been practiced or allowed in the naval service; and if any, to what extent, and whether the same has been with the knowledge or assent of the Secretary of the Navy; and what steps, if any, have been taken by the Navy Department relating to the recent killing of a seaman on board a vessel of war of the United States; and also what legislation, if any, is necessary for the protection of sailors in the naval or merchant service of the United States.

PROPOSED RESCUE.

Mr. MASON submitted the following resolution; which the Senators thought he would call it up for action to-morrow:

Resolved, (the House of Representatives concurring.) That the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses from the 10th to the 15th day of April instant.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. RECHMAN, his Secretary, announced that the President had this day approved and signed the following acts:

An act (S. No. 136) for the relief of Thomas Fillibrown.

An act (S. No. 71) for the relief of the American Board of Commissioners for Foreign Missions.

An act (S. No. 233) for the relief of Alice Hunt, widow of Thomas Hunt; and

An act (S. No. 250) for the relief of Kate D. Taylor, widow of the late Brevet Captain Oliver H. P. Taylor.

FORT ATKINSON RESERVATION.

A message from the House of Representatives, by Mr. HALE, Chief Clerk, was received, returning, in compliance with a resolution of the Senate of yesterday, the bill (S. No. 371) for the relief of certain settlers in the State of Iowa.

Mr. PUGH. I believe the Senator from Arkansas [Mr. JONES] desired to move a reconsideration of that bill. I enter the motion on his behalf, as he is not now here. It is required to be made to-day. I think this is the second day from the passage of the bill.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 6th instant, the following act and resolution:

An act (H. R. No. 942) for the relief of the legal representatives of Robert H. Morris, late postmaster of the city of New York.

A joint resolution (H. R. No. 26) constituting Macon, Georgia, a port of entry for the time being, for the purposes therein specified, and for other purposes.

Also, that the President had this day signed and approved the following acts:

An act (H. R. No. 273) for the relief of Micajah Hawkes;

An act (H. R. No. 943) for the relief of the legal representatives of Charles Porterfield, deceased;

An act (C. C. No. 96) for the relief of William Geiger;

An act (C. C. No. 92) for the relief of Mariano G. Vallejo;

An act (C. C. No. 93) for the relief of Lydia Frazee, widow and administratrix of John Frazee, late of New York;

An act (C. C. No. 82) for the relief of Chas. T. Scaife, administrator of Gilbert Stalker; and

An act (C. C. No. 12) for the relief of Moses Noble.

OVERLAND MAIL ROUTE.

Mr. GWIN. I move to take up Senate bill No. 394.

Mr. GREEN. Is that the overland mail route bill?

Mr. GWIN. Yes, sir.

Mr. GREEN. I hope it will not be taken up. I am compelled to leave here this evening at three o'clock, or to-morrow morning at six o'clock. I am sick. I am compelled to oppose the proposition of the Senator. It should lie over for six or eight days, I think, as a matter of courtesy to me. I think the proposition wrong, but I do not think it ought to pass in the morning hour, or in the day either. I hope the Senate will not take it up, but will excuse me the right to consider this subject and discuss it at the proper time.

Mr. GWIN. For the very reason that the Senator gives, I hope it will be taken up. If it is to be postponed for several days until he can be absent from the city and return, in my judgment an important measure will be jeopardized and an important policy postponed. The object of this bill is to convey the mails to the Pacific coast overland, and by the passage of this bill I have no doubt that object can be accomplished; but if it is to be accomplished at all, provision ought to be made at once. I have been endeavoring for weeks to get up this very bill, because the contract for ocean service expires on the 30th of June; and if we do not very soon make provision for carrying the mail overland, it will be impossible to prevent making a contract for ocean service at that period. With all proper regard to the Senator from Missouri, as this is a question well understood by him and by me, we differing in the details but agreeing in the necessity of this overland mail, I hope he will consent to its being taken up now. When it is taken up, we will express our views and leave it to the Senate whether this bill shall be passed now, or not. It is of the utmost consequence that it should be passed on at once. This subject has been acted on in the House of Representatives, been referred to the Post Office Committee, and proposition after proposition brought from that committee before the Senate; and this is a single branch of it which I think is so necessary to be acted on at once, that I feel compelled to call on the Senate to consider it to-day.

Mr. GREEN. Yesterday the Senator from California stated that he desired to have the subject considered and acted upon, because the pony express was to leave at four o'clock. If that is the case, the pony express has gone. To-day there is another mule assigned. Now, I have no objection to considering a subject of this kind on the mail route; but I have not time to-day to consider it. It is known to the Senator that I have moved a proposition of my own in lieu of his, which I think better for the public service. I do not think that Congress ought to undertake to make a contract. Congress is unfit to make a contract. Congress may authorize a contract; but Congress ought never to fix the terms of a contract. They may fix a limit to it; but they ought never to undertake to make a contract. I will not, however, discuss the merits of the question. I am only begging for the poor privilege that has been accorded to almost every Senator, when it can do no harm to the public service, to have that subject postponed until I can be back and meet the Senator from California, and discuss it fairly with him. In the main, I do not go to Congress with any doubt about that; but I really do not desire to bring it up to-day, when I have not time to consider it.

Mr. GWIN. In regard to what the Senator says about the pony express, that subject has not yet been before the Senate. I express no great desire to have this subject enter the arena at once, in a private conversation with the Senator yesterday, and I am

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Mr. BENJAMIN. Mr. President.
Mr. RICE. I wish the Senator would yield to me for one moment. The Senator from California says there was no disposition to slaughter the northern route. I am very glad to hear him say that. Consequently, I must attribute the whole thing to accident; that is, a very fatal one to us indeed. The Senator from California says that he has no disposition to embarrass the northern route; that he has voted for it and sustained it. I know he has, but the action of the committee shows me clearly that that kind of friendship is false. I say, that as that one measure has met with no opposition from any member of the committee, and as this was a special meeting, called at a few hours' notice, courtesy to the friends of the northern route should at least have caused the few members of the committee who were present to suspend their action until the friends of the measure were there. The Senator from New Hampshire says they struck out the southern route because they could not agree upon the details, and struck out the northern route because they could agree upon the details. That is a rule that would not work very well, I think, here or elsewhere.

The Senator from California says the bill he reported yesterday is a new bill. It embraces, almost word for word, the language in the old bill, as they reported, so far as this route is concerned; and I am aware, and so is every member of the Senate, that if this bill passes we get no northern or southern route this year.

Gentlemen speak about the great interest the Senator from California and his people feel in this route. I would ask the Senator if he is a native of Wisconsin and Minnesota, and of the great lakes, and the citizens of the State of Oregon, and of the Territory of Washington, do not feel a deep interest in the northern route? It is true, they have not, perhaps, said much about it, but they have labored for it, and they will be glad to see it. I am sure they will. We have north of the center of the United States no mail route to the Pacific. They have half a dozen roads, getting over a million dollars for carrying their mails, and now they want a route, and fearing they cannot get it if the bill is passed, they will have an appropriation for another section, that has met with no opposition, they strike that out. I am much obliged to the Senator from Louisiana for yielding me the floor.

Mr. BENJAMIN. Mr. President, I think there are few subjects which will come before Congress at the present session that will require more deliberation, or the exercise of more prudence and discretion, than this subject of overland mails to the Pacific. I am very much opposed to taking up this subject in the morning hour. It is utterly impossible to give it due consideration in the morning hour. I have looked at a plan which, it was said to me, had been devised by the honorable Senator from New Hampshire who addressed the Senate this morning, and which I am inclined very much to approve of. I think it meets the exigencies of the public service in all sections of the country; yet I have not been able to study sufficiently to be able to give a vote understandingly on the entire subject. It must be obvious to us all, that the taking up of a bill of this kind in the morning hour cannot lead but to confusion. We have another important subject before us, which is the order of the day from day to day, and which must be postponed before this great subject can be properly discussed. Which of us will consent here, interested as we all are in this great subject in the distant sections of the Confederacy—which of us, representing northern or southern constituencies, will consent that this bill shall pass, without offering amendments providing for our own portions of the country? Which of us will consent that this great measure be taken up and carried to a vote piecemeal? Which of us will consent that it shall be disposed of without regard to the entire subject at the same time?

Where does the difficulty now arise? Simply from the fact that the Butterfield contract was made without reference to other sections of the

country, and it is now in the way of such modification of the postal service across the plains as will suit the entire country. In my judgment we ought to pay, if it is lawful for us so to do under the terms of our contract, a reasonable indemnity to those who have the Butterfield contract, and break it up, if necessary, in order to provide for a cheap and efficient postal service across the continent. I believe that fifty, or one hundred, or one hundred and fifty thousand dollars would be well spent by paying it to these gentlemen as a consideration for abandoning the contract; which, as the Senator from New Hampshire well says, goes across the country in the shape of an ox-bow, starting from Memphis, running south through Arkansas, getting to Arizona, passing along the thirty-second parallel, and reaching the Pacific in the neighborhood of San Diego, and then running up on the Pacific coast till it reaches San Francisco. That is your Butterfield contract as it now exists. It is neither a northern, southern, or middle route. It wanders over the whole of the western portion of this continent; it is no very short cut, and for the money it costs to run for that service and some of the other interoceanic postal services, we can organize a system by which the whole northern line of the country shall be satisfied with such a mail as they desire for the service of Washington and of Oregon with the settlements upon our northern frontier, and of our north western States; and at the same time the line, advocated by the Senator from California can also be served; and finally, down in that part of the country from which I come, we can have our south-western service, New Orleans, serving the valleys of the Texan rivers, passing through the valley of the Gila into the Territory of Arizona, reaching San Diego, and going up to San Francisco by that route. The whole can be organized and done for a very moderate sum compared with the maintenance of the service. Hence, this question is not one line at a time, and provide for that, it will be utterly impossible for us to make a connected, statesmanlike, prepared system for the benefit of the whole country. I hope, therefore, that this bill is not going to be taken up in the morning hour, and that the responsibility for this question, matter, and when it is impossible for the Senate properly to understand it. I will go with the Senator from California to bring it up as early as we can do it, and urge it on the attention of the Senate.

Mr. GWIN. If the Senator will aid us in fixing an early day for it, I shall not object; but if it is to be postponed day in and day out, I will not agree to it.

Mr. GREEN. Name Saturday week.

Mr. GWIN. Next Monday week.

Mr. GWIN. I cannot agree to postpone a subject of such importance so long, when it is necessary to have the service in operation before the 1st of July; and I give notice now, as the morning hour is running out, that I shall urge this question every day, until we can get it considered, except on private bill day.

Mr. GREEN. I merely wish to make one remark. I agree in every word that has been uttered by the Senator from Louisiana; but I must add this other word in connection: while I support the passage of this bill in its immature condition, it is not from any hostility to the starting points—Placerville, in California, and St. Joseph, in Missouri; but I think a better system can be devised by which the express, the north, and the north can be accommodated. As I am compelled to be absent by urgent necessity, if the Senator is determined to press the bill, let him press it. I shall rely on friends enough here to keep it off until I return. I do not suppose the Senator will take a moment to mention me because I am compelled to be absent.

Mr. YULEE. I suggest that we agree on a day when this subject may be taken up. It will be recollected that a bill was passed by the House of Representatives, and came to the Senate, some month or more ago, to which the Senate commit-

tee disagreed and reported a substitute. The bills which have been subsequently reported are but modifications of the original amendment proposed to the House bill. If the Senate will ultimately determine upon the adoption of the House bill, it is of the highest consequence that the earliest possible action should be taken; because that bill contemplates action of the Department, and a report to Congress, to be acted on at this session, and before we adjourn. I hope, therefore, it will be agreeable to gentlemen to adopt a day, and an early day, for the consideration of this subject.

The VICE PRESIDENT. The Chair must ask the Senator from Florida to pause. The hour has arrived for the consideration of the special order.

Mr. YULEE. I was going to propose next Thursday, if the Senate will permit me.

The VICE PRESIDENT. The Senator from Florida asks unanimous consent to lay aside the special order informally, to continue this subject.

Mr. WADE. He will not forward it by making it a special order. I move that we proceed to the order of the day.

The VICE PRESIDENT. No motion is required for that purpose.

CHICAGO HARBOR.

Mr. CLAY. I should be glad if the Senate would consent to indulge me about fifteen minutes, to dispose of a House resolution that was passed in my absence on Friday last, relative to the harbor of Chicago.

Mr. WADE. I inquire whether that will take any time.

Mr. CLAY. I do not propose to occupy more than five or ten minutes in explaining the nature of it, and I do not reckon it will lead to any debate.

Mr. WADE. Will the Senator consent to put it aside if it leads to debate?

Mr. CLAY. I only wish to state what I have to say about it, if it is taken up.

Mr. WADE. I think we had better proceed to the consideration of the special order.

Mr. CLAY. I will give the special order I will call it up to-morrow in the morning hour, and I trust the Senate will let me dispose of it. I have made two ineffectual attempts to do so.

Mr. DOUGLAS. I hope the Senate will consent to take it up in the morning hour to-morrow.

Mr. CLAY. I will make the attempt.

HOMESTEAD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 280) to secure homesteads to actual settlers on the public domain, the pending question being on the amendment of Mr. BROWN to the amendment of the Committee on Public Lands.

Mr. JOHNSON, of Tennessee. I have been authorized by the Committee on Public Lands to withdraw the amendment heretofore reported, in lieu of the House bill referred to that committee, and to offer the amendment that I hold in my hand, instead of it. There is an amendment offered by the Senator from Mississippi, [Mr. BROWN] to take the place of the amendment reported by the Committee on Public Lands. I understand the Senator has no objection to withdrawing that until this can be introduced, and then it comes regularly in its place.

Mr. BROWN. None at all. I withdraw my amendment for the time being, to allow the amendment of the Senator from Tennessee to be presented.

Mr. JOHNSON, of Tennessee. Then I withdraw the amendment heretofore reported by the Committee on Public Lands, for the original House bill, and offer in its place the following amendment, which I hope may be read.

The Secretary read the amendment; which is, to strike out all after the enacting clause of the bill, and insert:

That any person who is the head of a family, and a citizen of the United States, shall, from and after the passage of this act, be entitled to enter one quarter section of vacant and unappropriated public lands, or a quantity equal there-

Virginia, offered an amendment, and in his amendment there was one section which I will read:

"*Sec. 9. And be it further enacted, That the person applying for the benefit of the eighth section of this act shall, upon application to the register of the land office in which he is about to make such application, deposit a certificate of the land register that he or she is the head of a family, or is twenty-one years of age, and that such application to the register for his or her certificate shall be made by a person specially mentioned herein, and not either directly or indirectly for the use or benefit of any other person or persons whatsoever; and upon making the affidavit as herein required, and filing it with the register, he or she shall thereupon be permitted to enter the quantity of land specified: Provided, however, That no certificate shall be given or patent issued therefor, until the expiration of five years from the date of such entry, and until the person so permitted to enter the land shall have paid to the Government for the same twenty-five cents per acre, or if the lands have been in unsettle more than twenty years, twelve and a half cents per acre."*

This was an amendment offered by Mr. HENRY to the homestead bill of 1854, which passed the House of Representatives by nearly a majority of two thirds; and the Journal gives the vote upon it, which I will read:

"On the question to agree to the said amendment as amended,

"It was determined in the affirmative—yeas 34, nays 13.

"On motion of Mr. Adams.

"The yeas and nays being desired by one fifth of the Senators present.

"Those who voted in the affirmative are:
Messrs. Adams, Atchison, Benjamin, Bright, Brodhead, Browne, Chase, Claiborne, Chase, Dodge of Wisconsin, Howe, Douglas, Evans, Fitzpatrick, Geyer, Hays, Houston, Hunter, James, Johnson, Jones of Iowa, McIntire, Mason, Pettit, Russell, Schuchert, Seward, Sumner, Tilden, Thompson of Kentucky, Thompson of New Jersey, Toombs, Tooley, Walker, and Welles."

Before we had not the Senator's vote, but we had his tacit consent; for here stands the vote of the gentleman who is negotiating Tennessee, to reduce the price of the public land, and let a man have it at twelve and a half cents an acre, according to a proposition introduced by his own colleague. Where does he stand now? I think Tennessee will compare at this with the favored State, the Old Dominion at that particular. But again:

"On motion of Mr. FITZPATRICK, to amend the amendment proposed by Mr. HENRY, by inserting after the word 'acre,' in the first section, *eleven and one-half*, and all lands which shall have been offered for sale shall remain unsold thirty years thereafter, shall be reduced to a price of twelve and a half cents an acre."

Yeas and nays were again called; and the Senator from Virginia a second time recorded his vote to reduce the price of the land to twelve and a half cents an acre. Then came the question on the final passage of the bill:

"The bill (H. R. No. 37) in grant of homesteads of one hundred and sixty acres of the public lands to actual settlers, was read the third time, as amended; and having been further amended, by unanimous consent, on the motion of Mr. Pettit, the title was amended;

"On the question, Shall the bill pass?

"It was determined in the affirmative—yeas 36, nays 11.

"On motion of Mr. Welles.

"The yeas and nays being desired by one fifth of the Senators present.

"Those who voted in the affirmative are:
Messrs. Adams, Atchison, Bright, Brodhead, Browne, Chase, Claiborne, Chase, Dodge of Wisconsin, Howe, Douglas, Evans, Fitzpatrick, Geyer, Hays, Houston, Hunter, James, Johnson, Jones of Iowa, McIntire, Mason, Pettit, Russell, Schuchert, Seward, Sumner, Tilden, Thompson of Kentucky, Thompson of New Jersey, Toombs, Tooley, Walker, and Welles."

The Senator was enlightened a little yesterday: I want to enlighten him more to-day. I doubt very much if he remembers the bill he did vote on all these questions sometimes, and the refreshing of the memory is of no disadvantage to any of us. I think that his speech yesterday came with no very good grace from a Senator with this sort of record. How do you stand when you talk about the influence on the slavery question? Does not reducing land to twelve and a half cents induce settlement? What is the proposition under consideration? It is to reduce the price to twelve and a half cents an acre in one bill, and in the other to ten dollars for the whole one hundred and sixty acres and pay the price. Where is the difference in principle? Where is the enormity of the one that does not exist in the other? Where is the danger to the institution of slavery growing out of the adoption of the one measure that does not grow out of the other? Is it not Virginia, under a system of bounty land warrants to her revolutionary soldiers and others, has received nearly two million five hundred thousand acres of land; and when we stand with Virginia, and commencing with Washington, with every Administration to the present time, are we

to be arraigned and taunted with our association? When and where did the preemption policy start? Did it not start with General Jackson? When and where did the graduation policy start? Did it not start with General Jackson? Is not Tennessee standing now where she stood then? What is the homestead policy? It is a part and parcel of the same great system of creating a new class into the possession of every man that will take them and make a proper use of them. We stand where Washington stood. We stand where Jefferson stood. We stand where all the Democratic Administrations have stood, and even where the Senator himself has heretofore stood.

Where does the gentleman get his association, and what is it for? Instead of relying on the argument of the question, he tries to associate with it a prejudice with which he thinks it can be struck with much more ease and force than by meeting the question upon argument. Virginia is to rebuke Tennessee on this subject, talking about making free States! Is Virginia to rebuke any other State in this Confederacy in reference to free States? Go back to the ordinance of 1787, first introduced by Mr. Jefferson in 1793, and go back to the surrender of public lands in the Northwest, which I never conceded were Virginia's more than any other State's—but let that be as it may, I will not argue it now; she assumed that they were hers; but the surrender of her territory to the creation of free States, and the admission into this Confederacy with their Senators on this floor. Is Virginia to rebuke Tennessee, alarmed at the creation of free States? Those States have fallen from your hands. Are you dissatisfied with them? Or do you want to turn them out of the Union? Tennessee prefers to follow principle, understanding that, in the pursuit of correct principle, we can never reach a wrong conclusion; and although some become alarmed and are carried off by the *ad captivum* slange of the day, and some are carried on by the *ad hominem* attacks to pursue it unflinchingly and unwaveringly, as her own noble rivers that come rushing from her mountains' sides, and make their way down her valleys and through her plains in their majestic career to the great father of waters. Here Tennessee stands to stand, and to stand as firm and unyielding as her own native mountains, with their craggy and projecting brows, rock-ribbed, and as ancient as the sun. She does not stand here to be rebuked by any State, or the Senators from any State. Now, as heretofore, in all the past, she stands on her own feet, and takes care of herself. Gentlemen taunt us with an association with the Republican party, because the Republican party is showing a little agility, being pretty hard pressed for capital, and setting out as preachers, picking up whatever they can find that is profitable. They find that a measure and a great principle that has been advocated by the Democratic party for years is popular; that the public judgment is recorded for it.

In 1846, when this measure was inaugurated in its present substantial shape, and on the question of that party? It was before the party had its existence. It was pressed amid the taunts and the jeers of individuals, until the public judgment laid hold of it; and, in 1852, in compliance with that public judgment, the House of Representatives passed the bill by a majority of two thirds, a fraction less than a two-thirds vote. It is a Democratic measure, not a Republican. Do we know so little of ourselves, do we stand so little upon principle, that because Republicans come forward and assume a measure we are for, we are to be scared off and then take it? Do not understand ourselves better than that? In 1854, it was brought up by a Democratic member, and passed the House of Representatives by a two-thirds vote, and came to the Senate. In the last night, it passed the House again, and came to the Senate. The public judgment is recorded again and again, and will the Senate not yield to the high behests of an enlightened public judgment? We are told here that the Senate is to be obeyed, and not the people; that the Senate is to be obeyed, and not the States. When does the Government begin to be obeyed for what use was it created? Was the Government created for the people, or the people for the Government? I hold that the Government was created for the people; that this Federal Government is the creature of the States; and when they have spoken and de-

clared their solemn judgment, it is the duty of the Senate to obey. Look at the votes in the House of Representatives in 1852 and 1854. There was no party test then on this measure. Whigs and Democrats, Americans and every other class, voted for it, and some of all classes voted against it; but, all at once, it has got a nigger in it—slavery—and the question—and now no one takes a new phase.

Sometimes the measure is met upon constitutional grounds. I do not pretend at all to be a constitutional lawyer; but there are some propositions that are so plain that anybody can understand them. I say the distinction is broad between the power of the Federal Government over its revenues and over its public lands. Congress has power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare. When duties and debts have been laid, when taxes have been collected and paid into the Treasury, Congress then has specific and definite powers in reference to their appropriation. But in reference to the public lands, the power is in a separate class. Congress has the power to dispose of the public lands for the purpose of obtaining revenue; and being disposed of for revenue, that revenue when obtained must be appropriated under the restraints and restrictions of the Constitution. It is not worth while to be very minute in the argument, very nice in the distinction, but in this matter the distinction is broad. Congress has the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." "Dispose of it for what purpose? What does the Government acquire territory for? Is it to be vacant and dormant? Is it to remain unproductive? What is the great object of acquiring territory? When you acquire territory that is unpopulated, you have not only the power, but the duty, to settle it. Territory for which was acquired, it is your duty to pass laws that will encourage and induce the settlement of that territory. Has not that been the practice? The fathers of the Republic looked at it in that way, and gave it that construction. I say it is the duty of the Government to settle and populate that territory, to populate an unsettled territory.

I will say here, that I do not believe this Government can dispose of the territory for other than governmental purposes; but it can dispose of it for some governmental purposes for which it cannot dispose of the public lands. I know that this sort of argument is sometimes made: "You get money, you buy land, and you give the land away." That does not affect the broad provisions of the Constitution at all. If the land is acquired by treaty, whether you pay money or not, it then passes under the general provision "to dispose of the territory." If we acquire territory must we have back precisely what we pay for that territory? If the argument be sound in one case it is equally sound in the other. Where are the great patriotic men who have gone to the battlefield and perished at the cannon's mouth? Can we get them back? Where are the great men that now sleep in foreign land, who fell in deadly conflict with a foreign foe, beneath the crimsoned spear, and went to their long, narrow home, with wounds that shrank even their wives, who were saturated with their blood? Can you get them back? If you must have back what you offered up for this territory, you must get them men; get back the fathers of those orphans that are left in the land; get back the husbands of these widows who have been made poor and desolate, before you talk about getting back the dollars and cents. Where would you get the material out of which to coin this blood?

Who, then, is entitled to this public domain? Are not the descendants of those who shed their blood for this territory, and who have given up their country, entitled to a little piece of ground upon which they can make their support? Whose land is it? Is it the Government's? If the land is the Government's, whom does the Government belong to? Is it belong to the people. The Government is the agent; and it is the right to withhold from the great mass of the people that which is theirs.

Mr. WIGFALL. Will the Senator allow me to ask him what he means by the people? I ask him seriously, because I want a reply

trust in God that the time will come when the Senate, instead of being chosen by the Legislatures of the respective States, will be chosen by the people of the several States, and then they will feel and know their relative position to the people that constitute the State. I hope that time will come; I trust it may. It is districts like those I have been describing, represented on the principles I have just referred to, that constitute States. These are the men and the description of men who are necessary and proper to make a virtuous, intelligent, and patriotic State; a State capable of governing itself—men like these "who know their rights, and knowing, dare maintain."

The bill before the Senate meets another objection that has been urged; and that is, that the public lands should be made to pay for themselves. I have no scruples upon that question myself; but there has been a disposition to place the bill beyond the reach of constitutional scruples, beyond the reach of questions as to expediency, and beyond the reach of the exercise of the veto power. I do not speak *ex cathedra* on this point; I do not speak advisedly at all; but I have heard it thrown out in the way of tam, perhaps with a view of frightening some, that it would receive the Executive veto. I do not believe it, and I will give you one reason, and that is, that I believe it. Look at this bill. It provides for the settler defraying the expenses, paying the office fees; and it holds out a reasonable inducement to settlers, and imposes the condition of the settlement and cultivation for five years. It is not at all a bill for paupers, for miserable leeches, for persons from leech-houses, for vagabonds, nor for what are denominated sometimes poor people in one sense; but it is for men who have arms, who have muscles, who have sinews, and who have willing hearts to work. "Wint business grows of vagabonds," says the hundred and sixty acres. A vagrant is a man running about, unsettled, with no particular abiding place. To fix a man down and set him to work in the precise opposite of vagabondism. Because a man is poor, because he has not a convenient or sufficient amount of work to do, does not make him a loafer; and the fact that a man is poor is an crime. If being poor was a crime, and I was before you as my judge upon trial, and the charge was read to me, and I was asked to put in my plea, I should have to plead guilty; but I was a great criminal, that I had been a criminal; and that I had lived a criminal each portion of my life. Yes, I have wrestled with poverty, the gaunt and haggard monster; I have met it in the day and night; I have felt his withering approach and his blighting influence; but did I feel myself a criminal? No; I felt that I was chastened, and that I was no honest man, and that I would rescue myself from the grasp of the monster. But there is sin; and there is more sin committed sometimes in becoming poor than almost anything else. We are told upon high authority that the drunkard and the glutton shall see poverty; but because it is affixed as a penalty, that does not make it a crime. It may be the penalty of committing crime.

Then, on the other hand, we are some start from poverty and come to a state of extreme wealth and riches. Poverty is no crime. If every man is criminal in this country who is poor, the country is full of criminals, and we have not got enough places of confinement to contain them. I demur; I put in a plea of not guilty, on behalf of the poor men of the country, and say they are not criminal. A man can be poor and honest. Sometimes poverty drives a man to commit a sin, and that sin may be criminal; but poverty itself is no crime. It is a great inconvenience and a great misfortune; but if poverty is a crime, the millions of little boys that are dead, yes, the millions of little boys that are thrown on the world? Where is this rising population? Three out of every four are poor; and are they all criminals? Suppose they are poor; they have got muscles and bones and will, and this measure may be a great benefit to them. Notwithstanding you have not got \$200,000 and take your one hundred and sixty acres of land; take care of your wife and children; educate your boys; build up your school-houses; have your stock about you, and become a free and independent man. It will be an advantage to the Treasury. When a man is poor, he buys little. You increase his means of buying, and he buys more; and the

Government, in bestowing one hundred and sixty acres of land, increases the occupant's means to buy; and, in a few years, by the operation of your law, the settler used to the consumption of his family, the Government will be remunerated twenty times, even in dollars and cents. Is that all? No. He is a better citizen; he is a more elevated man, better calculated to perform all the duties of a sovereign.

That is what is giving away the public lands greatly below what they cost. When I turn to a report made by a distinguished man of Virginia, for I have been dealing in Virginia authorities all day, I find that up to 1850, Mr. Stuart, who was then Secretary of the Interior, made this estimate:

"That this matter may be correctly estimated, and the value of these lands as a source of revenue be properly appreciated, I beg leave to state that, by a careful examination, it is ascertained that the entire area of the public lands, exclusive of the lands in Oregon, California, New Mexico, Utah, the Indian and Nebraska Territories, was 3,300,000,000 acres, and twenty-four millions of one hundred and three thousand seven hundred and fifty acres. About one fourth of this land has been sold, and the purchase price for its amount was \$3,300,000. The cost of the whole of these lands, including the amount paid to France for Louisiana, to Spain for Florida, and to Mexico for Texas, and the extinguishing the Indian title, was \$1,321,717. A portion only of these lands has been sold, and the cost of the whole of these lands, including the amount paid to France for Louisiana, to Spain for Florida, and to Mexico for Texas, and the extinguishing the Indian title, was \$1,321,717. Less than half the land surveyed has been sold, and the whole cost of selling and extinguishing the same, including every expense not previously charged, is..... 7,405,284

Aggregate outlay or very kind..... 7,405,284

Net profit to the Government..... \$60,361,313"

Since 1850 there has been received from the public lands about thirty-seven millions. Where is the balance? Where is the deficit? The measure before you provides for the settlement of all alienated lands, and the remaining sections to be created, either at \$1.25 or \$2.50. Add the twelve and a half cents proposed to be charged to the \$1.25 and you get more than Mr. Stuart himself says was the cost of the public lands. He says twenty cents an acre. Therefore, cost, \$20,000,000 of profit in 1850, and now \$37,000,000 more, making \$77,000,000 profit from the public lands. What right, then, have you to withhold from the man who sheds his blood, and from his children, a part of that which is his? Have you any right to do this? I demand it in the name of the American people; I demand it in the name of the Constitution; I demand it in the name of justice, as being in conformity to the spirit and genius of our Government.

When we give up this measure, there are various other measures brought forward. One is to give all the lands to the States. The enlightened statesman, Mr. Calhoun, some years ago, brought forward a proposition to surrender all the lands to the States. I remember it well. Mr. Calhoun did not want to electorize at all! He was not that sort of a man, who was inclined to concede the power to make internal improvements, he could change the name of a river to prevent inland sea, and then it became constitutional. An extraordinary statesman! I do not question that he was an extraordinary statesman. Mr. Calhoun had some peculiar notions about government; and if he were now living, he and all the men in the United States could not put a Government into successful and practical operation under the system he laid down. He was a logician; he could reason from a premise to a conclusion with perfect certainty, but he was as often wrong in taking his premises as anybody else. Admit his premises, and you were swept off by the conclusion; but look at his premises, and he was just as often wrong as any other statesman; and I think Mr. Calhoun was a man of a political nature. Mr. Calhoun never possessed that class of mind that enabled him to found a great party. He founded a sect; and if he had been a religionist, he would have been a mere sectarian. He would never have gone beyond founding a sect per se. His mind was metaphysical and logical, and he was a great man in his peculiar channel; but he might be more properly said to have founded a sect than a great national party.

I have been for the preemption and graduation policy; I have been for the homestead policy; I have been in favor of confining the future sales of public lands to actual settlers, and to them in limited quantities. I have looked forward to a day when, after these measures were fixed on the country, the homestead consuming the policy that has been heretofore inaugurated, the result in a few years would be a surrender of the public lands to the actual settlers, and the Government as merely preliminary; and it is an onward I have long desired, for I want the powers of this Federal Government circumscribed; I want it kept in its proper orbit, and I want to withdraw the operations of the Federal Government, as far as possible, from the private States. I am for preemption, graduation, and homestead policy; it is nothing but the preliminary, the prelude to an ultimate surrender of the land to all the States in which it lies. I want to make myself understood as to what my policy is.

But, not to be vain or egotistic, or to claim anything from the Democratic party, I want to repeat, in conclusion, that this is emphatically a Democratic measure—inaugurated by the Democracy; and the Republican party have only shown their sagacity, as I remarked before, in one sense, in limiting the measure to the Democratic party, in which they know meets the approbation of the popular heart. They show their good sense in it; but because they will now go for my measure, or for a Democratic measure, I shall not turn against it.

Look on this as a great measure, involving great principles and great results in the future. I say let us stand up for it; let us forget party; let us go for it as a measure to advance and elevate the condition of the great mass of the people. Why cannot we rely around it as a common altar, and proclaim to the nation that it is a national party, and that it is intended to perpetuate the Union and the Government as they have been? But I want to come down to the last Democratic authority on this subject. I hold in my hand a document that was issued in 1857. The paragraph at the end of the document is as follows:

"No nation in the life of time has ever been blessed with so rich and noble an inheritance as we enjoy in the public lands. In administering this important trust, while it may be wise to reserve some of the lands for the use of the Government, yet we should never forget that it is our cardinal policy to reserve these lands, as much as may be, for actual settlers. It is our duty, as a nation, to do this; not only to promote the prosperity of the new States and Territories, by furnishing them a hardy and independent race of honest and industrious citizens, but shall ever homes for our children and our children's children, as well as for those exiles from foreign shores who may seek in this country to improve their condition, and to enjoy the blessings of civil and religious liberty. Such emigrants have done much to improve the growth and prosperity of this country. They have proved faithful blood to be pressed upon a war. After becoming citizens, they are entitled, under the Constitution and laws, to be placed on a perfect equality with native-born citizens; and in this character they should ever be kindly received."

Would it not seem that the bill now under consideration was drafted with an eye to the propositions here laid down, a portion of the lands to be reserved for the Government, and the remainder, and the balance being, as far as possible, reserved to actual settlers, and as homes for our children and our children's children; and at the same time opening the door to the exiles of other countries to come here and cultivate these lands? I may be wrong, but I am sure it is a fair inference. Let them all come, and comply with the law. Who was it that made use of the language I have just read? A Republican? No. Who was it? James Buchanan, in his inaugural address on the 4th of March, 1857. He said, "I have covered precisely the ground laid down in that inaugural address. Hence I infer that the President of the United States will not veto this measure. I hope he will not, in the event of its passage. I feel satisfied that we can and will pass the bill upon its merits, and it will be passed. I will be, I cannot tell; but, in conclusion, let me say to the friends of the homestead proposition, who have been engaged in this warfare a long time—for the present proposition commenced in 1846—it is now near its completion; let us stand by it, let us put it upon its merits, and let it pass. Once upon the statute-book, there will never be power to recall it. The people will come up to those who are struggling in their behalf,

properly be ascribed to me that, from a desire to shrink responsibilities that devolved on me, or from a desire to promote any sinister ends, I had voted in departure from the faith of a previous vote that I had given; but I should never be apprehensive of its being charged on me as an inconsistency that I had changed my mind, and changed my policy with it.

But, sir, here again is the interpretation that the Senator puts on his principle. What was the graduation bill? It was a bill on the part of those who represented the older States, where there were no public lands, to save from the wreck of the public domain, as far as they could, something from the general and apparent purpose of the legislation of the country to appropriate those public lands to the States which they were found without paying for them at all. It was said constantly by honorable Senators here from the new States, where there are public lands—and they said it with truth, and I felt the force of the appeal—that it was a master of great moment to those States to have their lands settled; and they were held at such high prices, or upon such rigorous terms, as represented by them, as prevented their settlement; and that measure of graduating the price of the public lands was one introduced with their assent and with their approval for the purpose of doing—what? Of carrying out any policy in the Government to give homesteads or lands to those who were either unable or too worthless to buy them? No; the furthest thing from it; but it was in response to that demand of the landholding States that the price of the lands should be graduated in proportion to their actual value and to their fertility; and that when the Government had offered the lands for sale for a certain period, and they had not been entered at the minimum price of \$1 25, then that they should be open to entry at lower rates; and the lands were graduated according to the times they had been in the market—that being adopted as the best standard, and a very proximate one it was (at least it was the best standard) of the comparative fertility of the lands. The highest price, I think, in that bill, was one dollar, and the lowest was one-half cent. There was no homestead in that—I mean to say no policy of the homestead bill. It was a graduation measure which I understood would be acceptable to the landholding States and which was decided by a concurrence of opinion between them and carried into effect. Its practical operation has been, according to my recollection, that although it seemed to be well devised in theory, it has had little effect in practice.

Mr. President, I did not design anything further yesterday than to bring to the notice of the Senate the necessary operation of this bill brought from the other House, and which is now the subject of our deliberations. The necessary effect will be to transplant, by the allotment of land gratuities at the public expense, people from the non-slaveholding States to the slave States, and to the Territory, to the exclusion of those from the slaveholding States; and I said, and still believe, that if the policy should be adopted, it would be followed up on the part of the people of the free States by bringing to the aid of the law, the argument and the force of a half cent a person. I cannot vote for it in any form or shape, not only because it seems to have that policy, but because I should be opposed to the whole system of making gratuities of the public lands in reference to the honorable Senator from Tennessee, I certainly did not mean to provoke any quarrel on this side of the Chamber; I meant to call his attention only to the necessary effect of his policy in the hands in which it now was; and my suggestion to him, certainly not an admonition was, that he should neither touch nor handle the unclean thing.

Mr. WIGFALL. I propose, Mr. President, as briefly as I can—and I will promise those Senators who will give me their attention, to be brief—to answer somewhat the remarks which were made by the Senator from Tennessee, and to discuss the measure before the Senate. Before addressing the Senate, I beg that an amendment which I introduced the day before yesterday may be read, as I propose to speak to that amendment.

The Secretary read the proposed amendment of Mr. WIGFALL, which is in substance as will appear the exacting clause of the bill, and insert:

That all the public lands in any of the United States,

with the exception of such portions as are now set aside, or as may, before the terms of this act are accepted by the States, be sold as public lands, and the proceeds of the sale of the United States, shall be added to any of the United States, within the limits of which said public lands may be situated, or as may be any of said States, have complied with the provisions and conditions of this act hereinafter set forth:

First, That said States shall severally pass acts, to be irrevocable, that they will annually pay to the United States—per centum of the gross amount of the sales of such lands as are sold under said act, and the proceeds of such sales, estimating the price of said grants or donations at the price of the same class of lands at the time of said grant or donation.

Second, The present graduation laws of the United States shall apply to all such lands ceded, but may, at any time, be changed by said States, with the consent of the United States.

Third, That this consent, together with the portion of the proceeds furnished by the States, respectively, under the provisions of this act, shall be in full of the five per centum due, or any part thereof, already coming due to any State; and that said States shall be exclusively liable for all charges that may hereafter arise from the survey, sales, and management of the public lands, and the extinguishment of Indian title, within the limits of said States, respectively.

Fourth, That any grant of said States shall have accepted this cession, the same shall become null and void upon any said States failing to comply with the terms of said cession; and in case of any such failure, the President is authorized to announce by proclamation said failure of said State, and that all title derived from said State by sale, grant, or donation, shall be null and void, and the lands shall revert to the United States.

Fifth, That any person settling upon any portion of said lands so ceded to any State, according to the terms and provisions of said laws of said State, shall retain and remain in undisturbed possession of the same for the space of five years, within which time he shall be required to pay the price of said lands, and that if he fails to do so, as aforesaid, then the said land shall be subject to reclamation and entry.

Sixth, That said lands so ceded shall remain subject to the satisfaction of all charges upon the public lands of the United States now existing by law, and shall be liable to sale and location under the existing laws and existing stipulations of the United States; and all lands ceded by this act which may be taken, after the approval thereof, in satisfaction of any indebtedness of the United States, shall be included in the issue of said lands, and the proceeds of the sale of said lands, shall be estimated at the price per acre as the same may have been graduated under the act of August 4, 1854; and for the amount thus estimated of the proceeds within any State, a credit shall be allowed to such State in the settlement of the public debt, and the balance of the proceeds shall be paid to the United States.

Sec. 2. *And be it further enacted*, That whenever the President of the United States shall have received from any of the States aforesaid has accepted the terms of this act, he shall, as soon thereafter as convenient, cause to be laid before said State to be read and approved.

Sec. 3. *And be it further enacted*, That from and after the terms of this act shall have been accepted by any State, he shall be bound to execute and carry into effect all the ordinances, imposing restrictions on the right of said State to tax the lands, by her authority, subsequent to the said acceptance of this act; and any laws, regulations, acts, laws, documents, and papers, in the General Land Office at Washington, the offices of the surveyors general, and local land offices, relative to said lands, shall be the order and disposition of the executive of said State, or certified copies, where the same are not susceptible of division.

Mr. WIGFALL. Mr. President, the Senator from Tennessee [Mr. JOHNSON] complains that this has been made a party question. Upon this point I expressed my views some two or three weeks since, and I will now further express my views introducing a party question here, and then complain that it is treated as a party question? Can you put a kettle on the fire and complain if it boils?

Did not the programme and platform of the Republicans some month or so ago here—I allude to the platform of New York, New England, and of course—announce that a protective tariff, internal improvements, and the homestead bill, were the platform of the Republican party? The Senator from Tennessee introduces a portion of the platform; and the Republicans avow their determination to vote for and support it. And he complains that we treat it as a party question. Yesterday, one of them gave as a reason that it is to free-soil the territory; to spread the empire of freedom; to establish, according to the language of the people near home I live, "God and liberty" over all the territory that now belongs to the United States, and of which not the people individually, but the States, are owners. I trample upon the idea that it belongs to the people as individuals; and I wanted the Senator from Tennessee to answer me on this twaddle, this talk about people as owners of the territory, without using the term with any definite meaning. Whom does the Senator mean by the people? If he means, by people, the States as contradistinguished from the State governments, he is right; but he is wrong, if he means the individuals living in the thirty-three States, he is wrong. The territory

belongs neither to them individually nor as a political community. There is no such community or State as the United States. There is no such people. This, as a Democrat, be cannot deny. It is in the platform. It is the cardinal doctrine of our creed.

Now, sir, I say that this question is one that we have to decide. It is brought in here by the Senator from Tennessee, and pressed upon our consideration. The Republicans have made it a part of their platform, and I should have been telling you that it is a measure which is eminently calculated to cut our throats, and we believe that they are at least telling the truth in that, the Senator from Tennessee complains that we are not willing to sit down and have our throats cut quickly because Tennessee, forsooth, in eighteen hundred and forty sometime or other, introduced the measure through her member (himself) of the other House. He says that it is a Democratic measure. Why does he call it a Democratic measure, and upon what authority? When have the Democratic party in convention assembled endorsed it? Who made him the Democratic party or its exponent? "Upon what mead doth this our Czar feed that he hath grown so great?" I want to know when it became a Democratic measure, when it became a part of the platform of the Democratic party.

Why, sir, in the very breath in which he informed us that this was a Democratic measure, Democratic thunder that was stolen by the Black Republicans, in the very same breath, he said that in 1852 and 1854, yet he had been in the House of Representatives, all parties voting for it, Whigs and Democrats, Know Nothings and Republicans. In 1852 and 1854 all parties voted for it, he says, and by some legislator or other, that it is possibly understood in the mountain region of Tennessee, that he has spoken in such eloquent terms, it becomes *ipso facto* a Democratic measure. How, why, and wherefore, I ask?

Sir, what is Democracy? I attempted very briefly, the other day, to explain what Democracy was. The Senator may be a Democrat; he may be a Whig; I do not pretend to say. We have a catch phrase in Texas, "may be so and may be so not." The Democratic party in 1852 and in 1856 adopted a platform, and in that they declared explicitly and unqualifiedly that they adopted the Virginia resolutions of 1796, in one of which it is resolved:

That this Assembly doth explicitly and solemnly disavow the doctrine of the Federal Government, as resulting from the compact which the States are parties to.

The Democratic party having planted itself upon the platform that the States are the parties, and that the Constitution of the United States is a compact, it is manifest that any man who denies the fact is not a Democrat. His philosophy and sympathies with the poor have nothing to do with the question. He is not a Democrat because he is not a Democrat. The Senator is committed to that theory of our Government, and who would deny it must leave the party. The Senator says this is a Democratic measure. I have already asked when and where the Democratic party endorsed it, or adopted it. He says, I do not pretend to say. We have a catch phrase in Texas, "may be so and may be so not." The Democratic party in 1852 and in 1856 adopted it. Does it become Democratic by his introduction, or by their adoption? Its legitimacy I doubt; and I must be shown some authoritative action of some power authorized to legitimate such things before I can be induced not to plead bastardy against the landing. The Senator says it is Democratic, and yet the Whigs, the Democrats, the Know Nothings, the Republicans, all voted for it a few years ago; and now it is a part of the Republican platform!

Mr. PUGI. Will the Senator allow me? I have heard him say this five or six times, and I should like him to show it me in the Republican platform.

Mr. WIGFALL. Yes; I see the Republican platform now, [Mr. SEWARD] the platform and so.

Mr. PUGI. I was about to tell the Senator that it is not in the Republican platform.

Mr. WIGFALL. I mean that the Senator from New York a few weeks ago, on this floor, announced as a part of the platform the homestead bill, and a tariff for protection, and internal improvement.

Mr. PUGI. If the Senator will permit me, I

appears of the Austrians, turning them into his own bosom, and falling upon them, he opened a way through which his countrymen marched to liberty and independence. Now, if there is anything in the political history of this or any other country which equaled that, it was the action and the life of John C. Calhoun—the man who spurned the Presidency, power, place, everything save the Government. We are the old men, and Senator rises now here to-day and attempts to deride him.

I intend, sir, to answer the twaddle about the fathers. I am sick and tired of the fathers. There has been enough of that thing talked of. We are wiser than they were. We are the old men, and they were the young men. I care not what their age or experience was. They organized this Government, and the wisest man in that day could not tell how the thing would operate; it was utterly impossible. We have the experience of seventy years. There are men now—I do not speak of myself—who have had as much education, as much brains as they had. We have seen the experiment operating for seventy years. It is twaddle to talk about the wisdom of our ancestors, and every man knows it. We are the old men, fifty years of age, would like to be bound by his judgment at twenty or twenty-five years? What nation is there, that is one hundred years old, that would consent to be governed by the wisdom of the past century? What would be said of our exigence and the pretensions of our wisdom to pass a law here now that was not to be repealed for one hundred years? If our ancestors had, one hundred years ago, passed an act of that sort, it would have been an act precisely of the same sort as if we were to do it for our successors. Those who come one hundred years hence will know more than we do by one hundred years; and so we know more than our ancestors. They were the boys; we are the men. They attempted nothing of the sort. They legislated for themselves. We have to legislate for our successors. We are indifferent; whether it was fish, flesh, or good red herring. They had nothing new to do with it than they had to do with the slave trade or slavery in Constantinople; hence it is that one party has been absorbed by others, and that the other party is left intact, as it did in the better days of the Republic.

This being the difference between the parties, it is not a matter of any consequence to us what men in particular days thought upon particular measures. The question is simply on the measure. If we have introduced an amendment to this bill, is it constitutional? If it is constitutional, I would invert the order, first, is it constitutional; and then is it expedient? I am not going to repeat what I said against the unconstitutionality of this act the other day. But is it wise? There is the question. I have introduced an amendment to this bill which I think will settle this difficulty. If there is any rock upon which this Union is going to be wrecked, it is not the slavery question; that is not the disease that we are suffering under. It is a mere indication of the disease. Now, sir, if we are suffering, and we are suffering, a latitudinarian construction of the Constitution, and excessive patronage on the part of the Government. Whenever we bring the inhabitants of the different States back to a just consideration of the form of Government under which we are living, they will break up the patronage and the power of the Federal Government and stop its corruptions, and that will save the Union.

Now, sir, how is this to be done? One of the Tennessee Senators [Mr. Nicolson] said the other day that the motive he had in advocating this bill was, that by parceling out the lands and giving them to individuals who moved into the Territories, those settlers would have an affectionate regard for this Government. That happens frequently. I do not deny it. But what he wants, I do not want persons to be carried into our Territories, and a State to be built up by the patronage of this Government, who are to feel that they are the beneficiaries of the Federal Government, and that when the State is admitted into the Union, they are to be rescued from the Federal Government and forget that they are a people and look upon themselves as pensioners. It would be a most unfortunate state of things if a people who were to administer our government should have a greater affection for another gov-

ernment than they had for their own; yet this is the policy advised. There is an anomaly, and I may as well touch it, the one thing that the Government under which we are living is composed of State governments and this Federal Government; both deriving their powers from the same source—the people of the States. When the Union was formed there was a large territory to be administered. It has been admitted by the States of Tennessee [Mr. Nicolson] that, so far as that territory was concerned, which belonged to the States at the time they established this Government, we could not deal with it otherwise than to dispose of it for the benefit of the Union; we could not give it away, but, like the Louisiana purchase—and that he alluded to particularly—it was acquired for the purpose of making new States. Now, I beg that the Secretary will read a portion of the message of Mr. Jefferson, who, though he is one of the fathers, I think probably knew something about it.

The Secretary read, as follows:

"Congress witnessed, at their last session, the extraordinary agitation of public mind by the acquisition of territory to deposit in the hands of the United States."

"The assignment of another place having been made according to treaty, the Government has been admitted by the States of Tennessee [Mr. Nicolson] that, so far as that territory was concerned, which belonged to the States at the time they established this Government, we could not deal with it otherwise than to dispose of it for the benefit of the Union; we could not give it away, but, like the Louisiana purchase—and that he alluded to particularly—it was acquired for the purpose of making new States. Now, I beg that the Secretary will read a portion of the message of Mr. Jefferson, who, though he is one of the fathers, I think probably knew something about it."

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"Congress witnessed, at their last session, the extraordinary agitation of public mind by the acquisition of territory to deposit in the hands of the United States. The assignment of another place having been made according to treaty, the Government has been admitted by the States of Tennessee [Mr. Nicolson] that, so far as that territory was concerned, which belonged to the States at the time they established this Government, we could not deal with it otherwise than to dispose of it for the benefit of the Union; we could not give it away, but, like the Louisiana purchase—and that he alluded to particularly—it was acquired for the purpose of making new States. Now, I beg that the Secretary will read a portion of the message of Mr. Jefferson, who, though he is one of the fathers, I think probably knew something about it."

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"Congress witnessed, at their last session, the extraordinary agitation of public mind by the acquisition of territory to deposit in the hands of the United States. The assignment of another place having been made according to treaty, the Government has been admitted by the States of Tennessee [Mr. Nicolson] that, so far as that territory was concerned, which belonged to the States at the time they established this Government, we could not deal with it otherwise than to dispose of it for the benefit of the Union; we could not give it away, but, like the Louisiana purchase—and that he alluded to particularly—it was acquired for the purpose of making new States. Now, I beg that the Secretary will read a portion of the message of Mr. Jefferson, who, though he is one of the fathers, I think probably knew something about it."

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"Congress witnessed, at their last session, the extraordinary agitation of public mind by the acquisition of territory to deposit in the hands of the United States. The assignment of another place having been made according to treaty, the Government has been admitted by the States of Tennessee [Mr. Nicolson] that, so far as that territory was concerned, which belonged to the States at the time they established this Government, we could not deal with it otherwise than to dispose of it for the benefit of the Union; we could not give it away, but, like the Louisiana purchase—and that he alluded to particularly—it was acquired for the purpose of making new States. Now, I beg that the Secretary will read a portion of the message of Mr. Jefferson, who, though he is one of the fathers, I think probably knew something about it."

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expression, for the people, and must administer the trust for their benefit. I regret the vagueness of his definition of the term people. Upon the definition of that term depends the soundness of his Democracy. It is upon its meaning that the two great parties have so long differed. And he said he meant the people the men who fought the battles of the country, did the voting, and did the work. Why, sir, he certainly understood what I meant. That term "people" has a specific technical meaning in this country. Of the two parties of the country, one to which I belong, and to which he professes to belong, puts upon the term "people," whenever it is used, a specific technical meaning. They mean a political community, a State or a nation, the boundaries of which are the boundaries of the States severally, the thirty-three different States. Another party uses the term "people" vaguely, considering the entire inhabitants of these thirty-three States as one single political community. That is the difference between us, and I hoped I should get an answer from him, but I did not.

Now, this Government, being the representative of the States, should administer its public property for the benefit of the States. As I previously observed, at one time it may be necessary to create new States, or to encourage their creation, and at another time it may be necessary to discourage the creation of the public domain to discourage it. When there was but between three and four million inhabitants in the thirteen States, and they had an immense waste domain, it was certainly their policy to hold out inducements for settlement, and to create rapidly new States in order to give them strength against foreign aggression; but when we have thirty-three States, extending from the Gulf to the Lakes, and from the Atlantic to the Pacific, is it important that we should rapidly create new States—that we should encourage the settlement of the public domain? Why? For what purpose? Do we need strength against foreign aggression? Surely not. We are able to protect ourselves, and almost as strong as they are disposed to be a little aggressive. Then why is it that the old States—Virginia, South Carolina, Maryland, and Massachusetts—want new States created now? What matter of public policy would require this rapid settlement of the Territories? I would not close the Territories to settlement, but I ask if this Federal Government is now bound, for the purpose of public policy, to encourage and stimulate the settlement of the Territories? I think not.

But there is, right here, another question. Somehow or other the fathers seemed to forget somewhat the wisdom which they are given credit for. In creating new States they committed a mistake. They established an imperialism in imperis. They admitted the inhabitants of a Territory to become a people; to establish a form of government; to become a nation, and to be confederated with them; and yet they kept the eminent domain in that Federal Government; they administered the sales of the public lands; they reserved in themselves the right to say how much land should be sold; when it should be sold; how it should be sold; and for what price it should be sold; and yet they talked to themselves about this being a Government formed by the people, and about it being a compact to which the States are party; of sovereignty vesting in the people of the States respectively.

It was a solecism. It was a license they were taking which is admissible in poetry, but not in politics. It was a solecism in political hyallage—it was putting the cart before the horse. It was worse than Virgil's *dare clasibus aurores*. It was not a poetic, but a political license, and that is a thing that is not permitted to statesmen. The idea of establishing the inhabitation of a Territory as a condition, or a pretext, for the right to establish their own form of government, and yet take away from them the right of regulating their own form of government! Take Mississippi, for instance. In former times this Government reserved most of the land in Mississippi. If this Government had undertaken to say, no man should settle in Mississippi that did not buy at least a league of land, would anybody but slaveholders ever have gone in there? Could any others have gone? If this Government had cut it up in quarters, or into sections of sections of land, forty, or eighty, or one hundred and sixty acres to the section, and declared that no one should

purchase but actual settlers, and that no one should own more than forty acres, does not every man see that it would have excluded slavery from Mississippi? And yet that power was reserved to the Federal Government after Mississippi became a State.

It was, therefore, that it is a solecism; it is a political hyallage. It is a thing that is ignoring all just ideas of the sort of government that we are living under. It is a wrong, a mistake greater than a wrong—a mistake that was committed; and the sooner we rectify it the better. How? By disposing of the public lands to the States in which they lie, and leaving the States the right to dispose of them as they see fit. But shall the Federal Government attempt to give some of these States property belonging to the United States? No, sir; but let them receive these lands upon conditions and upon price stipulated. Cede them to the States and let the States regulate the mode in which they shall be disposed of; and then for the trouble of administering the public lands, for extinguishing Indian titles, for opening and keeping up the land office for surveys, for issuing patents, for all those expenses and all this trouble, let the State reserve a certain amount of the gross proceeds of the lands and pay over to the Federal Government the balance.

Now, the Government to which the land is called the homestead bill, which is predicated upon that idea. I have asked that it be read. It has been printed. I ask Senators to consider this matter, and also consider whether it is not a matter worth considering. Are we to go on administering these lands and keeping up the land office patronage here in the Federal Government? Why is it that the Federal Government at Washington is more capable of administering this land fund than the States themselves? The State Legislatures and State governments know more of the disposition of the people in their own States on this land than we possibly can. They are nearer the scene of action. Make it their interest to administer them prudently, and cede them the lands.

Why are the States by necessity obliged to have an agent to administer this fund for them. Shall they select the Federal Government, or shall they select one of the States? I would rather select one of these States to administer this fund. If you, Mr. President, and I, and a dozen others, formed a company, and we appeared as a company to administer our joint partnership fund; if, during the transaction of the business, and the continuance of that partnership, it turned out that there was some particular branch that some one of the partners could administer better than the general agent, would there be any objection to establishing him as an agent *pro tanto*? If these States have confederated together, and have agreed to establish a common Government, through which they are to exercise some of their sovereign powers, and to surmount some of their difficulties, why may we not administer some of their business as the agent of the others, better than the Federal Government, for any reason why that State should not be made an agent?

Then I would convey these lands to the States in which they lie, and give them the right to decide all questions as to their settlement. If they want your lands conveyed in small quantities, or in large ones, let them decide. If they want to hasten emigration, or if they wish to impede it, let them decide. Leave to each State the right to decide for itself the mode of settling upon its own lands; because the settlement of a State that has a large extent of waste lands in a matter that affects actually its political interests, the character of the Government itself. This Federal Government may actually change the political institutions of the States of this Union, and yet there are public lands; and whilst this Government continues to administer the public lands and control the sales of them, I say that the States of this Union have lost their autonomy; they have lost their right to self-government. I would like to see that that I would urge this proposition.

Now, sir, there are other reasons which may be given for adopting this amendment; and at some other time I may state them. I have given a brief outline of the views which governed me in this subject. I have done this all the more with a view of drawing attention to it than with a view to discuss it. I trust that the next time the

homestead bill comes up for discussion that matter may be discussed; and if there be any objections to it, we shall hear them.

Mr. WADE. I have a proposition to offer to the Senate; and if they agree with me I shall be very glad of it, and I think it the best disposition we can make of this matter. I offer the proposition that we postpone this bill till Tuesday next; and I mention Tuesday because to-morrow is devoted to District business, Friday to private bills, and Monday to the Florida claims, on which the Senator from Delaware (Mr. BAXTER) has the floor. Tuesday is the first day that is exempt from being devoted to any other business. I propose that time with the understanding that the Senate will then take up the bill, and I will propose that there shall be an understanding that on Wednesday we shall take a final vote upon it, if such shall meet the approbation of the Senate.

Mr. MASON. I do not agree.

Mr. SLIDELL. I hope that there will be no understanding on this subject.

Mr. WADE. Then I have nothing more to say, only that I shall present it to-morrow, and right on as long as the friends of the bill will stand by it, to the exclusion of all other business.

Mr. GWIN. That is a way, until we can get through with it.

Mr. OHIO. Of Arkansas. The Senator from Ohio spoke about some proposition that I did not hear. Has there been a motion to refer? ["No."] There has been no motion made to refer this bill again to the Committee on Public Lands.

The PRESIDING OFFICER. (Mr. FARRAR in the chair.) None that the Chair is aware of.

Mr. JOHNSON, of Arkansas. I move now that we refer the House and Senate bill, together with all the amendments that are now before the Senate, to the Committee on Public Lands.

Mr. WADE. I have no objection to that. Mr. JOHNSON, of Arkansas. The object is to report back by the time named—Tuesday morning. I suppose the Senate will not sit on Saturday, and the committee will give that entire day for the consideration of this proposition, and will attempt to report this bill full. There has been a great deal of light unquestionably thrown on the whole question in the course of this whole week's debate. It is impossible upon that, with the position these bills occupy, we can come to anything like a complete understanding of the subject. There are now before us the House bill and the Senate bill, and the amendments offered by the Senator from Texas, the Senator from Mississippi, and myself. Each one of them is a separate and distinct proposition; each one is designed to cover the whole ground. At present we are proceeding in this way: we take up no single bill to perfect, but motions are made that reach to either one that the taste of the gentleman who presents his amendment may direct and determine. It will be absolutely necessary, it strikes me, in order to get any thing like a practical end, that the whole of these bills and amendments should go to that committee; and there is no loss of time in doing so at all, for they will be reported back by the time that they can be taken up by the Senate. I hope very much that it may be agreed to, and be reported back by Tuesday next.

Mr. BROWN. I hope the proposition to postpone the further consideration of this question until Tuesday next will be agreed to, and that the bill and amendments will be referred to the Committee on Public Lands. The Senator from Ohio has said, very properly, that to-morrow is devoted to the business of the District of Columbia; Friday is devoted to private bills; and Saturday we shall unquestionably adjourn over; Monday is given to the consideration of the bill. The chairman of the Committee on Public Lands indicates that they may be prepared to report. Then I shall be prepared, so far as my individual vote goes, to go with the friends of this bill to take it up, and to consider it from that day until it is reported of. I am not a vote for this bill, but I have not; but it has assumed an importance in the country which requires consideration. There can be no attempt to ignore it. Whatever it may be, it has become of too much consequence for that; and I say to the Senate, that if it is not reported back to it to be recommitment, with the understanding that it is to be reported back on Tuesday, then I will

vote with him steadily to take it up, and consider it from day to day until we dispose of it in some form; not in any manner pledging myself to vote for it, because I do not know in what form it may come back to us. I say that, because upon Tuesday the friends of the bill cannot, I think, get it considered further any way; and on our side we are desirous that the bill should be taken up. I shall pass their eye over this question again calmly and dispassionately in the committee-room, with all the light which the debates and amendments proposed here have thrown on it. I hope it may be allowed to take that course.

Mr. GWINN. Mr. President, I do not object to the motion that has been made by the Senator from Arkansas, that this bill and all the amendments shall be referred to the Committee on Public Lands, in order to bring the question before the Senate on Tuesday next. I am prepared to vote for the homestead bill, if it has an early consideration; but I give notice now that if this bill is to occupy a large portion of the time of the Senate, to the exclusion of other measures of more importance to my State—the overland mail bill and the Pacific railroad bill—I will postpone it to the next session, and I give the friends of the bill that notice. I have for weeks not interposed, not thrown any difficulties in the way, not intending to throw any in the way, and not intending to speak on this question, because I am about to vote for it. I have been asked a number of more importance to my constituents, in which they have a deeper interest, and of importance to the whole nation, that must be considered as an early day, if I have the power to bring them before the Senate. While I am prepared to sustain the homestead bill without throwing any obstacles in its way, if it intervenes to prevent action on these other questions for a considerable time longer, I shall vote to postpone it to the next session as a duty I owe to my constituents.

Mr. PUGH. The Senator from Arkansas has given the very notice which I have been expecting for the last three or four days. As long as the discussion upon this bill was addressed to its principle or its details I made no sort of objection to its continuance; but we had the Senator from Wisconsin propose that the committee be called for a discussion on the question of slavery, and on the preposterous idea of turning Central America into a branch of Africa; and now, taking a wider train, we hear the Senator from Virginia to-day trying to turn it into a sectional question, and bring upon the Senate the question of slavery. Thus, I foresee that in the train that it is now taking instead of being debated upon its merits, it is to be kept here before the Senate that every gentleman may hang a speech on any subject connected with it, until we are generally tired of it; and between the Pacific railroad and the avenue railroad, it never will come to an end.

Now, sir, I am tired of this way of transacting business. My colleague wants Friday for private bills. One fifth of all the time of the Senate is to be given to private bills, and the friends of the business and these claimants are to thrust aside the public business in every direction. We are brought here day after day on Saturday, and now, again, to-morrow, to debate a horse railroad. All that can be done, and yet I am opposed to this bill being postponed any of the time, is to give notice that, unless some determination can be come to for the time of voting, I shall move to-morrow to postpone the avenue railroad in order to go on with this bill, and on Friday to postpone the Private Calendar, for the same purpose.

Now, if we get two or three votes that indicate the voice of the majority of the Senate upon these propositions, I shall be very glad to support the chairman of the Committee on Public Lands in his motion; but we have more than a dozen pending amendments, and when the bill comes back from the other side we shall have a dozen more. We are all at sea. The Senator from North Carolina has a proposition. We cannot get a vote on that. The Senator from Mississippi has a proposition. We cannot get a vote on that. The Senator from Missouri has one; the Senator from California had one; the Senator from Arkansas had one; the Senator from Alabama has one; the Senator from Texas has one. All these have to be voted upon before the amendment reported by the Committee on Public Lands can even come to a vote. Now, Senators, give us

some chance; give us some decisive vote upon the bill. If a majority of the Senate is against the homestead in every shape, let the bill go to the table; let us take up the Pacific railroad, or any other bill, and go forward with it; but I give notice to the friends of the bill, that they expose it to the hazard of destruction by permitting it to be taken up and in so doing they will have a test vote, I shall make a motion now, for which I will not vote, in order that I can get the voice of the Senate, and that will be to strike out the enacting clause of the bill. If it is struck out, we shall know that there is to be no homestead. If that motion is lost, we can get our two votes on other propositions; and after the Senate has indicated its general disposition, I shall then support the chairman in recommending the bill, in order to perfect its provisions. If it stands in this position it is lost.

Mr. JOHNSON, of Arkansas. I will modify the motion which I submitted to the Senate just now. I propose to modify it by putting in a further provision in the shape of an instruction from the Senate to the committee, that they report the bill on Tuesday next, when they have the earliest day any one expects to be able to get to this matter. So far as the Senator who has just spoken has expressed his wishes or his views, I agree in the necessity that exists that this measure shall be acted on in some way. I know and feel about the subject as he does, and he has, generally, the whole public land system will be down around our ears. A system which has lived and existed so long as it has, and so successfully, must fall shortly to pieces, unless Congress does, in a rational and prudent spirit, take charge of the matter, and so arrange it as to make no contribution to the heavy demands that are now made upon it.

Recognizing this, I am willing at once, as a member of the Committee on Public Lands, and I believe it is the sense of the committee, to act promptly. The truth is, that though I am not an advocate of the measure, for one, yet the committee is a homestead committee. It was made so, I believe, purposely. It certainly was made so, and would forever have been made so, against my vote; but the measure certainly can be intrusted to that committee, and I consider it my duty to report it back on Tuesday next; and within that time all parties, the friends as well as those opposed to the measure itself, can get ready for a decision. It is admitted that no time can or will be lost by this course. The bill is to be referred back to the committee, and that is the only reason, that when we touch the entire system that is ramified throughout this country, and by laws that cover many pages of our volumes, we must touch it with some degree of prudence, for we strike a deep, a great, and extended interest in every direction; and unless we touch it with prudence we shall do a vast deal of damage, and shall lead ultimately to radical legislation that will be of the most destructive character, in all probability.

I ask that my motion may be put. I hope that the Senator from Ohio will not, under these circumstances, insist upon getting another vote here on a motion to strike out the enacting clause, for it must be apparent to him that there is a majority here that do undoubtedly desire that some measure be taken to settle the subject. Those who are in favor of some measure of relief are wedded each one to his particular hobby—I may call it so—or to his particular scheme, so that we cannot come to one on which we may unite; but there may be a decided majority for some measure. I cannot but believe that we can fix on something that will be generally accepted and will be prudent in its character, and that will constitute beneficial and wise legislation. So regarding it, not wishing to obstruct action, and desirous that it should come in here at the earliest moment, and that the committee should take the matter up on its way; and with no disposition to throw any more formal or capacious obstructions, I beg that both the bills, with all the amendments—the whole subject-matter—may be referred to the committee, for report to be made here on Tuesday.

Mr. DOUGLAS. I shall not engage in any discussion on the merits of the homestead bill. My opinions have been well known for many years on this question. I have made as many speeches on the subject as I deem it desirable to make. I believe that the subject-matter has been thor-

oughly discussed, and is well understood; and if we prolong the debate, the only effect will be to drag into the question subjects that are not pertinent to it. I have no objection to the reference indicated by the chairman of the Committee on Public Lands, if it is supposed that the bill can be matured and reported back by Tuesday, and if the time does not break down before that point, as it is stated, that it will be occupied up to Tuesday; but I do think that ought to be accompanied with an understanding that at some time, on some particular day, and that not a very late one, the final vote shall be taken. If we take up the subject and discuss it, in the manner in which the discussion has gone on heretofore, for many days longer, there will never be an end to it. If the slavery discussion is to be ingrained upon it, we shall never get a vote; it will merely stand here in the way of all other measures, occupying time, without ever getting a vote upon it. I could not, if I desired to do so, add anything to the force and power of the argument presented by the Senator from Tennessee to-day upon the subject. I do not wish, therefore, to occupy any time; but merely to express the understanding that we may get action and a final vote on the bill on an early day as possible, in order that we may proceed with other measures.

No man is more anxious than I am to have this overland mail service to California put upon a solid basis, and I am sure that we will all require prompt action upon that. This discussion stands in the way of other great measures of public policy. Let us confine ourselves to it until we get it disposed of, and then take up the overland mail, next day, and then take up the Pacific railroad bill, and dispose of that. Let us take each measure in succession, and when we take it up, never lay it down until we get a final vote. I shall insist now upon this measure, it having priority, keeping the priority. Then you may take up the overland mail, and then the Pacific railroad; but whichever you take up first, let us stick to that until we get a final vote upon it, and then take up the next, and the next; thus getting a vote upon every great measure. I do not wish to interfere with my friend from Mississippi with the District business, but I will insist that we go as to give him to-morrow. I am willing to stand by that arrangement.

Mr. BROWN. The Senate has done that already.

Mr. DOUGLAS. I know that; but many days are to be spent for the consideration of this business, and when the day comes, it is overlaid by another measure; and you are dependent now upon the majority whether you shall get to-morrow for the consideration of District business or not. I do not want to interfere with the Senator, if we can get an understanding that a day shall be fixed when we shall take a vote on the homestead bill; but let us agree now upon some day. I will not indicate it. I leave the gentleman on the other side having charge of this measure, the District business, (Mr. Brown,) to indicate it. I will agree to any fair arrangement.

Mr. BROWN. I hope the friends of this measure will agree to the proposition to postpone it until Tuesday. It has already been indicated very clearly, on both sides, that without violating positive promises, or any private understanding, or any amount to agreements, the time is to be otherwise occupied up to that day. The chairman of the Committee on Public Lands thinks that his committee will be prepared by Thursday to report it, and then the bill will take its position as though nothing had happened, with the advantage of having undergone the consideration of the committee in the mean time, with all the amendments appended to it. That is a very great advantage; because I warn the friends of this measure that the opposition of it will struggle for a committee, and will become one of the points of contention, very, unless it is allowed. I propose that you allow it to be recommitted now, as the bill is not postponed one minute by the recommitment. The time is to be occupied to-morrow by District business; the day after, by private bills; Saturday, it is understood, you are to adjourn over; Sunday is *non dies*; and Monday has been appropriated to something else. Tuesday comes, and your bill is brought back. It stands precisely where it stands this evening at the hour of adjournment, the first business in order. Then, I say to gen-

temen—I have no power to commit anybody but myself—that I will vote to give it priority until it is disposed of. Without pledging myself to vote for it in any form in which it can be presented, still it is an important question; it has upon several test occasions shown a majority of the Senate in its favor, and I shall not vote to postpone it to consider anything, except for a few moments, to let something stand in the way of its importance, but certainly not to postpone it to time for any other leading measure. I do not mean to struggle against the judgment of the Senate, or the public judgment, to postpone a vote upon this question. I am as well prepared to vote upon it to-day as I shall be, and I have no objection to all other Senators are. I want no party advantages out of it. If gentlemen will allow it to go over until Tuesday, and let it be referred, take the judgment of the committee, and come back at a time when it must be considered.

Mr. PUGH. Does not the Senator see that we cannot get a vote on the committee's proposition? No matter what the judgment of the committee may be, we cannot get a vote on the judgment of the committee until a vote has been taken on the proposition of every other Senator. Senators will surely have a right to offer propositions, and proposition as amendments to the bill, and we cannot get a vote on the judgment of the committee until those other propositions are voted upon. Then why should we recommit it?

Mr. BROWN. These remarks remind the Senator, underlying that in the fact that the opponents of this bill will insist upon its recommitment from day to day until it is done, and in all this conflict of opinion, and all the multiplicity of amendments, as you have to yield in the end, sooner or later, I say to the friends of the bill, do it now when you do not postpone the bill one minute by doing it. If you reject the proposition, let it be so.

Mr. WADE. I only made my proposition in hopes that we might agree some time when, by the consent of all, we might take the final vote upon the bill at regular intervals, without sitting it out adversely, as we sometimes do. Now, there is no doubt, I think, from the votes that have been taken, that upon a homestead bill there is a majority here that will stand by it, under all circumstances, until it is finally acted upon. I have very little doubt that it might be carried over any assignment of business, either for to-morrow or the next day; and it would be the duty, perhaps, of the friends of the bill to do so, if we saw any disposition on the other side to prevent a vote at any reasonable time. I do not see any such indication, however; and when Senators say that, if the bill is recommitted, with instructions to report it again on Tuesday next, it shall then be taken up, and shall have priority over other business until it is finally acted upon, it seems to me the proposition is not unreasonable; and so far as I am concerned, I will agree to it. My colleague thinks that this is giving an unreasonable latitude to it. I have no fears but that, in due season, it will be acted upon, provided we concur in that conclusion.

On the other hand, if it is thought best not to do this, for each Senator to arrive and see what we can do here upon the subject, then I shall feel it my duty to call up the bill to-morrow, and have the vote of the Senate upon it, and place it in opposition to any other business, and if I have a majority with me, to continue it right along without being committed. But it seems to me when gentlemen require that it shall be recommitted, in order that the great variety of propositions that have been offered may all be reviewed by the committee and brought before us with an intelligible understanding that then we shall proceed to the final vote, I would rather do that. I am for peace, if we can have it; but if we cannot have it, then we must continue, and those that have the majority must press the subject to a final decision. I prefer the proposition of the Senator from Arkansas, provided the Senate will agree, that when the bill shall be reported back, it shall be kept before us until we get a final vote upon it.

Mr. GWIN. Will the Senator permit me to ask a question? I understand the Senator to say that if we took it up on Tuesday next we should have a vote on it on Wednesday. I understood that was the proposition?

Mr. WADE. That was the proposition I made.

Mr. GWIN. I am in favor of that; but if this bill is to occupy the residue of this session, I am against it. Let us have a time fixed when we are going to take a vote.

Mr. WADE. I prefer to have the time fixed. When I proposed that, at first, objections were made to it. I am not particular about the day. I would rather have it limited to two days. I think that, although I should like to make some remarks upon the bill, I am rather for voting than for speeches, and will forego that privilege if I can get a final vote upon it. That is what I want, and I am not for speaking about it. I believe it is understood. I do not suppose I could throw any light on the subject, and I am ready for a vote, and at the earliest day. I proposed Wednesday. If that should meet the approbation of the Senate, I would be glad of it. I will say Thursday, if that will be more acceptable.

Mr. BROWN. If my friend from Ohio will allow me, he certainly does not expect universal acquiescence in a measure of this sort. He cannot expect upon any given proposition that everybody will agree to it. There will be dissentients. He knows that the proposition has a majority in its favor in the Senate, and I hope he will allow me to say that if four or five Senators on this side tell him they will give it the precedence in the order of business, until it is disposed of, that ought to be satisfactory.

Mr. WADE. That is satisfactory; perfectly so.

Mr. JOHNSON, of Arkansas. I will state, if the Senator allow me, that the remarks I made just now were precisely to that effect, if I understood myself; that the subject should be recommitted, and that we would report under instructions on Tuesday, and that we should then progress with it regularly until we came to a fair vote; not force it right at once when many Senators might want to be heard in regard to it, nor force it before they could present what they would lose time and ask no delay in doing so) any measure of amendment they might desire; but simply progress with it regularly until disposed of. I can agree to that, and I have no question but that the decision of the Senate will conform to it. I am perfectly willing, and I am ready to come back, to take it up and continue it until it is disposed of.

Mr. WADE. If Senators will say it shall have priority, I will be satisfied, for one. However, the quicker the vote shall be taken the better; but I do not wish to curtail argument upon the subject from any one.

Mr. MASON. I only wish to say, to avoid any possible misunderstanding, that I do not consider myself a party to any understanding as to when it shall be taken up or acted upon.

Mr. PUGH. I move that the Senate do now adjourn.

Mr. WADE. I hope not.

The motion was not agreed to.

Mr. SLIDELL. I wish to make one single word of explanation. When the Senator from Ohio proposed to take a vote on Wednesday next, and expressed a hope that that course would be assented to by acclamation, I thought proper to interpose my protest. I am not willing to fix any particular day; but, so far as I am concerned, I am not disposed to make any factions opposition to this bill at all. I am willing that it shall be taken up and discussed, treated fairly, acted upon coolly and deliberately, and that it shall have preference to all other bills, until disposed of.

Mr. GWIN. That is satisfactory.

Mr. GWIN. I am perfectly willing, if a day is fixed when a vote shall be had upon this subject; but it is my duty, and therefore I intend to express it, that if a vote is not taken within a week upon this bill, I shall vote to postpone it, though I should like to believe there are measures more important to my State which ought to be acted upon. Now, if the Senator from Ohio wishes to accomplish his purpose, if he has got a majority in favor of the bill—and I will stand by him for one—he had better keep it before the Senate, give notice that he will let it out on Wednesday next, and let the discussion go on from this time until Wednesday next; for after that day, I give notice that I shall move to postpone this bill, and bring up other measures of more importance to my State, although I will vote for

this proposition at any time between now and then.

Mr. RICE. I merely wish to state to the Senate that I concur in what the Senator from Ohio [Mr. Wade] has said in regard to this proposition, and that I will stand by him to recommit the bill with instructions to report it back on Tuesday next, and then stand by it until it is disposed of in preference to everything else.

Mr. PUGH. I dislike to make an objection when Senators seem to concur in a course of action; but if the bill is reported back on Tuesday next with no more guarantees than we receive, and we have a proposition to adjourn the Senate over from Wednesday evening, we come right upon three conventions of three political parties, when there will not be a quorum of the Senate here for a month; and my opinion is that the bill will be lost just as sure as that suggestion is adopted. It is the death of the bill.

Mr. RICE. Then I say to the Senator, let the friends of the bill stay here, and carry out this great measure, instead of attending to political matters.

Mr. PUGH. If all the rest are away, and there is no quorum of the Senate, there is nothing gained by its adjourn. As we can have, as has been done upon similar occasions, a general agreement in the Senate to take a vote on a particular day, then the friends of the bill have nothing to do but stand by it now. That is the reason I wanted the Senate to adjourn; so that to-morrow we could move to lay aside every other bill, and take this up. If we can have an agreement of that sort, I want all these bills to go to the Committee on Public Lands; but what is the use of recommending them, when they come back on Tuesday, and all the various amendments are moved again, and we simply have laid it over four days for nothing. I know that is not the object of the Senator from Arkansas; but I am constrained, as one of the friends of the bill, to say that it will end in defeat. Let us come to some conclusion. If we cannot get a general understanding, let us take the vote on Tuesday, Wednesday, or Thursday, at furthest, then I am for putting everything else aside until we can get a vote.

Mr. GWIN. What is the question? The PRESIDING OFFICER. The question is on the motion to recommit the Senate and House bills, and all the amendments, to the Committee on Public Lands, with instructions to report on Tuesday next.

Mr. GWIN. I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question rears on the motion to recommit.

Mr. PUGH. I move to postpone the bill until half past twelve o'clock to-morrow, and make it the special order for that hour, and on that motion I ask for the yeas and nays.

Mr. TRUMBULL. The question of reference has precedence, I believe.

The PRESIDING OFFICER. The Chair will rule that the first question is on recommitting the bills.

Mr. BROWN. Let us have the question on that first.

The PRESIDING OFFICER. The Chair is in doubt as to which motion is entitled to precedence. The Chair will state to the Senator from Ohio that the Chair was mistaken as to the rules. The question first in order is the motion to postpone to a day certain.

Mr. PUGH. Then I make the motion to postpone this bill until half past twelve o'clock to-morrow, if it is agreed to, and the special order for that hour; and upon that question I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. CLINGMAN. A motion to postpone to later day, I believe, would be in order. I move to postpone until Tuesday next, at one o'clock, and make it the special order. My object is to get to-morrow for the business of the District of Columbia. I understand that the first question will be on postponing.

Mr. FESSENDEN. I vote that down.

Mr. CLINGMAN. Well, sir, I will not make the motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, [Mr. Pugh.]

with the condition pointed out in that bill. If it is intended, it is inadvisable to take away from the other right of the people of Kansas to what I have referred. I understand no man to deny the soundness of the proposition I lay down: that no Congress ever had the power to take away that right. I might appeal to precedent; I might refer to the provisions of the Constitution which authorizes this course. I might refer to the action of the Government in similar cases, to show that the people of Kansas had not only the authority of the Constitution but precedent for the course which they have pursued.

But they do not come here in violation of law; but they have done that which they had the right to do. I was not a little surprised, in reading the minority report from the Committee on Territories with reference to this matter, to find that the people of Kansas were charged over and over again with being a lawless people; with being a contumacious people, and with being violators of law; but, sir, I was still more surprised when I heard my colleague on that committee, [Mr. CLARK, of Missouri], yesterday, if I did not misunderstand him, to say that the people of Kansas were in violation of law. [Mr. PARROT,] say, that he applied that language to the people of Kansas in consequence of their disobedience or refusal to obey the territorial laws. I think I did not misunderstand him in his answer to the Delegate from Kansas. I now tell him, and every man of the House, that if reference is had to that minority report, it will be found that the context shows that the gentleman from Missouri referred in every instance to what he considered the disobedience of the people of Kansas to the provisions of the English bill. I thought, when I read these accusations against one hundred thousand people, that they had been made without due consideration; and when I heard the reply of the gentleman from Missouri to the Delegate from Kansas, I knew that they had been made without due consideration.

Mr. CLARK, of Missouri. The gentleman from Massachusetts does me injustice. I do not think he is warranted in using the language he does from anything I have said. I stated yesterday that the people of Kansas had been for years—some of them before the passage of the English bill—disobedient, and acting in a spirit of lawlessness, so far as the territorial laws are concerned. An examination of my report will show that such is my statement there. I also stated yesterday—and the gentleman from Massachusetts says so—that the people of Kansas were in violation of law because they had disobeyed and contemned the English bill. I stated that in my remarks; I stated it in my report; and my reply to the Delegate from Kansas does not at all warrant what the gentleman from Massachusetts says to-day.

Permit me to make another remark. While I spoke of the lawlessness of the people of Kansas, I wish to be understood that I do not include all of the people of Kansas. I mean that there has been a party in Kansas; and whether it be the free-soil party, or the pro-slavery party, I do not know, nowhere yet said. But there has been a disposition in Kansas, since its first settlement, to disregard my law passed, either in the English bill or by the Territorial Legislature, for their government. They contemned that law, and they did so for themselves. Whether the free-soil party of the pro-slavery party are to blame for that, I have not said, and I shall not go into that question unless I am driven into it in self-defense; and if I am so driven into it, I shall avail myself of such a course of remarks as this present.

Mr. GOOCH. I thought I was not mistaken in regard to the reply which my colleague upon the committee made to the Delegate from Kansas. I know I am not mistaken. And when I refer to his report, I find that he charges the people of Kansas, on one point, with being in contempt, with being a "lawless class," "tumultuous and violent people," "disorderly population," "contemners of the Government," "contumacious in their disregard of the plainest provisions of the very law which prescribes the time and the mode of qualification to become an independent State," "stubborn and persistent violators of the laws," and "nudeous community." &c.

I say, when I refer to these accusations which the gentleman has made against the people of Kansas, I know I am not mistaken in saying that he uses that language in relation to their conduct

in reference to the English bill, and not in reference to anything which might have transpired in that Territory before. Now, sir, before I had alluded to this matter, I had considered whether or not the people of Kansas could be regarded as having violated any principle of law, or done any act which they had not the right to do, which they were not authorized and warranted to do, and which they had not precedent for doing.

I now come to another branch of the proposition. Does the English bill impose any restraint or limitation upon our power to admit Kansas into the Union under this constitution? I apprehend that the gentleman who has introduced this legislation is entitled to any peculiar regard and respect over and above what it is entitled to by virtue of its own force and vitality as law. Now, sir, has one Congress the power to impose any limitation or restriction upon another Congress in regard to the admission of a State into the Union? Is there any man in this House who will assert the affirmative of that proposition? Clearly not. The admission of new States into the Union is a matter of discretion for each Congress, and each Congress is at liberty to do as it may think proper, of facts which comes before it, and not according to a state of facts which was before another Congress; according to its own opinion of what is just and right in the matter, and not in accordance with the opinion of any of its predecessors.

Thus we reach the conclusion that it is, and inevitably, that nothing which the last Congress did could impose any restriction or limitation upon the rights or powers of this Congress to admit Kansas. And I go further, and say that the rights of this Congress in regard to this matter can impose no restraint or obligation upon any man who was a member of that Congress, and is now a member of this. It is just as much his duty to take up this question and consider it upon its merits as it is now presented to him, as it was to the gentleman who had not been in the House all. He must decide the question according to the merits of the case when it comes before him. And I posit further, and say, even if I had voted for the English bill—though I should consider it the most unfortunate act of my life—I should not regret that I had so voted, because I should not consider the admission of Kansas under the Wyandotte constitution, and for the reasons I have suggested.

Now I come to another objection; it is, that Kansas has not a sufficient population to admit her to the Union. In this objection, I apprehend that both sides of the House are precluded so far as it is possible for men to be precluded by their acts, from pretending that Kansas ought not to be admitted into the Union for want of population. One side of the House voted four years ago that she had population enough; and the other side voted two years ago that she had population enough. I consider these votes of but little moment; and I do not propose to rely upon them; but I do assert that it appears from the best evidence in the case, that Kansas to-day has more population than is required for a Representative upon this floor.

It appears that she has more than seventeen thousand legal voters; and in my judgment, seventeen thousand men who have actually voted in an election in this State, and who are entitled to vote more than ninety-three thousand population for while there may be a greater proportion of men entitled to vote in a population situated like the people of Kansas, still I apprehend it is hardly true that a greater proportion of the people do vote in this State in older States. Then we have the statements of the Delegate from Kansas, which went far to satisfy my mind that there could be no question as to the sufficiency of population.

But still further, I say no party has ever had down and adhered to the rule that there should be a population of so many thousands, or that a hundred and twenty before a State could be admitted into the Union. We decide each case upon its merits when it is presented. And while we say that that number should be required, as a general rule, every man departs from it when he finds the population so great. It is by no means a rule not to be departed from, and it is often disregarded. A Territory asks for admission into the Union. She has perhaps ninety thousand, or eighty-five thousand, or eighty thousand inhabitants. The territorial limits of the State are sufficient; the State is rapidly increasing in population; is in a

position to become, unquestionably, one of the leading States of the Union; has every element necessary to enable them to organize an efficient State government. Now why, sir, when such facts are presented to us, should we say to them: "Go home this time, and wait until the next year, or until you have ninety-three thousand inhabitants."

But this does not seem to be the objection principally relied upon. Another and a new objection is now, for the first time, sprung upon us. It is presented in the report of the minority of the committee, and has been taken up by the gentleman who has just taken his seat. And every man of the House is entitled to ask, what is this objection? It is, that we violate certain treaties which we have heretofore made with the Indians. I wonder how my colleague upon the Committee on Territories, who was also upon the Committee on Territories in the last Congress, discharged his duty with reference to this matter during the last Congress, voting week after week and month after month, for the admission of Kansas, without learning that he was voting to infringe upon the rights of these Indians, and to violate the treaty?

I do not understand how he got along in the discharge of his duties throughout the long and arduous struggle that we had with reference to that question without having had his attention called to this objection, which he now urges with so much force. He does not understand it, when the bill which provided for the admission of Kansas into the Union with the Leecompton constitution contained the same provisions in regard to these Indians that are contained in the bill now before us. That bill also notified the gentleman from Tennessee—who has just taken his seat, [Mr. MAYNARD,] and who had lived in the vicinity of this very tribe of Indians, and was peculiarly interested in their success and welfare; and yet he fought, as he says, with all his might, during almost the whole of the first session of this Congress, in favor of the bill providing for the admission of Kansas, all the while notified by the provision in the bill that these Indians might be affected by it, without giving any heed to the matter.

Well, now, I do not rely on these things. I do not urge them, but I have a reason why I should violate any right that the Indians may have. But I do urge them as showing that there is nothing in the objection now presented, and that is the reason it never occurred to anybody before. I urge them, not as a reason why this Congress should violate any right that the Indians may have. But I do urge them as showing that there is nothing in the objection now presented, and that is the reason it never occurred to anybody before.

I urge them, not as a reason why this Congress should violate any right that the Indians may have. But I do urge them as showing that there is nothing in the objection now presented, and that is the reason it never occurred to anybody before.

Let us look back a little. My colleague on the committee [Mr. CLARK, of Missouri] finds that under the Kansas-Nebraska bill the rights of the Indians were protected; and he refers to that with especial satisfaction, as securing all the rights to which the Indians were entitled. He says: "Take the following signal instance of respect for the rights guaranteed by treaty. The act of Congress organizing the Territory of Kansas, and the act of Congress providing for the admission of Kansas into the Union, both contain the following provision: 'Nothing in this act shall be construed to impair the rights of any person claiming title under any Indian title to land within the Territory, so long as such rights shall remain unquestioned by treaty between the United States and such Indians.' The act of Congress, in the treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory, but such territory shall be excepted out of the boundaries, and continue no part of the Territory of Kansas."

Mr. CLARK, of Missouri. The argument made in my report was, that the constitution of the proposed State of Kansas ought to have contained the same reservations as the Kansas-Nebraska bill did, in fixing the boundaries of the State.

Mr. GOOCH. Now, if I can satisfy my colleague on the committee, and if I can show that the position of these Indians is precisely the same as it would have been if the exception had been made in the Wyandotte constitution, I shall expect him to vote for the admission of Kansas under this constitution.

Mr. NOELL. I desire to ask the gentleman a question.

Mr. GOOCH. Unless the question pertains to something that I must refer to, in answering my colleague on the committee, I prefer to answer him first.

Mr. NOELL. It is on that point.

Mr. GOOCH. Very well.

Mr. NOELL. I wish to know if the gentleman from Massachusetts assumes the ground that the Congress of the United States has the power to modify or change a State constitution by an express provision of law, without submitting that question to the people?

Mr. GOOCH. I tell the gentleman at once, that I do not claim that Congress has the power to change the constitution of a State.

Mr. NOELL. Then what authority does the gentleman find for the proviso in the bill?

Mr. GOOCH. If the gentleman will listen to me, I will agree to answer him. Now, sir, what I was about saying to my colleague on the committee, was this: he quoted the provision in the Kansas-Nebraska act as satisfactory. I think I can demonstrate to him and to the House, that the position of the Indians, after the adoption of the Wyandotte constitution, and after the admission of Kansas into the Union as a State under it, will be the same as it was under the provisions of the Kansas-Nebraska bill. The boundaries, except the western, are the same under the Kansas-Nebraska bill and under the Wyandotte constitution. The only thing that the gentleman from Missouri relies on for the protection of the Indians is the exception contained in the Kansas-Nebraska bill.

Now, what I say in regard to this matter is, in the first place, that the provision in the Kansas-Nebraska act was a matter of precaution. It was wholly unnecessary. What I say with regard to the provision in the original Leecompton bill is, that it was a matter of precaution; it was well enough to insert it as showing that this Government intends, under all circumstances and on all proper occasions, to recognize the binding validity and force of these treaties with the Indians. But it was not necessary; the treaty would have been just as valid without this proviso, and just as binding upon the State of Kansas. The Indians would have been bound by the treaty, and the jurisdiction of the people of the United States, or of the people of Kansas. I say this because I find authority for it in the Constitution of the United States, which declares that "the Constitution and the laws of the United States" which shall be made in pursuance thereof shall extend to all territory made or which shall be made under the authority of the United States, shall be the supreme law of the land." That treaty is the supreme law of the land.

Mr. MAYNARD. I would like to ask the gentleman from Massachusetts whether he thinks that the bill now before us, proposing limits for the State of Kansas which include the lands of the Indians, is or is not a constitutional measure?

Mr. GOOCH. If the gentleman will call my attention to that point before I get through, I will answer him.

I was saying that I find the authority for my position in the Constitution of the United States. A law of Congress is the supreme law of the land, if made in pursuance of the Constitution of the United States; a treaty is the supreme law of the land without limit or qualification. And, sir, it has been decided by some of our ablest jurists, that if a principle of the Constitution comes in conflict with the provisions of a treaty, the Constitution must yield; and the reason given for it is, that it may be necessary that the Government should have the power to sacrifice individual rights or the rights of whole sections of our country even, for the protection of the remainder. But I do not care to discuss that question, or to express any opinion upon it. I only refer to it as showing the estimation in which treaties are held by the courts.

Mr. MILLSON. What judge has so decided?

Mr. GOOCH. I think it was so decided by Judge Shepley, of Maine, one of the ablest jurists in New England, and I think the decision grew out of the Ashcroft treaty. I had to go to the law library this morning to find the authority, but the volume was not at that moment in the library.

But, as I said before, I do not express any opinion upon the soundness of the decision; but I would suggest to the gentleman from Virginia that the Constitution itself is a treaty.

"All treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

Mr. MILLSON. Certainly—under the authority of the United States.

Mr. GOOCH. Understand the "authority of the United States" here referred to be that treaty-

making power, which is defined in the Constitution. I apprehend that a treaty is made under the authority of the United States when it is made by those powers authorized by the Constitution of the United States to make a treaty.

Now, sir, what I say with reference to the position of these Indians is, that it is not in the power of Congress, and that it is not in the power of the State of Kansas to interfere with their rights under this treaty. Congress itself cannot repeal a treaty. It may violate a treaty, but to abrogate it requires the assent of both parties. The Indians protect by virtue of their treaty, and we can rely upon it, and upon it alone, as their protection; and although these provisions which are introduced into this bill may serve as a recognition of their rights by this Government, still they are not essential to the maintenance of their rights.

Now, sir, it seems to me that my colleague on the committee, [Mr. CLARK, of Missouri,] answered himself when he quoted this clause from the Constitution of the United States:

"All treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

Now, sir, it does not matter what is in the constitution of Kansas; it does not matter what is the law of Congress; the judges of Kansas are bound by this treaty as being the supreme law of the land, over and above either the provisions of their constitution or any of their enactments. It will, well, sir, if I am so, I cannot understand why it is that gentlemen contend that the rights of these Indians under the treaty are to be stricken down or sacrificed, because they are not recognized by the Wyandotte constitution. Their rights are secured to them by a law above the constitution of any State, and the law above the Wyandotte constitution knew the rights of these Indians under the treaties, and knew that the State of Kansas will have no jurisdiction over their territory. The bill now before this House, providing for the admission of Kansas, excepts this territory from the limits and jurisdiction of the State of Kansas, and protects all the rights of the Indians; and so long as this treaty is not abrogated, the Indian territory is no more a part of Kansas than it is a part of Massachusetts. Should the rights of the Indians to this territory be yielded up at any future time, then, and not till then, will this territory be within the State of Kansas.

Mr. MAYNARD. The gentleman, I think, misapprehends the position that I assumed. I would like, by his permission, to state it. It is this: the Cherokee Indians, by the treaty of 1819, were secured in their territory within the limits of the States of Georgia and Tennessee, so far as treaty stipulations could secure the rights of Indian tribes within the States; but, as a matter of fact, it was ascertained that no treaty stipulations could protect the rights of the Indians from encroachments of the whites when they were within the limits of a State, and hence a provision was incorporated in the treaty of 1835 that these lands never should be embraced within the lines of any State or Territory. That is the point I make. It is not the alleged question, but the question of the matter of fact; that when you bring the Indian within the limits of a State, the white men, by their superiority, will crush him out, and drive him away.

Mr. GOOCH. If the gentleman understands that this Government ever adopted the principle that the Indians shall have positions where nobody shall touch them, where white men shall have no territory that comes in contact with them, I do not so understand the action of the Government.

I do not so understand the action of the Government. I have shown what my position is under the territorial organization. I have shown that they will be in precisely the same position after the admission of Kansas as a State; that their rights will not be infringed or affected in the slightest degree; but that they will be just as secure in their rights with Kansas admitted into the Union as a State as they are with Kansas as a Territory. I take it that the true meaning of the treaty is, that these people shall be left free from the jurisdiction of any State. That is what they ask and desire, and that is precisely what we propose to give them.

Now, sir, one other objection is made. I refer to the objection urged by the gentleman from Tennessee who last spoke, [Mr. MAYNARD.] It was, that this constitution allowed or permitted men to exercise the electoral franchise who are not citizens of the United States; or, in other words, who had not been duly naturalized, but had only made a declaration of intention to become citizens, and had resided six months in the State. How far Congress has the power to determine who shall exercise the elective franchise in the States is a question which, perhaps, may some day be discussed in this House; but I do not now express any opinion in relation to it. My answer to the objection, as urged against the Wyandotte constitution, is, that Congress has not seen fit thus far to exercise power in relation to that subject; and it would be unjust to Kansas to apply a rule to her which has not been applied to any other State of this Confederacy in the history of the Government.

In conclusion, I will say that I trust that this Congress will, without stirring up any of that bitter and strife which have existed in former Congresses, and heretofore amongst the people of the country, in regard to the condition of Kansas, admit her into the Union. I think that we shall then have done one act for which the people of the country will be grateful.

MESSAGE OF THE PRESIDENT.

A message was received from the President of the United States, by Mr. JAMES BECHANAK, his Private Secretary, notifying the House that he did, on this day, approve and sign bills of the following titles:

An act (H. R. No. 273) for the relief of Micajah Hawkes;

An act (H. R. No. 243) for the relief of the legal representatives of Charles Portierfeld, deceased;

An act (C. C. No. 12) for the relief of Moses Noble;

An act (C. C. No. 82) for the relief of Charner T. Seale, administrator of Gilbert Stalker;

An act (C. C. No. 93) for the relief of Lydia Frazee, widow and administratrix of John Frazee, late of the city of New York;

An act (C. C. No. 96) for the relief of William Geiger; and

An act (C. C. No. 92) for the relief of Mariano G. Valdez.

Also a message in writing.

ADMISSION OF KANSAS—AGAIN.

Mr. QUARLES addressed the House in opposition to the bill. [His remarks will be published in the Appendix.]

Mr. NIELACK. Mr. Speaker, before I am called upon to vote on the pending proposition to admit Kansas into the Union as a State, upon the Wyandotte constitution, I desire to say a few words. Were it not, sir, that my relations to this subject are of a personal nature, I should not now ask the attention of the House. When an application was made, two years since, for the admission of this Territory on the Leecompton constitution, it will be remembered that I was one of a very small minority of members, from my section of the country, who opposed its friendly to admission upon that constitution. There were but five of us, I believe, from the northwestern States who thus voted. Of that number I am the only one returned to the present Congress. One of the others was not a candidate for reelection. The rest were borne down in the contest which followed at the succeeding elections. But, by the generous confidence of a loyal and ever-faithful district, I am here again. I am here, too, without any specific pledges as to what my course should be when Kansas should be applied for admission as a State. Hence the peculiarity of my position. As a practical question, sir, when it was before us, I regarded admission upon the Leecompton constitution as the shortest and most direct method of settling the controversy; and I am glad to see it adopted. Had I then attended that proposition, it would not, in its ultimate results, have been at least as satisfactory to the country as any other act for her admission ever will be. But a majority of the House, as it was then constituted, thought otherwise, and some other plan was adopted.

When, therefore, sir, what is known as the

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English bill was brought forward as a substitute for the original proposition, and also for the Montgomery-Crittenden amendment, I very cheerfully voted in its favor. It is not, however, as it is claimed to be, binding on me personally, and, by construction, upon those I represent for all time to come. But, as an act of ordinary legislation, I approved, and still approve, the principle foreshadowed in that bill, that to entitle a Territory to admission as a State it ought to contain at least a sufficient population to allow it one Representative in Congress upon the then existing ratio. This is but simple justice to the older States. My opinion now is, that in the future organization of Territories a provision of this sort ought to be inserted in their organic acts, that the people of those Territories may be notified in advance that Congress intends to enforce this rule. Such a course will tend to discourage, if not to entirely cut off, premature applications for admission as States by the Territories thus organized. In past times these premature applications from the Territories have been a fruitful source of embarrassment to Congress and of excitement and trouble to the country. With the light of experience before us, I now regard it as unfortunate that this principle was not retained in the act organizing the Territories of Kansas and Nebraska. In my judgment much of the annoyance at least which Kansas has given us would thereby have been prevented. Nothing had then occurred, however, to attract the attention of Congress to the future importance of such a provision, and hence it is not strange that the omission was made.

I also preferred, sir, the form of submission provided for in the English bill to the one proposed by the Montgomery-Crittenden amendment, because it seemed to me to involve less directly the conflicting views of members on that point, and because, in my judgment, it accorded more fully with the true principles of non-interference by Congress in the local affairs of the Territories. While I thus voted for the English bill, and the approval of its less formal form, I have never considered myself pledged, either expressly or implicitly, against the modification of any of its provisions when again called to legislate upon the same subject, if some policy should require its amendment. In this matter, I have ever regarded it as the soundest policy with any other act of independent legislation. If it be claimed that it was a compromise, in a sectional sense, between the North and the South, I answer that it was certainly not so claimed at the time of its passage. In that sense, at least, I was not one of the "high contracting parties." My position then was, as it now is, one of independent neutrality in all mere sectional controversies. In this respect, I have never had, and have not now, any sympathy with the extreme views and purposes of either section. I cannot surely, then, be expected that the leaders of policy merely I would voluntarily consent to trammel my independent action as the Representative of a national and Union-loving constituency in all time to come to gratify any mere sectional prejudice. To ask of me this, it would be asking more than I am authorized to yield.

I do not abide, sir, to this Kansas controversy of the last Congress for the purpose of reviving a discussion of its merits—the country had enough of that at the time—I do so only to explain my position concerning it, that there should be no misunderstanding by which I am now governed may be more readily understood and appreciated.

We want the Kansas controversy out of Federal politics. It is practically a dead issue, and the last vestige of it ought to be removed. Other questions of more magnitude are now pressing down upon us. With the Democratic party it has long enough been a source of trouble, division, and embarrassment. Since the raid of John Brown and the disclosures which have followed it, I presume the Republicans will not often care about recurring to the old theme of "freeing Kansas." No party or action, in my judgment, can profit by longer keeping this question before the country. It is a time, sir, above all others, in my judgment,

when true and national men everywhere should rid themselves of all side issues and differences upon minor questions, and range themselves on the side of the Constitution and the country, in opposition to every species of fanaticism. The signs of the times surely indicate this to any disprejudiced mind. If the public peace shall be preserved the prevailing tendencies to sectionalism must be crushed out. To accomplish this result, a thorough revision of the Democratic party is a necessity which cannot longer be postponed. In aid of it the cooperation of conservative men of all parties is earnestly invoked.

With the announcement of the doctrine of the "irrepressible conflict," a year and a half ago, a new era in the politics of this Government was inaugurated, and a new and momentous issue was tendered to the country. An issue rising infinitely above all former mere party contests. An issue reaching down to the very foundations of our Government, and involving the fundamental principles of society itself. An issue which, when interpreted as John Brown and his followers seem to have understood and interpreted it, would deluge this land in blood.

It seems to me now, as it did when the question of the admission of the last Congress, that the prompt admission of Kansas as a State is in every point of view desirable. To bring about this result, I feel called upon to waive all mere formal and technical objections against her present application. I myself frankly concede that such an enumeration of the inhabitants of the Territory as is contemplated by the English bill has not been taken. For this omission, however, I regard Congress itself as being at least in part responsible. No appropriation was made for this purpose at the last session of Congress, and no provision of appropriation to meet it, such an enumeration surely ought not to be rigorously insisted upon, when to dispense with it can do no substantial injury.

From other sources of information, in the absence of an enumeration, I am satisfied that Kansas has a sufficient population to entitle her to admission under that bill. Her constitution seems to have been formed in accordance with a law of the Territory, and to have been ratified and accepted by her people. For our sirs, I waive all the rest. So be it, I feel that I am not violating any fundamental principle, and that I am but reflecting the wishes of an overwhelming majority of the people of the district from which I come. Much depends, doubtless, as to the stand-point from which we view this question; each member's antecedent relations to the whole Kansas controversy will and perhaps ought to have much to do in determining his present course upon it. Other gentlemen, with whom it usually affords me much pleasure to agree, have indicated their intention to pursue a different course from the one I feel called upon to follow. So be it. My line of duty is none the less obvious to me. I favored the admission of this Territory on a former occasion, when its population was less than it is at present, and I cannot and will not vote to exclude it now for the alleged want of a sufficient population in the form in which the objection now meets us.

My policy in relation to the admission of new States has uniformly been a liberal one. Since I have been a member of this House I have voted to admit all that have applied for admission. I have uniformly opposed the application of rigid tests which would tend to their exclusion. As a general rule, according to my theory, but three points ought to be considered as imperative for the consideration of Congress on the application of a new State: 1st. Has its constitution been formed in accordance with some law of the Territorial Legislature, or with an act of Congress authorizing a State organization? 2d. Is its constitution republican in form? 3d. Has the new State a sufficient population to assume the responsibilities of self-government? If these questions must determine by some fixed rule of law, or by the exercise of its discretion, from time to time, as the emergencies arise? Other questions of real importance do sometimes arise, but they are

exceptions to the general rules I have here given. Tested by a fair application of this theory, I believe that Kansas has all the essential requisites for admission. Two years ago, when a serious and furious objection was urged to the contrary, I said let her come. Since then I have voted for the admission of Minnesota and Oregon, ever earnest and bitter opposer. Perceive and re-remember as Kansas has been in the past, Republican and laterer in politics as she now is, I cannot vote to send her away now, unless for stronger reasons than I have yet heard urged.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, its Chief Clerk, informing the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 82) to amend the fourth section of the act for the relief of certain settlers in the Union, so as to extend the time for locating salt springs and contiguous lands in Oregon; and

An act (No. 188) for the relief of the surviving grandchildren of Colonel William Thompson, of the revolutionary army of South Carolina.

Also, that the Senate had passed a resolution directing its Secretary to request the House of Representatives to return to the Senate the bill (S. No. 371) for the relief of certain settlers in the State of Iowa.

Also, that the Senate had ordered to be printed the resolves of the Legislature of Maine, in relation to a uniform decimal system of weights, measures, and currencies.

ADMISSION OF KANSAS—AGAIN.

Mr. COX, Mr. Speaker, this question has lost a great deal of the interest which it used to excite in this Hall. I do not intend now to take up an hour, or perhaps more than fifteen minutes, in discussing it.

I am for the present bill. As a friend to the people of Kansas, I repeat with an extraordinary speech of the Kansas Delegate, delivered yesterday. It may not have been intended, but it had the tendency to jeopardize the admission of Kansas. Whichever of complaint that speech is entitled to for its brilliant rhetoric and graceful eloquence, it is obnoxious to the charge of unfairness. It was full of partisan rancor, unfeeling the occasion. It had a splenetic and scolding tone, showing more temper than wisdom. I do not know precisely the province of a Delegate from a Territory. It may be in the line of his duty, if it does not comport with good taste, for him to lecture the members of the House within whose circle he sits more by courtesy than by right.

Mr. PARROTTE. I claim to hold my seat upon this floor by just as high a title as the gentleman from Ohio holds his, and to have just as much right to have my opinion upon any question pending in this House. I ask him to specify the exceptional language in my speech.

Mr. COX. I will come to that directly. I think that, in his sweeping statements, he did not do justice to the men who undertook here, time after time, to remove the Lecompton constitution from the Halls of Congress back to the people of the Territory, for an expression of their opinion upon that instrument.

I complain of that speech, because it does injustice to those who supported every act of legislation here offered, whereby the people of Kansas could obtain an expression upon Lecompton. The Delegate says that the English bill was intended to keep the people of Kansas out of the Union. He makes no exception to this sweeping libel. There were some who supported that bill, who, at the time of its passage, expressed themselves as to their belief of its effect. The object of that bill was expressed in it. No man was silent, without, for his meaning. If you do go outside, then go to the expressed intent of all who voted for it. Besides, this intention is to be found in its

that there are one hundred and fifty-two districts in the United States which have a less voting population than the voting population of Kansas. Here is what he says:

"Of the two hundred and thirty-seven congressional districts in the Union, there were, by the official returns of the last Congressional election, one hundred and fifty-two districts that polled less than seventeen thousand votes. So the legal vote of Kansas on the first Tuesday of April, D. 1856, exceeded that of any one of almost two thirds of the congressional districts in the Union."

There is, as I understand, (and if I am wrong the Delegate from Kansas will correct me,) a registry of the voters of Kansas, which required six months' residence. Upon this basis there are twenty-seven thousand names! I believe that I am right in this. The number as stated by the Delegate is over twenty thousand. Therefore, I have no difficulty in voting upon this bill, so far as the subject of population is concerned.

Mr. PARROTT. There is no record, so far as I know, of the aggregate number of voters registered in Kansas. I think, sir, however, that it is over twenty thousand.

Mr. COX. I understood the gentleman from Kansas to say that there are over twenty thousand voters there. His friend, ex-Governor Stanton, told me, when I was conversing with him yesterday, that the number was near twenty-seven thousand. That is greatly more than the voting population of the districts in the United States. This number includes clearly at least one hundred thousand people.

Mr. Speaker, I will not undertake to vindicate my vote for the conference bill. At the time it was passed, there was a good deal of talk about the "bribe and threat," but I think, sir, is now obsolete. Throughout the country it was charged upon the Democrats from the North who voted for it, that they had dishonored themselves and insulted Kansas by this conference arrangement. There was no foundation for the charge. The people of Kansas did not utter condemnation. They gave a free, unbiased vote to reject the Leecompton constitution. That vote was my answer to the charge.

It is no reason for me, sir, to vote against this bill, that Kansas is a Republican State. I will not follow the lead of the Republican members of the House in the case of Minnesota and Oregon. I will not vote against free States because their policies may be disagreeable. But, sir, I believe that Kansas would be recorded to-day as a Democratic State if outside influences had not been at work last summer for the defeat of the Democracy. Governor Medary was beaten for Governor by only nineteen hundred and ninety-one votes. I charge that, by the operation of the registry law, there were at least two thousand voters, mostly Democrats, who were prevented from voting. These were men who had been in Kansas three years and more.

Mr. PARROTT. Whom does the gentleman give as his authority?

Mr. COX. I obtained the information from the Governor of the Territory.

Mr. PARROTT. What Governor?

Mr. COX. Governor Medary, sir.

Mr. PARROTT. I deny it.

Mr. COX. The gentleman's denial can go upon any record. These men who had been there three years, and who before had voted the Republican ticket. They wanted to change their votes, and to vote the Democratic ticket. They were kept out by the Republican registers throughout the Territory. At places, some men were registered twice, over the county lines. Again, whole townships were thrown out where the votes were cast for Governor Medary. I charge, too, that money was sent by this immitate Republican party to Kansas, to overthrow the Democratic party. The Republican Governor of New York, Governor Seymour, has been raising this Kansas fund. Money was raised East for the purpose of controlling the election in that Territory. I submit it to the honest gentlemen who are inquiring after money used in elections, that they had better look into this matter, and see what was the result of the Democracy in Kansas was not obtained by the venality and corruption of men outside, whose money was sent in for the purpose of breaking down what would have been the popular voice in Kansas. I do not speak this simply upon the authority of Governor Medary. This matter came out in Kansas;

and this is the way it came out: the parties concerned quarreled over the fund.

Mr. CLARK, of Missouri. I want to understand a remark made by the gentleman from Ohio. He has stated, as I understand him, that many names were kept off the registry, and that many voters were who had no right to be put there.

Mr. COX. I mean that some were registered twice over county lines, changing their names very little, and some not changing their names at all.

Mr. CLARK, of Missouri. If there were names upon the registry, how then can the gentleman make that registry a guide to decide the population of Kansas?

Mr. COX. I do not regard it as a perfect guide. It enables us to approximate towards the population. I do not suppose that the whole registry is corrupt. We know that there is in a Territory like Kansas, where the people are so scattered and sparse, the whole voting population can never be all brought out. This registry, however, is fair data for which to infer, with probable certainty, the fact of population. To this the gentleman has his answer, does he not?

Now, Mr. Speaker, I can tell you how this matter about the Kansas money fund came out. I want the immitate gentleman from Pennsylvania (Mr. Covode) to look after it in his investigation. It was charged that Covode and Lane got \$1,000 out of the fund to make delegates for themselves and against Robinson. The fund was only designed for the elections, not for the nominations. It was used to heat a better Republican by worse Republicans; and what remained was used against the honest friends of the Constitutional Democrats who fought the good fight last summer.

When reproached with these frauds, the Republicans replied: "We were cheated at first, and are only paying you up!" But they did not see the force and the passion of the charge of fraud, the cunning of the speculator, the zealotry of the fanatic, and the corrupt venality of New York and New England politicians.

I believe that if Kansas had fair play, she would, as all the free States have done, stand up and throw off the unconstitutional rule of this repugnant Republican politics, and take the policy which has made the northwestern States so great and so powerful in so short a time!

Mr. DUNN. But they are all Republican States now.

Several Republican MEMBERS. We have them all.

Mr. COX. Not all quite. I trust that those which you now have will soon return to that Democratic policy which has made them what they are. Unless they do so return, their greatness and prosperity in the future will not keep pace with their past progress.

But whatever may be the politics of Kansas—however objectionable may be her boundaries—she had a fair election on the 4th April, 1856, for Governor and constitution. On the 4th of June for the delegates; on the 4th of October, out of fifteen thousand nine hundred and fifty-one reported votes, ten thousand four hundred and twenty-one were for the constitution as made; and there was not a voice about the exact number of men under all the disadvantages to which I have referred; while sixteen counties sent no returns on the constitution. But there were people enough who voted to show a substantial compliance with the rule for the ratio of a member of Congress. I do not see any vice about the exact number of ninety-three thousand four hundred and twenty. As Mr. SEWARD argued in the Oregon case, a substantial compliance with the rule as to population, will answer the requirement.

I do not vote for this admission to get rid of this question—this high question. It is right. Right, because all parties hitherto have encouraged by votes the admission. No one has questioned the population for admission as to this State. Right, because the State is ripe for statehood. Its interests are neglected cruelly by the Federal Congress. Since has been her history, that she will ever remain under a cloud while in her territorial condition. I vote for her admission, because I pledged myself so to do, by my vote under the English-Montgomery bill; because I voted to allow her another chance, if Leecompton was rejected under the English bill. She has taken that oppor-

tunity. I have a happy and jubilant satisfaction in giving this vote. History has thoroughly justified my action. I challenge any one to show, a word in my remarks on the English bill, which is not to-day fulfilled. By it, Leecompton was de-throned. The people acted the almost escaped scepter of which they had no right to be put there, in a constitution at Wyandotte. Under it I have the opportunity, as a member of a new Congress, after being justified by my people, to vote for that undoubted and unambiguous expression of the popular will of Kansas.

"Our vote for the English bill—even after I was justified by the popular vote of Kansas in the summer of 1855—was compelled to meet from Republicans at home a campaign unexampled for its unprovoked ferocity, its base and baseless charges of personal corruption, its conceit, its ignorance, its impudence, its poltroonery, its lying, its brutality, its moneyed corruption, its financial folly, its unforgiving slang, its drunken astuteness, and its unblinking blab and pious hypocrisy! At the capital of Ohio, in its most noble and intelligent precincts, the people, ashamed of an indignation at the assault upon their rights, were clamored from the Republican presses of the State—from the United States Senator, who, judging by his treatment of me at the capital of his State, disgraces the other end of the Capitol—and from the little many-a-lime and peleggers, who clothed the libels of Republican members from this floor—into spite of all this the people justified my majority of 1856! I had the satisfaction—prouder than a temporary victory—of seeing the policy I had voted for with earnest and honest conviction sustained, and with the sustaining advice of such a statesman as Robert J. Walker, vindicated by time, and sustained by its practical operation. As the crowning act of this triumph, I shall vote for the admission of Kansas, under this constitution! In doing this, I court all criticism, defy all menace, and truly re-assure every man, woman, and child in my district."

Mr. SMITH, of Virginia, obtained the floor.

Mr. CLARK, of Missouri. Will my friend from Virginia allow me to ask a question? I want to know whether it is the purpose to press this matter to a vote to-day. [Cries of "Certainly it is."]

Mr. GROW. I hope so. There is a special order to-morrow.

PERSONAL EXPLANATION.

Mr. PRYOR. I rise to a question of privilege. I ask the gentleman from Virginia to yield to me.

Mr. SMITH, of Virginia. Certainly.

Mr. PRYOR. I would like the attention of an honorable member of this House from Wisconsin, [Mr. POTTER.] In the Globe of this morning I find the following report of a scene which occurred upon this floor some few days since:

"Mr. POTTER. We listened to gentlemen upon the other side for eight weeks. They have insulted the members upon this side with violent and offensive language. We listened to them quietly, and bore them through."

"Mr. PRYOR. I would like to know what the speakers be they what they say."

"The CHAIRMAN. The point I make is this—"

"and hear an gentleman, still members receive their seats, and order is restored."

"Mr. COX. I rise to a point of order. I insist that the gentleman from Illinois shall speak from his seat."

"Mr. FAY. I will have to be assisted for the gentleman speak from his seat, and say all under the rules he is entitled to say; but, sir, he shall not come upon this side, shaking his fist in to vex at the people he has talked. He shall not come here gesticulating in a menacing and refractory manner."

"Mr. POTTER. You are doing the same thing."

"The CHAIRMAN. Gentlemen will resume their seats."

"Mr. COX. If the gentleman from Illinois goes on as he has, a gentleman will have to be assisted for the gentleman speak from his seat, and say all under the rules he is entitled to say; but, sir, he shall not come upon this side, shaking his fist in to vex at the people he has talked. He shall not come here gesticulating in a menacing and refractory manner."

"Mr. FAY. No one wants to intimidate the gentleman."

"Mr. LEVIST. Nobody can intimidate me."

"Mr. ABRAHAM. I know that. I suggest to the gentleman that he continue his speech from his seat."

"[Thirty or forty of the members from both sides of the House gathered in to see what Mr. LEVIST and Mr. FAY, it was there increased confusion.]"

"Mr. JOHN C. SPENCER. I move that the Committee rise, as it is the only way we can get rid of this disturbance."

"Mr. POTTER. I do not believe that side of the House was where a member shall speak; and they shall not say it."

"Mr. SHREVE. The gentleman from Illinois shall not make that speech from this side of the House."

Hall were ready to admit as a State into the Union the Territory of Kansas, when clearly it had nothing like an approach to the requisite population. It is well known as a historical fact, in this House and in the country, that there was no power in the friends of the Lecompton constitution of that day to put it through this House. It was superseded by other propositions, and the requisite population, of which we all know by that compromise, effected by a committee of the two Houses, which reported the English bill.

I mention these facts because I desire them to come distinctly forward within the memory of the country and of members, and in order that they may have their due and proper weight.

Well, sir, the Lecompton constitution, so familiar to the country and the subject of so much vituperation, was denounced with much bitterness yesterday by the Delegate from Kansas. The debate has been characterized with a burning courtesy, with this single exception of that Delegate—who, of all others upon this floor, ought not to have forgotten what was due to his position. He, a Delegate from a Territory, characterized in a most offensive manner a measure which a majority of the House, the Representatives of the day, voted for. I think he might as well have spared that animadversion. Members occupying a different relation to the country and the business of the House have not thought it necessary to utter such gratuitous and unbecoming remarks denunciations; and I think it would have been well for him to follow such examples. But he denounced the Lecompton constitution—and I believe he is the only person who did—in the fiercest and bitterest terms. I say here, then, that the denunciation was unjust, and I say here that there is not, in the whole history of the Lecompton constitution, one single fraud.

Sir, I ask—and I call the attention of gentlemen to it—if the act of submitting the question of a constitution to the people was not fairly passed by the Legislature of the Territory?—if the bill itself was not fair and proper? And I ask if the majority of the legal voters who voted upon that question were not in favor of the convention which was subsequently held? I ask if the convention itself was not composed of a measure elected by a majority of the legal voters of Kansas who chose to go to the polls and exercise the right of suffrage? I ask, if the convention, when it met, did not deliberate with open doors, and in the face of the country, frame a constitution? I ask if there was one single attempt to silence or mislead the people in reference to it? And when the labors of that convention were closed, I ask gentlemen if that constitution was not submitted in the terms designated by the convention itself, to the people of Kansas? and whether a majority of the voters who chose to vote at the polls did not give an expression in favor of it? I challenge gentlemen upon the other side, one and all, and especially the territorial representative here, to say if there was one single act of fraud in all those proceedings.

Mr. GOOCH. The gentleman says he challenges any member of the Territorial Committee to point out any act of fraud upon the part of that convention. The convention undertook to submit to the people of Kansas, not the constitution, but the question whether they would have a constitution with slavery, or a "constitution with no slavery." This is the provision, which I will read, and leave it almost without comment:

"But if upon such examination of said poll books it shall appear that a majority of the legal voters at said election be in favor of a 'constitution with no slavery,' then the article providing for slavery shall be stricken out from this constitution by the president of this convention, and slavery shall no longer exist in this Territory, and the right of property in slaves now in this Territory shall in no manner be interfered with."

I ask the gentlemen if he calls that a fair and open submission of the question of slavery to the people of Kansas?

Mr. SMITH, of Virginia. Most assuredly.

Mr. GOOCH. That is all, then.

Mr. SMITH, of Virginia. Certainly it was submitted to a vote of the people of Kansas in conformity to well-ascertained facts, it being abundantly sustained and demonstrated that the convention was not bound to submit anything. They could have adopted the constitution without calling for a vote of the people; and the gentleman from Massachusetts knows that as well as any

gentleman upon this floor. They would have been warranted in so doing by numerous precedents which exist in connection with the formation of constitutions in this country.

If, then, the convention could have proclaimed that constitution without submitting any portion of it to the people, I ask if they could not have done so, and what portion of it as they see fit? Now, the gentleman from Massachusetts is ordinarily, as I have always believed, a fair man; and I put the question to him, if it was not perfectly within the power of that convention to proclaim that constitution without calling for a vote of the people? and if they could have done so, it with reference to the entire constitution, could not they have done it in reference to a part?

Mr. GOOCH. If a convention is called with the expectation and understanding upon the part of the people that the instrument which they frame as their constitution is to be submitted to the people for their ratification, then I say the convention has no right to proclaim that constitution without a submission to the people.

Sir, further, I say it is the right and duty of Congress, under all circumstances, when an instrument is presented here, purporting to be the constitution of the people, to ascertain whether or not it be the will of the people. I care not how it is framed, what sanctions, guards, and checks may have been placed around it, if the Congress of the United States is satisfied that the people of the Territory have done it by their duty to reject the application for admission, and not force upon the people a constitution which they do not desire and have not indorsed.

Mr. SMITH, of Virginia. The gentleman has just stated upon an important point. The question is: were the proceedings which led to the formation of the Lecompton constitution tainted from the beginning to the close with fraud, as has been charged by the Delegate from Kansas? The fact that the gentleman went off upon another subject, the question of solution of the Kansas controversy; for it is conceded by the course of his remarks that there has been no fraud in this whole proceeding, unless it may be in the mode of submitting the question to the people, which I have answered. I say, then, that the proceedings in reference to the formation of the Lecompton constitution were in strict conformity to law, and in the full exercise of what Mr. Webster proclaimed in a celebrated law case, a peculiarity of his country—in strict conformity to American liberty: a liberty regulated by the Constitution, and protected by the laws.

Mr. Speaker, I now proceed. The Lecompton constitution was not adopted. The English bill was. We had gone through a great deal of trouble on this question. We had had a vast amount of excitement and discussion. The whole country had been agitated, and all good citizens wished to have the thing settled. The result was the English compromise bill. I beg leave to call attention to that, because it was designed to adjust this Kansas controversy. It was not perceptible to the people of Kansas, and it was not just this Kansas difficulty, and to prescribe a set of rules by which the question of a future convention was to be regulated. I ask my honorable colleague on the Committee on Territories if he will deny that it is of the highest degree of importance that this House shall, in all important matters, be governed by law? We have a law regulating the mode of contesting elections. We have a law regulating all the machinery of the Government. And was it not right under the circumstances, under the strife that had been engendered and continued—was it not of the highest importance to the peace and harmony and right settlement of the question, that a system of rules as to the future taking of a census and the holding of a convention should be adopted by this Congress of the United States? In the bill to which I have referred, did that Congress lay down rules by which the people of Kansas were to be governed. Now gentlemen say that an act of Congress is not obligatory; that it does not furnish an imperative rule of conduct, but is only a suggestion, that action may be taken inconsistent with it.

But I do not mean to raise any question on this subject. I know very well that we have the power if we choose to disregard all law and to create a law to ourselves. I am aware of all that; but yet, as

a law-abiding people; as a people disposed to respect the acts of our representatives, as a people inclined to give stability to the operations of this great country, I ask if we will lightly and without necessity disregard a plain rule, fixed and established, for the very purpose of ending this unhappy controversy?

Why do we pass laws? To disregard them?

Why do we lay down rules in cases of election? To contemn them? No, sir, no; but to inform the country what means they should adopt for the purpose of attaining the ends in view. So, likewise here, in regard to the formation of a future constitution, the rule was laid down, this English bill intended to govern our future action, because our past action had been conflicting in character. Was there anything unreasonable in that? Let me read it to the House:

"And in that event, the people of said Territory—"

"That is, in the event the people should vote not to accept the Lecompton constitution—"

"are hereby authorized and empowered to form for themselves a constitution and State government, with the name of the State of Kansas, according to the Federal Constitution, and shall elect delegates for that purpose whenever, and before, as follows:—"

Mark, sir, "whenever, and not before"!

It is ascertained, by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives in the Congress of the United States.

Now, here is a rule. They shall be entitled to admission whenever they shall duly and legally take a census, and shall establish that they have a population equal to the ratio of representation for a member of this House. Now, I put it to gentlemen if there is anything unreasonable in that requirement? And I ask these gentlemen especially who voted for that bill, if, after that evidence, they can vote for this bill? They, at least, who voted for the English bill are bound, as moral agents, to enforce it. We wanted to get rid of vague demands. We wanted to free ourselves from the speculations of interested members, from whom we had had on similar occasions many curious statements. We therefore prescribed in that solemn and deliberate act, that they should not be admitted until the ratio until, by a census duly and legally taken, should be shown to equal or exceed the ratio of representation required for a member of the House of Representatives of the Congress of the United States.

Here is a rule distinct, explicit, and beneficial in its operation, and intended to regulate the respect of the Government of the United States, and especially the respect of those who voted for it.

Well, now I ask the question again, why was this rule not observed? There were two reasons for it, one of which the gentleman from Tennessee [Mr. GARLAND] advertently wanted to get rid of.

That is, that when they adopted many of the provisions of that bill they shrank that in regard to the census, for the obvious reason, in his judgment, that they knew they had not the population to satisfy the requirements of the law.

But, Mr. Speaker, I am not going to raise the question, there was another reason for it. Every step that has been taken in this unhappy controversy has been in open outrage on established law. When the territorial government fell into the hands of the pro-slavery party, as you call it, the only way to get rid of the evil was to rise in rebellion against it, to repudiate it, to spit upon it; and that was done, avowedly and deliberately. And, sir, when the first Delegate from that Territory (Mr. Whitfield) came here, his election was resisted, in part and to some extent, on the ground that he was elected not under any law, as the territorial law was absolutely null and void.

Go on, step after step, and when you come to the Lecompton constitution itself, what are the facts there? I ask gentlemen why? What are the reasons why the people of Kansas have a territorial government if they had the power? We have precious revelations in the Herald of yesterday, showing the reasons, *pro* and *con*, why this thing was not done. To take possession of the government under the territorial laws would have been the recognition of those laws as valid, and hence peace and repose, according to the testimony furnished by Redpath, to a distracted land. They did not want peace. They wanted to stand out against the recognized authorities. I tell gentlemen that if they will look at these revelations,

they will find the veil lifted off the most extraordinary transactions that ever disgraced civilized society.

You have seen Redpath's revelations, have seen the part which Governor Robinson played, and will be able to appreciate the state of things in which I refuse. If free-State men are in a minority in Kansas, (and probably they had,) why did they not take possession of the government, vote down the other party, and come into the Union according to law? It was because they wanted trouble and revolution.

Here we see in these very proceedings a continuation of the same disorganizing policy. The people of Kansas did not mean to come in under the English bill. They stood out, as they had stood out on all former occasions, against authority. They even spurn and repudiate an act of Congress, while they believe that Congress has supreme and absolute control over the Territories.

That is the secret, sir. And now I ask gentlemen on the other side, believing, as I do, that Congress has the power to regulate these questions and to pass laws of record, how they can give their support to a movement founded in rebellion against law and announcing a determination to defy the highest authority of the country?

But, sir, it was done. A convention was held. A constitution was formed. That constitution was presented to this House, and was referred to the Committee on Territories. When the bill now under consideration was brought before the committee and a report was read, I asked in committee (I choose to make the revelation) for the postponement of action until the next meeting of the committee. That was refused. I asked for an opportunity to examine the report, and for permission to take it to my room; and that was refused. I was told by the honorable chairman of the committee, "I shall very soon be in the way of an opposition character, we might as well act at once." In other words, the question had been determined by a sub-committee, consisting of a majority of that body. Well, the question comes up here now, what are the objections to it? They are several, and I shall very briefly state them. One of them is, that the law has not been complied with; and gentlemen are absolutely driven to the necessity of figuring up a sufficient population by calculations of a most fallacious character. According to the statement, there are seventeen thousand voters in the Territory. That statement, These voters are men in a new Territory. The population, we know, is largely floating. We know it is composed, to a very great extent, of young men. I ask the committee if they believe that every one of these voters was a married man, with five children? Now you must multiply seventeen thousand by nearly six for a wife and five children to each voter—before you can reach the ninety-three thousand four hundred and twenty, which an old State must have to get a Representative on this floor. I ask gentlemen, with confidence, if they believe that each of these seventeen thousand voters had a wife and five children? Or that those who had wives and children were in such excess as to supply the deficiency of those who had none?

Why, sir, even in the old States it is very rare, if at all, that we find a wife and five children to each married man, much more to each voter; and I take the position that the statement of gentlemen—*that proof* upon which they rely to show a sufficient population—proves conclusively that their calculations are unsound.

Mr. Speaker, I deem it very important that this rule of population should be adhered to. I deem it very important that a new Territory should not come into this Union until she has a population equal to that required by a Representative in one of the old States. Why should it not? That is the question. I would like to hear some reason why she should not. We know very well that the population of the new Territories are not homogeneous. We know very well that they are composed of people from every quarter of the world; that they have very few sympathies, and tastes, and interests in fact, in common with the people of the old States. Why should they have equal political power with a less population than the Constitution and laws require in the old States? I would like to have

that sufficiently explained. I confess my utter inability to find out a reason why it should be so. The English adjustment bill requires it, and it is a doctrine which, if we could put it into practice and adhere to it, would relieve us hereafter from a great deal of trouble and difficulty.

But, sir, it is not all that; there is another reason for it. We know perfectly well that there are ambitious and aspiring men in these new States. We had a striking illustration of it in the case of California, prematurely forced into our political Union. We know that there are men agitating all the time for the sake of the honors and office, and who strive to force these Territories, with small populations and against the wish of the people, into the position of sovereign States, in order that they may be Senators and Governors; and a rule to require the ratio of representation, fixed and immutable, would prevent this political juggling. Were the people of Kansas anxious for a State constitution and to be admitted into the Union? I proposed the question without fear or hesitation, and I say unhesitatingly that they were not. We are told that advocates of the English bill were cast by a vote of one Delegate. What was the vote on the question of State or no State? Why, five thousand three hundred and sixty-six votes for, to fourteen hundred and twenty-five against—being only a little upwards of six thousand votes, while it is claimed that there are eighteen or twenty thousand voters in the Territory. That shows very great indifference on the part of the people to assume sovereign power; it shows that they were not anxious on the subject, and that the agitation and excitement have grown out of political ambition, rather than their own desire of the people to be admitted into the Union.

But I must pass on. I desire now to call attention to this attempt to embrace a sovereign and exclusive power within this State. I beg to call attention to it, because the language of this provision is peculiar. What is the proviso? I will read it.

Provided, That nothing contained in the said constitution respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the said Territory, or to any individual therein, or to remain unimpaired by treaty between the United States and such Indian, or to include any Territory which, by treaty or law, shall be included within the territorial limits of said State, to be included within the territorial limits of said State or Territory; but all such Territory and the people thereof shall be considered as no part of the State of Kansas, until said State shall signify its assent to the President of the United States to be included within said State, or to effect the same, the Government of the United States to make any reputation respecting such Indian title, lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never passed.

Here you see that the only thing exempted from the power of the State of Kansas is the rights of person and property. The sovereignty of this Indian territory is transferred to Kansas; there is simply an exemption of person and property. They have the right to introduce their officials there, and the Indians are protected in nothing except in reference to person and property. The sovereign power over this Indian territory is as absolutely in the State of Kansas, should it ever become a law, as in any other portion of her territory. There is a limitation upon the exercise of sovereign power, it is true; but it is a limitation restricted to two subjects, and two subjects only.

I ask gentlemen upon the other side why should this be done? Is there any necessity for it? None whatever. It would be perfectly easy to amend the bill so as to exclude the Indian Territory from the boundaries of the State. Why not do that? Why must we run the boundaries of Kansas round the Cherokee reservation?

The gentleman from Massachusetts, [Mr. GOOCH], who has argued this question, concedes that this provision of the bill does not give any right to the proposed State of Kansas over this Indian territory. He is compelled to acknowledge that. But I invite his attention to the terms of this bill. He says that it conveys no right, and that it can convey no right, in conflict with the Indian right; and, sir, he read a clause of the Constitution, to which I would again ask his attention. That clause is as follows:

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

I interpreted the remark, during the discussion this morning, that although the treaty was the supreme law, so was a law of Congress. The laws of the United States and the treaties are all included in the same clause, but one following the other, and the treaties following the laws. Now, I ask gentlemen on the other side, how can they be so sure that they will not be able to obtain for this treaty a superiority over laws of the United States made in conformity to the Constitution?

But the Constitution goes on to say:

"And the judges in every State shall be bound thereby; according to the constitution or laws of any State to the contrary notwithstanding."

Sir, I know that any law or constitution in any State contravening an act of Congress is null and void. But, sir, that clause cannot have any application to this question. It is not a State that is acting. We are acting here to give a law upon this subject that shall be a binding rule of action.

We propose to give jurisdiction to Kansas over this section of Indian territory. I ask, then, if a treaty is a supreme law of the land, is not an act of Congress equally supreme? And we pass a law of equal authority to the treaty. I ask you, then, of the hesitation or doubt of the fact, that, if one be of more validity than the other, the law is superior, and will remain in force? Here we pass this bill. It is an act not only of this House, but of the Senate and President. And it is the act of the Senate and President. The first is the major, the latter the minor; and the former, according to every system of logic, the major includes the minor. I say, therefore, that the rights of these Indians, under the bill now before us, is clearly invaded. Should we let it go?

I call the attention of gentlemen on the other side of the House again to this clause of the bill, and I say that, under its operation, no matter what the treaty may be, the Indians will have no chance. I say, then, that we are doing a great outrage by passing this bill. I say that the provisions which we have in this bill, if we do not amend it, will be a simple amendment, may be avoided; and I say to gentlemen upon the other side, wherefore, when the question is made and the difficulty presented, will they not avoid the difficulty, when they can, by a simple amendment, leave the Indians in possession of their rights?

Sir, is it in Kansas never to have the land? Is the red man to be compelled to come here and ask for protection against the aggressions of Kansas hereafter? Are we to have future agitation upon this subject, when, by a simple amendment, a difficulty which is presented, which we have judgment, I put it to the good feeling of the members upon the other side of the House, whether they will not allow the boundaries of this proposed State to commence at the northeastern corner of the Indian territory in the Missouri river, and run west along the line of that territory, until they reach the northwestern angle thereof; thence south to the thirty-seventh degree of north latitude; and thence with that line to the line of longitude mentioned in the bill, thus excluding this Indian country from the Territory? I ask gentlemen, is it to that course? Fair play. Fair play will say there can be no objection. None; none. I appeal, then, to gentlemen on the other side whether they are determined that no amendment shall be made to the bill in a solitary word? I trust the amendment which I have indicated may be adopted. I am willing to accept the proposition made by the gentleman from Tennessee, [Mr. MAYNARD], if that shall prove more acceptable. I had prepared an amendment changing the boundaries fixed in the bill, so as to exclude this country from the limits of the State.

Now, Mr. Speaker, I do not desire to detain the House. I have called their attention to these objections which exist to the bill as it now stands before us, and I am willing to leave the matter to the will of the majority, and to let them exercise their will, whether it be for or for me.

Mr. GARNETT obtained the floor.

Mr. GROW. If the gentleman will permit me, I will ask him how long he proposes to occupy the floor? I make the inquiry, because gentlemen around me are anxious to know whether we shall come to a vote to-day or not.

Mr. GARNETT. I shall not occupy more than ten or twelve minutes, and it is immaterial whether I go on now or in the morning.

Mr. BRANCH. I have no disposition to procrastinate this matter at all; but I will suggest

that it will be necessary to have a call of the House, and that it will make it very late if a vote is taken to-night.

Mr. GROW. I asked the question because gentlemen are anxious to know. If much more time is to be occupied in discussion, and we are to have a call of the House, it will be as well to have the previous question sustained to-night, and let the vote go over until morning.

Mr. HOUSTON. I think we might as well take the vote to-night.

Mr. GROW. Very well; I am agreed to that. Mr. GARNETT addressed the House in opposition to the bill. [His remarks will be published in the Appendix.]

In the course of his speech the following interruptions took place:

Mr. BARKSDALE. I desire to ask the gentleman from Pennsylvania whether he intends to ask for a vote on this bill to-night?

Republican MEMBERS. Certainly, certainly.

Mr. GROW. I believe the understanding on both sides of the House was, that the gentleman from Virginia should be heard; that I should close up in some ten minutes, and then we should have the vote.

Mr. BURNETT. There was no such understanding. One gentleman on this side responded to that proposition; but that was all.

Mr. GROW. Let me state facts. I asked the House to agree that we should have the vote this evening. One gentleman said if it was to be understood that the gentleman from Virginia was to be heard to-night, he should make no objection. No one else objected, and I took it for granted that that was the understanding on all sides.

Mr. BARKSDALE. I asked the question, because one of my colleagues is absent, and he desired that he should be sent for if a vote was to be taken this evening.

Several Voices. Let us vote for him.

Mr. GROW. I propose, after the gentleman from Virginia shall have concluded, to call the previous question. When that is sustained, I shall occupy not exceeding ten minutes of the time of the House, and then the question can be voted on.

Several Voices. Let us vote to-morrow.

Mr. BARKSDALE. I propose, then, Mr. Speaker, that the previous question be called this evening, and the vote taken to-morrow at one o'clock. That will give all the parties. Some gentlemen are absent. I am informed that the gentleman from Ohio that one of his colleagues is absent who desires very much to vote on this bill.

Mr. GROW. The colleagues who are absent can be sent for within the fifteen or twenty minutes that will be occupied before the vote is commenced.

Mr. BARKSDALE. Certainly; that can be done, unless the vote be postponed until to-morrow. I would prefer, however, that the vote should be taken to-morrow.

Mr. GROW. Gentlemen have come to me to know whether the vote would be taken this evening, and I have told them that it was my intention to ask for a vote to-night. I presume that all gentlemen are present except the two mentioned, and they can be sent for. We may as well have the question decided to-day. There are two special orders for to-morrow.

Mr. GARNETT resumed.

Mr. LARRABEE. I want to inquire of the gentleman from Virginia—

Mr. EDGERTON. object to interruptions.

Mr. BRANCH. As the gentleman from Minnesota was allowed to interrupt the gentleman from Virginia, I hope there will be no objection to the gentleman from Wisconsin.

Mr. LARRABEE. I was informed that the gentleman from Virginia has made a remark as to the people of Wisconsin and Minnesota.

Mr. EDGERTON. I object to interruptions.

Mr. LARRABEE. It shows that the gentleman from Virginia is as ignorant as respects the people of the North as many northern members are as respects the people of the South.

The SPEAKER. The gentleman from Wisconsin is out of order. The gentleman from Virginia is entitled to the floor.

Mr. GARNETT resumed, and concluded his remarks.

Mr. GROW. I call for the previous question.

Mr. MAYNARD. With the permission of the gentleman from Pennsylvania, I want to make a suggestion, and it is this: I have made a motion to recommit this bill, with instructions. To meet the views of gentlemen who desire to have this matter disposed of, I propose to withdraw the motion to recommit, if the gentleman will give an opportunity to offer an amendment, which will cover the object proposed by that motion.

Mr. GROW. No, sir; I cannot yield for any purpose of amendment.

Mr. SMITH, of Virginia. I am sure that the chairman of the committee will not object to the amendment of the gentleman from Tennessee, as it is only a substitute for a proposition already pending.

Mr. GROW. I must decline to yield.

The previous question was seconded, and the main question ordered.

The SPEAKER stated the first question to be on the motion of the gentleman from Tennessee, to recommit the bill, with instructions.

Mr. GROW. Mr. Speaker, it is not my intention to respond long upon the attention of the House at this time. I propose merely to make a brief statement in reference to the points which have been discussed, and shall not trespass upon the patience of the House for more than ten minutes.

Mr. LARRABEE. Will the gentleman from Pennsylvania allow me to make a few remarks. I will not occupy more than five minutes: [Cries of "No!" "No," and "Object!" from the Republican benches.]

Mr. GROW. I should have no objection myself to the brevity of the House, because I am trespassing upon its patience at this late hour of the day. If nobody else objects, I certainly will not. [Cries of "Object!" from the Republican benches.]

Mr. LARRABEE. I trust no one on the other side of the House will object.

Mr. EDGERTON and others objected.

Mr. GROW. Mr. Speaker, three questions have been raised in this discussion, and they are the same that would naturally arise in any application of Territory for admission into the Union. First, as to its boundaries, its territorial area, and its population.

Mr. LARRABEE. I wish to give notice that, whenever I get the floor, I will reply to the remarks of the gentleman from Virginia, [Mr. GARNETT.]

Mr. GROW. Mr. Speaker, as to the boundaries of this proposed State, they are the same as those proposed in what is known as the Toombs bill—which passed the Senate in 1856, receiving the vote of every Democrat—with the exception of the western boundary, which was the one hundred and third meridian of longitude instead of the one hundred and second, as proposed in this bill. I wish the House to bear in mind that there has never been, in all the bills and projects which have been submitted to Congress, any variation proposed in the boundary of Kansas, except in reference to its western limits; I shall, therefore, confine my remarks on the boundaries to that alone.

The bill which passed the Senate, and to which I have referred, made the one hundred and third meridian the western boundary. The State constitution presented to-day makes the one hundred and second meridian the western boundary. In the last Congress, Mr. Stephens, of Georgia, reported a bill for the organization of a Territory out of the western part of the Territory of Kansas, to be called Jefferson; making the western boundary of Kansas the one hundred and first meridian of longitude. So far, therefore, as boundaries are concerned, we have the action of both Houses of Congress approving this boundary substantially as it is in this bill.

As to territorial area, Kansas contains, within the prescribed limits, over eighty-five thousand square miles; an area greater than that of any State in the Union, except that of Texas, Oregon, or Minnesota.

Mr. SMITH, of Virginia. Does not that include this very Indian territory?

Mr. GROW. If the gentleman will wait a little I will answer his question. I have kept my seat while he and others, who think with him, have been arguing their points, intending in answer them when I should have the floor.

As to boundaries and territorial area, then, there can be no objection to the admission of the State, I come now to population. On this point there is the action of both Houses of Congress, on two separate and distinct occasions, declaring, by a majority vote, that there was sufficient population in Kansas for a State at the time the western part of the last one of which was two years ago. As to a voting population, Kansas, by the official record under the proclamation of her Governor, shows over seventeen thousand voters, and a registry requiring six months' residence.

There are one hundred and fifty-two congressional districts in the Union which, at the last congressional election, did not poll seventeen thousand votes. This fact, I take it, disposes of the whole question as to whether it is proper to admit a State into the Union with less population than is requisite for congressional representation. The number of voters disposes of the question of political power. The precise number of population in this case, it seems to me, can be of no material consequence.

There was a law passed the Territorial Legislature of Kansas, in 1859, requiring the assessors of their respective counties to take an assessment of the property in the Territory, and at the same time to make a registry of voters. Under that law, the assessors took a registry of voters; and, in doing it, in some cases, registered the population of the Territory, and in others they did not; though the census to which gentlemen have referred, is incomplete, because there was no law requiring the population to be taken; but the voters only were to be registered. The assessors had power to swear witnesses as to the number of all sorts of property in the Territory. That was done, and that registered list shows, as gentlemen have stated, over twenty thousand voters. The returns were made to the officers of each county, and not to any territorial officer. Therefore, there was no way to get an official record of all sorts of property, and a great deal of trouble, because there was no officer of the Territory to whom they were all to be sent.

So much in regard to that point. And now in relation to the point of Indian treaties and rights, which seems to be the only one relied on to defeat the admission of Kansas at this time. After four years of conflict in Congress over Kansas; after two heated political struggles for her admission into the Union as a State, it is just discovered that her admission would be in violation of the solemn treaty with the Indians, and that would be trampling in the dust a feeble and inoffensive people, fast passing from the face of the earth. There was no such expression of sympathy by gentlemen on the other side of the House two years or four years ago, in their fierce struggles to obtain a victory over the people of Kansas. Yet now, when the people of Kansas, in a legal and peaceable manner, have formed a government for themselves, and ask us to permit them to exercise the right of self-government, you propose to deny it to them on the plea that it would be a violation of a treaty with the Indians. I have now, as a pathetic appeal is made in behalf of the Indian by men who turned a deaf ear to the woes of the pioneers of the Territory, and Congress is implored not to grant to its people their right of self-government.

The rights of the Indian tribes should be most jealously guarded, not only to preserve the faith of the Government, but as an act of justice to a race of men win as fast passing away. It will be but a few years at best before the last of the race will have no home on the hunting grounds of the Great Spirit. The time is not far distant when the civilization of western Europe and the regenerated civilization of eastern Asia, making the circuit of the globe, shall come upon the crest of the Rocky Mountains and blot out forever the last remnants of the Indian race, and the generations of living men. Destiny has stamped such a fate upon the annals of his race, and time is fast fulfilling the decree. The march of empire, of science, and of civilization, cannot be stayed by the rude barriers of savage life. Yet, sir, I would not needlessly awaken the feelings of the white man shall behold in himself the inevitable doom of his race.

But, sir, how are the Indians' rights invaded—how infringed by this bill? It is true the Government made a treaty with them, by which they were never to be placed within the territorial limits,

The message further announced that the House had this day ordered the printing of the following documents:

Message of the President of the United States, in response to a resolution of the House of Representatives, calling for information touching the reported expulsion of American citizens from Mexico—ordered at twelve o'clock and fifteen minutes.

Message of the President of the United States, in answer to a resolution of the House of Representatives, communicating information in regard to the duties imposed on tobacco in foreign countries—ordered at twelve o'clock and fifteen minutes.

Letter of the Secretary of the Treasury, furnishing information in response to a resolution of the House calling for the amount of money that has been paid to the Treasury for books ordered to be published by either or both Houses of the Thirty-Third Congress, as well as the amount paid for books of said Congress, under the usual resolutions, &c.—ordered at twelve o'clock and sixteen minutes.

Resolution of the Legislature of California, asking for a mail route from Sonora, California, to Monovalle, in Utah Territory—ordered at twelve o'clock and fourteen minutes.

Letter of the Commissioner of Indian Affairs, communicating estimates of the amount necessary for negotiating treaties with certain Indian tribes of the plains, and in Minnesota—ordered at twelve o'clock and sixteen minutes.

PETITIONS AND MEMORIALS.

Mr. THOMPSON presented the petition of Abby S. Smith, widow of Colonel J. S. Smith, of the Army, praying a pension; which was referred to the Committee on Pensions.

Mr. BIGLER presented three petitions of citizens of Crawford county, Pennsylvania, praying the establishment of a mail route from Meadville to Fort Leno, in that county and State; which were referred to the Committee on the Post Office and Post Roads.

Mr. HEMPHILL presented papers relating to claims of citizens of Texas to indemnity for damages by the Indians; which were referred to the Committee on Indian Affairs.

Mr. NICHOLSON presented the memorial of Michael H. Martin, of Tennessee, praying for a pension; which was referred to the Committee on Pensions.

Mr. WIGFALL presented a petition of citizens of Brownsville, Texas, praying the removal of the custom-house from Point Isabel to Brownsville; which was referred to the Committee on Commerce.

Mr. GREEN presented the memorial of Kerr, Briefly & Co., praying compensation for losses sustained in consequence of the attack of General Harey upon, and the battle with, the Sioux Indians; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HUNTER, it was Ordered, That the petition, on the files of the Senate, of the Executive Relief of Richard Talbot, deceased, praying for the commutation of five years' pay due the deceased for revolutionary services, be referred to the Committee on Revolutionary Claims.

On motion of Mr. THOMPSON, it was Ordered, That the petition and papers relating to the claim of Abby S. Smith, widow of Colonel J. S. Smith, of the Army, on a pension, on the files of the Senate, be referred to the Committee on Pensions.

Mr. GRIMES. I ask leave to withdraw the petition of the settlers on the Fort Atkinson military reservation and old Indian agency in Iowa, praying the right of emigration.

THE VICE PRESIDENT. The Chair will ask if any action has been had.

Mr. GRIMES. Yes, sir. I will state that the bill which passed the Senate a few days ago was based upon this petition, and a motion was made by the Senator from Ohio [Mr. Peon] to reconsider the vote by which that bill was passed. Since its passage, it has been discovered that the original bill—which was drawn by the Commissioner of the General Land Office—was defective in leaving out one section. I desire to withdraw the bill, that it may be laid before the Commissioner of the General Land Office, so that the bill may be corrected and made in accordance with the original petition.

Leave was granted.

BILL INTRODUCED.

Mr. BIGLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 402) to extend the limits of the port of entry and delivery for the district of Philadelphia; which was read twice by its title, and referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the petition of Mrs. Ann W. Angus, widow of the late Captain Samuel W. Angus, of the United States Navy, asking a certain allowance, asked to be discharged from its further consideration, and that it lie on the table; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 367) for the relief of Mrs. A. W. Angus, widow of the late Captain Samuel Angus, United States Navy, reported it with an amendment.

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill (H. R. No. 349) for the relief of Peter Rogerson & Son, of St. John's, Newfoundland, owners of the British brig Jessie, reported it without amendment.

He also, from the same committee, to whom was referred a resolution of the Legislature of Kentucky, in reference to the enlargement of the Louisville and Portland canal, asked to be discharged from their further consideration; which was agreed to, the subject having already been acted upon by the Senate.

He also, from the same committee, to whom was referred a resolution of the Senate instructing the committee to consider the expediency of further legislation in order to prevent violence and crime on board the merchant marine of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. HEMPHILL, from the Committee on Claims, to whom was referred the bill (H. R. No. 233) for the relief of the legal representatives of five deceased clerks in the Philadelphia custom-house, reported it without amendment; and submitted a report, which was ordered to be printed.

Mr. BIGLER, from the Committee on Patents and the Patent Office, to whom was referred the memorial of Thatcher Perkins and William McMahon, praying an extension of their patent for an improvement in the wheels of locomotive engines, submitted a report, accompanied by a bill (S. No. 403) for the relief of Thatcher Perkins and William McMahon. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Jane B. Evans, widow and executrix of Cadwalader Evans, deceased, praying for the renewal of a patent granted her late husband, submitted a report, accompanied by a bill (S. No. 404) for the relief of Jane B. Evans. The bill was read, and passed to a second reading; and the report was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FOXEY, its Clerk, announced that the House had passed the bill of the Senate (No. 306) to settle titles to lands along the boundary line between the States of Georgia and Florida.

CHARLES KNAF.

Mr. BIGLER. The Committee on Commerce, to whom was referred the bill (H. R. No. 31) for the relief of Charles Knaf, have instructed me to report it back, with a recommendation that it pass. The bill will not require any further consideration, and it passed this body some years ago without opposition, and will give rise to no debate. I am authorized to move that the Senate consider it at this time.

There being no objection, the Senate, again Committee on the Whole, proceeded to consider the bill (H. R. No. 31) for the relief of Charles Knaf, which authorizes the Secretary of the Treasury to make such modifications in the contract now in force with him, for furnishing material for the custom-house building at New Orleans, as in his opinion the principles of justice may seem to demand.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

FRANCIS HATTMAN.

Mr. HAMLIN. There is a Senate bill on the table in favor of Francis Hattman, which has been agreed to by the House, with an amendment. I ask that it may be now taken up.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 78) for the relief of Francis Hattman. The amendment of the House was to add, at the end of the bill:

Provided, The amount so paid, shall not exceed \$900.

Mr. HAMLIN. I desire that the Senate will concur in the amendment, though it is not quite right. The bill is to refund certain duties which were illegally taken from him. Beyond all doubt, they were illegal. But the House have limited the amount to \$900. The real amount, I understand, is about \$915; but the claimant says he would rather have that amendment concurred in than dispute about that little sum. I therefore hope the Senate will concur in the amendment of the House.

The amendment was concurred in.

ANSON DART.

Mr. DOOLITTLE. I move to take up the bill (H. R. No. 220) for the relief of Anson Dart. It has twice passed the Senate, has passed the House at the present session, and been reported three times in the House favorably.

Mr. LANE. I hope the Senate will agree with me that it would be better to take up this bill this morning. It cannot be passed in the morning hour, and I think he had better let it lie over until we can have a full Senate, and a full opportunity of discussing it. If he insists on it, I am ready now; but I should like to have a full Senate; I should like to have a little more time.

Mr. MASON. I take it for granted that it will not be called up, with that admonition.

Mr. DOOLITTLE. I supposed, from the conversation between the honorable Senator from Oregon and me, that they would call it up this morning, being Thursday morning, and dispose of it, probably, in the morning hour.

Mr. LANE. I am ready to go into the consideration of this bill now, but I am satisfied we cannot get through with it in the morning hour.

Mr. DOOLITTLE. I do not desire to press the bill in the morning hour, if it is to involve a long discussion; but I give notice to the honorable Senator that I should like to call it up to-morrow morning in the morning hour. It is not precisely a matter of course, but I give notice.

THE VICE PRESIDENT. Does the Senator from Wisconsin withdraw his motion?

Mr. DOOLITTLE. I withdraw the motion, with the expectation to renew it at the earliest opportunity.

CONFIRMATION OF LAND ENTRIES.

Mr. JOHNSON, of Arkansas. I am instructed by the Committee on Public Lands to report back a bill (H. R. No. 44) confirming certain land entries under the third section of the act of 3d March, 1855, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856." It relates to the preemptions that are secured by that act to the mail contractors west of the Mississippi; and this title of the Pacific States. The committee have instructed me to report back the bill, with an amendment, and ask that it may be passed. It has been very carefully considered, and the amendment was deemed absolutely necessary. It only provides an additional fund against any injustice being done by the act. I ask that it be considered.

Mr. MASON. If it will take any time, I shall ask the Senator to let it go by.

Mr. JOHNSON, of Arkansas. It will call for no debate. There can be no difference about it. There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 44) confirming certain land entries under the third section of the act of 3d March, 1855, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856." The Committee on Public Lands reported the bill with an amendment in section one, line twenty-two, after the word "locations," to insert: "made prior or subsequent to the date

of the selection thereof;" so that the clause will read:

"Be, and the same are hereby, confirmed, subject to any *bona fide* claim under any law, and United States, in or upon any portions of the lands embraced in said entries or locations made prior or subsequent to the date of the selection thereof, by the persons aforesaid, &c."

Mr. GRIMES. That bill has never been read in the Senate, I believe.

The VICE PRESIDENT. The Secretary will now read the bill through, before the Chair puts the question on the amendment.

The Secretary read the bill. It provides that all entries which have heretofore been allowed by registers and receivers, under that portion of the third proviso to the first section of an act, approved March 3, 1855, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856," in the following words: "That each contractor engaged, or to be engaged, in carrying the mails through any of the Territories west of the Mississippi, shall have the privilege of occupying stations at the rate of not more than one for every twenty miles of the route on which he carries a mail, and shall have a preemption right therein, when the same shall be brought into market, to the extent of six hundred and forty acres, to be taken contiguous, and to include his improvements; but no such preemption right shall extend to any pass in a mountain or other difficult, to be confirmed, subject to any *bona fide* claim under any law of the United States to the whole or any portion of the lands embraced in those entries or locations; and the Commissioner of the General Land Office is directed to issue a patent for the lands embraced in the entries; but each contractor is to satisfy the Secretary of the Interior that he has complied with the terms of his contract, and that the entries have been used and occupied as stations on the line of the route during the existence of his contract. No such preemption right in this act are to be restricted to one and the first *bona fide* set of preemptions on one and the same line of route.

It also provides that no rights, from and after the passage of this act, shall be claimed, and the provisions of the act of March 3, 1855, the provisions of which are repealed, saving all rights heretofore acquired; and for the purpose of facilitating the transportation of the public mails of the United States west of the Mississippi river to the Pacific ocean, and intermediate points, and for the purpose of the Postmaster General, in a square form, with power to order the adjustment hereof of such boundaries, to conform to the lines of the public surveys, if such adjustment be deemed advisable; and such lands that are reserved as stations are to be held as permanent mail service reservations, not subject to the operation of any existing preemption or other general land laws. Whenever, from any cause, any of the reservations made under this act shall be no longer needed for the purposes originally intended, or the convenience of the service shall require a change of location, the reservation thus abandoned by the Postmaster General is to be laid off into suitable lots or parcels, and sold at public sale to the highest bidder after at least three months' public notice, under the direction of the Secretary of the Interior, and no patent therefor are to issue as in the case of the sale of other public lands. All laws heretofore passed granting the preemption privilege to mail contractors are to be repealed; but the repeal is not to affect any rights which may have actually vested under those laws before the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

PROPOSED RECESS.

Mr. MASON. I submitted to the Senate that a resolution which I offered yesterday, providing for a recess of one week, ought to be passed at once. I have no personal interest in this matter; but I think it will be convenient to the Senate to do it; and I move that the resolution be taken up.

The motion was agreed to.

Mr. MASON. Let the resolution be read. I propose to modify it.

Mr. SECRETARY read it, as follows:

Resolved, (the House of Representatives concurring.) That the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses from the 19th to the 26th day of April inclusive.

Mr. MASON. I propose to substitute for it, merely changing the terms, not affecting materially the adjournment:

Resolved by the Senate, (the House of Representatives concurring.) That the two Houses take a recess from the 19th to the 26th inclusive, and that the President of the Senate and Speaker of the House of Representatives adjourn their respective Houses accordingly.

I offered the resolution thinking that it might be found desirable to the Senate to have a recess for the present week—four days, from the 19th to the 26th of April; which, Sundays included—though they are dies *nebulæ*—would make it twelve days. It is known that there will be an occasion interesting to a certain portion of the country, and the consequence of which, from our former experience, will be reasonable to legislate here. So many persons will be absent from both Houses, that I am sure, from the former experience of the country, that we shall find it impossible to legislate; and unless this resolution is adopted, we shall have to take it to an adjournment from three days to three days. I introduce it to meet the occasion to which I have adverted. In conference with Senators on the other side of the House, I have stated to them that I should be willing—and I have no doubt we shall all be willing on this condition—to adjourn for one week, or to adjourn for a like period for their accommodation.

Mr. JOHNSON, of Arkansas. I feel compelled to oppose this resolution, and I sincerely hope the Senate will not pass it. The reasons which I have to offer are so serious, and so important, that I am, so sufficiently palpable at once to determine the course of every man on the subject. This, in the first place, is a precedent now to be established for the first time. It is as modest a thing in its first presentation as you will meet with in the history of our country. For the first time, I believe, of about five or six days. We have hitherto had these conventions every four years, and have been able during their sittings to go on with the public business here, and particularly with that class of business which did not elicit contest and serious debate. Hitherto, when there has been a convention of one party calling some of their members away, there has always been that courtesy here which refused to take up matters of high public interest, the action or legislation of which would seriously affect the other side, to conflict with the wishes of the other side. That has been the case hitherto. That will be the case no doubt again. I have no apprehension that either side of this House, when it finds a majority of the opposite side called away under circumstances of this character, circumstances of this sort, the propriety of which is recognized in some degree, would take advantage of the absence of the other to dispose of and get clear of matters of high and serious public consideration. Then, if that be so, what is the use of adjourning? We can go on with that class of business, which is properly perhaps termed business, of course, and get clear of a large mass of it.

But what I look at, in addition to that, is the result of establishing this precedent. An adjournment is proposed now only for four or five days, but it will be extended on every successive occasion. It will not only extend hereafter to eight or ten days, but it will be found, when two or three conventions, national in their character, of two or three different parties, occur in the same year, while that the adjournment will take place for a whole month. It is notorious that every abuse of this character gradually grows, and continues to gain ground, and finally it must become a serious interruption of the public business; but it will be sanctioned by the fact that a

precedent is now established, and that the public have not complained. The public will not complain of a delay of four or five days; but they will complain, and we ourselves must feel it hereafter, when it comes to an adjournment for two or three weeks, at a period when there are many who are so far from their homes that they cannot return to them, but must stay here on their ears, absolutely doing nothing.

The condition under which this resolution can receive support from a large number of Senators is that, if we adjourn over for a week, they can jump on the railroad cars and go home. There is a large body, I must give a number, here who are denied that privilege entirely. They must stay here, with nothing to do but await the return of the others; and each successive time that such a resolution as this shall be acted upon, in accordance with the precedent which is now set, the period will be extended, and it will go on from days to weeks, and from weeks to a month or more.

I believe it is a bad precedent. It bears hardly upon the distant members. It is exceedingly accommodating, at least—that is not the word—but it is, generally, exceedingly pleasant and acceptable to gentlemen here, who are not engaged in business, but in twenty-four or a forty-eight hours' run. It answers excellently for them. They can go home and attend to their business; but for those who live a thousand or two thousand miles away, and a greater distance, it is a matter which they cannot remain here. The reason and action of every member, and his experience here, must tell him at once that if we commence this business, it will not stop where we begin with it. I cannot, and never will, vote for a resolution of this sort, whilst I know that there is a contrary and a hostile force to be found in the United States Senate in action on public business; and I trust and hope we shall not be subjected to this resolution.

Mr. CHANDLER. I am opposed to adjourning at all; but I desire to move an amendment to the effect that we adjourn for ten days, and afterwards vote against the resolution, as amended. I move that it be amended so as to read, "from Thursday, the 19th day of April, to Tuesday, the 26th day of May," so that we may adjourn for, at all events, for a month. And I would like to propose to the adjournment, as I told you, if I could, to build up a wall around this town that would prevent any politician here from going to either convention; but they will go, and while the politicians are attending these conventions, we shall be here in nothing but a useless gathering unless we adjourn ten days for the Charleston convention, and then ten days for the Chicago convention, it will leave but an interim of ten days between them, and it is well known nothing will be accomplished in those ten days. It is just as well, if we cannot adjourn at all, to adjourn for the whole term. I therefore offer the amendment.

Mr. GRIMES. I shall oppose this resolution in the original form, or if it should be amended as proposed. I oppose it from different reasons to those which have been given. I oppose it because I think we ought to stay here and legislate on all questions coming before the Senate, important as well as unimportant. The very courtesy that he speaks of, that would prevent one party from speaking up, during the recess, the important questions which would divide the Senate, can be extended by pairing of those members of the Senate on this side who are necessarily called away during the period for which this recess is asked. I want the Senate to remain here to answer an important question now pending before the body, in which the whole country is interested. I am utterly opposed to postponing the legislation of the country for any object whatever. I think we ought to stay here, and go through with questions of vital consequence to the country, and to the people.

I yesterday morning endeavored to get up a question vital in its consequence to the State that I in part proposed; and I regard action upon it as so important that I will vote against any proposition of courtesy to anybody rather than that precedent of the adjournment which would be established by the Senate. We all know the great questions that are now pending here. To-morrow is private bill day; to-day is appropriated to District business; for Monday there is a special order; Tuesday and Wednesday are to be appropriated to the

honested bill; but on Thursday next, at the farthest, I shall insist on the Senate acting upon a question so vital to me and to the country I come from as the overland mail service. Immediately following that is the question of the Pacific railroad. It cannot be put by. It must be acted upon. I have been waiting here for a long time, hoping that the House of Representatives would agree upon a Pacific railroad bill, and send it to us; but I am on an unjustified delay. I have no objection to a recess, nor to postpone bringing the subject before the Senate any longer. I hope we shall not only vote down this resolution, but do it with the understanding that we are to proceed with legislation on these important questions; and the courtesy of the other side in doing so, to extend to it can be observed by pairing off on important national questions, so that we can proceed with the legislation of the country.

Mr. GREEN. I had intended to move the same amendment which has been proposed by the Senator from Michigan. I think it nothing but fair. It does not cost the Government a single dollar to adjourn for one month, and it gives equal opportunities to the Senators on both sides. When you talk about walling the District and hemming in persons, it is all in my eye; it cannot be done. We must look at subjects in their practical light, not in an abstract, theoretical light. We know what has been done, and what will be done; and it is of no use for us to talk, to have an influence on the country, when that talk is contrary to actual experience. I need not need to be too decisive. A large number will be certain to leave the Senate. Whether I shall go or not, I do not know; but if the idea strikes me, I will not think I can serve my country by going, I intend to go. This Government exists not only in the Constitution, but in the compact of the people on one side of the Constitution; and some of the strongest of those institutions are party organizations. They must be sustained, and will be sustained from necessity, from public policy, and from public duty. Now, as it does not cost the Government anything as it is an important matter of personal convenience to Senators, I do not see why we should object to it. I would not ask the other side of the House to agree to an adjournment to accommodate this, unless I would extend the same courtesy to them. I cannot be done. I have intended to propose the same amendment that has been proposed by the Senator from Michigan. It being proposed, I shall vote for it. Why talk about pairing off, and talk about dispatching public business, when everybody knows public business will not be dispatched, when there will be no public interest subserved; when there will be no public good accomplished? I think it is best to meet the subject plainly, flatly, bluntly, publicly, and say we will take a recess for one month; and for that reason I shall support the amendment of the Senator from Michigan, and also the resolution introduced by the Senator from Virginia.

Mr. RICE. Mr. President—
Mr. MASON. Allow me one moment. I am afraid the resolution in the form I have offered is not the subject of misapprehension. The suggestion made by the Senator from Arkansas leads me to suppose that he thinks it may be advantageous to one portion of the Senate and not to another, and I therefore withdraw the resolution, if I have the assent of the Senate to do it. [Applauded.]

THE VICE PRESIDENT. The resolution and amendments are withdrawn. The Senator from Minnesota is entitled to the floor.

Mr. RICE. It appears to me, Mr. President, that if the action of the Congress of the United States on its duties, and the action of the Government by any political convention to be held, the rule should apply to the President, to the members of his Cabinet; and to the Supreme Court of the United States. It appears to me that our duties are far above the political tricks, or opinions, or resolutions of any convention, whether at Charleston, at Chicago, or at Baltimore. Talk about its costing the Government nothing more for us to adjourn for a month than to stop here during that time! It is true so far as my pay is concerned; but let me call the attention of the Senate to the great interests of the country. They are not taken into consideration—

Mr. COLLAMER. Will the Senator indulge me one moment?

Mr. RICE. Certainly.

Mr. COLLAMER. I inquire of the Chair what is the question before the Senate?

THE VICE PRESIDENT. The resolution and amendments had been withdrawn. The Senator from Minnesota probably did not hear that fact stated.

Mr. RICE. I understood the Senator from Michigan did not withdraw his amendment.

THE VICE PRESIDENT. The did or did not. Mr. RICE. I made a mistake, then. I stand corrected.

CONTRACTS OF THE WAR DEPARTMENT.

Mr. WILSON. I move to take up the resolution, which was laid over on the request of the Senator from Virginia, [Mr. Brown,] in regard to contracts made by the War Department.

The motion was agreed to; and the Senate resumed the consideration of the following resolution submitted by Mr. Wilson:

Resolved, That the Committee on Military Affairs and Finance be and they are authorized to inquire, and have been entered into by the War Department, or by any officer or agent thereof, in the last three years, for iron for the public use, whether or not the same were made after public advertisement, or otherwise; the amount of iron contracted for, and the amount furnished; the prices paid, or offered, and whether or not the same were in accordance with the contracts, or otherwise; and if not, by what authority they were paid, or ordered to be paid; and under what conditions and on what terms the same were contracted into, either by the War Department or any officer or agent thereof. Also, that said committee inquire what contracts have been made by the War Department, or by any officer or agent thereof, for iron carriages; or what orders have been given by that Department, or by any officer thereof, whether civil or military, to purchase and iron gun-carriages; how such orders or contracts were obtained; under what authority the orders were issued; or the contracts made; whether by public advertisement in open market, or by close purchase; the reasons for issuing such orders or making such contracts; the necessity for making the expenditure; and if any regard has had therein to the public service. And that said committee have power to send for persons and papers, and to require any and every person to produce the same.

Mr. YULEE. I can conceive no reason for calling upon the Committee on Military Affairs to inquire into these particular matters more than into any other transactions of the Government. If the Senator desires information in regard to the transactions of the War Department, he may send for them. Iron, a much more ready means to obtain that information would be to call upon the Secretary of War for intelligence of his transactions. If, upon receiving from the Department the report which they will make from their records of what has been done, the Senator proposes to stand upon that any further action, then it may be proper to consider whether a reference to a committee may answer any public purpose.

THE VICE PRESIDENT. The Chair must ask the Senator from Florida to pass it. It is his duty to lay the special order at this hour.

Mr. WILSON. I move to suspend the special order for the purpose of disposing of this matter.

THE VICE PRESIDENT. The special order at this hour is the business of the District of Columbia.

The Senator from Massachusetts moves to consider the prior orders with a view to continue the discussion of this resolution.

Mr. BROWN. The Senate will adjourn at four or half past four o'clock this evening, and we shall only have about three hours for District business. I should like for the Senators to try to get the majority on this question. It will consume the whole day. I insist on the special order, and hope the proposition to postpone will be voted down. I know this debate will go on.

Mr. WILSON. I cannot resist the chairman of the Committee on the District of Columbia. I withdraw the motion.

Mr. BROWN. Now, the District business being before the Senate, I think it proper to ask the Senate, before proceeding to what will unquestionably be disputed propositions, to take up three or four bills which, I think, can be by no possibility give rise to any debate, and consider them first.

Mr. YULEE. Will the Senator allow me a moment, in order that I may lay upon the table the amendment which I designed to offer to the bill of the Senator from Massachusetts, or rather a substitute for it. [Printed in the Globe.] He asked me that it be printed. The original resolution is not printed.

UNITED STATES AGRICULTURAL SOCIETY.

Mr. BROWN. I move to take up the bill (H. R. No. 213) to incorporate the United States Agricultural Society.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

Mr. DAVIS. I did not understand the question to be put. We were talking here at the time it was announced as decided. I have objection to the passage of the bill, and intend to state it, if necessary, after the adjournment.

THE PRESIDING OFFICER (Mr. Foor in the chair.) If a division be called for, the Chair will feel bound to put the question. The question is on the passage of the bill, and on this a division is asked.

Mr. DAVIS. Before the question is put, I merely wish to state, that I do not see whence this Government derives a general power to create corporations. The Federal Government has no power to create artificial individuals. It is limited to the naturalization of persons. It had power to establish a national Government, and in the train of that power to establish a seat of Government might follow such a corporation as was necessary to the maintenance of a seat of Government. Beyond that, clearly I know of no grant from which the power to charter a corporation could be derived. I have stated this generally asked, and refused in the convention which formed the Constitution. To create a corporation for the purpose of instruction in agriculture and chemistry cannot be necessary to the maintenance of a seat of Government. For that reason I intend to object to the passage of the bill, believing, if it is necessary for the purpose indicated, it is not within the constitutional power of the Government, and I ask that the question be taken by yeas and nays.

The yeas and nays were ordered.

Mr. BROWN. I only desire to say, in reference to this matter, that it is of no consequence to me how the Senate settles the question. I would as soon the Senate would settle it that the Government had not the power to establish corporations, as not to settle it; but since I have been connected with the Committee on the District of Columbia, I think we have reported some twenty-five or thirty charters for various objects; and they have generally passed without objection. This one is in the usual form. I had supposed that this was a new departure, but since I have taken the action of Congress. If it is to be reopened on the suggestion of my colleague, and we are to go into a general debate on the subject, I must ask that this bill be postponed. If we can take a vote at once upon the question, and be done with it, I am willing to object without objection to a bill of any great importance to any one, I suppose. I only brought it up now because I supposed it would pass without debate, and we could get it out of the way. If it is going to give rise to debate, however, I want to get clear of it for the present by a postponement.

Mr. DAVIS. The principles of government are always important; and the theory on which our Government rests can never be neglected without bringing in its train injuries that we cannot, at this time, precisely state. It is to be remembered, I believe, that it is a violation of the fundamental principles on which, I think, the Government lives, that I make the objection to the bill. It is from no opposition to an agricultural college. I should be very glad for an agricultural college to flourish; but it will flourish without a corporation.

Mr. KING. I voted against this bill when it passed, because I did not know precisely what the character of the corporation was. I think that Congress has the power to pass such laws for the District, because it has the exclusive legislative power for the District. I should be very glad to vote for a corporation for the United States, to be made by an act of Congress. On that ground, and without knowledge of the particular details of the bill, I voted against it. I shall vote against it for that reason, though, of course, I have no objection to the promotion of the object of this bill.

Mr. BROWN. I will make a motion to postpone the further consideration of the subject, if it is to lead to debate.

Mr. CRITTENDEN. I certainly do not intend to trespass on the Senate with any argument on the subject. The question is a very important one—one which has often been considered and debated. Following the example of the honorable

Senator from Mississippi [Mr. Davis]—though I did get him very distinctly—I shall merely state my opinion as to the constitutional question of Congress on the subject. I do not see why the agency of a corporation may not be as well used by this Government as any other means for carrying into effect any power with which it is invested. It is a means. The Constitution does not prescribe the means by which its powers are to be carried into effect. It provides that Congress may raise armies, may levy taxes, but it does not describe the way in which this shall be done. The means are left to the discretion of Congress.

The question here, then, would resolve itself into this: whether Congress has any power to favor by any means and promote the agriculture of the country? It has been often considered whether we ought not to create, as a part of this Government, an agricultural bureau, as it has been called. You have partially done the same thing by authorizing the purchase of seeds of various sorts, issuing the Patent Office reports, distributing these seeds and these works, and thus communicating information on the subject of agriculture. You have already done all that. You can employ these means, why not as well use a corporation, if that can be rendered auxiliary to the same legitimate and beneficent end? My opinion is that you can. My opinion is, that wherever Congress has the power of doing a thing, or of promoting it, the means are at its disposal; and the means furnished by a corporation, where that is supposed by Congress to be fit and suitable for the purpose, is as much within their purpose as any other means of executing any other enumerated and granted power.

This is my view of the subject. I shall have no difficulty whatever, then, in voting for this bill, which seems, in the most harmless possible way, to exercise this power on the part of Congress. I do not know how far this may be auxiliary—it is supposed to be so by those gentlemen who have secured it for our consideration, and who have requested it of us. I suppose, myself, from what I see in the country, in my own State and elsewhere, that it may be made conducive to the advance and progress of agriculture, an object that deserves favor as much as any other, as far as we have any power to favor it. The exercise of this harmless exercise of power, and for such an object, is not the subject of any proper objection.

THE PRESIDING OFFICER. The Senator from Mississippi moves to postpone the further consideration of the bill.

MR. BROWN. If we are to have no more debate, I shall not insist on it.

THE PRESIDING OFFICER. Then the question is on the passage of the bill.

MR. GRIMES. I desire to say, in reply to a suggestion made by the Senator from New York, who said that this was a corporation to extend all over the United States, that there is nothing appearing on the face of the bill to show that it is anything more than a local incorporation for this District; but it bears the name of the United States Agricultural Society. If we can create a local corporation, so seems to be the opinion of the Senator from New York, I do not see what earthly objection there can be to the passage of this bill. It is a mere local corporation; so far as appears on the face of the bill, it only relates to the District of Columbia, although it bears the name of an incorporation for the whole United States.

MR. KING. It was without having examined the bill that I stated that. I think Congress may pass an act of incorporation for the District, but I will not vote for a bill for an incorporation over the Union. Certainly the object of this bill is one we would all desire to promote in any legitimate way.

The question being taken by yeas and nays, resulted—yeas 23, nays 11, as follows:
YEAS—Messrs. Brown, Chandler, Conner, Crittenden, Wilson, Duff, Fessenden, Post, Foster, Grimes, Hale, Hamlin, Harlan, Hiram, Kennedy, Latham, Simons, Sumner, Trumbull, Van Dusen, and Yates.
NAYS—Messrs. Briggs, Chassey, Claiborne, Davis, Fitzpatrick, Hunter, King, Mason, Nicholson, Polk, and Tyler.

So the bill was passed.

DISTRICT CRIMINAL COURT.

MR. BROWN. I next move to take up the bill (S. No. 344) to amend an act entitled "An act to amend an act entitled 'An act to establish a criminal court in the District of Columbia.'"

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the first and seventh sections of the act of February 20, 1839, "to amend an act entitled 'An act to establish a criminal court in the District of Columbia.'"

It provides further, that whenever the judge of the criminal court, from sickness or any other legal cause, shall be unable to hold the court, he shall give notice to the judges of the circuit court of the District; or if he be unable, from any legal cause, to give such notice, it shall be given by the marshal of the District of Columbia; and thereupon one of the judges of the circuit court shall by arrangement among themselves, hold the criminal court during the temporary inability of the judge; but no judge of the circuit court, after once thus holding the criminal court, is to be required, unless with his own consent, on any subsequent like occasion to hold the criminal court again until it shall have been held by each of the other two judges of the circuit court.

MR. COLLAMER. I wish to suggest to the chairman of the Committee on the District of Columbia one amendment. I desire an amendment providing that the services rendered by the bill shall furnish the ground for any additional pay.

MR. BROWN. I have no objection to that. There is no intention of that sort.

MR. COLLAMER. Every time any additional duty is required of a man in this District, we have a bill to give him extra pay.

MR. BROWN. I have no objection to such an amendment.

MR. COLLAMER. Put it in this form: *Provided, That no service rendered by either of the circuit judges of this act shall be a foundation for any additional compensation therefor.*

The amendment was agreed to.
The bill was reported to the Senate as amended; and the amendment was concurred in.

MR. HALE. I should like to propose an amendment to the bill, if there is no objection on the part of the committee of the District of Columbia—substantially the same provision as I introduced yesterday in a separate bill. It is an amendment which I think is required for the protection of witnesses in criminal cases.

MR. BROWN. That has nothing to do with this bill. This bill only proposes that when the criminal judge is sick, the circuit judges shall alternate in the holding of the criminal court. Herefore the whole duty has devolved on the chief justice of that court, which has required of him an undue amount of labor. The proposition is, that the associate judges shall alternate with him and divide the labor among themselves. I hope such a proposition will not be embarrassed by anything else.

MR. HALE. I will let it go now; but half an hour ago I would not.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

POTOMAC FISHERIES.

MR. BROWN. I move to take up the bill (S. No. 369) for the protection of the fisheries upon the Potomac river in the District of Columbia.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. The bill, as introduced by Mr. Brown, proposed to extend the laws recently enacted by the States of Virginia and Maryland in relation to gill-nets upon the Potomac and other waters of the Chesapeake, so as to include the waters of the Potomac within the District of Columbia; and also to prohibit gas-lar and other refuse matter, destructive to fish, from being emptied into the Potomac river or its tributaries, within the District, under like penalties as are imposed in the acts for the suppression of gill-nets.

The Committee on the District of Columbia proposed an amendment to strike out all after the enacting clause of the bill, and insert:

That it shall be lawful for any person to sell with gill-nets or seines of any kind in the Potomac river or its tributaries, or in the District of Columbia, from the month of March, April, May, and June, other than such nets or seines as may be laid out from and landed upon the shores of said river or tributaries, nor shall be lawful to discharge coal-lar, or other refuse matter from gas factories, believed to be destructive of fish, in the said river or its tributaries, as aforesaid, during the aforesaid months. And all persons offending against any of the provisions of this act, shall, on conviction thereof, pay a fine

of not less than ten nor more than fifty dollars for each and every offence, to be recovered in the name of the United States before any magistrate of the county of Washington and District of Columbia, one-half of which sum shall go in payment of the cost, and the other half to be applied to the repairs and improvements of roads in said county.

The amendment was agreed to.
The bill was reported to the Senate, and the amendment was concurred in, and the bill ordered to be engrossed and read a third time. It was read the third time, and passed.

ORDER OF BUSINESS.

MR. BAYARD. I move that the Senate take up the bill (S. No. 25) reported from the Committee on the Judiciary, to which I hope there will be no objection, supplying a defect in the law relative to taking testimony by certain judicial officers.

MR. BROWN. I hope the business of the District of Columbia may first be disposed of, and then any other business, coming from the other committees, may be taken up afterwards. I hope the Senator will not interfere with me then, as this day was assigned for District business.

MR. BAYARD. Pardon, I was not aware of that, or of course I should have interposed.

PUBLIC SCHOOLS.

MR. BROWN. I move that the Senate proceed to the consideration of the bill (S. No. 76) for the benefit of the public schools in the District of Columbia.

The motion was agreed to; and the Senate resumed the consideration of the bill, the question being on its passage.

MR. CRITTENDEN. I wish to make a request of the gentleman to call up his city railroad bill, for the purpose of giving me an opportunity to make a postscript.

MR. BROWN. I cannot. Let us dispose of this bill before the Senate, and the railroad bill will come up next. I hope we shall go on with this bill. I cannot consent to postpone the railroad bill.

MR. HALE. I should like to amend the bill in one respect; let the city of Washington receive the fines and forfeitures which are proposed to be appropriated to school purposes, after paying the criminal costs on prosecutions, which are now paid out of the Treasury. I think the costs should not all be paid by the Government; and the forfeitures given to the public schools; but that the forfeitures should be subjected to the payment of the costs before they are handed over to any other party.

MR. BROWN. The committee, before they reported this bill, looked at this whole matter of fines and forfeitures, and the result of their researches was about this: that in two years the Government had levied fines and forfeitures amounting to some fifteen or twenty thousand dollars, and less than fifteen hundred dollars had been collected. They believed that if every citizen was interested in the collection of these fines and forfeitures, they would be collected; and thus, the double object of punishing offenders and getting money for the benefit of the schools, would be accomplished; but if the money were to be appropriated to paying the expenses of criminal prosecutions, there would perhaps be less effort to collect than there is now. I hope the Senator, in view of the object we have in contemplation, aiding the cause of education here, will not embarrass the bill by any such proposition.

MR. HALE. I withdraw it.
MR. WILSON. I offer the following amendment, in the form of additional sections:

And be it further enacted, That, in making provision for the support of the schools in the District of Columbia, one million acres of any land of the United States, subject to private entry, is hereby given to the cities of Washington and Georgetown, to be divided in equal shares between said cities according to the population thereof, as ascertained by the census of 1850.

Sec. 2. And be it further enacted, That the Secretary of the Interior shall, immediately after the passage of this act, cause to be surveyed and set apart, for the use of said cities, in to receive under its provisions, and he shall then cause the land to be surveyed, and patents to be issued therefor, in such manner as he may deem proper, and he shall for the quantity which may thus be ascertained be due to each.

Sec. 3. And be it further enacted, That so soon as the titles to said lands shall be vested in said cities, they shall thereupon exercise all the control and ownership of said land, and the proceeds of the sale of said lands, and any money arising from such sales shall be held by said corporations as a sacred trust fund, never to be reduced, the in-

some of which shall be forever devoted to the instruction of free children between the ages of five and sixteen years.

Sec.—*And be it further enacted*, That the said land, and every lot in any town accruing therefrom, shall be managed and controlled by the majority of the voters of said cities, respectively, for the time being.

Sec.—*And be it further enacted*, That so long as the public land granted by this act remains the property of either of said cities of Washington and Georgetown, the same shall be subject to taxation.

Mr. BROWN. I hope the Senator from Massachusetts will not insist on a proposition of that magnitude in this little bill. It looks to me very much like tying a seventy-four to a yawl. Here is a little proposition to surrender some fines and forfeitures, and do some very small things for the aid of public schools, and the Senator comes in with a great seventy-four. This proposition is well enough to be considered by itself, and at the proper time and in the proper place I shall be glad to consider it; but I hope this bill will not be embarrassed by that proposition. It will take two weeks to discuss a question of that magnitude. It involves the whole question of the distribution of the public land and the powers of the Government. I can see lying in the wake of that proposition enough material to occupy us here for a week.

Mr. WILSON. I do not like, Mr. President, to press this amendment against the wishes of the chairman of the Committee on the District of Columbia, of which committee I am a member; but I would like to test the sense of the Senate upon the proposition, and if it does not lead to a long debate, I should desire a vote on it. I wish simply to say that we have a vast public domain of more than one thousand million acres; we have already granted for the use of the States sixty-seven million acres of the public domain for educational purposes. We have here in the District of Columbia eleven thousand children between the ages of five and sixteen, that ought to attend school. Only twenty-five per cent. of those children are in the common schools. In this city, the whole value of the school-houses owned by the city amounts to only about ten thousand dollars. More than half the children of this district are attending no schools whatever. By our legislation we bring these children here, and I think it is the duty of the Government, I think we owe it to ourselves and to the country, to grant a portion of the Revenue to be forever used as a fund for the benefit of the schools of this District. I should like to take a vote on the proposition. If it leads to a long debate, I will not press the measure now; but I should like to take the sense of the Senate upon it.

Mr. GRIMES. While the Senator from Massachusetts is paying attention to the children of the District of Columbia, it would be very well for him to look somewhat as to the effect his bill will have upon the States where he proposes to select this land. He proposes to take thirty-eight townships of land in the western or southwestern corner, and give them to the two cities of Washington and Georgetown for school purposes; and he has a provision in his bill declaring that that land shall never be subject to taxation for State, county, or any other purposes, so long as the title remains in the two cities of Washington. What will be the effect upon the States or the Territories where the land may be selected? Is that the kind of proposition which the Senator brings forward seriously and asks us to vote for? Does he wish that thirty-eight townships of land should be taken out of the heart of my State, and that State be forever deprived of the privilege of taxing it for State purposes, or for county purposes? Does he wish to deprive us of the privilege of establishing our population and building up our own State by the passage of such a bill as this? Yet he asks us for the inevitable effect of such an enactment as he proposes.

The Senator says that there have been sixty-seven million acres of land granted to the western and southwestern States for purposes of education. That may be true; but the lands were given to the sixteenth sections, and they were devoted to the purposes of education for the reason that they were to encourage immigration to that country, and thereby enhance the value of the surrounding lands, so that the Government would be able to sell at an increased price. Now, here you propose to go out into Oregon, or into Minnesota, or into Iowa, or Wisconsin, and take thirty-eight

townships of land—one million acres—and give them to the corporations of Georgetown and Washington, and allow them to retain the entire possession and control of that body of land for an unlimited series of years, without giving to the States where it may be selected the privilege of disposing of it as they see fit. The effect of it is precisely what the effect was under the law that was passed by Congress granting a township of land, I think, to the State of Kentucky, for the establishment of a blind asylum, or a deaf and dumb asylum, which was selected, if I remember right, some forty years ago. Florida has been trying for the last thirty years to get Congress to pass some law to require that township of land to be sold. It is retarding population; it is retarding the prosperity of the State; yet nothing has been done, or has been done but I have had information on the subject, by which the State of Florida would be benefited by this township being offered to public sale. That will be the inevitable effect of the Senator's amendment if it is adopted.

Mr. BROWN. I think my friend from Massachusetts must see that this amendment of his will give rise to a long debate, and inevitably defeat the whole proposition; defeat it at least for this day; and I therefore appeal to him again to withdraw his amendment. Let us consider it as an undebated proposition.

Mr. WILSON. I will comply with the request; but I want to say a single word to the Senator from Iowa before I do so. The Senator from Iowa complains that these lands are not to be taxed. I ask him if the lands reserved now in the States are taxed.

Mr. GRIMES. What land reserved in the States?

Mr. WILSON. The school lands.

Mr. GRIMES. They belong to the States. That is a part of our common property. We have a right to tax them or not. If we did tax them, it would be like taking money out of one pocket and putting it into the other.

Mr. WILSON. I understand this Federal Government owns the public lands. Believing education to be the country's best interest, I have reserved certain sections of the public lands for school purposes, and sixty-seven million acres have already been reserved to the people of the new States. Now, sir, here is the District of Columbia, excluded from the Federal authority.

Mr. GRIMES. The Senator certainly misapprehends the condition of the western country. He speaks of sixty-seven million acres of land being reserved for this purpose, and he seems to draw the conclusion that they are still reserved. Why, sir, the States sold their lands within a year or two after they were acquired. The lands have been sold in my State. The lands have been sold in the State of Illinois, in Indiana, in Ohio, and in all the States long ago, half a century ago, in some of them.

Mr. WILSON. I ask the Senator whether he does not suppose the people of Washington and Georgetown will sell these lands as speedily as possible?

Mr. GRIMES. I should not think they would, for they are subject to taxation.

Mr. WILSON. Certainly they would. They will want the money.

Mr. GRIMES. They will be like all other speculators.

Mr. WILSON. Then the Senator could have similar lands in any Territory. However, I do not wish to press this matter against the wishes of the chairman of the committee. I will only say that by our legislation we have brought a vast population of poor people into this District. There are more than five thousand children in this District that attend no schools at all, and it is a disgrace to the national Government, with all our means, that nothing has been done for education here. Gentlemen may say that the people here ought to tax themselves to do it. Half the property of this District is held by the Federal Government, and pays no taxes. The other population that comes here is brought here for our own purposes. They are poor, and they have not the means to provide school-houses and schools for the education of the whole children of the District. I do not press this question further; I withdraw the amendment at the request of the chairman of the committee.

Mr. BROWN. Then I hope we shall have a vote on the bill.

Mr. DURKEE. I should likewise ask the chairman of the Committee on the District of Columbia if the children of all persons who are taxed under the provisions of this bill are allowed to attend school?

Mr. BROWN. I did not exactly hear the Senator's question, nor do I understand its bearing on the bill; but the language of the bill is:

That the corporate authorities in any city of Washington, in the District of Columbia, may levy a special tax, not exceeding five cents on each \$100 worth of taxable property in the corporate limits of the city, for the benefit of public schools to said city.

The bill does not propose to take charge of the schools at all, or have anything to do with saying who shall go to school and who shall not; but leaves that entirely to the corporate authorities of the city to manage in their own way, supposing they could make better of it than we.

Mr. DURKEE. I ask if the Senator would be willing to agree to an amendment that the children of all who were taxed should have the privilege of attending the schools.

Mr. BROWN. I am unwilling to have Congress take charge of the public schools of this District.

Mr. DURKEE. Make that provision.

Mr. BROWN. I will agree to no such provision. The corporate authorities should have the management of their own public schools. They can do it better than we can. I cannot accept such an amendment.

THE PRESIDING OFFICER. (Mr. FORD.) The question is on the passage of the bill.

Mr. POLK. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

THE PRESIDING OFFICER. A word before that vote is taken. I do not perceive on the face of the bill any objection to it. I should like to understand the meaning of the inquiry made by the Senator from Wisconsin. The bill seems to give a right to tax the people for the support of the schools.

Mr. DURKEE. I understand that all the property in the city is subject to taxation for school purposes. My question was, whether all classes of persons who paid this tax were benefited by the schools. I refer to the tax on the free colored population of the District. They own considerable property here, and their property is subject to taxation. It seems to me that we should make provision that they should share the benefits of the schools.

Mr. BROWN. I begin to comprehend what the Senator is driving at now. He thinks negroes ought not to be taxed to educate white people.

Mr. DURKEE. I think they ought not, or I think they ought to have an equal share.

Mr. BROWN. If the Senator wants an amendment of that sort, he may put it in, if that is the point he is driving at, to prevent negroes being taxed for the education of white people.

Mr. DURKEE. I move an amendment providing that all who are subject to taxation, under the provisions of this bill, shall be allowed equal privileges in the schools to which the public funds are to be appropriated.

Mr. CLARK. Let it in order to put the bill back on its second reading for amendment?

THE PRESIDING OFFICER. The Chair would suggest that, at this stage of the bill, after it has been ordered to be engrossed and read the third time, it is not open to amendment except by unanimous consent. It can be reached by a reconsideration of the vote ordering the bill to be engrossed.

Mr. CLARK. I move a reconsideration of the vote by which the bill was ordered to be engrossed and read a third time.

The motion was agreed to.

THE PRESIDING OFFICER. The question now is, Shall this bill be engrossed and read a third time? and it is open to amendment. The Senator from Wisconsin will prepare his amendment.

Mr. POLK. While the Senator from Wisconsin is preparing his amendment, I desire to move an amendment to the second section, by striking out all after the word "city," in the sixth line. The words to be stricken out are:

"And that whenever the Secretary of the Treasury shall

be officially notified by the Mayor that the said tax has been levied and collected, it shall be his duty as payee from the Treasury of the United States, to the persons legally authorized to receive the school lands for the city of Washington, a sum equal to the amount thus raised by special tax. *Provided*, That not more than \$25,000 per annum shall be paid by the United States, and the payments shall continue for five years, unless Congress shall otherwise order."

I offer the amendment for the reason that this clause is to use an objectionable part of the bill. I intended to vote against the entire bill on account of that, but I believe it that is stricken out. I shall be willing to vote for the bill. I am unwilling to appropriate out of the Federal Treasury \$25,000 annually for the support of public schools in this city. I am unwilling that the States of the Confederacy, who have to sustain their own schools, shall, in addition to educating their own children, be compelled to educate all the children of the District of Columbia. Let the people here educate their children by taxing themselves. To that I have no objection; but I am unwilling, for one, to vote money out of the Treasury for that purpose.

Mr. BROWN. That provision of the bill was not incorporated without full consideration, and without being based upon a sound principle. The Government of the United States owns more than one half of the real estate in this District. The Government, therefore, has no more right to be exempted from the school tax than any other property owner. The Government has already been bound to contribute to the public schools as any wealthy citizen of this town who is childless. Of what profit is a public school, I ask, to Mr. W. W. Corcoran, who owns perhaps half a million dollars' worth of real estate, possibly more? He has no children to be educated in these schools, and yet you tax his property for the benefit of public schools; and why should not the Government, for this specific object—being a proprietor of one half the real estate of the District—contribute its just and due proportion to the support of the schools? The Government is called upon to contribute for this specific object, because of its ownership of property; and those who will take the trouble to investigate the bill, will find that while the Government owns one half the property, it only asked to contribute one third of the amount paid for supporting the common schools. If this principle be not sound—that the Government is as much bound to contribute to this object as any citizen—then let the bill fail; but I protest that the principle is sound. Nor can gentlemen escape it, on the ground that the Government has expended large sums of money here in the construction of very large and costly buildings. True, the Government has put up a Capitol, at a cost of eight or nine million, a Patent Office, at a cost of two and a half or three million.

Mr. POLK. Will the Senator allow me to ask him a question? Did I understand him to say that, by the provisions of the bill, the Government pays only one third as much as is raised by taxation?

Mr. BROWN. Exactly. If the Senator will turn his attention to it, he will find that while that—

Mr. POLK. Where does the bill show it? Mr. BROWN. I will tell him in what part of the bill it is found. Of course, I cannot set forth in a bill all the facts upon which it is based. The bill provides:

"That the corporate authorities in the city of Washington, in the District of Columbia, levy a special tax not exceeding ten cents on each \$100 worth of taxable property in the corporate limits of the city, for the benefit of public schools in said city; and that whenever the Secretary of the Treasury shall be officially notified by the Mayor that the said tax has been levied and collected, it shall be his duty as payee from the Treasury of the United States, to the persons legally authorized to receive the school funds for the city of Washington, a sum equal to the amount thus raised by special tax. *Provided*, That not more than \$25,000 per annum shall be paid by the United States, and the payments shall continue for five years, unless Congress shall otherwise order."

There is where it is found. It is a "special tax"—that is, in addition to what the city now pays. The report shows a dollar how much it pays. The people here now pay about thirty thousand dollars a year for school purposes. They propose to levy a tax of ten cents on the hundred dollars of the taxable property, which is ascertained to be about thirty thousand dollars more; so that the city would pay, by taxation,

about sixty thousand dollars under the operation of the bill, and the Government but \$25,000. You pay by the bill, therefore, less than one third of the whole amount, while you are the owner of more than one half of the real estate in the city. That I have to say for the present.

Mr. POLK. I do not think the analogy suggested by the Senator from Mississippi is a good one. He says that Mr. Corcoran pays taxes and does not receive the benefit of the public schools. This section of the bill proposes to allow the city to levy a tax for the support of the public schools. This gentleman (Mr. Corcoran) or any other gentleman residing here, has something to say as to whether the city shall levy a tax or not, and what the rate of taxation shall be; but under this bill, the Government has nothing to say in that matter at all. The Government cannot control the amount of taxation. The Government cannot say what the amount of taxation shall be. That is the difference. If Mr. Corcoran is a citizen, he is a part of the law-making power of the city, and has his weight, as a citizen, in determining whether a tax shall be levied, and if levied, what the amount of it shall be.

Then, again, I think there is something due to the fact that if the Government owns a great deal of property here, the Government has expended, and is expending, in large amounts of money in public improvements. In fact, the Government has made the city. I think, therefore, that there is something of considerable importance due to that in addition to what I suggested when I first offered the amendment. Besides, I think it is not fair to bring in a resolution in this case for taxing the Government property the estimates that the Senator from Mississippi has, because Government does not tax its own property; no government taxes itself; I do not wish to argue this case from Missouri, but in regard to the fact that the Senator does wish to take up the time of the Senate, nor I cannot vote for the action as it stands, nor can I vote for the bill with the section in it.

Mr. CLARK. I want simply to make one suggestion in answer to what was said by the Senator from Missouri in regard to the fact that the Government has expended considerable sums of money for the improvement of the city. I agree with him that they have done so, and that the Government ought to do so; but I want to put to him this question: how can you better improve the city by improving the people, as well as the earth and the streets?

Mr. POLK. I am opposed in principle to the Government taking charge of its citizens or the education of their children. I say, let the citizens take care of themselves, and let the fathers educate their own children. That is the principle I own. I do not wish to constitute the Government a guardian of all the children in the District of Columbia, or in any other part of the United States. I will merely add that, notwithstanding the arguments made by the Senator from Mississippi, in answer to a question of mine where the portion of the bill is which makes the Government ratio of taxation equal to only one third of what is raised by the city, it strikes me it still remains that for purposes of education the Government pays just as much as the inhabitants of the city.

Mr. BROWN. Mr. President, I supposed, when the committee used the words "special tax," they necessarily implied a tax in addition to that which is now levied. That is the ordinary construction of such language in all cases. When you levy a special tax, you do not reduce the amount already levied, but you levy something in addition to that. As I have stated to the Senate before, we could not insert in this bill that the city of Washington shall pay \$30,000, nor that the city shall not pay more than \$25,000 for the support of the schools now; but we ascertained that fact, and embodied it in the report. We ascertained, further, the fact that the Government paid nothing—not one solitary sixpence.

Now, the Senator says that the Government has the city, and the Government does not do anything. The Government did a very important part of it; but every humble occupant of a cottage did something towards the building of the city. The man who put up a little cottage worth three, or four, or five hundred dollars, contributed to that much towards the building of the great city. He who put up a house worth five or ten thousand dollars did more. He who put up a building

worth \$500,000 did still more, and the Government did more than any one person. It did as much as all others combined. Are these small proprietors exempted from taxation for school purposes? Does not Patrick O'Flanagan, who puts up his little cottage for \$500, have to submit to taxation to support the schools? Does not W. W. Corcoran, who owns his \$500,000 worth of real estate, submit to taxation for the support of schools? I take the extremes. Do not all the intermediate people submit to taxation to support the schools? Then why should the Government not submit to taxes? That is not the proposition; but it is, that the Government shall make its voluntary contribution to this worthy object as one of the greatest landholding proprietors in the Federal metropolis. That is our proposition, and that is the whole of it.

Mr. POLK. I ask for the yeas and nays on my amendment, and withdraw my call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. ANTHONY. What is the amendment?

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The amendment of the Senator from Missouri is to strike out certain words in the second section of the bill.

Mr. BROWN. I wish to correct the clause before the Senate is taken up. I have just said, "I move to strike out the words 'Secretary of the Treasury,' and insert 'Secretary of the Interior.'" It is a mistake in the printed bill.

The PRESIDING OFFICER. It will be so amended without question, if there be no objection.

Mr. HARLAN. As I shall vote against this amendment, I desire to state distinctly the principle by which I am controlled. I readily accord that to be true which the Senator from Missouri has just said, that I have no right individually to call on any other gentleman to aid in educating my children; nevertheless, as members of society, it may be the best for both of us that he should do so. It may be required to promote the interests of himself and his own family. I suppose the principle which I have just stated of the Senator, on this subject, are applicable to Congress in legislating for the District of Columbia.

As an abstract question of right between individuals, no one will pretend that it would be just to compel one man to educate or aid in educating the children of another. But when we consider supporting free schools, at the public expense, has usually been defended on this principle. Ignorance, idleness, profligacy, and vice and crime are usually found in company. Crime and pauperism are believed to be the fruits of ignorance. It is believed to be much cheaper to prevent crime by educating the children of the community, than it is for the same community to support their children in the poor-houses, and to punish them as criminals in jails, houses of correction, and the penitentiary.

If this principle is correct in a State, it is equally so in the District of Columbia. We are compelled to live here a portion of the time. We are compelled to be here with our families, with our wives and children. This is true of thousands of individuals who are here, waiting for the result of the election. It would be cheaper, in my opinion, for the Government to contribute something for the education of the children of the District, than to support those children in the poor-houses, hospitals, jails, and penitentiaries, now under your control.

Mr. WILSON. I should vote against the proposition made by the Senator from Missouri, and I wish to state very briefly why I shall do so, and I think Senators, and especially on this side of the Chamber, ought to do so. In the first place, we have no right here to levy a tax of magnitude of distance, with broad acres, considerable tracts of land, to keep them in repair. We have laid this city out as a national capital. It is not a manufacturing city; it is not a commercial city; but it is the capital of the United States. One half the property of the city is owned by the Federal Government. This city is a city of poverty. I think it is the poorest city on the continent, or at any rate in the United States, and there is good reason why it is so. It is not a commercial city; not a manufacturing city; not an industrial city; it is a city where a large number of people are gathered together holding office under the Federal Government, living here temporarily, having temporary

interests, having no property, supported here upon their salaries, and the officers are often changed. Thus, necessarily, there is a floating population. Besides that, upon the Capitol extension and upon the other public works, we have brought here a large number of laborers with their families. They have no property. We have in the city eleven hundred and thirty children between the ages of five and sixteen. Only two thousand four hundred of them are in the public schools. Forty-nine per cent. of the children of this city are in private and public schools; fifty-one per cent. in no school at all. Persons are expected to support schools here, and yet they have no school-houses to admit children when they make application. Hundreds of children, for whom applications are made to enter the schools, are not admitted, for the reason that they have no accommodations for such scholars. The accommodations are limited. With the exception of two or three build-ings, the buildings hired by the city for school purposes were not built for school-houses, and are unfit for school-houses.

It seems to me that, under these circumstances, the Government of the United States, with all its wealth and all its power, ought to see to it that we have here, in the national capital, a system of public schools unsurpassed by any portion of the country, by which the whole people, of all kinds and all classes and all races, may have the benefits of education. Sir, I now willing to give my vote to that end. I think it our duty to lift people out of barbarism into the light of civilization. I think it our duty to aid the cause of education; and I think there is something greater than saving a few thousand dollars to the Treasury of the United States, especially when we squander it by millions on mere jobs. I hope, sir, that this proposition, which is that the city of Washington shall raise \$25,000 in addition to the sum they now raise by taxation, and that, if they do so, we will give them \$25,000 more, so that the bill will be passed. This will be adding \$50,000 annually to the common school fund of this District, to prepare school-houses, and to carry on the cause of general education. I think it just, wise, and beneficial; and I also vote for it more heartily than for any measure I have voted upon during the present session.

The question being taken on the amendment of Mr. POLK, by yeas and nays, resulted—yeas 20, nays 22; as follows:

YEAS—Messrs. Adams, Briggs, Chesnut, Clay, Clinman, Davis, Fitch, Fitzpatrick, Gurnee, Gwin, Hammond, Iversen, King, Lane, Latham, McKim, Nicholson, Pott, Phelps, and Wigfall—40.

NAYS—Messrs. Allam, Brown, Clark, Collamer, Dixon, Donistone, Durkee, Fessenden, Foster, Hale, Hamlin, Harlan, Rice, Seward, Sumner, Ten Eyck, Thompson, Trumbull, Wade, and Wilson—22.

So the amendment was rejected.

Mr. CLARK. I move the following amendment; to add, at the end of section two:

And provided further, that the child or children of no person whose property shall be assessed and taxed under the provisions of all laws shall be denied the privilege of attending one of the public schools in said city.

The question was put, and the amendment was declared to be agreed to.

Mr. CLAY. I think there was a misapprehension. I understood the Chair to decide that the amendment was agreed to.

The PRESIDING OFFICER. (Mr. FITZPATRICK.) That was the decision of the Chair.

Mr. CLAY. I beg the Chair will state the question again.

The PRESIDING OFFICER. The Chair will put the question again.

Mr. BROWN. I see the point at which gentlemen are aiming; and it will be much easier met by providing in the bill that the property of free persons of color shall not be subject to taxation under the provisions of the bill. I suppose that is what gentlemen mean. That, I am willing to accept.

Mr. CLARK. I will say to the Senator that that is not my full purpose. I desire that, under this bill, if there is a taxation of property, the property of all classes shall be taxed alike. I will make a donation from the Government that donation shall go to the benefit of all those persons who are taxed; that you shall not get rid of educating the child of the colored person by simply exempting him from taxation, but he shall have the benefit of the \$25,000 *pro rata* as much as any-

body else. I have heard long enough to the Senate and elsewhere that the colored people cannot be elevated. They cannot be elevated because you will not try to elevate them. Now, here is an opportunity, and let us do it. Let us hold out the hand of the Government and let them have the benefit of this provision. I have drawn it in the bill, and I will vote for it, for that very purpose, to meet the question.

Mr. BROWN. This thing ends where I was fearful it would end at the start. It curls in the head of a "nigger." We cannot even have a proposition to educate the poor children, but do thousands of northern gentlemen go down and flow in favor of the negro. Sir, let it be told everywhere, proclaim it on the house-tops and on the streets, that a bill intended to snatch the little white boys and girls that appear every day on your streets, from the very jaws of ruin, cannot be passed, because gentlemen on the other side of the Chamber sympathize so deeply with the negro. The Senator knows perfectly well, when he introduces that proposition, that he introduces a torpedo into this bill which must destroy it. He knows perfectly well that the thirty southern Senators on this floor will not consent to take charge of the education of the negroes. I tell the Senator that his proposition is a proposition to destroy this bill, and he professes to be its friend. Insert that proposition, and I, who have advocated the bill for six years, may have three times carried it through the Senate, would be instantly opposed to it.

I am willing to except the property of the colored people from taxation; but I will not, in this bill, to educate the colored people, and I will not, in this bill, to educate the thirty southern Senators on this floor will not consent to take charge of the education of the negroes. I tell the Senator that his proposition is a proposition to destroy this bill, and he professes to be its friend. Insert that proposition, and I, who have advocated the bill for six years, may have three times carried it through the Senate, would be instantly opposed to it.

Mr. HARLAN. I will propose an amendment to the amendment, to add:

And that separate schools shall be provided for the education of the children of the colored people.

Mr. CLARK. I drew my amendment somewhat carefully, I think, and I drew it to accomplish what is designed by the Senator from Iowa. I drew it to meet what is now objected to by the Senator from Mississippi. If he looks at the amendment carefully, he will find that I do not propose to put the colored children into the same school with the whites. I have not proposed to insult, if I may use his own language, (to quote from him simply,) the white child, or the parents of the white child, if they deem it an insult, by putting the black child in the same school; but the amendment simply reads that the child of no person, whose property is taxed under this bill, shall be declared from attending "some" of the public schools—not all. I drew it for the very purpose that they might fix a public school for the colored children, and let the white child go to the school inquired of by gentlemen on this side of the Chamber why I had done so. I say, Mr. President, for that very reason.

Now, I want to say to the Senator from Mississippi that the bill is not a relief to the colored people. It is a relief to the white child, and I propose to give it equally also to the black child, I will not vote for either. This is, or ought to be, a Government of equality. We have got these children here. You say that the black race, the colored people, are a curse. You say that they are from some of your States. You will not permit

him to live there. He is here. Do you propose to drive him out from this District? Is that the proposition? If not, educate him. While you are extending the hand of charity and assistance to the white child, extend it to the black child also; and, if the gentleman chooses, let it be proclaimed upon the house-tops, let it be blown through the columns of the newspapers, that the northern gentleman does so overflow—I am glad that it does—that it can educate the colored child; and if you choose to reject the bill because we desire it to be shored by all, the fault is not ours.

Mr. HARLAN. I do not believe that the amendment, as amended, can be resisted successfully on principle. Why should not the colored children of this District be educated? You had about ten thousand free colored people in this District in 1850, as shown by the census; and you have a much larger number of them now. A majority of these people are probably very ignorant and poor. If ignorance is the parent of idleness, vice, and crime, you will probably find among them the largest proportion of the criminals of the District. To prevent pauperism and crime among the white population, it is the duty of the Government of this District to provide for the education of the children at the public expense. Then, on what principle do you deprive the colored children of the District of the means of an education? If it is cheaper to educate the white child at the public expense than to support him as a pauper, to punish him, or to treat him as a criminal, is it not equally true to colored children? If you deprive him of the means of culture, do you not indirectly encourage crime? Independent of the acts of philanthropy or benevolence, as a question of political economy alone, you ought to provide for the education of the youth of all the people in the District, however low and vile and degraded their parents.

As I stated a few minutes since, you have no right, as between individuals, to compel a wealthy gentleman to support the education of the child of his substance for the education of the children of another—his fellow-citizen. As a question of private right between two men, you have no right to do this. No State asserts such an authority in taxing a tax on the property of the white people to support public schools, if it is the duty of the State to make life and property as secure as possible. It is the duty of the State, therefore, to prevent, as far as possible, as well as to punish crime. The rich man's wealth, and life, and character, and family, are being constantly injured by the education of the child of his poorer neighbor. The school tax is levied and collected, not on the principle of private justice between individuals, but on the principle of civil necessity. It is necessary to secure the just end of all civil society—the protection of life, liberty, property, and character.

It may be said, as those been said on this floor to-day, that every father ought to educate his own child. This is true; but in point of fact this will not be done for more reasons than one; first, because some fathers of children, who are poor, in the usual course of their business, means to provide for the education of their own children; and in the second place, others will not have the inclination to do so. Hence, their children grow up uneducated. They contract bad habits; they become idle and vicious; they become paupers and beggars; they become unworthy citizens of the State or of the District; unworthy citizens of the Republic, and in ten thousands of instances must be supported in the poor-houses, or are to be prosecuted and punished for crimes, and then supported in the jails and penitentiaries at the public expense.

The experience of the last century has induced all, I believe, whose attention has been called to this subject, to conclude that the cheapest mode of protecting society from the burdens it has to bear is by the education of the children of the country. If this is true in the States of this Republic, it must be equally true here in the District of Columbia. Then on what principle do you propose to discriminate against the children of the free colored population? You are ignoring and despising the colored people; you are ignoring and despising the poor and the ignorant; against those who are poor, and yet who, under your laws, must continue to reside in this District, who are members of this community? If instructed, and taught to discriminate between the fruits of idleness and pauperism, and vice, on the one hand, and industry, frugality,

and honesty on the other, they will be much more likely to provide for their own wants, and take care of themselves and their offspring; and a thousand times less likely to become a public charge, as inmates of your poor-houses, hospitals, and prisons. Hence, on the true principle on which public schools are sustained in the States, we sustain the proposition to provide for the education of the colored, as well as the white, children of this District.

I know there is an objection to the association of colored children with white children in the same schools. This prejudice exists in my own State. It would be impossible to carry a proposition in Iowa to educate the free colored children that now live in that State in the same schools with the white children. It would be impossible, I think, in any one of the States of the Northwest. Whether this prejudice is well or ill founded, is not a question for us here to determine. If you compel the white people of this District to send their children to the same schools, to commingle indiscriminately with colored children, or deprive them of an education, thousands of them, through the influence of this prejudice, will choose the latter alternative. Those who are able, will provide private instruction for their children; those who are unable to do this, will leave them without an education. We cannot provide for the education of this degraded class of the community, for the education of the children of the free colored population of the District, and also for the education of the children of the white people, by adopting the amendment I have suggested to the amendment proposed by the Senator from New Hampshire.

Mr. CLARK. I am entirely willing to accept the amendment of the Senator from Iowa, if the object is not sufficiently attained by the amendment I proposed. That was my design.

Mr. BROWN. If gentlemen are sincere—and I have no doubt they are—I think the whole matter can be accommodated by making the entire amendment read thus:

That the property of free colored persons shall not be subject to taxation under the act in relation to the child, or children, of no person whose property shall be assessed and taxed under the provisions of this act, shall be exempted from the privilege of attending schools of the public schools to said city.

Thus I exempt the property of free colored persons from the provisions of the act, and then let all who are assessed under the act be liable of attending the schools; which, of course, can only apply to white persons. Colored persons, not being taxed, will not be entitled to the benefits of these particular schools. What I meant to say when I was up before was, that if it be desirable to establish schools for colored people in this District, and they are willing to let their own property be taxed for that purpose, in a separate bill, not mingled up with this bill in any form, I shall have no objection to seeing it done. Let them sustain their own action and means. I see a property in not taxing them, whether their means be great or little, for the education of white people; and my amendment exempts their property clearly and distinctly from taxation, and allows the children of all who are assessed under the provisions of this bill to attend the schools.

Mr. CLARK. I think the amendment proposed by the Senator does not accomplish entirely what I design. By my amendment, the colored children will have their *pro rata* proportion of the \$25,000 to be paid by the Treasury under the bill. If the Senator desires to assess only the property of the white persons, leaving out the property of the blacks, and will take from the \$25,000 a sum in proportion to the \$25,000 which the property of the blacks bears to the property of the whites, and try it in that way, for the white man is concerned I will agree; but I do not desire that we should make this donation of \$25,000 a year to the city of Washington, and that the whole of it should be expended on the white children, to the exclusion of the free colored children. I do not desire that.

Mr. MASON. Mr. President, I had supposed that it would be conceded in all quarters of this Union that there was a property and a justice in conforming the legislation of this District, upon all questions affecting the negro population, bond or free, to the policy pursued by the slave States. I have been disappointed. We know that of later years attempts have been made, from time to time,

to depart, in the legislation of this District, from the policy of like legislation in the adjoining States. African bondage exists now in the District of Columbia. So far, it has resisted every effort to emancipate the blacks. How long it will resist I am not sure, but I say, up to this point, it has resisted it. The legislation of the country has gone so far, however, as to depart from the policy of the contiguous States, which are both slaveholding States, as to prohibit, within the District of Columbia—I think very injuriously and unbecomingly to the adjoining States—the sale of slaves intended for deportation. That far it has been departed from. Now, it is proposed by the amendment of the Senator from New Hampshire, to make this still greater departure. The statute-books of the adjoining States, and of all the slave States, show that it is not considered expedient or wise in a State where there is negro slavery, to educate the negro race at all, bond or free. Whether that is right or wrong in morals, Senators may decide for themselves. The States where slavery exists have decided—and they have a right to decide—that it is right in policy. Now it is proposed here in this District, where the legislation is in the hands of all of the States, to depart from the established policy of the slave States—being a part of the policy of the States contiguous to the District of Columbia. I cannot at all concur with the honorable Senator who is chairman of the Committee on the District of Columbia that we should consent, on our part, certainly that I should consent on my part, to any legislation of any kind for the education of the negro race in the District of Columbia, whether by an amendment to this bill, or by a separate bill confining it to them, in any mode whatever; because it is inconsistent with the established policy of the States where slavery exists, and unbecomingly to the States contiguous to this. It may be in the power of the Senate to do it. If it is, let it be done; and let the fact be shown, along with the others upon the statute-book, of the practical working of the Federal Government, made up of slave States and free States together; but as we are a vote or my vote goes as the representative of one of those States, I protest against it. Let it be done, if Senators think it wise to do it.

Mr. BROWN. I want to correct my friend from Virginia, who seems to have fallen into rather a mistake. He said going about the negroes legislating for the education of negroes. I spoke only of legislating for the education of white people; but I said also, if it be desirable, if the colored population of this city desire to have a tax levied on their own property, in order to educate their own people, then I will enable them, by an act of Congress, to do that thing; not that we take cognizance of the subject, but simply to enable them to levy taxes on their own property for a particular object. I think that can be done. That is not taking charge of their education by the Federal Government in any form, but simply allowing them to assess a uniform tax upon their property to accomplish an object desirable to them. If the Senator means to say that he is opposed to allowing the free colored population of this country to educate themselves, and that he is opposed to allowing them to educate themselves as a separate class, and furnish to themselves the means of education, I am for allowing them to do it; and in this District, where I have the power of legislation, I will give them the means of doing it. I will give them the bill [Mr. DORRIS.] would call an enabling act—an act to enable them to levy taxes upon their property uniformly for an object which I think is desirable to that extent with the black man as with the white man. I do not desire to see the black man dependent upon the Federal Government, or any where it is safe for him to be enlightened. I think the free colored population here may be educated. I see no harm that can result to the white people from it. I will go further, since we are upon that precise point, and say to our philanthropic friends that I will let you have the money if you will. I should be in favor of educating them.

Mr. HALE. I will agree on my part. We will all agree to that.

Mr. BROWN. Ah! what would the agreement amount to? It would not amount as long as we are engaged in making it. I tell Senators from the North but for your interference there would have been a day school upon every well-regulated plantation in the South. We call ministers of the gospel to preach to our slaves. You know that, Mr. President, [Mr. FITZPATRICK in the chair,] as well as I; you have a chapel on your own estate. I am sure very many other southern planters have. Why have we not day schools for the free colored negroes? Because we do not choose to have them as instructed as that your Garrison and other base men may enable them, through their "little learning," to become their own worst enemies. That is the difficulty, and the whole difficulty. I do not think otherwise in reference to the free colored population of this District. While I would vote nothing from the national Treasury for their education as a separate class, yet if they want to tax themselves, as a separate class, for that purpose, I have no objection. It is not necessary and proper, as I think it is, to preach the gospel to the negro race; and as every master of a well-regulated plantation considers, then I think it would be proper, if it could be done with perfect safety to all parties, that the negro should be educated, so to enable him to read that Bible which the white man preaches to him.

Mr. HARKIN. I understood the Senator from Virginia to announce the proposition that, in his opinion, the legislation pertaining to this District ought to conform to the legislation of the surrounding States. I understood him to say that he had understood him. Now, I understand that a number of the slave States have enacted laws providing for the sale or reenslavement of the colored population. If, then, Virginia and Maryland were to enact such a law as that, would he expect Congress to pass a law providing for the sale or reenslavement of the free colored people of this District? It seems to me that this is a conclusion that is almost irresistible from the proposition which he made.

Mr. MASON. Mr. President, first, as to the Senator from Mississippi, the chairman of the Committee on the District of Columbia: I did not understand at all that he had assented to any measure which would provide by law for the raising of a tax or otherwise for the education of the colored people. I understood him exactly as he has explained, that he would assent to a bill allowing the negroes to tax themselves, if they thought proper to ask for such a bill, for the purpose of educating their children. I dissent from him altogether.

Mr. BROWN. Then we understand each other.

Mr. MASON. Lasy that it is the established policy, and has been probably for a century—I do not know how long a time—of my own State, and I think equally so of the State of Maryland, the adjoining State, and so far as I am informed of the legislation of all the slave States, to prohibit the education of the negro race, and in my judgment a wise policy, an expedient, and a just one. I am not going into the reasons for the policy, for that does not become me here. But such is the policy; and in my opinion the proper and wise administration of the affairs of the District of Columbia requires our legislation here to conform to the policy of the adjoining States in reference to this population, bond or free.

Mr. BROWN. I am not the chairman of the Senator from Iowa, I would say this: I am not aware that any State has passed any laws to make slaves of those who are now free, against their will.

Mr. WILSON. Arkansas has.

Mr. MASON. That may be; I do not remember.

Mr. DAVIS. No; it is not Arkansas either.

Mr. MASON. I am not aware of it.

Mr. DAVIS. It was legislation which required free negroes to leave the State or to be reduced to a condition of bondage.

Mr. BROWN. It is in the law of my own State. If negroes emancipated subsequent to 1806 remain in the State after they are emancipated, they are guilty of a misdemeanor prescribed by the law, and upon the fact being ascertained by the law, in continuing, if they are sold. But in the execution of the law it is always understood, after the fact has been ascertained against the negro, that he has abundance of time, a year or two if necessary, to go away. But that is the established policy of the law of the State of Virginia, and of most of the other slaveholding States. It is to prevent the increase of the free negroes.

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Now, as to the question of the honorable Senator from Iowa. I am not aware that any law has been passed, except a police law of this character, to reduce into slavery a negro who is free, against his will; but I do know that in my own State, of late years, and of late years only—since the negroes who were emancipated in this State, and left it, went into the free States and found no footing there, not being tolerated there, and being obliged to go elsewhere—the instances have been very numerous where they have returned, and have applied to the Legislature for permission to go again into slavery; and, so far as I recollect, that permission has always been granted. Further than that, those cases became so numerous, so frequent, causing so many acts of private legislation, that it was thought wise to make a general law; and there is now a general law, by which, under certain safeguards that are prescribed, the courts are allowed, on being satisfied that the negro, of his own free will, desires again to go into slavery, to furnish him the means of doing it; and they are generally allowed, according to my recollection, to reduce him into slavery. But there is no law, except the police law to which I have adverted, which would reduce a negro into slavery.

In answer to the whole question of the Senator, I am perfectly prepared to say this: that race, and color, form no part of the political society of the country; they can take no part in the administration of public affairs; and they, being in that condition, I would not agree to depart all in the legislation here from that which has been found expedient and politic, or wise, in the States where that form of bondage exists. I would conform the legislation here to the legislation there, unless it should result (which I never apprehend, and I am satisfied it can never result) that there should be any legislation really equal, tyrannous, or oppressive in that respect.

Mr. HARLAN. I may not have been fortunate in the selection of my terms; but I think it untrue that several of the slave States of the Union have passed laws providing for the sale or re-enslavement of the free colored population within their limits. I may be mistaken in this instance; they have the alternative of expatriating themselves. That may be true; but nevertheless it is true that unless they choose to leave the country in which they were born they will be, under those laws, sold into slavery. I do not intend to be drawn into a discussion of the verbal accuracy of the language of my interrogatory. The question which I wished to raise was, whether, if Virginia or Maryland should adopt such laws as these, in the opinion of the Senator from Virginia it would become the duty of Congress to enact these laws for this District, in pursuance of the idea thrown out by him that we must conform legislation of Congress in relation to the District of Columbia to the general legislation of the slave States surrounding it?

I will admit frankly that we ought not to disturb unnecessarily the laws of this District which were in force previous to its creation by the State of Maryland to the United States; but I do not feel that I am bound to continue in force any unjust law that may be found to have existed here previous to the creation of a law existing here in my judgment unjust, I deem it not only to be my privilege as a Senator here, but my duty to vote for its repeal.

I regard the exclusion of any human creature that lives within a State or a district from the means of mental and moral culture. I cannot, therefore, vote to exclude that class of people from the means of moral and mental culture in this District. This would be unjust to children thus proscribed, and is its inevitable consequences, injurious to the entire community. The Senator from Mississippi (Mr. Bayard) alluded to the injustice of taxing that proscribed people to support schools for the exclusive benefit of the white children. It is true that would be unjust; it would be a kind of legal robbery. But now I inquire of him, if this injustice would not

still exist if the amendment which he proposes should be adopted? You propose not only to levy a tax on the property of the District, but also to take out of the Treasury of the United States a sum, which may reach \$25,000 a year, to aid in education of the children of this District. How is that tax levied? Indirectly on the earnings of goods brought into this country from abroad. Then, every individual, black as well as white, residing in this District or out of it, who buys hat, or a coat, or a pair of pantaloons, or almost any of the ordinary implements of domestic economy, of husbandry, or of art, pays part of this tax; hence the injustice to which the Senator has referred will still exist. Nearly all of your public revenue is derived from this tax levied on imported goods, and will be paid in part by this class of individuals that are to be excluded, but the end proposed to be attained by the proposition of the Senator from New Hampshire, which I have proposed to amend, and which amendment he has accepted, is not merely to avoid this alleged injustice. It has reference to the property—I think I may use a stronger word, to the education of the children of the poor, or supporting a large number of them either in your poor-houses as paupers, or in your jails and penitentiaries as criminals.

It is this necessity that controls my vote—not the alleged injustice of taxing one class to educate the children of another class of people. As I have before stated, you cannot claim support for the bill, as reported by the Committee on the District of Columbia, on the ground of private justice between man and man. As a question of justice between man and man, you have no right to compel the rich man to pay of his abundance for the education of the children of the poor. You must justify it on general principles; on the ground of the necessity of the policy for the purpose of avoiding the crime and profligacy and idleness springing up among ignorant and uncultivated people. He is taxed in advance, to prevent crime, rather than afterwards to punish criminals. Hence he loses nothing, and may be the gainer, since this is believed to be the cheaper mode of procedure, and of securing order. And society will be benefited in the increased security of life, and character, and property.

The necessity which has been supposed to exist in some of the slave States for the re-enslavement of the free colored population probably grows out of the injustice, or rather the want of wisdom, in their local laws on the subject of education. They have proscribed their free colored population in these States, as your bill proposes to prescribe them in this District. I doubt not that, in every slave State, every free colored man, woman, and child, is thus proscribed; is excluded from their schools; is without the ordinary means of moral and mental culture; and hence many of them do grow up in ignorance; they become idle, profligate, vicious, and, in the end, multiplied thousands of them become criminals; and, for the safety of society, some of those States have proposed, and I believe have enacted, laws for their re-enslavement; and they justify it on the general principle of self-defense; they must defend society from this general crime that always springs up in ignorant communities. Thus the unjust law, depriving a degraded people of the means of cultivation, call for the enactment of laws which seem to us living out of those States to be exceedingly error. Avoid the first injustice and folly, and the necessity for the latter will never arise. It seems to me that the worst law ever enacted in all the colored children, who are free in this District, to enter schools; not with the white children, but separate schools; let them be educated; as the Senator from Mississippi said, allow them to learn to read the Bible, and multiplied thousands of them will be controlled by its pure principles of morality; your criminal calendars will be diminished; your poor-houses and hospitals and prisons proportionally relieved, and life and property rendered more secure.

Mr. BROWN. Mr. President, I make a last

appeal to the gentlemen on the other side of the Chamber. If you really love the children of your own race more than you love the negro, withdraw these propositions, and let this bill pass. If you are determined to embarrass it with propositions like this, it never can pass.

Mr. FESSENDEN. Will the Senator allow me to suggest to him the propriety of making an appeal to the gentlemen on the other side of the Chamber, for there were only two of them that voted even to educate the whites? All but two on the other side voted to strike out the \$25,000 to educate the whites.

Mr. BROWN. When I had got the other side to the point of agreeing to educate the white children, seeing that I had no support on this side for educating either whites or blacks, I thought myself justified in appealing to the other side in favor of our own race. This is a proposition to educate white children; and I ask gentlemen to consent to take one proposition at a time, and just think for a moment that these children are dearer to us than the little darkies; let them drop the negro for a little while, and take care of white children.

Mr. FESSENDEN. There are only two of you who regard the whites.

Mr. BROWN. But with your assistance we had enough to carry it. [Laughter.] We carried it in favor of white children. There are five thousand of them to-day, by a very slight exercise of the imagination, at the doors of the Senate, imploring you to pass this bill; children of your own blood; of your own complexion; of your own race; and, if you sacrifice this bill, I am entitled, by the terms of the proposition, when you urge this negro question, whatever may be your reason for it, however you may feel convinced in your own heart, that it is repugnant to gentlemen on this side; to urge it is to defame the bill itself; to denounce the proposition is to white children, because you are not allowed to educate the black children. Let us take them one at a time; and as the white boy is better than the black boy in the judgment of some of us, as the white girl is more entitled to our kindness than the black girl, let us take the whites first; let us provide for our own people, precisely as any man would do for his own children in preference to the children of his neighbors; precisely as a man would take care of his own kith and kin in preference to strangers. These white children are of our own race. I appeal to you in their behalf, and I ask you to pass it. It is a bill; let the negro stand aside for a little while, just for this day; take him off the Senate, dear as he may be to you; he can certainly wait until tomorrow, and let this little bill in favor of five thousand undenied whites, I might almost say pauper, children, pass the Senate.

But, said the Senator who was last up, you tax these people; you tax them upon their hats and upon their coats, and upon whatever they consume, and the revenue goes into the national Treasury, and they have a claim upon it. I do not want to raise new issues; but there is not true in all its amplitude. Does not the Indian, when he buys a blanket; does not the Indian, when he buys calico for his squaw; does not the Indian, when he buys anything which is taxed by your country, have a claim upon the national Treasury? But does he, therefore, acquire any interest in the national Treasury? Does not the foreigner traveling on your soil—not only he who comes here to settle among us, but he who comes as a mere visitor—and who buys goods in your country, and carries them away to the revenue of the Government? And yet he acquires no interest in the revenue. I liken these colored people, these negroes, to Indians and foreigners—I mean simply upon the question of taxation; that they purchase, and contribute something by

enter into many of the questions that may be discussed; but I look on the amendments which have been offered to the bill as objectionable; and I wish to state my objections as briefly as I can. The object and general scope of the bill, without reference to its particular sections, is to provide for the education of the white race in the District of Columbia, within which the Congress of the United States, under the Constitution, has the power to do so. There are introduced two amendments; one of which on its face purports to place the black race on an equality with the white race; and the other, though not so expressed, as I read it, is the only one which, for that purpose, but to a more limited degree. I only wish to express my own opinion, that if gentlemen residing in the States in which the negro race do not exist in large relative numbers to the white race, choose within their own States to place the negro and the white man on an equality, (whether it be in their public schools, or in their militia, or in all the avocations of life,) with that Congress has nothing to do; with that the citizens of those States in which that race exists in larger relative numbers have nothing to do, and of it they have no right to complain. But, sir, as I read the bill, it is not on this side—what is the certain conviction of my own mind, what I announced to the Senate, I think, in substance, during the discussion on the Kansas-Nebraska bill—that whenever in this country a majority of the people of the majority of the States shall by Federal legislation, attempt throughout the Union, or in any part of the Union, to place the black and the white race on an equality, this Union is gone.

Mr. HARLAN. I desire to ask the Senator a question. If the negro population of this country were all as well educated as the white people, would they then be our equals?

Mr. BAYARD. The honorable Senator is perfectly welcome to ask me the question. I am expressing only an opinion. I do not desire here to enter into an argument on that point, but I will give him my opinion, because I never shrink from the expression of any opinion I entertain where it is proper to express it. Without entering into the question, which I leave to philologists and etymologists, as to whether or not we have two races, I have no shadow of doubt from my own observation of the negro race, of its inferiority. I am no slaveholder; I never expect to be one. I am perfectly willing to admit that in my own State slavery is of very little value and of little moment; yet I could not but recognize that the law of slavery must be maintained there while the relative number of negroes remains in the State so large in proportion to the white population; but it is unnecessary to trouble the Senate with that now. My answer to the honorable Senator is this, from my reading of the history of the past, from my own personal observation of the character of the race, I believe it would be impossible to carry the civilization of the negro race as a race—I do not speak of individual cases—to a point with the white race which would benefit either to them or to the white race. I think that is the main error on the other side. Now, sir, I know very well—

Mr. HARLAN rose.

Mr. BAYARD. I would rather go on with what I have to say, than to trouble the Senate with my make my own remarks afterwards. I did not desire to introduce this question. My opinion is decisive, so far as my own judgment is concerned, that there is no such thing as equality between the negro and the white race; that you cannot make equality education or in any other mode I have seen, perhaps, somewhat more of that race than the honorable Senator from Iowa. I have seen them (probably he has not) where they exist, as they do in my own State, in much larger relative numbers of free negroes than in any population in this Union in proportion to the white population. I have seen them in the State of Maryland. In my boyhood I was in both States. I have been in almost all the States where slavery exists, and in many States where it does not, and where the negroes are in smaller numbers. I shall not be surprised if gentlemen result from taking isolated cases. Sometimes the black man—and generally he is a cross where he does so—has exhibited powers beyond his race; and gentlemen draw from that the deduction that the race is capable of elevation. I have looked at this question of races, I have exam-

ined history, and I can find no instance where the black race has ever advanced to anything like ordinary civilization. When I look to the case of Hayti, where they have been freed nearly as long ago as our own Government has been established, with all the advantage of connection with the white race; with all the advantage of example; left to their own government; as far as I can judge of their progress from what accounts from the case of Hayti, they are worse off now in point of civilization than they were when the insurrection of 1798 occurred. They are certainly less productive in their industry than they were then; and, in my judgment, they have exhibited the inferiority of the race as a race for self-government at all. When I look to Jamaica, where they have had the whole pressing power of the Government of Great Britain to sustain the theory of emancipation—and I can easily see why she should so urge it, having taken the step of emancipating them—they have retrograded, both in production and the value of the property hitherto of the island. As a general rule—I will not say there are no exceptions—they have retrograded, as regards the advantages to their race, as a consequence of the British emancipation of 1834.

I am not going to enter into these questions, and discuss them now. I am only expressing my opinions in answer to the Senator. I do not look to individualities; I deal with men as races. I could as lief vote for giving the boys of color the rights and privileges, political and civil, that you give to men at twenty-one, or in some countries at twenty-five, because sometimes you meet a boy of eighteen who has more sense than most men of fifty, as to give great privileges to the negro race, I may mention I have no objection to capacity; when my own experience, in accordance with the history of the world, has shown me that the race, as a race, is incapable of cultivation. I will not enter into all the argument to sustain this view now; I only give my opinion. I do not mean that is exactly the objection I intended to make—I do not consider the racial equal. In the providence of God, why He made the distinction, and when He made it, is one of those matters which it is not for me to enter into. The color of the skin is not considered in the law of God. The difference in the organic structure of the race as affecting their capacity, is far greater and more prominent, though it may not be as obvious to the eye, as the mere distinction of color. As I view the negro race, whenever and however created, I am not disposed to be inquisitive as to how it may have pleased Providence to bring them into the world—is not for me to enter into and discuss here. It is enough for me to know that, in my judgment, the difference exists; that one race is more animal and less intellectual than the other; that one race is incapable of civilization; and if you attempted to carry it to the same extent as the other it would result only in insanity, and I cannot agree to put them on an equality.

By the bill, the honorable Senator from Mississippi (Mr. Bayard) proposes to educate the white race according to what is called the common school system; he proposes to make a governmental education of the white race within the District of Columbia, where we have the power to do so; and he is not content with that, but he would introduce a separate bill for the purpose of also providing proper schools and proper education for the black race within the District. But they say to us—knowing well as they do, from the representation in the Senate, that it is impossible to suppose that, consistent with their opinions and their duty to their constituents, the Senators on this floor who represent slaveholding States would vote for placing the two races upon an equality—they say to us: "The bill shall not pass without these amendments." That is to say, that we will not make an appropriation for the education of the white race without our bringing in the equality of the black race. We are not content to place them upon an equality in our own States by our own legislation; but we will not permit you to do, what it will be denied will be benefited to education by governmental provisions in the District of Columbia, the white race, unless you tack to it the education of the black race, on which we know there is a division of sentiment in this country; and we must press the question of the equality of

races on the southern States of this Union." That is the course of gentlemen on the other side, not as regards their own legislation in their own States, where these people exist in very limited numbers; but they mean to press it, wherever they have the power, through the means of Federal legislation. This is the aspect in which I view it; and I repeat, again, that whenever a majority of the people of a majority of the States of the Union are able to pass, by an act of Congress, a law which shall place the negro race, so far as the Federal Government has the power, on a footing of equality with the white race, the Union is gone at once and forever. That is my judgment, and I repeat, therefore, as I value the Union a great deal more than I do raising these political questions of antagonisms connected with races of men, I shall vote against any measure that seeks to assume a power in the Federal Government to equalize the two races in this country.

Mr. HARLAN. Mr. President, the views that I intended to present have been misrepresented, unintentionally I do not doubt. Who has proposed an equality of the negro and white races? It is involved in the proposition submitted by the Senator from Mississippi, that the amendments proposed by me? If it be involved in either of these propositions, I confess I am exceedingly obtuse. In this proposition, the Senator from Mississippi (Mr. Davis) concluded that we were about to propose an equality of the races, and he inquired of him what law of nature it was there that prevents the strong from taking care of the weak; that prevents the powerful, the rich, those who are able, for providing for the education of the ignorant, the poor, the weak, the feeble? The proposition never pending is, that those who are weak, powerless—the superior, the dominant race—shall provide for the protection of those that are feeble and weak and dependent, and at the same time promote their own best interests by guarding in advance against the perpetration of crime and against personal harm.

It does not seem to me that the question of the equality of the races can be involved in the question of the education of either the white or the black. Is it on that principle alone that you provide for the education of the poor, the feeble, the weak? They are all exactly equal with each other. What do Senators mean by the term equality? Do they mean physical equality? Who has proposed to make the negro, by law, as beautiful as the Anglo-Saxon; as symmetrical in his proportions; as capable of civilization as the white race? The Senator has proposed to make him his equal in intellectual development, or in moral sensibilities? Who has proposed to make him his equal in a social point of view? Nobody. Social equality, I suppose, depends on entirely different laws, and on that subject everybody must be a judge for himself.

Will either of those Senators tell me that he will meet on terms of perfect equality every man of his own race, admit every man to his own table, or as a suitable auditor for the hand of his own neighbor, in any company? I apprehend not. What kind of equality is referred to? I suppose that every man in a free country must be left free to choose his own associates; and if a negro be taught to read the Bible, to read for himself the revealed will of God, does he hence necessarily become the social equal of the white man? Of Delaware or the Senator from Mississippi?

Well, is it political equality that is referred to? Who has proposed to make them the equal of the white race in a political point of view? Nobody. At least the party of which I am an humble member has not made any such proposition. They propose, simply, that the strong and dominant race shall provide for the protection of those who are feeble and dependent; those who are their inferiors; and what is there in this that overturns a law of nature? The husband, I apprehend, feels himself more equal to his wife than the strong man does by his acute and powerful intellect, and the moral strength with which the Almighty has clothed him, he is in a certain sense the protector of his own wife and his own offspring. They are regarded equally, in a physical point of view, and in any other respects, as the inferior of our portion of the human family; but merely because the lady may, in a physical point of view, be inferior to her husband, must she thence necessarily be deprived of his protection, and the protection of the laws of the country in which she lives? Because minor

the Declaration of Independence, and intimates that he means by that all men are equal; but he immediately announces that there is a difference between the two races.

Mr. WILSON. Well, Mr. President, I believe there are a great many men in the world of the white race inferior to the Senator from Mississippi; and I suppose there are quite a number superior to him; but I believe that if an inferior man and the superior have equal natural rights.

Mr. DAVIS. I suppose the Senator knows what he means. I take it for granted he does; but it is impossible for anybody to get it from his language. I put to him the plain question: whether there was equality of rights under the political institutions of the United States; whether there was political and social equality?

Mr. HARLAN. Will the Senator allow me to ask him a question?

Mr. DAVIS. Oh, yes.

Mr. HARLAN. Do you then believe in the political and social equality of all individuals of the white race?

Mr. DAVIS. I will answer you, yes; the exact political equality of all white men who are citizens of the United States. Their equality may be lost by the commission of crime; but white men, the descendants of the Adamic race, under our institutions, are born equal; and that is the effect of the Declaration of Independence.

Mr. HARLAN. If the Senator will allow me, being a born citizen of Massachusetts, I state the proposition that the Senator from Massachusetts has stated. I inquired as to their social and their political equality.

Mr. DAVIS. Their political equality, I stated, exists, unless it is lost by the commission of crime, or some disqualification which attaches to the individual, not to the race. Their social equality will depend upon a great variety of circumstances, being the result of education and many other contingencies. Those are conventional, not political, rights. They do not belong to the institutions of the country. They may be under his taste. Every man has a right to select his own associates; and he may assert his superiority, and the person he excludes may regard him as an inferior. All that has nothing to do with anything we have any right to concern. This is not a debating society. We are not here to deal in general theories and mere speculative philosophy, but to treat subjects as political questions. The Senator, therefore, has asked me a question which does not belong to the occasion or the place.

But the Senator from Massachusetts, in his bold words, announces that he will speak of this, which I could not get him to define, whenever he pleases, and that we must listen to him as long as he chooses to speak upon it. Now, sir, as long as Massachusetts chooses to assign the Senator a seat here, he has a right to speak. If Massachusetts confers upon him the right to speak, he should be careful that he speaks as becomes the place and the position which he holds. When Balmain's ass talked as a rational being, the miraculous event became matter of record; but rational beings have brayed like asses many a time since Balmain's ass spoke, and no one took note of it.

In all the relations of life a gentleman owes it to himself to avoid giving offense, unless he has first made up his mind that he is responsible for it. We do not need here for the purpose of personal conflict, no more than for the other purposes concerning which I answered the Senator from Iowa. Why should propositions be introduced which it is known are offensive, and bold words spoken about the right to talk, and the obligation of people to hear? A gentleman has no right to give an insult unless he feels himself bound to answer for it. There is no man with true respect for himself who will ever give offense, unless he is willing to answer for it. I can feel but little respect for that character of conscience which permits a man to give offense but does not permit redress.

Mr. COLLAMER. I wish to ask the gentleman one question, if he will permit me.

Mr. DAVIS. Certainly.

Mr. COLLAMER. It is in relation to his last proposition; and the question is whether he really holds that a gentleman has a right to insult another if he will answer for it?

Mr. DAVIS. I will say to the Senator he has no right.

Mr. COLLAMER. I understood the gentleman to say so.

Mr. DAVIS. I weave the words; and now say, but if he does commit an offense against the feelings of a gentleman, he then redeems, as far as may be, that offense by giving him redress.

Mr. COLLAMER. I understand the gentleman aright; but he qualifies it somewhat. I take it that he does not really mean to be understood as saying that a gentleman has a right to insult another anywhere, not even if he will answer for it.

Mr. DAVIS. Certainly the right to aggress does not exist. I believe I have answered the question that one redeems that breach of another's rights by giving him redress.

Mr. COLLAMER. That is to say, if a gentleman intentionally insults me, I am to invite him out that he may shoot me, and that is called satisfaction.

Mr. DAVIS. It may be.

Mr. COLLAMER. That is logic I do not comprehend.

Mr. DAVIS. That may be. I put to the Senator a question.

Mr. COLLAMER. I did not hear it.

Mr. DAVIS. I say I will put it. Do you feel you can use offensive language to another, and then plead your conscience in bar of giving him redress?

Mr. COLLAMER. I desire to answer that question, but I cannot do so, because I will misunderstand each other, and hardly hold different sentiments about it. I answer that I understand no gentleman has a right to insult another at all.

Mr. DAVIS. Grant it.

Mr. COLLAMER. And he is no gentleman if he does. [Laughter.]

Mr. DAVIS. That is going a little too far, because men of hot temper sometimes do. I would not write the gentleman a blackguard on account of a hot temper, and I know he is a man of impetuosity.

Mr. COLLAMER. That may be true. I do not call that statement an offense, because there is too much truth in it. My understanding about this subject is this: I regard an intentional insult as an act of a gentleman. I think we shall hardly disagree in that.

Mr. DAVIS. No; if it is deliberate and wanton.

Mr. COLLAMER. That is what I mean. Now, a man may commit an offense of that character in haste and inconsiderately. Such a man should immediately, whenever occasion and reflection come to him, give satisfaction by an apology. That is what a gentleman will do—not satisfaction by persisting in it intentionally, but satisfaction by apology, and as publicly as the offense was made, if it is asked. That is the way I understand it.

Mr. DAVIS. And then, if he makes an apology, if it is cordial, he takes care not to do the same thing again; so that he does not come into the Senate and use defiant language, and in defiant tone, either that he shall make an apology or retract it.

Mr. COLLAMER. Mr. President, I remember when, I suppose, that to which the gentleman alludes may have taken place. I simply took up the statement I understood him to make, to which I have alluded. I know nothing about the transaction to which the gentleman alludes.

Mr. DAVIS. I have no doubt the Senator and myself generally concur in the view which he presents. I certainly would not hold my man justifiable in wantonly wounding the feelings of another.

Mr. DURKEE. I should like to ask a question of the Senator from Mississippi, and it is a practical question: whether he is opposed to the colored people of the District educating themselves?

Mr. DAVIS. I did not hear the question.

Mr. DURKEE. Are you opposed to leaving the colored population to educate themselves by law?

Mr. DAVIS. Oh, no. I have no objection to their having any education of which they are susceptible.

Mr. DURKEE. That is a practical question before the Senate, and I thought I would ask the Senator.

Mr. DAVIS. My remarks were first directed to a constitutional point; to a point of political

power. I denied the right of Congress to take money from the Treasury and distribute it to the schools of the District.

Mr. COLLAMER. I wish to ask the gentleman a question: whether he thinks it is in the power of Congress to take money from the Treasury for the education of any children?

Mr. DAVIS. That was the proposition I was going to make, and I shall not surrender the power of Congress to take money from the Treasury for the benefit of the schools in the District of Columbia. Then I denied the fitness, the propriety, the decency, and the fraternity, of attempting to put negro children and white upon the same level, and to tax us to educate the negro children of this District; that one was a social offense, while the other was an offense against political law. I met the two questions, as founded upon fundamental error: the first, in attempting to put the races upon an equality, and the other, in attempting to use the powers of this Government for eleemosynary purposes, either in the District or out of it. My objections were general. They went to the whole proposition. I was not sustaining the bill, and warning upon the amendment of the Senator from New York. I did not consider them both objectionable, but for different reasons, and so stated when first on the floor of the Senate.

But, Mr. President, these objections to what I considered an offense against the law of nature, and against the Constitution of the United States, were not based upon the principle of inequality about the right of individuals and the obligations of humanity. I doubt not the Senator from Massachusetts could, much nearer home than the District of Columbia, find objects for his humanity. If the newspapers have spoken truly of the long procession of men of war, and of children suffering for want of bread, and deprived of labor by which to obtain it, he might in the village of his own residence find objects more meet to receive, and having higher claims upon his humanity than the negro children of the District of Columbia.

But this is a cheap humanity, which finds in the Treasury of the United States the source upon which to draw for its gratification; and that is a cheap philosophy, too, which announces "do unto others as you would others should do unto you," and makes the application of it in violation of those rights of others which it is the duty of every man, as a social being, as well as a member of the political community, to respect. I know that we maximize that rule upon which is founded nearly the whole theory of obligation man to man, has been tortured into a justification of theft—stealing people's negroes, on the ground that they should do unto the negroes as you would the negroes should do unto you; but I do not believe a negro would steal him. It would be a bad bargain for him. These maxims, universal in their application, are tortured from their true meaning to justify outrage, not only upon constitutional right, but upon moral obligations.

If Senators had thought proper to confine their operations, in educating negro children, to their own section, I have no objection to be projected to it; I know of no one who has ever expressed any fear about it. I know of no authority by which the Senator speaks of the fear of southern men if the negroes are taught to read. The Senator from Virginia has well said that there are conditions of society in which it became improper for them to read, and that those are questions of which each community may judge; but that condition results in no small degree from the corrupt tendency, the vicious purposes of those who are the authors of such a policy.

If there were no incendiary publications to be put into the hands of the negroes; if they came truly, as they now fictitiously attempt to present the question in the United States Senate, with the Word of God in their hands, and had come to read, I have no objection to their having any objection to educating the negro children.

The Senator from Virginia has no doubt seen often, as well in the family circle as in the parish church, a class of negroes taught the great truths of the Bible; taught prayers orally. The man must want to be a cotton seedling who does not perceive that the owner of slaves will desire them to understand the great maxims of rectitude which that holy book contains. It is his interest, if he had no higher motive to prompt him. It is a book

not needed against them. Many of them read it, and very imperfectly; and comprehend it scarcely at all when they do read it. They learn it only when explained to them by those who are able to comprehend and to communicate its meaning. Senators must not be surprised at this, for it is true of almost all people everywhere that they pore over the Bible and spell it out, and comprehend but little of its meaning; but there is no apprehension of negroes who thus spell out the Bible being rendered worse to the master, and I know of no one who has any fear of their reading the holy truths of that sacred book.

But, sir, when men employ their time in writing tracts, in publishing newspapers, to indoctrinate crime into the negroes—to teach them to commit arson and theft and murder—then there is a reason growing out of the crimes of our neighbors which imposes it upon us, as a duty of self-protection, to prevent the negroes from reading, as the means of shutting out your unholy work. That is the fact, as it presents itself, and that, I imagine, is the foundation of all the objection which has existed to their being taught to read. Nor is the objection as general as the Senator supposes. Even the legislation to which he refers, in a few States where it exists, has never been carried to the point of forbidding them to read; but I tell the Senator what, perhaps, he does not know, that he has scarcely found any State in which he will not find many negroes who can read, and who can write a little, too. We would not allow any visionary person to come there and establish a school to teach the negroes, where he should suspect the motive of such an individual. We should expect that his trunk packed with those seditious publications, the purpose of which is to incite an ignorant population to the commission of crime.

My colleague has remarked, in relation to this bill, what seems to be true of every question which is brought to the Senate: that of purpose, plain as it is, cannot be executed because Senators insist upon mingling with every proposition the discussion of the negro question. If this Government had been instituted by the negro instead of the white man, the subject of the negro race could not be a more interminable one of discussion. I have heard no question yet discussed as a grant political and constitutional question during the present session of the Senate, but in every instance, sooner or later, and generally by a single vote, they play upon the subject of the negro race of property which is held in the southern States. Do we expect, Senators, to maintain the Government which we have sworn to support, in this manner? Do we expect to legislate for the general welfare? Do we expect to transmit to posterity the rich inheritance we have received by a course like this? Do we hope from old legislation to eliminate what is wrong? Do we hope from passing events to determine what is required in the future? It cannot be done when every controversy is one of a personal character, and every argument is one levelled at the Senator who is present, and not at the welfare of the people of the United States.

I should not have voted for the bill if the amendment had not been offered, and for the reasons which I have stated. Nor do I believe, to come down to the question as one of practice, that the indigent white children of this District, those who most need free instruction, are within the limits of the cities of Washington and Georgetown. They are outside of them. The dark race is one that surrounds these cities, and those who are to have the benefit of your grant of land and of money. If the power claimed by the proposed legislation had been delegated; if it were constitutional, it would be a question of expediency which gentlemen have thought proper to torture into one of sound policy.

Mr. WILSON. Mr. President, the Senator from Mississippi has chosen to indulge in remarks to which I feel it my duty here and now to reply. The Senator talks about tones, about manner, about language. Who is more accustomed than the Senator to speak in tones of exultation and superiority on this floor? Who is more accustomed than that Senator, in his manner and intercourse here, to give offence to members of this body? Who is more accustomed than himself to use language unworthy of the Senate of the United States?

Mr. LANE. Mr. President—
Mr. WILSON. I beg your pardon; I do not give way.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) Does the Senator from Massachusetts give any to the Senator from Oregon?

Mr. WILSON. I do not wish to be interrupted.

Mr. LANE. Very well.

Mr. WILSON. Sir, the Senator, while addressing the Senate in a tone and manner that every man on this side of the Chamber who listened to him had a right to feel as wrong, not to say any unkind, and if we were to suppose that he and others were to sit here and listen to our discussions of negro equality. There was something in his tone and manner that seemed to me a rebuke of Senators on this side of the Chamber, and for one I did not choose to be rebuked by that Senator then or now. In reply to that question, I said that so long as the Senator remained here he must listen to these questions when we chose to discuss them. I did not know that there was anything in my tone or manner or my language as to the Senator. It was not so intended. My language was intended to be plain and explicit, but not to wound his feelings; and if I had known that there was anything in my tone or manner that would have done so, I would have chosen to speak upon some other subject. I will not wish here, now, or at any other time, to wound the feelings of any Senator; and no one would regret doing so more than myself.

But, sir, the Senator goes on and uses language, and in a tone and manner that seem to be in the nature of a lecture to me, as to the Senator, and what I have advocated on this floor. The record is made. I am ready to leave the record of my sentiments avowed here to-day to the country—to the civilized, Christian, and enlightened men. I am ready to let my sentiments and my sentiments be known to the American people, and let them see which are most in harmony with the laws of nature, the laws of God, and the laws of a refined and Christian civilization. I shall not shrink from the judgment of the country. The gentleman is accustomed to come into this Chamber and to bring the teachings, the philosophy of a slave system, and blurt that into the face of Christian and civilized men, and when we rebuke it, or rather when we oppose it, lectures are read to us—to men who stand upon eternal principles, upon Christian principles taught in this Chamber, and taught in nature, taught by the experience of all mankind. Sir, this slave system, whenever and wherever it has existed in all times, and in all lands, has taught nothing that elevates or ennobles humanity. Christian men, who believe that God made man in His own image, are against you, and against your system, and you know it; and yet, because we propose to educate a few poor colored children in this District Senators say that we are insulting them.

Great God! does it come to this, that in the Senate of the United States, because we want to educate in the District of Columbia, where we have exclusive jurisdiction, a couple of thousand of poor black boys and girls, we are to be told we insult the Senators of the United States? This is language to be ashamed of. I do not wish to let the humane current of an advancing and Christian civilization spread over this continent, and to correct their own errors, and not come here and complain of us, and taunt us with having insulted them. Insult a Senator of this Christian land, of this democratic Republic, by proposing to aid poor little black boys and girls to read the ten commandments, the Lord's prayer, and the invitation of our Savior to let little children come to him!

The Senator talks about a responsibility. Sir, the Senator from this country has branded his own code to which he has referred as a crime. As a law-abiding man I cannot resort to it. The law of God has put its brand upon it, and I will not accept it. I am here and now to Senators, that while I repudiate that code, I shall not shrink from attacking the Senator who has accepted, and to accept the full responsibility of them, and I shrink from nothing that is legal and right in their vindication. I think it is time to stop this talk in the Senate of the United States about this barbarous code of the duello. I do not want it flung in my face, and no Senator shall thrust it in my face

with the idea that because I do not accept it I am not to use on this floor the language that becomes a Senator or a man. The Senator says I am responsible for the manner in which I use language here. I admit the responsibility. The debates in this body and the experience of these members will show you I have been most careful as to that Senator in language, in manner, and in tone. I did not intend to say an offensive word to the Senator in my remarks, and I had no idea that I had done so; but the remarks made by him in reply were wholly and entirely unjustifiable, and unworthy of the body in which he sits.

Mr. DAVIS. I did not hear the Senator.

Mr. WILSON. I say the remarks made by the Senator from Mississippi, in reply to the observations made by myself, were uncalled for, unjust to me, unworthy of this Senate, and of himself. I seek no controversy with that Senator. I would not seek to wound his feelings, or those of any other Senator; but I cannot permit him unrebuked to lecture me or to tell me, when I utter a word upon this floor that he chooses to refer to, that I am not responsible to a code that my country has branded as criminal.

The Senator says I had better look in my own neighborhood; to my neighbors and friends. I do look to them, and I say at home and abroad, at all times and on all occasions, wherever I can give a vote, and wherever I see the Senate, and of himself. I seek no controversy with that Senator. I would not seek to wound his feelings, or those of any other Senator; but I cannot permit him unrebuked to lecture me or to tell me, when I utter a word upon this floor that he chooses to refer to, that I am not responsible to a code that my country has branded as criminal.

But let me say to Senators that the suffering or starvation which they imagine, does not exist there, and that, as a whole, the State of Massachusetts is now in a high state of prosperity, almost unexampled in the history of this country. It is with all the advantages of the South, and New England is prosperous in almost every branch of business in an eminent degree. In one branch of business it is not so, owing to plagues and obvious causes of a temporary character which will soon pass away, and are now passing away. Massachusetts is prosperous in almost every branch of industry; but in the boot, shoe, and leather trade—a trade of great importance—it is not, and has not been for more than one year, in a prosperous condition. The intelligent and independent workmen of this industry, animated by a desire to increase the wages of labor, have engaged in a strike; and the whole not wholly successful, the signs of improvement are visible. If political partisans, or men who predict the failure of free society, hope to make anything by the movement of the shoe and leather trade, they are destined to be sadly mistaken.

The Senator says it is cheap to vote money out of the Treasury of the United States. Sir, there is something higher and nobler in the action of an American Senator than saving a few dollars. I believe in economy in the Government; but I believe the Government has something to do besides supporting penitentiaries and supporting armies; that here in this District our policy should be to educate, and enlighten, and alleviate the burdens of the people, and to have a country where we should be proud to look upon. Therefore, I support this measure that has been so ably advocated by the chairman of the Committee on the District of Columbia, the Senator from Mississippi, (Mr. Brown,) and I support this measure as an ability and as a nobleness that command my admiration and respect.

Mr. DAVIS. The Senator from Massachusetts says, in the manner and tone employed by him, he had no purpose to be offensive or disrespectful. That is a statement that is true; and yet it is strange, indeed, that whilst the Sen-

ator makes it, he precedes and follows it by language which, in the school in which I have been reared, would be deemed offensive. It may be overdone, perhaps, to the different standard to which we have been taught to bring things for measurement. I have said, however, that it is enough for me to know that it is not intended to be offensive. He cannot be less willing to have controversy with me than I am with him. I would greatly prefer with him, as with everybody else, to have easy and friendly intercourse in our official relations. There are differences of sentiment which are becoming every hour more and more repellant, and there is no need to precipitate the consequences which they may bring about. When gentlemen do not mean to be offensive, it is surely to be regretted if their language or their manners should be such as to provoke resentful replies. I do not see the use of denouncing the hazard that a man may encounter when there is no hazard to him.

When nobody denies the right of a Senator to speak on any subject which is before the Senate, in a manner becoming the body of which he is a member, I see no reason in assuming the possession of that right, as though he were defying some danger to which he was exposed, if he should exercise it. It is unnecessary for a man to gird up his loins when he is going to bed. Thus we are led to misunderstand his meaning. I have only to say now, that if I could, I am disappointed the Senator, as it appears he intended me to appreciate him, I surely should have had nothing in reply to say to him which he could have considered in any degree offensive.

Mr. HALE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 12, 1860.

The House met at twelve o'clock, Mr. Prayer by Rev. JENK CHAMBERS, of Philadelphia. The Journal of yesterday was read and approved.

BILLS UPON THE SPEAKER'S TABLE.

Mr. WHITELEY. I move that the House proceed to the consideration of the Senate bills upon the Speaker's table. My only object is, that they shall be taken up, and referred to the appropriate committees.

Mr. KELLOGG, of Illinois. I object.

— PENSION LAW.

Mr. DUELL. I move that the House take up the motion to reconsider the vote by which House joint resolution No. 16, giving a construction to the second section of the act of February 3, 1853, "to continue half pay to certain widows and orphans," was referred to the Committee of the Whole on the state of the Union.

Mr. BRANCH. If that joint resolution was introduced under the understanding that, after it was referred, it should not be again brought into the House by a motion to reconsider, I object.

The bill was read. It provides that the second section of "An act to continue half pay to certain widows and orphans," approved February 3, 1853, shall be construed to extend pensions to the widows in said section described, from the 4th of March, 1848, pursuant to the decision of the Court of Claims in the case of Jane Smith; and that all pensions accruing to such widows between the 4th of March, 1848, and the 3d of February, 1853, shall be paid out of any money in the Treasury not otherwise appropriated, upon the certificate of the Commissioner of Pensions, issued as in other cases of revolutionary pensions; provided, that no pension shall be allowed to any widow, under this resolution, for the same time during which the husband for whose service she claims was living and in the receipt of a pension.

Mr. DUELL. I think that there can be no objection to that resolution. I want its provisions to go before the House and the country. It explains itself.

Mr. HOUSTON. How does that bill come in?

The SPEAKER. It came up on a motion to reconsider. There is some misapprehension on the subject, however. The resolution was introduced under a rule which forbids a motion to reconsider, unless with unanimous consent.

Mr. BRANCH. Then I object to its consideration.

Mr. DUELL. I want the House to understand its provisions, and I give notice that I will call it up as early a day as possible.

Mr. BRANCH. That resolution must have its first consideration in the Committee of the Whole on the state of the Union, under the rules, for the reason that it makes an appropriation in express terms.

Mr. HOUSTON. I object to it.

The SPEAKER. The Chair decides that the bill cannot be taken up on a motion to reconsider, if objection be made.

GEORGIA AND FLORIDA BOUNDARIES.

Mr. WHITELEY. I understand that there is now on objection to the proposition I made, that the House proceed to the consideration of the bills upon the Speaker's table, for reference only.

Mr. KELLOGG, of Illinois. I must insist on my objection, unless the gentleman from Delaware will withdraw the objection he made to my resolution in reference to improvements in agriculture.

Mr. DAVIDSON. I trust that there will be no objection to the proposition made by the gentleman from Delaware.

The SPEAKER. Is there objection?

Mr. KELLOGG, of Illinois. I do not withdraw my objection.

Mr. FENTON. I call for the regular order of business.

Mr. GILMER. I rise to a question of privilege.

Mr. DAVIDSON. It will be better for the House to understand that we shall now take from the Speaker's table the bills of the Senate for reference to the appropriate committees. There are a large number of private bills there which had better be disposed of at this time.

The SPEAKER. Is there objection?

Mr. BRANCH. I have no objection, if it be the understanding that they are not to be brought back on a motion to reconsider.

Mr. COBB. I object to the understanding being imperative that none of them shall be considered in the House, for there is an important bill upon the Speaker's table which ought to be considered at this time.

Mr. HOUSTON. If my colleague will withdraw his objection to taking bills from the Speaker's table for reference with the understanding that they are not to be brought back on a motion to reconsider, nobody else will object to that course. I prefer it to any other mode for the disposition of these Senate bills.

Mr. COBB. Let me state my purpose. There is a Senate bill upon the Speaker's table which ought to be considered and passed at this time.

It is a bill in which the United States and the State of Georgia are interested. It is in reference to the boundary between Georgia and Florida. There is a great deal of conflict of title which ought to be quieted. This bill quiets the title and settles the matter. I am glad that that bill shall be taken up and passed, I will not object to the proposition that we shall go to the Speaker's table and take up the remaining Senate bills for reference. I do not want the bill I have indicated to be referred. There is no use in referring it; for the Committee on Public Lands have already informally considered it, and its provisions are so palpably right, that they unanimously favor its passage.

I ask that the bill be taken up and considered to-day. It has laid on the table until it is already old.

Mr. JOHN COCHRANE. I propose that the House proceed to the business upon the Speaker's table, and take up the Senate bills in their order, with a view to their reference to the appropriate committees, with the exception of the bill to which the gentleman from Alabama has alluded.

Mr. COBB. If the House will take up the bill I have indicated, and put it upon its passage, I will withdraw all objection to the proposition which has been made. Otherwise I must object.

The SPEAKER. Is there any objection to taking the bill, and disposing of it? It is the first bill in order.

Mr. HOUSTON. Let the bill be read for information.

Mr. FENTON. I would inquire what effect this course is to have upon the morning hour? Is it to come out of the morning hour?

The SPEAKER. The morning hour has not yet commenced.

The bill, which was read, provides that whenever the dividing line between the States of Georgia and Florida shall have been finally surveyed, approved, ratified, and confirmed, as the boundary between these States, the Secretary of the Interior shall be authorized to adjudicate, upon principles of equity and justice, all claims under sales or grants by the State of Georgia to lands which may fall within the State of Florida; and all of said claims which may be approved by him shall be ratified and confirmed, provided that the State of Georgia shall first ratify and confirm all sales and grants made by the United States of lands in Florida which may fall within the limits of the State of Georgia, under the final adjustment of the boundary line aforesaid.

Mr. COBB. I can state the purpose of the bill; and then, if the House chooses, they can hear the correspondence upon the subject by the Secretary of the Interior, who recommends the passage of this bill. I have had the subject informally before the Committee on Public Lands, and they are unanimously in favor of its passage. The boundary between the States of Georgia and Florida has heretofore been a doubtful question; and the Government of the United States has sold lands, since the last adjustment of that line, which really belonged to the State of Georgia. When there is a portion of country which was supposed to be within the limits of Georgia, which really falls within the jurisdiction of Florida. Upon that portion of land which Georgia disposed of, perhaps half a century ago, settlers have been living for many years; and upon the probability of this character is passed, these titles will be rendered doubtful upon a readjustment of the boundary. Should lands that have been granted by Georgia be found, on the final adjustment of the boundary between the two States, to lie in Florida, they would, in the present state of the law, be considered as lands of the United States, and the Government would not recognize sales thereof that had been made by the State of Georgia. An act of Congress is necessary to confirm such sales or grants. The bill contains a proviso that the State of Georgia should ratify and confirm all sales or grants of lands along the line made by the United States, as of lands in Florida, but which, by the final survey of the boundary, may be thrown within the limits of Georgia.

There being no objection, the bill was read the third time and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAVIDSON. I now insist upon my motion.

The SPEAKER. The Chair understands that there is no objection to taking up and referring the bills upon the Speaker's table.

LOUISVILLE AND PORTLAND CANAL.

Mr. MALLORY. I ask leave to report to the House, from the Committee on Roads and Canals, a joint resolution of the Senate relating to the Louisville and Portland Canal, with a recommendation that it do pass; and I ask that the House will take it up now, and act upon it. It is a matter of public interest to the whole country, and one in which the whole Ohio valley is as deeply interested as in any measure that can come before this House. The resolution proposes no appropriation of money out of the Treasury; but simply confirms upon the heads of directors of the canal authority to enlarge it, to cut, to build a branch, so as to make that work subserve the great purpose for which it was originally constructed.

Mr. FENTON. I must insist upon carrying out the understanding of the House, which was, proposed to the business upon the Speaker's table, and take up and refer the Senate bills.

HARLEM RIVER.

The SPEAKER, by unanimous consent, laid before the House a communication from the President of the United States, in compliance with a resolution of the House of March 20, 1860, requesting him to transmit to the House all information in the possession of the officer in charge of the Coast Survey, showing the practicability of making Harlem river navigable for commercial pur-

poases, and the expenses thereof, transmitting a report from the Secretary of the Treasury containing the desired information; which was referred to the Committee on Commerce, and ordered to be printed.

EXPENSES OF LAND OFFICES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, submitting, pursuant to the seventh section of the act of 18th August, 1855, an estimate for certain expenses for district land offices; which was referred to the Committee of Ways and Means, and ordered to be printed.

AFFAIRS IN OREGON.

The SPEAKER also, by unanimous consent, laid before the House a communication from the War Department, transmitting correspondence with General Harney touching affairs in Oregon; which was laid upon the table, and ordered to be printed.

TERRITORY OF MINNESOTA.

Mr. GILMER. I rise to a question of privilege, and it will detain the House but a moment. It was referred by this House to the Committee of Elections to determine whether the Territory of Minnesota is entitled to a Delegate upon this floor. The Committee of Elections lack information, and they have directed me to propose the following resolution, and ask for its adoption:

Whereas it is claimed that that portion of the Territory of Minnesota not included in the State of Minnesota still remains a Territory, and the act thereof entitled to have a Delegate in the House of Representatives:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, all such information as he may possess in reference to the existence of any such Territory.

Mr. GARTRELL. If I understand the preamble, it states that the Territory of Minnesota is entitled to a Delegate.

Mr. McKNIGHT. Oh no; it is only *claimed* that the Territory is entitled to a Delegate.

Mr. GILMER. The Committee of Elections want information as to what is the state of things there.

Mr. JOHN COCHRANE. If I understand the preamble, there is a distinct and substantive assertion that that portion of Minnesota not within the State boundaries is an organized Territory.

Mr. GILMER. The preamble only states that it is so *claimed*.

Mr. DAWES. I hope the preamble will be rejected. The resolution is sufficient.

Mr. JOHN COCHRANE. I ask that the preamble may be read once more.

The preamble was again read.

Mr. JOHN COCHRANE. There is no objection.

The resolution was then agreed to.

SENATE BILLS REFERRED.

The House proceeded to take from the Speaker's table the following Senate bills; which were severally read a first and second time, and referred as indicated below:

An act (No. 309) for the relief of Thomas Allen, and to the Committee of Claims.

Joint resolution (No. 24) for the compensation of Rev. R. R. Richards, late chaplain to the United States penitentiary in the District of Columbia.

Mr. BURNETT. The bill makes an appropriation of only \$300, I believe, for the payment of this minister for the discharge of his duties at the penitentiary. The case has been before the Committee for the District of Columbia, and has been favorably passed upon; but it has been hanging in the air for some time. I believe there was no difference of opinion on the subject between the two Committees for the District of Columbia at the last and this session. I ask to have it put upon its passage.

Mr. ELLIOT. I object.

The joint resolution was referred to the Committee for the District of Columbia.

An act (No. 148) concerning courts in the Territories—to the Committee on the Judiciary.

An act (No. 229) for the relief of Angelina C. Bowman, widow of Francis L. Bowman, late captain in the United States Army—to the Committee on Invalid Pensions.

An act (No. 256) for the relief of Thomas L.

Diashroon, of St. Louis county, Missouri—to the Committee on Public Lands.

An act (No. 285) for the relief of William B. Shubrick—to the Committee on Naval Affairs.

An act (No. 373) for the relief of William P. Bowhay—to the Committee of Claims.

An act (No. 375) to extend the provisions of an act approved March 3, 1851, entitled "An act to limit the liabilities of ship-owners, and for other purposes," to the lakes—to the Committee on Commerce.

A resolution (No. 15) for the relief of Lieutenant John C. Carter—to the Committee on Naval Affairs.

A resolution (No. 51) for the relief of James Macaboy—to the Committee of Claims.

An act (No. 87) for the relief of Lee Deatherage, and John Deatherage, or their legal representatives—to the Committee on Public Lands.

An act (No. 98) for the relief of Olivia W. Cannon, widow of Joseph W. Cannon, late a midshipman in the United States Navy—to the Committee on Invalid Pensions.

An act (No. 113) for the relief of Eli W. Goff—to the Committee of Claims.

An act (No. 119) for the relief of A. M. Mitchell, late colonel of Ohio volunteers in the Mexican war—to the Committee on Military Affairs.

An act (No. 120) for the relief of William Wallace, of Illinois—to the Committee on Invalid Pensions.

An act (No. 123) for the relief of Elizabeth Spear—to the Committee on Invalid Pensions.

An act (No. 124) for the relief of Nancy M. Gansley—to the Committee on Invalid Pensions.

An act (No. 126) for the relief of Michael Nourse—to the Committee of Claims.

An act (No. 127) for the relief of John Robb—to the Committee of Claims.

An act (No. 128) for the relief of Asbury Dickinson—to the Committee of Claims.

An act (No. 130) for the relief of Richard Fitzpatrick—to the Committee of Claims.

An act (No. 134) for the relief of James Smith—to the Committee on Invalid Pensions.

An act (No. 135) for the relief of Cornelius Boyle, administrator of John Boyle, deceased—to the Committee of Claims.

An act (No. 143) for the relief of Francis Hüttman—to the Committee on Commerce.

An act (No. 144) for the relief of Jeremiah Pendragon, of the District of Columbia—to the Committee on Invalid Pensions.

An act (No. 145) for the relief of Otway H. Berrygan—to the Committee on Naval Affairs.

An act (No. 151) for the relief of Ebenezer Ricker—to the Committee on Invalid Pensions.

An act (No. 154) for the relief of Randall Pegg—to the Committee on Patents.

An act (No. 169) for the relief of Elijah R. Merrill—to the Committee of Claims.

An act (No. 170) for the relief of H. H. Howard—to the Committee on Invalid Pensions.

An act (No. 174) for the relief of William Money—to the Committee of Claims.

An act (No. 175) for the relief of George Phelps—to the Committee of Claims.

An act (No. 176) for the relief of R. W. Clarke—to the Committee of Claims.

Mr. MALLORY. Mr. Speaker, the gentleman who objected to the motion which I made a short time since has withdrawn his objection; and I hope the House will now consent to take up and put upon its passage the bill which I reported from the Committee on Roads and Canals for the benefit of the Louisville and Portland canal.

Mr. DAVIDSON. I object, until we have got through with the Senate bills on the Speaker's table. I will then agree to it.

An act (No. 177) for the relief of John R. Nourse, and others—to the Committee of Claims.

An act (No. 182) for the relief of Nicholas Underhill—to the Committee on Invalid Pensions.

An act (No. 183) for the relief of Cornelius Hughes—to the Committee on Invalid Pensions.

An act (No. 184) for the relief of Rebecca A. Correll—to the Committee on Invalid Pensions.

An act (No. 185) for the relief of Mrs. Ann P. Derrick, widow of W. S. Derrick, deceased—to the Committee of Claims.

An act (No. 186) for the relief of Mills Judson, son of the late bond of the late Farmer Andrew D. Crosby—to the Committee on Naval Affairs.

An act (No. 187) for the relief of Henry G. Carson, administrator of Curtis Grubb, deceased—to the Committee on Revolutionary Claims.

An act (No. 189) for the relief of Franklin Pease—to the Committee of Claims.

An act (No. 191) to provide for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes—to the Committee on Public Lands.

An act (No. 195) for the relief of the legal representatives of James J. Bell, deceased—to the Committee on Revolutionary Claims.

An act (No. 198) for the relief of F. M. Gannell, passed assistant surgeon in the Navy—to the Committee on Naval Affairs.

An act (No. 206) for the relief of Emilie G. Jones, executrix of Thomas P. Jones, deceased, and Nancy M. Johnson, administratrix of Walter R. Johnson, deceased—to the Committee of Claims.

An act (No. 207) for the relief of James L. Edwards, administrator of R. Thomas Gedney, deceased—to the Committee of Claims.

An act (No. 210) for the relief of Augustus H. Evans—to the Committee of Claims.

An act (No. 172) concerning the courts of the United States in the district of Arkansas—to the Committee on the Judiciary.

An act (No. 181) for the relief of Mary Walbach, widow of the late Brevet Brigadier General John De B. Walbach, United States Army—to the Committee on Invalid Pensions.

An act (No. 346) for the relief of Joseph Pattee—to the Committee on Invalid Pensions.

An act (No. 378) to relinquish the title of the United States to certain lands occupied by the city of Baton Rouge, in Louisiana—to the Committee on Private Land Claims.

An act (No. 387) for the relief of certain actual owners on lands granted to the State of Arkansas for railroad purposes—to the Committee on Public Lands.

A resolution (No. 27) authorizing a settlement of the accounts of John R. Bartlett, late commissioner of the United States to run and mark the boundary between the United States and Mexico, and for other purposes—to the Committee of Claims.

An act (No. 82) to amend the fourth section of the act for the admission of Oregon into the Union, so as to extend the time for selecting salt springs and contiguous lands in Oregon—to the Committee on Public Lands.

An act (No. 188) for the relief of the surviving grandchildren of Colonel William Thompson, of the revolutionary army of South Carolina—to the Committee on Revolutionary Claims.

LOUISVILLE AND PORTLAND CANAL.

Mr. MALLORY. I ask leave now to report, from the Committee on Roads and Canals, with a view of putting it upon its passage, resolution S. No. 6, authorizing the enlargement of, and the construction of a branch to the Louisville and Portland canal.

The joint resolution was read.

Mr. MALLORY. I hope there will be no objection to the passage of the resolution. I do not think that any gentleman will be called for from me. I will not, therefore, trespass on the time of the House, but will call the previous question upon it.

Mr. BRANCH. I am not familiar with the principle involved in this resolution. I would rather that the gentleman from Kentucky should explain it.

Mr. MALLORY. I can explain it in a moment or two.

Mr. SMITH, of Virginia. I rise to a question of order.

Mr. MALLORY. I move to suspend the rules, so that the resolution may be acted on.

Mr. SMITH, of Virginia. I call for the yeas and nays on that motion.

The SPEAKER. The motion to suspend the rules is not in order. The resolution will be considered now by unanimous consent.

Mr. MALLORY. I then ask the unanimous consent of the House to consider it.

Mr. BURNETT. I appeal to gentlemen to let the resolution come before the House. If they do not see proper to suspend the rules, they will have an opportunity of voting against it. It certainly does not require any extraordinary consideration. Let

the question come before the House, and if any gentleman wants the yeas and nays he may have them so far as I can assist him to obtain them. It is simply a question whether we will authorize the directors of that company to enlarge the canal in such a manner as shall not pledge the faith of the United States.

Mr. BRANCH. I ask the gentleman whether the whole of that property does not belong to the Government?

Mr. MALLORY. No, sir; it does not. I will tell the gentleman how it is held. The property is held by a corporation for the benefit of western commerce. It is essentially held by the Government; but it must be so held as will subserve the purposes of commerce. By the act of 1842, the whole work was transferred to the Government, absolutely, upon certain conditions; and one of those conditions is, that the canal shall be made available to the commerce of the West. The Government of the United States is a stockholder to the amount of about five hundred thousand dollars, and has received its dividends regularly up to this time. A portion of the revenue which sustains the Government has thus been raised by a tax upon western commerce. Now, sir, it is proposed that the Government shall give up its interest in that way, in order that the commerce of the Ohio valley may be freed from this tax.

Mr. BRANCH. Let me ask the gentleman from Kentucky just one question. Is it not a fact that this canal has cost the Government about five hundred thousand dollars?

Mr. MALLORY. Yes, sir; the Government has taken cost to about that amount.

Mr. BRANCH. And, if I do not misunderstand this bill, it provides, in the case, I suppose, that, after this enlargement shall have been made, the tolls shall be reduced to such a rate as shall merely defray the cost of keeping it in order. In other words, it provides that the Government shall relinquish its interest in the work.

Mr. MALLORY. That is true. That feature of the bill was placed upon it in the Senate, upon the motion, I believe, of Mr. TOOMBS, of Georgia.

Mr. BRANCH. I do not know but this bill may be all correct, but it involves a matter of some importance; and I would give you my opinion, and would postpone its consideration for an hour, to give me an opportunity to look into it. I may be satisfied that it is a just and proper measure. I dislike to object to it, if it is for me.

Mr. MALLORY. Can I make an arrangement by which I can leave the House for an hour?

Mr. BRANCH. If the gentleman will withdraw his application, he will have just the same opportunity of bringing up the bill then that he has now.

Mr. COBB. The gentleman cannot bring up his bill now except by unanimous consent.

Mr. MALLORY. I am aware of that. Mr. BRANCH. I think the gentleman from Kentucky had better withdraw his application now and make it at some other time. I desire very much to examine the question before I consent that it shall be brought before the House in this manner.

Mr. MALLORY. I think I can make an explanation in a minute that will satisfy the gentleman from North Carolina. Under the laws as they exist, the Government has purchased nearly the entire stock of the company; but the whole amount has been repaid out of the dividends made, and the Government has received an excess over the amount of some twenty-four thousand dollars.

Mr. BRANCH. Do I understand the gentleman to say that the Government has been reimbursed for all it has invested in this canal?

Mr. MALLORY. Yes, sir.

Mr. BRANCH. Then I shall make no objection to the bill, so far as I am concerned.

Mr. SMITH, of Virginia. I object.

Mr. MALLORY. I think there will be no objection to the bill.

The SPEAKER. The gentleman from Virginia objects; and the bill, therefore, cannot be brought before the House.

TERRITORY OF MINNESOTA—A GAIN.

Mr. MILLSON. I rise to a question of privilege. I move to reconsider the vote by which the House a few minutes ago passed the following resolution:

Whereas it is claimed that the portion of the Territory

of Minnesota not included within the State of Minnesota still remains an organized Territory, and the residents thereof are entitled to have a Delegate in the House of Representatives—*Therefor,*

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, all such information as he may possess in relation to the existence of such Territory.

When the resolution was introduced by the gentleman from North Carolina, [Mr. GILMER,] it occurred to me that it was adopting a course which the circumstances of the case would hardly warrant; but as no one objected, or suggested any opposition to it, I preferred to consider it a little upon it before acting upon the views which suggested themselves to my own mind. Further reflection, however, has satisfied me that such a resolution would be regarded by the President as a very extraordinary one. It seems that we are calling upon the President to give this House all the information in his possession as to the existence of the Territory of Minnesota.

Now, it really seems to me that this is purely a legal question. If there be any doubt as to the existence of the Territory of Minnesota, it has been established by the action of this House itself; and it is not at all proper, as it seems to me, to call on the President of the United States to determine this legal doubt.

I hold, Mr. Speaker, that where a Territory is organized and a State afterwards admitted into the Union out of a portion of that Territory, the law admitting the State is, *ipso facto*, a repeal of the law establishing the Territory. That has always been the construction given to such laws. When Missouri was admitted into the Union as a State, the territory included within her limits did not include one third the population embraced within the limits of the Territory of Missouri. Yet the Territory of Missouri was considered as destroyed by the admission of the State of Missouri.

But, however, this may be, it is purely a legal question. If there is any doubt about the question, let it be referred to the Committee on the Judiciary, to settle it and resolve the doubt; but do not let us call upon the President of the United States to give us all the information in his possession as to the existence of a Territory, which, in fact, if there be such a Territory in existence at all, it is in consequence of our legislation; and if the Territory has been destroyed, it has been destroyed by our legislation. Believing that this is not a proper subject of inquiry by the President, I move to amend the resolution by which it was adopted, with a view of affording an opportunity of making such modification as the circumstances may require.

Mr. GILMER. I care nothing at all about this resolution; but I have not been able to see the difficulties which my friend from Virginia discovers. It seems to me that he is a little particular upon the subject. It simply calls upon the President for such information as he may have in his possession.

Mr. MILLSON. I am not at all particular; but I think it is probably, but possibly—The President may regard it as a request to call upon him for all the information in his possession in regard to the effect of the laws we have passed.

Mr. GILMER. Nothing of that kind was intended. I presume that the gentleman from the House, except my friend from Virginia, ever had any such idea. If my friend will consult the authorities to which he refers, he will find that their bearing is different from that he alleges. In the case of Ohio, the territory remaining outside of the State limits was considered by the House as still existing under the government of the organic territorial act; and, sir, under that action of the House, a Delegate presented himself here and took a seat upon this floor. Such was the action in the case of Michigan and Wisconsin. Here a Territory, called Minnesota, has been admitted into the Union as a State, but the limits of the State are not those of the previous Territory. Now, sir, it is a very grave question whether the territorial act does not apply to the territory outside of the State limits and within the limits of the Territory of Minnesota with the same force and effect that it did previous to the admission of the State of Minnesota? It is not so plain a matter as my friend from Virginia [Mr. MILLSON] supposes. While it is a fact that no Governor and no judges have been appointed for the Territory by the

President of the United States, yet, sir, the people there have adhered to and still adhere to the idea that they are an organized Territory, under the former act of Congress. They believe, and have believed, that they have all the rights and privileges of a regularly organized territorial government. They have selected their Delegates to represent this floor at a Western Convention, and, therefore, let the President send to this House, for its deliberate action, all the information that he may happen to have on the subject? Is not a fair proposition? Let him state to this House why he has not appointed a Governor and United States judges for the Territory. Let him give us what facts are in his possession why a Territorial Legislature has not been elected and convened. The request is courteously made. We ask no action further than this call for information. If the resolution be adopted, we may get facts that may be useful to us.

Mr. MILLSON. The resolution calls upon the President for information with reference to the existence of the Territory. The question may be a difficult one; and I do not want to call upon the President to settle a legal question which we ought to settle for ourselves.

Mr. GILMER. It is a question of fact.

Mr. GARTRELL. It was not the intention of the Committee of Elections, as I understood that, the resolution should contain no reference to a legal question, whether or not a Territory existed, but simply that the President be requested to furnish this House, and through it the Committee of Elections, with all the facts within his possession connected with this alleged Territory of Dakota; whether there was an organized Territorial government there—any territorial officers *de facto*; but not by any means to extract, or endeavor to extract, from the President, a legal opinion; for, sir, I agree, with the honorable gentleman from Virginia, [Mr. MILLSON,] that that would be highly improper. That House, under the Constitution, has the power to constitute a committee to investigate the existence of a territorial government.

Mr. MILLSON. Then, let the resolution be brought before the House on a motion to reconsider, and amended so as to conform to that intention.

Mr. DAWES. I wished to get the floor when the resolution was adopted, for the purpose of offering an amendment. I had no idea, in consenting that a resolution should be reported, that the President should be requested to furnish this floor with information. I have no objection, sir, I did not suppose that the resolution was drawn in that form. As the gentleman from Georgia [Mr. GARTRELL] has suggested, it was the design to inquire of the President as to what had been done, since the State of Minnesota had been admitted, with reference to the recognition of a territorial government in Dakota; so to what had been done by the Executive—whether he had appointed officers and whether the territorial government had been kept up, or whether there had been any organization of the Territory. [Mr. GARTRELL,] as well as by the gentleman from Massachusetts, [Mr. DAWES,] probably would not be objectionable; but, sir, I cannot perceive what information the President may have as to the pretended organization of a territorial government there, or what he can send us with reference to his recognition of it, that will have anything to do with the settlement of the question of law that is underlying this whole matter. The question is, whether that portion of the Territory not included within the State of Minnesota has any organized government under the laws of Congress; whether the law organizing the whole of the territory extends with the same effect and force over the portion outside of the limits of the State of Minnesota, or whether the creation of the State by act of Congress has not destroyed the authority of the territorial act. If the President has recognized the Territory as organized under the former act of Congress, that has nothing to do with the law of the case submitted to us. It would likely have no influence upon the minds of the members of this House whether the President declared that

the Territory was organized, whether he has recognized it, or whether he has not.

Mr. SPEAKER, it seems to me that this is an important question, and that it ought to be settled either by the Committee of Elections or, as suggested by the gentleman from Virginia (Mr. MILLER), by the Committee on the Judiciary, so that for ourselves we may determine the law of the case. I have an opinion; but I cannot now undertake to prejudice the case.

Mr. GROW. If the gentleman from Alabama will let me, I will say a word as to the case. When the State of Minnesota was admitted into the Union, organized counties under the territorial government of Minnesota were divided, leaving portions within the limits of the new State, and portions without those limits. Since that time the people in those portions of country outside of the State limits have gone on under a kind of provisional government, claiming, however, to act under the old territorial organization. I suppose this resolution merely calls upon the President as to whether he has any official information of the provisional government there; and, if so, as to the manner in which it has been carried on. I understand that the people there occupy the same situation now, so far as their government is concerned, that they did at the admission of the State of Minnesota.

Mr. HOUSTON. I remember that I was not inclined to prejudice this case, and that I was not disposed even to state the opinion on the law of the case that I entertain. I have no objection to the President being requested to inform this House whether he has recognized a Territory of Dakota. I do not object to a call being made upon the President for all the information he may have with reference to the existence of a territorial government there. Yet, sir, I believe that the call would amount to nothing. I believe that it would be superfluous, for I cannot perceive, I repeat, how it would have any influence or bearing upon the minds of members of this House, so far as regards the adjudication of the legal point involved. Let me make the strongest possible case. Even if the President had recognized a Territory, and appointed a Governor and judges for it, and secured for it all the paraphernalia of a territorial government, it certainly would not preclude this House from examining into the question. It would not relieve this House from the duty of going into the question, to ask whether the President had, or had not, prejudged the case, and attempted, by his own mere act, to put into existence a territorial government without authority from the Congress of the United States.

Mr. DAWES. The information sought for may have some bearing upon the testimony already before the Committee of Elections on this point. It is with that view, I understand, that the resolution is brought here. Certain testimony has been presented to the Committee of Elections; and the information we seek for may add strength to what we already have.

The information we desire from the President is a matter of fact, and of fact only. It is true, as the gentleman says, that it does not alter the legal question, and would not make an organized Territory of Minnesota an organized Territory; but it will do something towards settling the minds of the committee on the facts of the case.

Mr. HOUSTON. Then I suppose, by the gentleman's own statement, that he desires the resolution to be reconsidered, or that he may put it in such language as will secure the precise information which he considers necessary.

Mr. STEVENSON. I think, if the gentleman from Alabama will read the resolution, he will see that it is not subject to serious objection. The Committee of Elections is not asked to state information the President may have. But admit everything the gentleman says to be true, the proposed inquiry can do no harm. This House is judge of the law; but it is important to have all requisite information, that the law may be properly applied. While that House may not be influenced, by any information which may be obtained from the President, as to what law is, still it is necessary and proper that the House should have all the facts, that they may judge correctly whether the request should be granted or refused. I understand that elections have been held in that Territory, and that a great many subsequent facts have transpired there, which, if known, might

aid the House in construing or applying the law. Really I cannot see any objection to that resolution, nor can I see how the House can exercise an enlightened legal judgment without having all the facts before them. I hope the vote adopting the resolution will not be reconsidered.

The motion to reconsider was not agreed to.

HENRY WOODS.

Mr. MOORHEAD. I ask leave, in accordance with the instruction of the Committee on Commerce, to report a joint resolution for the relief of Henry Woods; and to ask that it be put upon its passage.

Mr. BURNETT. I have no objection to the gentleman reporting his bill, and having it referred; but I object to putting it upon its passage.

Mr. MOORHEAD. The bill has been referred and I desire to report it back from the Committee on Commerce.

Mr. BURNETT. I cannot consent that the gentleman shall get in his bill, and put it through in that way.

Mr. MOORHEAD. Then let it be referred to a Committee of the Whole House, and printed.

It was so ordered.

Mr. FEXTON. I call for the regular order of business.

PRINTING OF DOCUMENTS.

Mr. GURLEY. I rise to a question of privilege. The Committee on Printing have directed me to report a resolution, which I send to the Clerk's desk, and upon which I call the previous question.

The resolution was read, as follows:

Resolved, That there be printed for the use of the House, twenty thousand extra copies of the President's protest, his resolutions and minority reports thereon.

Mr. HOUSTON. I suppose the gentleman from Ohio will allow me one moment. I desire to offer an amendment to his resolution. I propose to make the number twenty-five or thirty thousand, instead of twenty thousand. I want also to state, what I suppose the gentleman from Ohio knows, that, under the printing act of 1852, whenever extra numbers of any documents are ordered, if the number exceeds five thousand copies, and does not exceed ten thousand, there shall be a deduction of two per cent. from the prices specified in the law upon press-work, folding, and stitching; if the number exceeds ten thousand, and does not exceed twenty thousand, a deduction of five per cent.; and if over twenty thousand a deduction of forty per cent. I understand that the Superintendent of Public Printing has put a condition upon that law that operates in this way: that if you order between five and ten thousand extra copies, a deduction of two per cent. is made; if you order between ten and twenty thousand, five per cent. is deducted; and if you order over twenty thousand copies, forty per cent. is deducted upon the whole number of extra copies ordered. So that it will be cheaper for this House to order thirty thousand extra copies of that document, than it would be to order twenty thousand. I move to amend the resolution by striking out "twenty thousand," and inserting "thirty thousand." I desired, by these remarks, to get the facts before the House, so that when extra copies are ordered hereafter, they may understand the matter.

Gentlemen around me say that twenty-five thousand copies are sufficient. That will give each member one hundred copies each. I will make it twenty-five thousand copies.

The amendment was agreed to.

The question recurring upon the adoption of the resolution was agreed to.

Mr. CRAWFORD. I would like the yeas and nays upon this resolution. As a matter of course, I do not expect that half a dozen members will sustain the call, but I would like to see who are in favor of the resolution.

The yeas and nays were not ordered.

The resolution was then agreed to.

Mr. GURLEY moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. GURLEY. I am interested also by the committee to offer the following resolution; upon which I call the previous question:

Resolved, That there be printed, for the use of the House,

five thousand extra copies of Edward F. Beale's report relating to the construction of a wagon road from Fort Smith, Arkansas, to the Colorado river.

Mr. URANGH. I call for the yeas and nays upon the adoption of the resolution.

Mr. BURNETT. I ask the gentleman from Ohio to withdraw his demand for the previous question until he can tell the House what the printing of five thousand extra copies will cost.

Mr. GURLEY. The printing and paper, without the maps, would be \$13 87 per one thousand copies. The seven maps will cost \$162 23; making \$236 09 per thousand copies. Five thousand copies will cost \$1,180 45.

The previous question was seconded, and the main question ordered.

Mr. BURNETT. I ask gentlemen who favor the publication of this report to give us the yeas and nays. Let us see who they are.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 94; as follows:

YEAS.—Messrs. Adams, Aldrich, Ashley, Avery, Barr, Barrett, Bingham, Blair, Blair, Boies, Bryson, Burlingame, Burnham, Butterfield, Chase, John B. Clark, Coffey, Cowley, Davidson, DeLoach, Dennis, Doolittle, Eliot, Fish, Fisher, Foster, Frank, Frazier, Gooch, Gurley, Harlan, Haskell, Helmick, Howard, Hutchins, Irvine, Jackson, Francis W. Kellogg, Keim, Keim, Lester, Lincoln, Maynard, McClernand, McKnight, Millard, Moorhead, Edwards, Joy Morris, Moore, Newell, Olin, Phelps, Potts, Rice, James R. Rogers, Schwartz, Scott, Thayer, Train, Walton, Cadwalader C. Washburn, Webster, Windom, and Woods.

NAYS.—Messrs. Charles F. Adams, Green Adams, Allen, Almy, Thomas L. Anderson, William C. Anderson, Babbin, Barkdur, Bayne, Babson, Beach, Briggs, Bristol, Buffington, Burnett, Carey, Carter, Horace F. Clark, Cobb, John C. Cochrane, Conkling, Cox, Brown Criss, Crawford, Curry, Rice, Davidson, Dennis, Doolittle, Edwards, Elbridge, Farnsworth, Fearey, Ferry, Garrett, Hardeman, John T. Harris, Hallam, Hickman, Howard, Holman, Houston, Humphreys, Hunt, James H. Kibler, Larned, Lawrence, James M. Leach, McKean, McQueen, McRae, Millson, Lahan T. Moore, Stephen Moore, Morrill, Isaac N. Morris, Nelson, Newell, Olin, Phelps, Potts, Packard, Quarles, Reagan, Briggs, Christopher Robinson, Rufin, Redwick, William Smith, William N. Smith, Spinner, Stillwell, Stanton, Stewart, Stewart, William A. Stearns, Stokes, Stratton, Taylor, Thayer, Thomas, Tompkins, Trimble, Underwood, Vinton, Vance, Vandever, Wadsworth, Watson, Winthrop, and Woodson—84.

So the resolution was rejected.

During the vote,

Mr. COOPER stated that he was paired off with Mr. LEACH, of Michigan.

Mr. COLFAX stated that Mr. GAOW was paired off with Mr. LEACH.

Mr. HASKIN, when his name was called, said: I desire to say, in explanation of my vote, being a member of the Committee on Printing, that that committee have reported in favor of the publication on a resolution offered by Mr. PHELPS, and to accommodate him, I vote "ay."

Mr. BURNETT. I hope the Speaker will enforce the rule. The gentleman from New York knows the rule, and ought not to attempt to debate a question when debate is not in order.

Mr. BURNETT. He stated that he was paired off with the Hall when his name was called, he would have voted "ay."

The vote was announced, as above recorded.

Mr. HICKMAN. I move to reconsider the vote.

Mr. BURNETT. I move to reconsider the vote by which the resolution was rejected; and I also move to lay the motion to reconsider on the table.

Mr. PHELPS. The gentleman from Pennsylvania (Mr. HICKMAN) changed his vote, with the express intention of moving to reconsider.

Mr. BURNETT. That may have been; and that was the very reason why I sought the floor.

Mr. HICKMAN. I wish to state that I changed my vote.

Mr. BURNETT. I object to the gentleman discussing the question.

Mr. HICKMAN. I have a right to state that I changed my vote, with the express determination of moving a reconsideration; and I think I was on the floor time enough to obtain the floor properly.

The SPEAKER. The Chair was not aware of the object of the gentleman from Pennsylvania, and recognized the gentleman from Kentucky.

Mr. PHELPS. I hope the gentleman from Kentucky will withdraw his motion to lay on the table.

Mr. BURNETT declined to withdraw the motion.

Mr. HICKMAN called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 74, as follows:

YEA—Messrs. Charles F. Adams, Green Adams, Allen, Ayer, Thomas L. Anderson, John C. Anderson, Beale, Boyce, Branch, Briggs, Brewster, Buffum, Burnett, Carey, Hayes, Francis P. Clark, Cobb, John Cochran, Conkling, Crawford, Curtis, Davidson, Delano, Edmunds, Eshelridge, Farnsworth, Fenton, Fessenden, Feltwell, Hamilton, Hardeman, Hall, T. Harris, Hays, Hale, Harlan, Houston, Humphreys, Jackson, Jenkins, Jones, Killgore, Labaree, James M. Leach, Leake, Love, Maloney, McQuinn, McKim, McMillan, Labor T. Moore, Abraham Moore, Morrill, Isaac N. Morris, Nelson, Nickles, Pendleton, Ferry, Pease, Pugh, Rogers, Keegan, Rippe, Christopher Robinson, Ruffin, Rust, Sedgwick, Stewart, William Smith, William S. H. Smith, Spink, Stillwell, Stanton, Stevens, Stokes, Stratton, Taylor, Thomas, Tompkins, Underwood, Vance, Vandever, Lenzel Washburn, Wells, Wilson, Windsor, Woodruff, and Woodson—66.

NAY—Messrs. Adair, Aldrich, Ashley, Avery, Babitt, Barr, Bingham, Blair, Blake, Bonaparte, Bryant, Burnham, Butterfield, Carter, Case, John B. Clark, Colfax, Corbin, Cordee, Dawes, Dinn, Edwards, Eliot, Eli, Florence, Foster, Frank, French, Gough, Gurney, Hale, Hall, Hanks, Helmick, Hickman, Howard, Hughes, Huie, Irvine, Jencks, Francis W. Kellogg, Keyton, Longacker, Loomis, Lovell, Madison, May, McCreary, McCreary, McKim, McKim, McMillan, Montgomery, Edward Jay Norris, Morse, Noell, Ginn, Pettit, Phelps, Foster, Rice, James S. Robinson, Royce, Samuel S. Royce, Sargent, Schuchman, Keiser, Train, Trimble, Watson, Watson, Caldwell C. Washburn, Webster, and Windom—74.

On the motion to reconsider was laid on the table.

During the vote, Mr. BARKSDALE stated that he had paired off with Mr. KILGORE, but had forgotten the fact when he voted on the last question. He asked leave to withdraw his vote.

Leave was granted.

EXPENSES OF INVESTIGATING COMMITTEES.

Mr. DAVIS, of Maryland, asked the unanimous consent of the House to report to the Committee on the House and the Senate a resolution, appropriating the sum of \$48,000 for the payment of the expenses of the several investigating committees of the House of Representatives during the present session; the same to be added to the miscellaneous item in the contingent fund of the House.

Mr. COLFAX. This joint resolution might be disposed of to-morrow. This is probably the last day we shall have for public business for the next two weeks.

Mr. RUFFIN. I object to any such resolution. Mr. SMITH, of Virginia. I trust there will be no objection. Let the resolution be amended and passed; for these expenses will have to be paid.

Mr. JOHN COCHRANE. Is it in order to move for a committee of investigation on that resolution? If so, I will make such a motion.

There being objection, the resolution was not introduced.

NEW YORK PUBLIC STORES.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of the House of March 26, calling for information and a report in respect to a contract for the performance of certain labor at the public stores in the city of New York.

Mr. JOHN COCHRANE. I move the reference of that communication to the special committee to investigate this contract.

It was so referred.

PUBLIC PRINTING.

The SPEAKER stated the business first in order to be the report of the Committee on Public Expenditures, in reference to the public printing.

Mr. HASKIN. The gentleman from Arkansas [Mr. Clever] and the gentleman from Arkansas [Mr. Hendon] my colleagues on the Committee on Public Expenditures, have left the city this morning for their homes, being called there by indisposition in their families. They have prepared a minority report, which should have been considered, if they had remained here, in connection with the majority report. At their request, and to accommodate them, I move to postpone the consideration of this subject till Wednesday, 25th of April, immediately after the morning hour. That meets with the views of the committee. The motion is made to accommodate those gentlemen who have gone home.

The motion was agreed to.

FRENCH SPOILIATION BILL.

The SPEAKER stated the business next in order to be the consideration of the bill (H. R. No. 510) to provide for the ascertainment and satisfaction of claims of American citizens for spoliation committed by the French prior to the 31st day of July, 1871.

Mr. CORWIN. I learned this morning that the report of the committee in this case had not been printed till this morning. It is a very lengthy and elaborate report. I desire very much, before any action be taken on the bill, that every member should have an opportunity of reading that report, as I think that will save a great deal of time that would probably be occupied in the discussion of the question when it comes up. I have consulted with the committee on the subject, and they have very generally agreed that the bill shall be postponed till the 7th of May.

Mr. BURNETT. When this bill was postponed before, there was a question of order raised. I have no objection to the direction which the gentleman proposes to give this matter, with the understanding that it is not to prejudice the question that has been raised—namely, that the bill should be referred to the Committee of the Whole on the state of the Union.

Mr. CORWIN. Certainly, the question of order goes with it.

Mr. BURNETT. Well, if there is to be no advantage taken of the postponement, I have no objection.

Mr. CORWIN. I should be very willing to have the question decided now, but there are a number of gentlemen on all sides of the House who desire very much to make speeches to-day in Committee of the Whole on the state of the Union. I know the pain it gives a man who desires to make a speech to be deprived of the opportunity of doing so, and I am unwilling to inflict that pain.

Mr. BRANCH. As I raised the point of order when this bill was reported from the Committee on Foreign Affairs a week or ten days ago, I desire to say now that I have no objection to the bill being postponed as indicated by the gentleman from Ohio, and being postponed to some day which shall suit the convenience of the House. I presume the 7th of May will be convenient. What day of the week is it?

Mr. CORWIN. It is the first Monday in May. Mr. BRANCH. I want to give two reasons personal to myself, that day of the week should be fixed upon later than Monday, as I desire to be here when the bill comes up. Will the gentleman any Wednesday, the 9th of May?

Mr. CORWIN. I will agree to that.

Mr. MAYNARD. I would suggest, that on Wednesday, the 9th of May, several gentlemen expect to be absent, in Baltimore, and though they may do no more than vote, still they have several votes which gentlemen on one side or the other may want.

Mr. BRANCH. How long does the gentleman think the Baltimore convention will sit?

Mr. HARRIS, of Maryland. About long enough to make a President. [Laughter.]

Mr. BRANCH. I suggest, then, to the gentleman from Ohio, that he postpone the bill until after the convention.

Mr. CORWIN. There are so many conventions that I have found it quite impossible to do any business if I attempt to suit them all. I have accommodated the Democratic convention. I should be very glad to accommodate the Chicago convention, as well as the Union convention; but the Democratic convention being considered the most important, I thought that if we passed that, the others could take care of themselves. Let the bill be postponed until Wednesday, the 9th of May.

Mr. BRANCH. I concur in that entirely.

Mr. CORWIN. I am very sure that the gentleman from Baltimore and his friends will all be back before that day.

The motion to postpone the further consideration of the bill until Wednesday, May 9, was agreed to.

TELEGRAPH TO THE PACIFIC.

The House then proceeded, as the next business in order, to the consideration of an act (S. No. 84) to facilitate communication between the Atlantic and Pacific States by electric telegraph, reported

from the Committee on the Post Office and Post Roads with amendments.

Mr. COLFAX. Mr. Speaker, I suppose that I shall save the time of the House which would be consumed in the reading of the bill by presenting, very briefly, the main features of the bill as it passed the Senate, and the amendments unanimously agreed upon by the Committee on the Post Office and Post Roads of this House.

The bill which passed the Senate by a very large majority is entitled "an act to promote therein—the presents of various telegraphic companies in the United States for the construction of a line or lines of telegraph, to be built by them, from some point east of the Mississippi river to San Francisco, and a Government subsidy for ten years of \$50,000 per annum. The bill, as passed by the Senate, also provided that they should be privileged to charge private citizens four dollars for a message of ten words over any line. It also gives them the right of way over the unoccupied public lands of the United States for ten years, with the occupancy of a quarter section of land for stations every fifteen miles. It also provides for a branch line to Oregon, and gives the use of the line, free of charge, to the Coast Survey, the United States Fish Commission, the National Observatory, for scientific purposes. These are the main features of the bill as it passed the Senate. When it came to the House, it was referred to the Committee on the Post Office and Post Roads. They decided to reduce the Government subsidy to reduce the charge to private individuals for messages, and also to adopt some salutary restrictions which they thought the Senate had omitted. They propose to reduce the Government subsidy from \$50,000 to \$40,000 per annum. The same plan is carried out as regards the Government or public business of the Government, up to that amount, free of charge, as they are to receive, under their contract, \$40,000 a year. If, in case of war, the Government requires more than that amount of service, an amendment proposed by the committee provides that the Secretary of the Treasury shall certify such excess to Congress, and, of course, that amount, if not unreasonable, will be paid by Congress.

The committee also propose to reduce the charge for private messages. Although that proposed in the Senate plan is carried out, they propose to pay for messages in every other portion of the globe, yet as this would be a Government enterprise, built in a large degree by Government aid, the committee decided that this company should reduce the price of messages to private individuals to the lowest living rate; and we have there limited the amount to be charged for a message of ten words to three dollars. I need scarcely say, to gentlemen who are familiar with telegraphic operations, that this is a low rate than is paid for telegraphing the same distance in any other part of the world.

The committee have also adopted this amendment, to the second section of the bill: that "should any of said quarter sections be deemed essential by the Government, or any company acting under authority, for the construction of the line, the contractors shall relinquish its occupancy, receiving an equal amount of land in its stead."

The object of that amendment is this: that if stations should be located by the company in mountain passes, and they should be found essentially necessary for the location of a railroad, the Government may require them to surrender those lands and occupy other lands instead. We may, however, ask the House to modify this, and only require them to surrender so much of the station quarter section as may be necessary for railroad purposes.

The committee also propose the following amendment as a proviso:

Provided, further, That messages received from any individual, company, or corporation, or from any telegraphic lines constructed with this line at either of its terminals, shall be impartially transmitted in the order of their reception, except that the dispatches of the Government shall have priority.

That proviso compels them to receive messages from connecting lines, which may be competing lines, and to transmit them impartially in the order of their reception.

The committee also propose the following amendment, as an additional section:

And be it further enacted, That if the persons herein

this bill. We have Congress voting the public domain by millions of acres for almost every conceivable purpose. We have proposed for the absorption of the entire public domain by giving it away in the shape of homesteads. The last proposition we have is, that this Government shall vote money from the public Treasury directly into the pockets of private incorporators, for the purpose of constructing a line of telegraph from the Atlantic States to the Pacific slope. I say that my intellect is so obtuse that I have never been able to ascertain from what clause of the Constitution we derive the power of Congress to perform this character of legislation. But that I suppose will not for a moment weigh with gentlemen here who have advocated all these schemes for disposing of the Government of its public domain; and I cannot believe that these considerations will deter those gentlemen from voting this bonus into the pockets of these private incorporators.

The next objection I have to the bill is, that it creates a monopoly for ten years between the Atlantic States and the Pacific slope, so far as a line of telegraph is concerned.

Mr. STOUT. If the gentleman will allow me.

Mr. BURNETT. Certainly.

Mr. STOUT. I think that the gentleman is mistaken when he states to the House that this bill creates a monopoly. It does not, as I understand its provisions, create any monopoly. It only provides that for ten years between the Atlantic States and the Pacific slope, no other party shall be allowed to build a line of telegraph. Other parties are not precluded, for as many as choose may build other lines of telegraph.

Mr. BURNETT. This bill confers upon the parties named in it the exclusive right to build a line of telegraph from this side to the Pacific. It authorizes them to establish lateral branches connecting with Oregon, or in any other direction, as they may see fit. It gives them the exclusive right of way over the public domain. It not only does that, it confers upon them a quarter section of land for each station; and it is provided that if the land should be needed for the construction of a Pacific railroad, that other land shall be selected.

Mr. CRAIG, of Missouri. The gentleman from Kentucky has certainly not read the bill, for, in fact, he would not fall into the mistake that he has.

Mr. BURNETT. The bill provides that—

For the purpose of establishing stations for repairs along said line or lines, not exceeding at any station one quarter section of land, such stations not to exceed one in fifteen miles on an average of the whole line.

Mr. COLFAX. Let me read a single line from the bill, which precedes the provision referred to. It is this:

With the free use during the said term of such lands as may be necessary for the purpose of establishing stations, &c.

It only provides that they shall have the use of the land during the term of their contract.

Mr. BURNETT. I understand the term occupancy, and so do, I am sure, the gentlemen who reported this bill. We all know what is to be the result of this thing.

The bill confers another power upon this corporation, and it is this: that they shall be the right to enter the land along this line of telegraph at \$1.25 per acre. It creates not only a telegraphic monopoly; it not only gives this company \$40,000 a year; it not only does all this; but it gives this company the exclusive right of entering the public land along this telegraphic line at \$1.25 per acre. Yet gentlemen tell me that this bill will pass. Doubtless it will; for you cannot introduce any proposition here, voting money from the public Treasury, or giving away the public domain, that will not receive a majority of the votes of this House. For one, I desire to enter my protest against the passage of this measure.

This bill, sir, not only gives to this company a monopoly of this telegraph for ten years, but it gives them from the public Treasury \$400,000. I want gentlemen to understand that the chairman of the Committee on the Post Office and Post Roads to tell me, when, under this bill, this company can draw the first subsidy of \$40,000. When will this company come to the Treasury for this \$40,000?

Mr. COLFAX. I will answer the gentleman with pleasure. If the gentleman from Kentucky

will read the twenty-ninth and thirtieth lines of the first section, he will find that it is provided that

No such contract shall be made until the said line shall be surveyed and paid money therefor, and that no case whenever the contractors fail to comply with their contract.

No payment, sir, can be made until the whole line is put up and in actual operation. When that is done, when the line is in actual operation, then the Secretary of the Treasury pays the said rate of \$40,000 per annum. Of course, the Government gets the service before it pays.

Mr. BURNETT. You must take those lines in connection with another section of the bill. There it is provided that, thirty days after the passage of this bill, the incorporators shall signify, by writing, their acceptance of the terms of the contract, and that when they have done that, and entered upon the work, they are entitled to the \$40,000 granted by the bill.

Mr. COLFAX. Does the gentleman say that in the provision of the bill which I have indicated? I know that he wishes to do justice, although an opponent of the bill. It is provided that if they fail to signify their acceptance of the contract, then the Secretary of the Treasury shall certify for and send to the Post Office the execution of the work. Not a word is said in that section of the company being paid until the line is completed. They cannot, under this bill, receive one cent from the Treasury of the United States until both branches of Congress, with the President, have passed a bill making a appropriation for that purpose. This bill only provides for the contract; and the payments under it have to be provided hereafter, as payments are provided to mail contractors for carrying the mail.

Mr. BURNETT. I desire to address to the consideration of the members of this House one question. I ask them upon what principle of public policy, upon what ground as wise legislators, we should pass this bill conferring such gigantic power of exclusive monopoly upon private individuals.

Mr. KELLOGG, of Michigan. In what section of the bill does the gentleman find this conferring of exclusive monopoly?

Mr. BURNETT. If the gentleman will read the bill, he will perceive that the bill confers an exclusive right of way on this company from the Atlantic States to the Pacific slope.

Mr. KELLOGG, of Michigan. I think that the gentleman is mistaken.

Mr. BURNETT. If the English language, in which it is couched, means anything, it means what I have stated.

Mr. COLFAX. I do not like to interrupt the gentleman, but when he speaks of what was intended by those who reported this bill he must allow me to set him right when he falls into a mistake.

The bill does not give the company an exclusive right of way. It only gives them the right of way. There can be, if it be deemed proper by others engaged in the telegraphic business, fifty more lines between the Atlantic and the Pacific.

Mr. KELLOGG. Is it in the bill that any company will seek to build another line?

Mr. BURNETT. Certainly not, when you bring into competition with private enterprise the strong arm of the Government. If we grant a subsidy of \$40,000 a year to this company, it is in the hands of the Government, and private individuals will come into competition with it.

Upon the point that I have been arguing, let me read the language of the bill:

That the Secretary of the Treasury, under the direction of the President of the United States, is hereby authorized to enter into a contract with Louis Barnett, Thomas B. Walker, John H. Bergthall, Hannan Wiley, Norvin Green, John D. Cason, Frederic A. Bee, Charles M. Stebbins, and James J. Graham, or their assigns, for a majority of said contractors to assign, for the use by the Government of a line of lines of magnetic telegraph, to be constructed within two years from the 21st day of July, 1860, from some point or points west of the Mississippi river, by any route or routes which the said contractors may select, (commencing at any point or points to be named by the Secretary of the Treasury, New Orleans, New York, Charleston, Philadelphia, Boston, and San Francisco, or any other point or points named by the Secretary of the Treasury,) to the city of San Francisco, in the State of California, for a period of ten years, as if no social rate of compensation were provided, and the said line or lines were granted to said parties, or a majority of them, and their assigns, to use, until the end of the said term, any unoccupied telegraphic line or lines now in use, and any line or lines necessary for the same, unless said lands shall be required by the Government of the United States for railroad or other purposes, and provided that no right to preempt

any of said lands under the laws of the United States shall inure to said company, their assigns or servants, or to any other person or persons whatsoever.

Now, sir, every gentleman here who is a lawyer will say, when you once confer upon this company the right to build this line of telegraph; when you have once made a contract with them; when they have entered upon the work; and when the contract, that they have a vested right in it, and that Congress cannot hereafter confer a similar right upon another company; because that would be interfering with the vested right already conferred upon this company. Hence I say this bill becomes a monopoly of the Pacific slope, and a telegraphic line is concerned, between the Mississippi and the Pacific coast.

There is another branch of the bill to which I desire to call the attention of gentlemen. I do not wish to weary the patience of the House, but I regard this as an important measure, and I must call the attention of the House to another branch of the bill. But before I do that, I want to say one word to my friend from Oregon, who urges the passage of this bill because it will plant civilization along the Pacific slope, and the Mississippi to the Pacific coast. Well, sir, I have not thought that that is one of the powers granted under the Federal Constitution to the Congress of the United States. I have not been taught that it was our business to vote money from the public Treasury for the purpose of establishing private telegraphic lines for the benefit of private individuals, in order that, in connection with that, and as incidental with it, we might have civilization and population.

Mr. STOUT. I desire to ask the gentleman from Kentucky what, in his opinion, is the difference, so far as his constitutional objection is concerned, between paying for information carried through the mails, and paying for it sent over a telegraphic wire to the Pacific coast?

Mr. BURNETT. I shall endeavor to answer the question which may have governed the founders of this Government in framing the Federal Constitution. I know that, under that Constitution, we have the power to establish post routes and all that sort of thing. But for the purpose of transmitting intelligence, we have not the power, yet for the purpose of establishing a telegraphic line, we have no express authority in the Constitution; and, being a strict constructionist, I do not claim such power for the Government.

Mr. BURCH. Does the gentleman know the opinion of the framers of the Constitution in reference to telegraphic lines?

Mr. BURNETT. I suppose they had no opinion, as there were no telegraphs in existence. The gentleman from California is for this bill, as I understand; and if I did not suppose that he asked the question jestingly, I would urge his propounding such a question as a reason why the bill ought not to pass, for if he was not apprised of that fact, he should not have asked the question; and if he was, there is no good taste in propounding it.

I desire to call attention to the last section of this bill. If you are determined, gentlemen, to pass this bill, I ask you to pass it upon principles which are just and equitable to the entire country. If it is your purpose to vote from the public Treasury this large sum of money for the benefit of private enterprise, then I say, strike out the names of these corporations, open this thing to the field of enterprise throughout the entire country, and give to all those who may have knowledge of telegraphing, or who may not have, the fullest opportunity to compete for the right of construction of those lines, or who propose to confer an exclusive benefit in this form or shape. The last section of the bill, as it comes from the Committee on the Post Office and Post Roads, is as follows:

And he it further enacted, That if the persons herein named, or any majority of them, fail to file their report with the Secretary of the Treasury within thirty days after the passage and approval of this act, the said Secretary is hereby directed to advertise for sealed proposals, to be received for thirty days thereafter, (and the fulfillment of which shall constitute the right of construction,) to be made bids for mail contractors, to build the line or lines herein provided for, with the franchise hereby proffered, and such proposals shall be opened and read in public, and said award the same to the lowest responsible bidder or bidders, provided such proffer does not require a larger amount of money from the Government than the amount herein stated.

Now, if gentlemen want a fair bill—if they are

determined to pass one—strike out the names of those corporators and adopt this last section of the bill, leaving out the first part in reference to these persons failing to file their duty. Change the last section, and make it the duty of the Secretary of the Treasury to receive sealed propositions to build this line of telegraph, and to give it out to the lowest bidder, provided the sum to be paid by the Government shall not exceed \$40,000 per year. By that course gentlemen will perceive that you give out the telegraph lines in the country a chance for competition, and give to private enterprise everywhere the advantage of free competition in this great undertaking. Is anybody injured by that? Have the gentlemen named in this bill any right to be made the corporators in this grant over other citizens? If not, I say, strike out the names and insert the provision I have named, which will throw open wide the door to emble all to come in and compete for the bonus from the Federal Treasury.

Mr. BURCH. Will the gentleman—

Mr. BURNETT. I must decline.

Mr. BURCH. The gentleman asked a question, and I suppose he wants an answer. He asked the gentleman to strike out the names and anything to entitle them to consideration over other parties. I say that the gentlemen named in this act have already built five hundred miles of telegraph line from the Pacific coast, through the West Minor, and the Mississippi, and now the gentleman from Kentucky cites his action as an argument against this bill. To the gentleman's remark, I answer that there is a man, Mr. O'Reilly, who, I believe, projected and constructed the first line of telegraph connecting the sea-board with the Lakes and the Mississippi, and who says that he will, with his associates build that line without the aid of money, if the Government will give them the right of way, as conferred in this bill.

Mr. BURCH. I understand that this very same man proposed to the Senate to build this same line for \$40,000 a year from the Government, and now the gentleman from Kentucky cites his action as an argument against this bill.

Mr. BURNETT. Suppose he did? We know him to be a man of enterprise; and he has demonstrated that by his own efforts, and I only desire that the provisions of this bill shall be such as to enable him, the pioneer in telegraphing, to come in competition with these other gentlemen. He certainly has some claim, and ought to be permitted at least to come in competition with these other gentlemen. The gentleman says he wanted a subsidy of \$70,000. The case is just like that of every other man who seeks aid from the Government—like every other project that we have here for Government aid, either for railroads or for telegraphs. They say that the Congress of the United States was disposed to vote a bonus to those who might establish a line of telegraph from the Atlantic to the Pacific coast. Hence, Mr. O'Reilly came and put in his bill for \$70,000, and I suppose other men have come in since offered to take \$40,000. There is a saving of \$30,000 between last Congress and this. That is, in my judgment, a conclusive argument that the course which I suggest is a correct one.

Mr. BURCH. I think that Mr. O'Reilly's offer of \$70,000 was made at this Congress. It may have been made, however, at the last Congress.

Mr. COLFAX. I think I can state something on this point, if the gentleman from Kentucky wishes to hear it.

Mr. BURNETT. I will hear the gentleman; for I am in search of light.

Mr. COLFAX. When this bill was pending before the Committee on the Post Office and Post Roads, I was a great deal like the gentleman from Kentucky. I thought that an annual subsidy of \$50,000 was too large; and I made up my mind that I should not be willing to report in favor of over \$40,000. I thought that the messages of the Government would probably amount to that sum, and, therefore, that the Government would not lose a cent by the subsidy. Mr. O'Reilly and Mr. Smoot did me the honor to call on me. Mr. Smoot is an old friend and personal acquaintance of mine, but I have never known him before. Mr. O'Reilly, in conversation with them, on the subject, I asked whether they would like to have this line—

Mr. BURNETT. I cannot permit the gentleman to make a speech here. If he will answer my suggestion, I will hear him.

Mr. COLFAX. Mr. O'Reilly and Mr. Smoot told me they would be willing to take \$40,000 a subsidy, and three dollars for a single message; and that if we would give the contract to this company, at those rates, they would have no objection provided we inserted a provision compelling them to receive messages from competing lines.

Mr. SMITH, of Virginia. Has not the chairman of the Committee on the Post Office and Post Roads a right to conclude the argument in this case?

Mr. COLFAX. Certainly; but I wanted to answer the gentleman from Kentucky.

Mr. SMITH, of Virginia. I think we have enough at this time.

Mr. SMITH. I was remarking, Mr. Speaker, that the reason for the course suggested by myself will be made manifest when it is taken into consideration that, within the short period of one year, the amount asked for subsidy was lessened from \$70,000 to \$50,000. The amount put in by the Senate was \$50,000. The bill came into the House; and then these gentlemen, becoming uneasy for fear they could not get \$40,000 from the Treasury—\$40,000 per annum for ten years—were willing to take \$30,000 less, with \$10,000 less of the rights of a monopoly conferred upon them by the provisions of this bill. Hence they agreed with the Post Office Committee to take \$40,000. Now, if these changes have taken place within twelve months, why not to adopt the provision in the last section of the bill, and require all these parties to bring their several interests into competition with each other, permit these parties to put in their bids in writing, and require them to take the Government contract at the lowest subsidy, limiting it to the amount fixed by the Committee on the Post Office and Post Roads?

Is there any injustice done by these parties, any wrong inflicted on anybody, by that course? None at all; and it does seem to me that if we are determined to pass this bill, that is the mode and course which should be adopted.

Now, Mr. Speaker, one more remark in connection with this bill. It is true that it limits, to some extent, the charge for telegraphing, the price to be paid for sending messages, and it limits also the tariff of charges for telegraphing throughout the country. I cannot, therefore, speak of my own personal knowledge. But I am informed by those who have experience in this thing, who have been in the business of telegraphing, and on which telegraphic messages are sent, that the rate of charges fixed in this bill is exorbitant. I know nothing about this myself; I merely throw it out for the consideration of gentlemen. The statement is made that you not only confer on this company a monopoly, but you permit it to charge exorbitant prices at the expense of the commercial men of the country. While we are conferring these exclusive privileges on this band of private corporators, let us at least extend to the rest of the great interests of commerce and of all other interests connected with it, by fixing the tariff of prices so that there can be no extortion from those who use the line.

The gentlemen have presented themselves to my mind. There are other objections to this bill—numberless objections, that might be urged; but these, it seems to me, are sufficient to defeat the bill, if not—and I must confess that I have had little hope of defeating it—do appeal to the friends of the bill to perfect it, so as to protect all the interests of commerce against the exclusive rights granted under this bill.

Mr. STANTON. Permit me to ask a question for information. I want to vote for this bill. We are to have a competition for the right of these same gentlemen may not contract for this line without having their names inserted in the bill, and why others may not be furnished with opportunities also of bidding lower if they choose, giving me an opportunity for the performance of their contract? That is what I want to know. What is the necessity of having the privilege exclusively confined to those named in the bill, of taking it at the rates specified? Why might not the objection be accomplished by letting these gentlemen put in their bids without having their names in the bill? I want to vote for the bill; but I see no reason why the privilege of bidding should not be extended to others besides the gentlemen named.

Mr. CONKLING. I will endeavor to answer

the question of the gentleman from Ohio in a moment. But let me say, in the first place, that I should have been glad to vote for this bill precisely as it came from the Senate, providing for a subsidy of \$50,000, instead of \$40,000, and establishing four dollars for the price of a single message, instead of three dollars. If I had been permitted to vote for the bill as it stood, I should have done so, knowing, in the first place, that the rate of telegraphing thus established was much lower than the rate existing on any telegraphic line on this continent.

Mr. COLFAX. Or the other.

Mr. CONKLING. My friend says, "or the other." That would be speaking somewhat beyond the knowledge of my constituents, and about what I first stated, without fear of contradiction. I should have supported the bill with pleasure, knowing, as I happen to do, several of the gentlemen whose names appear in it; members of both political parties, and most of them, I believe, of that party to which I do not belong; knowing them to be men, both as regards means and character, eminently safe to be selected and chosen to occupy a position like that proposed, and to hold with the Government the hundred millions of dollars of property and trust. I know that they have, by reason of their possessing the patents, the connections, the capital, and the experience, the facilities necessary to construct this line, costing, as I understand it, not less than a hundred millions, to one million dollars; which outlay must be made completely before any revenue can be derived from the Government or elsewhere, and before the contracts provided for can be entered into.

In this statement, I answer, in part, the suggestion of the gentleman from Ohio, [Mr. STANTON], and I will answer it further, by saying that if this proposition were thrown open for debate—a principle of action which, in its general application, I fully admit to be the wisest simple result of the free competition of parties, as far as carrying out and consummating this great enterprise, would be turned loose upon the very men named in this bill, they being the only parties who can now carry forward a work of this sort, and who would be in a position to monopolize the demands, interference, and compromise, or it would tend to impede, to delay, and to frustrate the whole scheme. I have considered, therefore, ever since this bill was first brought to my knowledge, that the only mode of execution to that general rule adverted to by the gentleman from Kentucky, and again hinted at by the gentleman from Ohio, in obedience to which this contract would have been thrown open for general and universal competition, is such as to that.

But, sir, I rose for a purpose which I have not yet reached. It was to express my astonishment that the gentleman from Kentucky, [Mr. BURNETT]—although I suppose he is one of the great constitutional leaders of the Democratic party—should venture to criticize upon constitutional grounds a bill which has received the sanction of a very large majority of the Democratic Senate, a higher body, in some respects, than even this. My friend from Pennsylvania, [Mr. STANTON], says "No." I am told that there are upwards of sixty candidates for the Presidency in that body. [Laughter.] My friend says that there are more than that here. Well, I say that wherever there are sixty hopeful candidates for the Presidency, a body no larger than the Senate, it is hardly fair to be a constitutional tribunal of very great authority and weight.

Mr. STEVENS, of Pennsylvania. Those candidates for the Presidency would go for any thing. CONKLING. I am not saying that they would do a great many things; but I do not feel called upon at this time to give this House gratuitously an opinion whether they will go for any bill or not. Now, I want to say, in answer to the learned gentleman from Kentucky, that, whether Congress has power—using his expression—to build telegraphic lines or not, I rather think Congress has power to authorize the Government to pay for the transmission of its telegraphic messages. It certainly has power to send ships thousands of miles over ocean to carry express messengers to transact the very business embraced in the purview of this bill; and it certainly has the power, in any way, to enter into a contract with gentlemen calling themselves a telegraphic company, or with men known by any other title, to transmit such

intelligence as the Government may have occasion to send from the Atlantic ocean to the Pacific slope. Now, that is all that this bill proposes—not that the Government is to build a line of telegraph, but that the Government is to be authorized to enter into a contract with these gentlemen for the transmission of messages at a specified rate, they to have priority over all other persons if seeking to use the line; and no such contract to be entered into, and no money to be paid, until the line is completed, and the entire outlay has been made.

Now, I should like to know from the gentleman from Kentucky, or from the most ardent or hypercritical gentleman on this floor, whether his ingenuity can point out a mode in which the Government can contract for the performance of this service on terms of greater restriction and hedged about with safeguards and provisions more likely to secure certainty, economy, and all the considerations constituting the propriety of a measure of this sort, than those which have been inserted in this bill?

Now, sir, it is not that the Government is to build this telegraphic line; it is not that the Government is to endow private corporations with special franchises, privileges, or immunities; but simply that Congress is to fix an amount to be paid for a given service, predicated upon data, figures, and probabilities, which shall not be too large a sum; and that having fixed the amount to be paid, it is to particular men, selected on account of their peculiar fitness for the purpose, who, in return, undertake to render an equivalent in service. That is all there is of it. If there were more, I might go into an argument on the various incidents and consequences of this bill, which would bring much larger powers than it implies, within the enumerated powers given to Congress by the Constitution. But it is enough for me to know that such is the limited scope of the measure, that the Government is to be authorized to contract for, and necessary services—services which, as has been stated by the chairman of the Committee on the Post Office and Post Roads, and as was certified by the late Governor Martz, and by several other Secretaries of State, will be of yearly, perhaps of monthly consequence, and of enormous saving to the Government.

Now, it seems to me all this talk about the extraordinary character of this bill vanishes. I believe that these parties are, in all respects, the fit men with whom to make this contract; and I believe that the bill is sufficiently restricted. It is very simple in principle, and has been subjected, by the committee of this House, to reductions which have cut down the charge for messages below that point which, I am informed by experts on this subject, is the minimum of adequate compensation. For one, I shall vote for the bill with great pleasure, although, at the same time, I shall recognize many of the general principles which have been asserted here in opposition to it.

Mr. ALLEY. Mr. Speaker, as a member of the Committee on the Post Office and Post Roads, this has been to me a subject of earnest consideration and mature deliberation; and I wish to say a few words in reply to the gentleman from Kentucky. [Mr. BREXET.] In regard to his constitutional objections, I must say that I am no lawyer. Now, sir, a member of the committee, however, however, that such an objection should be made by a distinguished and learned lawyer of this House. As, however, his constitutional argument has been so ably answered by the gentleman from New York, I will not make a single remark upon it; but in reply to those objections made by the gentleman from Kentucky, I will say a few words.

I will say, that so far as I am concerned as a member of that committee, I was opposed to the bill in the first place; and the objections which were urged by the gentleman from Kentucky [Mr. BREXET.] were the same objections which I urged in the committee against the enactment of this bill as it came from the Senate. But, sir, if all these objections have not been obtained by the amendments which the committee has reported to the House, then the committee has been exceedingly unfortunate in framing those amendments.

In the first place, Mr. Speaker, no man is more opposed to exclusive monopolies than I am, and, as a general principle, I am opposed to all monopolies; but I do not consider that this bill encourages an exclusive monopoly. The committee

did not intend, and I do not believe the bill as amended by them grants, any exclusive privileges. Of the contrary, it will be as free and open to competition after the passage of this bill as it is now before the passage of the bill. The bill simply provides that the Government shall simply agree to pay the sum of \$40,000 per annum for ten years for telegraphing all its communications to the Pacific coast; and there is not a gentleman on this floor who does not know enough of the wants of the Government to be convinced that, so far as that sum is concerned, it is a large bargain. Forty thousand dollars is nothing at all to this Government compared with the advantages and benefits which the Government will derive from the establishment of a line of telegraph to the Pacific. I should not consider the sum of \$100,000 per annum of the slightest consequence whatever compared with the advantages the Government will obtain from this line, to say nothing of the advantages the people at large will derive from it.

That, sir, is my view of this matter, and when I was represented as being opposed to the establishment of such a line, and the aid of the Government, of a telegraphic line of communication to the Pacific, I said, I am not opposed to such a line; on the contrary, I would vote \$100,000 a year subsidy, if necessary, for the accomplishment of that purpose; but I believed that \$40,000 was a sufficient sum to put these gentlemen to the test, and to give them any more, and I based this opinion upon reliable data, as I believed; for, sir, I wish to say to the members of this House that I have gone into this subject fully, I have calculated its cost, and have ascertained the probable amount of the revenue of this line. So far as its advantages are concerned they are incalculable to the American people. I suppose there is not a member upon this floor who doubts the great advantages to the people of the whole country, independent of the Government, of the aid of the Government, of the establishment of a telegraphic line to the Pacific coast; and the only question to be considered by the House is whether this is as good a bill as can be obtained, and whether the sum of money proposed to be paid by the Government is sufficient to put these gentlemen to the test.

I believe that if this is thrown upon to competition—and let me say to gentlemen here that that was my first deliberate conclusion as the only fair, just, and proper mode of establishing a telegraphic line; I have faithfully and conscientiously endeavored to put this subject before gentlemen here. The committee have had nearly a dozen special meetings upon it; I have conferred with these parties and with other gentlemen connected with telegraphic companies having full knowledge upon this subject, and it is my deliberate and firm conviction, that, if this matter is thrown upon to competition, situated as these corporations are, it will involve, for another year at least, the loss of a telegraphic line to the Pacific, and so believing, I have given my assent to the provisions of this bill. When I say that I believe that the Government has the most important interests which the Government has in the establishment of such a line of communication, and feeling, as I do most sincerely, that to throw the matter open to competition would defer the building of the line for years, I could not consent that it should be thrown upon to competition.

Now, sir, in regard to the objection urged to this bill by the gentleman from Kentucky, [Mr. BREXET.] that it gives to these men the exclusive right to a quarter section of land every fifteen miles along the route, not only for ten years, but forever, I reply that the committee I was not intend to do any such thing; the corporations do not understand that they have got any such thing, and it seems to me that language could not convey any stronger impression to the contrary than the language of this bill. If gentlemen here, and gentlemen here, they have been exceedingly unfortunate in their choice of language, for that is their intention.

The gentleman again objects, that the bill provides that the money shall be paid upon the acceptance of the contract by the gentleman and the gentleman, in reference to that point, that every man upon the committee would be opposed to such a provision. For myself, much as I desire the establishment of a telegraphic line to California, I would not consent that the Government should be liable to such an imposition, if we were to do such a line of communication from now till dooms-

day; and if it is thought by the House that the bill is not sufficiently explicit in that regard, let an amendment be offered that cannot be susceptible of any such misunderstanding, and I will give my vote for it, although I believe the bill as reported by the committee is liable to no such construction.

Now, sir, in regard to the provision in the third section and twelfth line, to the effect that messages received through any company or over any telegraph line connected with this shall be imparted to the Government in the order of their reception, with the exception that the dispatches of the Government shall have priority, that is an amendment, as you will see, to the Senate bill, and one which I regard as of great significance; and it removes a great objection which existed against the Senate bill, urged by the friends of the country; for it cannot be denied that great abuses have existed heretofore, by a disregard of this principle, in operating other telegraphic lines.

That, sir, is a provision which I deem of great importance, and of vital interest to the people of this country.

The gentleman from Kentucky [Mr. BREXET.] says that this bill confers an exclusive monopoly. I deny it. As I remarked before, the matter will be open to competition just as much after the passage of the bill as it was before, with the exception that the Government agrees to transmit its communications over this line, paying a moderate sum therefor. With that exception, it has no privilege, no monopoly, nothing but what everybody would be willing to grant.

Mr. HOARD. The gentleman from Massachusetts says that he has estimated the probable cost and the revenue of this line of telegraph. I would be glad if he would enlighten the House as to that probable cost and revenue. Before he answers that question, I would ask him to state, at least, what probably would be the capacity of the line.

Mr. ALLEY. I will say, in reply to the interrogatories of the gentleman from New York, that I have investigated the whole matter, and satisfied myself of the probable cost, revenue, and capacity of this line of telegraph. From the information I could obtain from the most enlightened sources, I have come to the conclusion that the sum provided in the bill is about as low as the thing can be afforded.

Mr. HOARD. State the cost.

Mr. ALLEY. I will state my judgment of it.

Mr. HOARD. That is what we want.

Mr. ALLEY. My judgment is, that the cost will be inside of \$600,000. In that I differ with some members of the committee, and with the corporations, and with many gentlemen connected with telegraphic lines in this country. From the opinion that the cost will be inside of \$600,000.

Mr. HOARD. For what length of line?

Mr. ALLEY. For the length of line proposed.

Mr. HOARD. What is the length of line proposed?

Mr. ALLEY. About sixteen hundred miles.

Mr. HOARD. Where does the line start from?

Mr. ALLEY. St. Louis.

Mr. HOARD. The bill says that the line shall start at any point west of the Mississippi, even if it is not a point on the Mississippi. Under the bill, the company can start five hundred or a thousand miles west of the Mississippi, if they choose.

Mr. ALLEY. I will say, for the information of the gentleman from New York, that a line of telegraph has been already established to St. Joseph, on this side, and from San Francisco, five hundred miles eastward; leaving an intervening space to be covered with a line of telegraph of sixteen or seventeen hundred miles. For that connecting line of telegraph I estimate the cost to be inside of \$600,000. I hardly think that it will exceed half a million. I allow \$600,000.

I will say in reply to the other interrogatory of the gentleman, that the lowest estimate, with the exception of that made by one of the members of the Committee on the Post Office and Post Roads, for operating the line, is \$200,000 per annum. My own estimate is about \$150,000 per annum.

In regard to the capacity of the line, I will say that it will be able to transmit about thirty messages an hour. If the line be worked twenty out of the twenty-four hours, that will be six hundred messages per day. That is the capacity

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

SATURDAY, APRIL 14, 1860.

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of the line. Whether they would get anything like that number of messages, I cannot tell. It is, however, exceedingly problematical. Nobody can tell what the extent of communication will be. But, with regard to the tariff of charge we have fixed, we have been informed that four dollars was the lowest rate at which a single dispatch could be transmitted.

Mr. CLARK, of New York. I hope the gentleman will answer one question. The bill provides that three dollars shall be the charge for a single dispatch of ten words. Now, sir, from what point to what point is covered by that charge?

Mr. ALLEY. From St. Louis to San Francisco.

Mr. CLARK, of New York. The bill is indefinite in that regard. Suppose the contractors fix the point of commencement of the subsidized line one thousand miles west of St. Louis, must we pay from New York to that point, and then three dollars to San Francisco in addition?

Mr. ALLEY. The charge is from any point west of the Mississippi that the company may choose to start from.

Mr. CLARK, of New York. Suppose these gentlemen, as private individuals, build a line five hundred or one thousand miles west of St. Louis, and fix at that point as the starting point of the subsidized line, does the bill provide that charge of three dollars for the whole line, or only for the most western portion of it?

Mr. ALLEY. That would be in violation of the understanding which sustains under the provisions of the bill between the Government and the contractors.

Mr. CLARK, of New York. Perhaps it would. Mr. ALLEY. It would be in violation of the spirit of the agreement and positive understanding between the gentleman and the Government. The bill can be amended so as to make it more imperative on that point, if it is desired; but it seems to me that there is no necessity for it, for Congress is supreme in the matter. We are to be the judges when the company violates the contract with us. If they would violate the contract to any extent suggested, then there is not a man in this House, I think, who would vote to grant them this subsidy. We have the power in our own hands.

Mr. CLARK, of New York. The defect in the bill can be cured by naming the points between which the specific charge of three dollars shall be the price for a single dispatch of ten words.

Mr. ALLEY. If the gentleman from New York does it material, let the bill be amended in that way.

Mr. Speaker, I think I have answered all the objections urged against this bill which strike me as important. I will say, in conclusion, that I hope the House will take the bill as it stands; for I believe that it is the best we can get. I believe it is as good as the company can afford to believe, too, if this matter be thrown open to competition, as some gentlemen seem to desire, that it will end in the loss of the whole thing. And why not? Because, as has been partially stated by those who have preceded me, these parties are in possession of most of the points, and also most of the telegraphic lines upon this continent; and the additional value which the construction of this California line will give to all the rest, furnishes a strong inducement for these parties to build it even at a considerable loss. And from all the information I have been able to obtain, my calculations I have made, my judgment is satisfied that it is as favorable a contract as they can possibly afford to make with the Government. As I have already said, every village in every State of the Union feels a deep interest in this enterprise. There is not a village or hamlet in the land, but that has friends and relatives of its people in California, and whenever telegraphic communication is established between the Atlantic and the Pacific coast, every individual upon this side and upon the other will feel that California is at least one-half nearer to us than it is now. Feeling that the great commercial, financial, and manufacturing

interests of this country, as well as the commercial interests of the whole world, will be benefited to an incalculable extent, and feeling also that the Government will be benefited independently of the people more than \$100,000 per annum; and having said much more than I intended when I arose, I will conclude by saying that I shall give this bill my cheerful and hearty support.

Mr. DAVIS, of Maryland. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COLFAX. I trust that the House will not agree to this. If the House is ready for the previous question on this bill I will call it now, with the understanding that gentlemen may propose their amendments to-morrow morning. If this telegraph line is to be constructed, this bill had better at once pass; for if it be delayed still further it will be impossible, almost, to begin the work, or to complete any part of it this year. It has been hanging here for three weeks because of the priority of other business of the House, and now that it is up, I hope it will be speedily disposed of. If it is not passed now, so that the Senate can concur with our action next week, it cannot be until after the Charleston convention, and even then it may be tardily crowded out by the press of business at the close of the session.

I only ask that, if you go into committee now, you will give me an hour to-morrow to finish this bill. All we want is action upon it. Gentlemen can offer what amendments they please, and then vote on the whole.

If the gentleman from Maryland will yield to me, I will move the previous question now; and if the House sustains it, that will carry the bill over until to-morrow morning. That is all I desire. If the House then desires to debate it an hour, I am willing.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will not move the previous question. I intend to vote against the bill, and I want to give the reason for my vote.

Mr. COLFAX. The offer I have made, which the House understands, and to which there is no objection, I move the previous question. If a majority of the House sustains it, well and good; if not, the bill goes to the Speaker's table.

The SPEAKER. Does the gentleman from Maryland insist upon his motion?

Mr. DAVIS, of Maryland. I do; and it is in possession of the House.

Mr. SCOTT. If we go into committee, what will be the effect upon this bill?

The SPEAKER. The bill will remain before the House until to-morrow morning.

Mr. FLORENCE. To come up to-morrow morning, or whenever it is reached.

Mr. COLFAX. Then I enter a motion to recommend the bill, to insure that point.

The motion of Mr. DAVIS, of Maryland, was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Maine, in the chair,) and resumed the consideration of the bill (H. R. No. 336) to provide for the payment of outstanding Treasury notes; to authorize a loan; to regulate and fix the duties on imports, and for other purposes; upon which the gentleman from New York [Mr. CORNING] was entitled to the floor.

TARIFF BILL.

Mr. CORNING. I believe I am entitled to the floor. The gentleman from Georgia [Mr. HARDEMAN] desires me to yield to him for a few remarks, and with the permission of the committee, I will do so, with the understanding that I shall have the floor whenever the House again goes into committee.

No objection being made, Mr. CORNING yielded the floor to Mr. HARDEMAN.

The committee was addressed by Messrs. HARDEMAN, DAWES, FLORENCE, and DUELL. [The speeches will be published in the Appendix.]

Mr. LEAKE moved that the committee do now rise.

The motion was agreed to.
So the committee rose; and Mr. SPEAKER having taken the chair, Mr. Speaker pro tempore, Mr. WASHBURN, of Maine, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 336) to provide for the payment of outstanding Treasury notes; to authorize a loan; to regulate and fix the duties on imports, and for other purposes; and had come to no conclusion thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKS, its Chief Clerk, informing the House that the Senate had passed a bill of the House (No. 31) for the relief of Charles Knapp.

Also, that the President had informed the Senate that he had approved and signed

An act (S. No. 71) for the relief of the American Board of Commissioners for Foreign Missions; and an act (S. No. 136) for the relief of Thomas Finckh.

An act (S. No. 233) for the relief of Alice Hunt, widow of Thomas Hunt; and

An act (S. No. 250) for the relief of Kate D. Taylor, widow of the late Breckinridge Oliver H. P. Taylor.

Also, that the Senate had agreed to the amendment of the House to the bill (S. No. 78) for the relief of Francis Hutton.

Also, that the Senate had ordered the printing of the report of the Secretary of the Treasury as to the amount of revenue collected annually in each collection district, from June 30, 1854, to June 30, 1859, &c.

Mr. BUFFINTON. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at half past five o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, April 13, 1860.

Prayer by the Chaplain, Rev. Dr. GERRY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message of the President of the United States, communicating, in compliance with a resolution of the Senate, information in regard to the compulsory enlistment of American citizens in the army of Prussia, which was ordered to lie on the table; and a motion by Mr. HALE to print the report was referred to the Committee on Printing.

He also laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of the 23d of February, information in regard to the competition by American citizens of the Island of Naxos, in the West Indies; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, detailed information with respect to the expenses of the Indian wars in Oregon and Washington Territories; which was, on motion of Mr. DAVIS, referred to the Committee on Military Affairs and Militia.

He also laid before the Senate a report of the Secretary of the Interior, submitting a report and estimate under the act of the 2d of March of the act of 18th of August, 1856, relative to clerk hire and office expenses of the district land offices; which was ordered to lie on the table; and a motion of Mr. WILSON to print the report was referred to the Committee on Printing.

He also laid before the Senate a report of the Commissioner of Indian Affairs, submitting, in compliance with a resolution of the Senate of the 20th ultimo, an estimate of the amounts that will be required to hold councils with certain Indians of the plains, and in the State of Minnesota; which was, on motion of Mr. SEASTIAN, referred to the Committee on Indian Affairs.

HOUSE BILL REFERRED.

The bill (H. R. No. 23) for the admission of Kansas into the Union, received from the House of Representatives yesterday, was read twice by its title, and referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented the petition of Harriet Crocker, widow of Edward Crocker, late a boatswain in the Navy, praying a pension, which was referred to the Committee on Pensions.

He also presented the petition of Edward Savoy, praying compensation for his services as cook and servant to the staff of General Bankhead in the war with Mexico, which was referred to the Committee on Claims.

Mr. LATHAM presented a memorial of the Legislature of the State of California, asking the passage of a law legalizing and confirming to the State of California such selections and localities of land as were made by the State before survey of the United States authorities; which was referred to the Committee on Public Lands.

Mr. CHANDLER presented petitions in relation to the claim of Peter Campuzano to pay for taking care of the United States dredge-boat, belonging to the St. Clair Flats improvement; which was referred to the Committee on Commerce.

Mr. WILSON. I present a memorial signed by T. S. Tobey, president, and Lorenzo Salazar, secretary of the Boston Board of Trade; Jacob Byglov, president of the American Academy of Arts and Sciences; Daniel Treadwell, vice president of the American Academy of Arts and Sciences; Joseph Lovering, professor of mathematics and natural philosophy of Harvard College; L. Agassiz, professor in the Lawrence High School; C. C. Felton, president of Harvard College; Benjamin Pierce, professor of astronomy and mathematics of Harvard College, and B. A. Gould, editor of the *Astronomical Review*, praying that the Superintendent of the Coast Survey may be directed to send observers to the most suitable point on the Atlantic coast to observe the eclipse of the sun, which will occur on the 18th of July next, with a view of verifying the relative heliographic positions of the sun and planets. I move the reference of this paper to the Committee on Commerce.

Mr. HAMLIN. That is literary, or scientific, or a little of both; and I think it ought to go to the Committee on the Library. We do not want a report of the planets in the Committee on Commerce. We go over the ocean and over the earth. When you come to science—

The VICE PRESIDENT. What committee does the Senator from Massachusetts think that it be sent to?

Mr. WILSON. I have no choice myself whether it goes to the Committee on Commerce or the Committee on the Library. It was placed in my hands by a gentleman in the name of the head of the Coast Survey, Professor Roche, with a request that I would present it and ask its reference to the Committee on Commerce. If the Senator does not wish that reference, I propose that it go to the Committee on the Library.

It was so referred.

Mr. BENJAMIN presented papers relating to the claim of Mary L. Lear, widow of the late Lieutenant Clinton W. Lear, of the United States Army, to a pension; which were referred to the Committee on Pensions.

Mr. BIGLER presented a memorial of the officers of the American Philosophical Society, of Philadelphia, praying that the Superintendent of the Coast Survey may be authorized to send persons to some suitable point on the Atlantic coast to make observations of the eclipse of the sun, which will occur on the 18th of July next; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SIMMONS, it was Ordered, That the memorial of Moody, Beece & Co., with the report of the Secretary of the Treasury thereon, on the files of the Senate, be referred to the Committee on Naval Affairs.

BILL RECOMMITTED.

On motion of Mr. HEMPHILL, it was Ordered, That the bill (H. R. No. 257) for the relief of Frederick E. Huxley, be recommitted to the Committee on Pensions and the Patent Office.

BILLS INTRODUCED.

Mr. LATHAM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 405) to confirm certain lands to the State of California, which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FITCH asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 29) authorizing the proper accounting officers of the Treasury to receive and adjust the account of Randolph Clay, United States minister to Peru; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 407) for the relief of Mary L. Lear; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BIGLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 30) to repeal the proviso of the third section of the act approved March 3, 1859, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1860," which was read twice by its title.

Mr. BIGLER. I move that the joint resolution be referred to the Committee on the Post Office and Post Roads.

Mr. KING. I should like to know what is the proviso that it is proposed to repeal.

Mr. BIGLER. I will explain, for the information of the Senator from New York. I have introduced the joint resolution simply for reference; but I will state what it means. It is a proposition to repeal the proviso which limits the price at which certain public buildings in Philadelphia should be sold. The officers have endeavored to sell at that price, and cannot do so.

Mr. KING. I have no objection to the reference.

The joint resolution was referred to the Committee on the Post Office and Post Roads.

REPORTS OF COMMITTEES.

Mr. DAVIS. The Committee on Military Affairs and Militia, to whom was referred a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate, the report of Captain H. D. Wallen, of his expedition, in 1859, from Dallas City to Great Salt Lake and back, have directed me to report it back to the Senate with a recommendation that it be printed; and that motion, I suppose, goes to the Committee on Printing.

The VICE PRESIDENT. The Chair will state to the Senator from Mississippi that the motion may be put now, as this is a report from a committee, and that it is not therefore necessary to refer it to the Committee on Printing.

Mr. DAVIS. Then I ask that the motion to print be put now.

The motion was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Samuel S. Burton, praying to be allowed the amount due him for pay and rations as a musician in the war of 1812, asked to be discharged from its further consideration; which was agreed to.

Mr. FOOT, from the Committee on Claims, to whom was referred the memorial of Captain John B. Montgomery, of the United States Navy, praying to be released from his liability for an unpaid balance of public money entrusted to him for recruiting purposes, and lost by the failure of the bank in which it was deposited, submitted a report, accompanied by a bill (S. No. 406) for the relief of Captain John B. Montgomery, of the United States Navy. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. BRAGG, from the Committee on Claims, to whom was referred the petition of Charles Montgomery, praying compensation for defending, at the request of the superintendent of Indian affairs in Utah, two Indian boys who were indicted for a criminal offense in the second judicial district court for that Territory, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Samuel

Jones, a captain in the United States Army, praying to be remunerated for losses sustained by him in consequence of the blowing up of the steamer Pennsylvania, on the Mississippi river, while he was traveling in the public service, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

He also presented the petition of John Wilson, a paymaster in the Army, praying remuneration for losses sustained by the wrecking of the steamship Southerner, on which he was traveling under orders, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

PROPERTY IN THE TERRITORIES.

Mr. LATHAM. I ask the consent of the Senate that the resolutions introduced by the Senator from Mississippi, [Mr. Brown,] relative to property in the Territories, be made the special order for Monday next at one o'clock; at which time, if it does not interfere with any business that is urgent, its passage will be desired to submit some remedy to the Senate.

The motion was agreed to.

AFRICAN SLAVE TRADE.

On motion of Mr. WILSON, the Senate proceeded to consider the resolution submitted by him on the 13th ultimo; and it was agreed to, as follows:

Resolved, That the Committee on Foreign Relations be instructed to inquire and report to the Senate whether the treaty with Great Britain, for the suppression of the African slave trade, has been executed; and whether any further legislation is necessary, by way of amendment, or otherwise, for the more effectual suppression thereof.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FENNER, its Clerk, announced that the House had this day ordered the printing of the following documents:

Message of the President of the United States, transmitting, in answer to a resolution of the House, a report as to the practicability of making the Mississippi river navigable for commercial purposes—ordered at twelve o'clock and twenty-five minutes.

Letter of the Secretary of the Interior, submitting, pursuant to the seventh section of the act of 18th August, 1854, a report on the application for certain expenses of district land offices—ordered at twelve o'clock and twenty-five minutes.

Letter of the Secretary of War, transmitting, in answer to a resolution of the House, the official correspondence of Brigadier General William S. Harney, in command of the military department of Oregon, relating to the affairs of that department—ordered at twelve o'clock and twenty-five minutes.

Letter of the Secretary of the Treasury, in answer to a resolution of the House, calling for information in reference to a contract for the performance of certain labor at the public stores in the city of New York—ordered at two o'clock and two minutes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the Vice President:

A bill (S. No. 306) to settle titles to lands along the boundary line between the States of Georgia and Florida.

A bill (S. No. 78) for the relief of Francis Hutton; and

A bill (H. R. No. 31) for the relief of Charles Knapp.

ARREST OF FRANK B. SANBORN.

Mr. SUMNER, Mr. President, I present certain papers which I have received, supplementary to the memorial of Mr. Sanborn, now lying on the table of the Senate. These papers are the official returns to the writ of *habeas corpus* made by the sheriff and by Carleton, pretending to act in the name of the Sergeant-at-Arms of the Senate; the papers being authenticated by the clerk of the supreme court of Massachusetts. They become important at this moment, particularly in answer to the assertion hazarded the other

day by the Senator from Virginia, (Mr. Mason.) It will be remembered that he stated that Mr. Sanborn was taken from the custody of that pretended officer by a mob. That was the statement of the Senator from Virginia, made here, and going to the country; and I think a calumny upon the people of Concord. How are the facts authenticated by the official papers? The return by the sheriff is as follows:

MIDDLESEX, ss. April 7, 1860.
By virtue of this writ, and in obedience thereto, I this day took the body of the within named John B. Sanborn from the custody of Silas Carleton, at Concord, in said county, and now have him, under safe and secure conduct, before the chief justice of the said county, at Concord, sitting at Boston, in the county of Suffolk, as within directed. And I have also removed the within named Silas Carleton, who appeared before me, and there, in view of the taking and detaining the said Frank B. Sanborn, by reading to him the within writ, and have also given him in said said a signed copy thereof.

JOHN B. MOORE,
Deputy Sheriff.

Now comes the return of this very Carleton, the pretended officer: the return of this very Carleton, the pretended officer.

COMMONWEALTH OF MASSACHUSETTS, Suffolk, ss. April 10, 1860.

Before Lemuel Shaw, chief justice of the supreme judicial court of Massachusetts.

In the matter of F. B. Sanborn.

And now before the said chief justice comes Silas Carleton, the deputy—

He so calls himself—
of Danvers, N. H., Sheriff, at-Arms of the Senate of the State of Massachusetts, and for answer saith that by virtue of a certain warrant duly issued by authority of the Senate of the said United States, now in session, at Concord, on the 23d day of February, A. D. 1860, a copy of which he heretofore presented to the said chief justice, that he did receive, for the causes so said warrant and the said copy he heretofore fully acted, on the 23d day of April, instant, the body of the said F. B. Sanborn, at Concord, in the county of Middlesex and Commonwealth aforesaid, and that after said (after having arrested the said Sanborn, and taken him at the place aforesaid, he, the said F. B. Sanborn, was taken from his custody by one John B. Moore, then and there acting as deputy sheriff of the county of Middlesex, and that the said F. B. Sanborn was taken from his custody by the said John B. Moore, by virtue of a warrant or writ, under the seal of the honorable Edward Rockwood Hoar, associate justice of the said supreme judicial court, on the 24th day of April, instant.

Deputy of the Sergeant-at-Arms of the Senate of the United States.

SUFFOLK, ss. April 14, 1860.

Subscribed and sworn to before

R. M. QUINCY,

There, sir, is the official response to the assertion of the Senator from Virginia. The Senator says he was rescued by a mob. It is true there was a mob in Concord. It was a mob of kidnappers, who went there in the name of the Senate of the United States to seize a citizen of Massachusetts. I have here a letter which I have received from one of the most distinguished citizens of Concord, who was present at the time. This is his statement:

"No reason by the crowd was made or attempted till the said John B. Moore, who was arrested, and taken to the jail, and his fellows resisted till the deputy sheriff's obligation to force him to take Mr. Sanborn from him."

And here is a letter from one of the most distinguished citizens of Concord, who was present at the time. This is his statement:

"Sir, it is not unnatural that an arrest made under such circumstances should attract the attention of the people in that town and throughout the Commonwealth of Massachusetts. It has. It has excited a feeling of indignation against the act; and perhaps that is increased when people put this question: 'Why this effort to seize Mr. Sanborn? Why this overhauling of law to accomplish that purpose? It is notorious that there is a citizen of Virginia, formerly the chief magistrate of that State, who has openly avowed that he knew much in regard to the very matters in inquiry before that committee, and that rubies should not bribe him to disclose them.' He has threatened to change denials to that committee and this Senate before the whole country, refusing openly to testify; and yet that committee makes no motion to bring ex-Governor Wise before the Senate, and compel him to testify."

And here is a letter from one of the most distinguished citizens of Concord, who was present at the time. This is his statement:

"Mr. BIGLER. I more that the Senate proceed to the consideration of the bill (S. No. 10) in addition to 'An act to promote the progress of the useful art.'"

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The VICE PRESIDENT. If there be no objection, the papers presented by the Senator from Massachusetts will, for the present, lie with the memorial on the table.

Mr. MASON. Before that is done, the Senate will allow me to say a word in reply to what has been said by the Senator from Massachusetts. When he presented the memorial of this man, Sanborn, I objected to the reference which he proposed to give it, upon the ground that I thought no action could be taken upon it until we had the official return upon the warrant under which he had been arrested; and, in the course of the remarks which were made in reply, according to my recollection, to what then came from that Senator, I stated that I, of course, had no personal knowledge of anything that transpired; but that, as well as I could gather from a hasty correspondence with the marshal, whose deputy was the party that made the arrest, Sanborn, when arrested, had been rescued by a mob in the town of Concord, from the officers of the law. That was denied by the Senator, on information that he had received to the contrary. I had no other information, other than that communicated to me by the correspondent. Since then, I have received—and only last night—the official return of the officer who made the arrest; and it is my purpose, on Monday, under the instructions of the select committee, to present the question to the Senate for the disposition that that committee have instructed me to move shall be made of the subject. It may possibly involve an inquiry which will ascertain the facts, which would seem to be in controversy for the party making the arrest and the deputy sheriff who served the *habeas corpus* before we go further into the subject; but we have the circumstances that transpired under oath of the party who made the arrest—the deputy of the Sergeant-at-Arms. I shall, I say, on Monday, move, under the instructions of the committee, for the disposition of that subject which they have instructed me to move.

In reply to what fell from the Senator in reference to the action of the committee, I will say that it has been the pleasure of that Senator to say that a citizen of the State of Virginia, who was late its Governor, as he learns through the press, has stated that he had information on the subject which the committee were required to inquire into with reference to the occurrences at Harper's Ferry which rubies could not bribe him to disclose; and it has been the pleasure of that Senator to say that the committee have taken no action to have that gentleman brought before them as a witness, and to assume that they have done it from a desire only to get that sort of information from northern men. Now, I will say to the Senator that he has spoken upon a subject of which he has no information. I assume that the members of the committee have disclosed nothing as to that. I say, therefore, the Senator has stated here, as matters affecting and impugning the conduct of the committee in the inquiry committed to them, that upon which he can have no information; and secondly, it is known that if anything, will be divulged in good time, when the report is made. At present, the Senator can have no information on the subject.

Mr. SUMNER. Mr. President, I profess to have no information except what is open to all the world; and there are two things that are open to all the world, that is, so far as they are known through the press: first, that the ex-Governor of Virginia has more than once declared that he had important information in reference to that matter, and that rubies would not tempt him to disclose it; and secondly, it is known that the ex-Governor of Virginia has not been brought to Washington as Mr. Hyatt has been, and an attempt has been made to bring Mr. Sanborn. No kidnappers have been sent into Virginia, nor hand-cuffs put upon ex-Governor Wise.

The VICE PRESIDENT. The papers will lie on the table.

PATENT LAWS.

Mr. BIGLER. I more that the Senate proceed to the consideration of the bill (S. No. 10) in addition to "An act to promote the progress of the useful art."

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BIGLER. I suggest that that part of the bill which has been reported as a substitute is the only part that perhaps need be read.

The VICE PRESIDENT. The bill has never been read in the Senate. The Secretary will read the bill at length.

The Secretary proceeded to read the bill.

Mr. BIGLER. Let me suggest that perhaps the Senate will agree by unanimous consent that this bill was recommitted to the committee and a substitute reported for the entire bill, that only the substitute be read.

The VICE PRESIDENT. The Senator from Pennsylvania has just suggested that this bill was recommitted to the Committee on Patents, who have reported a substitute for the entire bill; and he asks unanimous consent to suspend the reading of the bill, and that the substitute only be read. If there be no objection, that course will be pursued. The Chair hears no objection. The Secretary will read the amendment of the committee.

The Secretary read the amendment reported by the committee, to strike out all after the enacting clause of the bill, and insert the following in lieu thereof:

That the Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent office, and such affidavits and depositions may be taken and sworn to by any justice of the peace or other officer authorized by law to take depositions to be used in the courts of the United States, or in the state courts of any State, or in the District Court of any country, or in the Patent Office, it shall be lawful for the clerk of any court of the United States for any district or Territory, or for any justice of the peace, or for any attorney or agent of any party, to issue subpoenas for any witnesses residing or being within the District or Territory, commanding such witnesses to appear and testify before any justice of the peace, or other officer as aforesaid, residing within the District or Territory, at any time and place in the subpoena to be stated; and if any witness, after being duly served with such subpoena, shall refuse or neglect to appear at the time and place so specified, or neglect being proved to the satisfaction of any judge of the court whose clerk he is, to obey the subpoena, such judge may thereupon proceed to enforce obedience to the subpoena, or to cause the same to be enforced, in like manner as any court of the United States may cause to be enforced, any decree or process of a subpoena of a testificandum issued by such court, and may also cause to be enforced, in like manner, any compensation as is allowed to witnesses in the courts of the United States: *Provided*, That no witness shall be required to appear at the place specified in any subpoena served on him by virtue of this act, unless his fees for going to, returning from, and one day's maintenance at the place of examination shall have been tendered to him at the time of the service of the subpoena.

Sec. 2. *And he further enacted*, That, for the purpose of securing greater uniformity of action in the grant and refusal of letters patent, there shall be appointed in the same manner as now provided by law for the appointment of examiners, a board of five examiners-in-chief, at an annual salary of \$2,000 each, to be composed of persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written application of an inventor, for the purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters patent, and to report to the Commissioner of Patents upon the validity of the decisions of examiners in interference cases, and when required by the Commissioner of Patents, to attend to the attendance of witnesses and perform such other duties as may be assigned to them by the Commissioner of Patents. The examiners-in-chief of this board may be removed by the Commissioner of Patents, upon payment of the fee hereinafter prescribed; but the said examiners-in-chief shall not be governed in their action by the rules to be prescribed by the Commissioner of Patents. No appeal shall hereafter be allowed from the decision of the Commissioner of Patents, except in cases pending prior to the passage of this act.

Sec. 3. *And he further enacted*, That no appeal shall be allowed from the decision of the Commissioner of Patents, upon payment of the fee hereinafter prescribed; but the said examiners-in-chief shall not be governed in their action by the rules to be prescribed by the Commissioner of Patents. No appeal shall hereafter be allowed from the decision of the Commissioner of Patents, except in cases pending prior to the passage of this act.

Sec. 4. *And he further enacted*, That the salary of the Commissioner of Patents, from and after the close of the present fiscal year, shall be \$10,000 per annum, and the salary of the chief clerk of the Patent Office shall be \$2,000. Sec. 5. *And he further enacted*, That the Commissioner of Patents is authorized to sell to the public, for the purpose of sale, or when not removed by him, to otherwise dispose of such of the models belonging to rejected applications as he shall not think necessary to be preserved, and the same authority is also given in relation to all models accompanying applications for designs. He is further authorized to dispose, in favor of the widest sale of designs, when the design can be sufficiently represented by a drawing.

Baltic, through which we obtain our entire supply of hemp, would have been closed against us. That circumstance, which is a perpetual reminder to the mind of the Government, great desire to establish a domestic resource, upon which we might safely and independently rely. He seems, in his efforts to complete the bill, to have been actuated by a spirit of patriotism, and to have acted under the full conviction that he was not transgressing his lawful authority in doing so. He was, however, mistaken. He was, in the opinion of the committee, standing committed to the opinion of the country; and his engagements with the claimants, in relation to their compensation, should be recognized and fulfilled by the Government.

"The claimant, conscious that the prosecution of the enterprise would be attended with great pecuniary loss, would probably involve him in serious losses, expressed an unwillingness to return upon it."

It was not a voluntary proposition made by this claimant. It was not one of the frequent cases in which a man comes to the Government and urges it into a contract for a speculative purpose; but this claimant was sent for by the Secretary of the Navy. He was brought to the seat of Government to consult with him on subjects connected with this enterprise; and he was urged, against his will, by the Secretary of the Navy, to enter into it. These considerations appear to me to relieve him entirely from any prejudice which any Senator might entertain against him.

"The Secretary of the Navy, in order to overcome the objections given to the bill, by Mr. Myerle, brought and at such a price, as would probably afford him an adequate remuneration in the event of success, and assured him that the Department would take the loss, if it occurred, as compensation for any loss he might ultimately sustain in consequence of a failure of the experiment. Mr. Paulding, in his report, avers that he recommended the bill, in the opinion of the Navy Department just about the period at which the rejection of the hemp of the claimant took place, and that, had he been retained in office, he would have taken effectual measures to remedy, as far as possible, the injustice of the decision of the inspectors at Boston, by causing the hemp to be retested, as he was then, and still is, of opinion that the superiority of the claimant's hemp, in strength, more than counterbalanced any alleged inferiority in cleanness, and that he substantially justified his conduct according to the understanding of the parties."

"The hemp of the claimant was received, he would have realized a profit of \$65,000 as a remuneration for the time and means which he had sacrificed in the accomplishment of the great enterprise for which he had voluntarily entered and labored. He was assured that he should be indemnified against loss, even in the event of a failure. He was told, but not in writing, that the Government would, which not only reduced its independent of foreign countries for an ample supply of the best hemp in the world, for the use of the naval service, but that it would have developed an important agricultural interest in our country, whereby millions of dollars, which were annually sent to foreign countries for the purchase of hemp, would be retained at home, and contribute to the general wealth and prosperity of the country. Mr. Paulding says, 'you succeeded, and you will be rich; and another man will be ruined, who would have done so.' Yet this success has not elicited the fulfillment of the pledge of indemnity which was made the claimant, even in the event of failure."

"It appears, from the testimony embraced in this report, that the hemp offered by the claimant for inspection was analyzed and rejected, and that he was thereby not only unfairly deprived of the profits which he would have realized from the fulfillment of his contract, but consequently embarrassed and entirely ruined. The testimony establishes the fact that the claimant, in order to embark upon the enterprise at the earliest solicitation of a high functionary of the Government, or, at least, of an officer from a lucrative manufacturing position, which promised him a large sum of money, he was induced to enter into a contract to ruin. It further appears that he was the owner of a large amount of property, exceeding the value of \$50,000, which was in his hands as a security for the fulfillment of a debt to the hemp enterprise in behalf of the Government; and that he directed in this object of great national importance, and in the exercise of his own judgment, during which time he manifested a degree of sound business capacity, and courage, both moral and physical, which, if duly and justly rewarded, would have proved a source of a liberal worth."

The Senator from Kentucky said he was engaged in the present, or, in two years, in the prosecution of this enterprise. The committee shows that he was engaged six or seven years:

"The committee, having traced the legislative history of this claim, find that its justice has been recognized by several honorable members of the House, and that it has been so long and repeatedly passed, separately, both the Senate and House of Representatives, not merely concurrently, so as to commend it to the popular eye, but in such a manner as to commend it to the popular eye."

"The Court of Claims, after a thorough and elaborate examination, have commended it to the favorable consideration of Congress."

I will state to the Senator from Delaware that the decision of the Court of Claims was simply on a technical and legal point. They said that Mr. Paulding, under the law, had no authority to make this contract, and therefore the Government was not legally responsible for any damages which this party sustained by the rejection of the hemp; but the Senate is not bound by a legal technicality. If this man entered into this contract in good

faith, and the Secretary of the Navy made it in good faith, for the purpose of testing a great national experiment, which has resulted largely to the benefit of the United States, it seems to me that every principle of equity and of justice would demand to treat it precisely as if it had been a naked legal contract.

"The Court of Claims, after a thorough and elaborate examination, have commended it to the favorable consideration of Congress."

"In the conclusion of their opinion, reviewing the case, (Rep. C. C. No. Doc. 81, Thirty-Fourth Cong., third sess., p. 12.) the committee say:

"The evidence tends to show that an active and enterprising man of business became embarrassed in his circumstances by seeking to vindicate the just and fair power of the honest occupation, by his efforts to promote a matter of national concern. We submit the whole matter to the consideration of Congress, for such action as they, under all the circumstances, shall consider just and equitable."

"For sixteen years the claimant has been struggling with misfortune and adversity, entailed upon him by creditors made and losses sustained in the prosecution of this enterprise. During that entire period he has been before Congress, seeking in vain to obtain redress for the loss of his property, and a reparation of injuries sustained in the accomplishment of an object of national concern, the benefit of which the country has been enjoying. He is now, however, afflicted with blindness, and distressed with the infirmities incident to advanced age. These considerations unite with the claims of justice in urging, in the hands of the Government, an immediate relief. The committee, therefore, report a bill, the enactment of which would confer upon the claimant the relief which he is entitled to, and confer a great benefit upon the country."

The committee in the House of Representatives have reported a bill for precisely the same amount as the Committee on Claims of the Senate—\$100,000. The bill is introduced from Kentucky, and this amount has been arrived at. I confess it has been partially arbitrary. It was very difficult to ascertain by any proof what injury this party actually sustained. It is in proof, however, I think conclusively—at least it is so stated by the report of the Senator from Florida upon your table—that if the inspectors in Boston had accepted the quantity of hemp which he manufactured and offered to the Government under his contract, he would have made \$65,000 clear money by the operation. It is not in proof that these inspectors colluded with the inspectors of foreign hemp to break down this experiment of Mr. Myerle, for the benefit of foreign importers, and that they did him great injustice by the rejection of his hemp; for the Secretary himself, and persons who examined the hemp, and reported that it was inferior, because the hemp was a stronger and better article than any foreign article which had been introduced into this country, and was wanting in nothing but a little cleanliness, which was an unimportant consideration at most. There can be no doubt, I think, from the reading of the evidence in this case, that the inspectors corruptly rejected the hemp of Mr. Myerle.

MR. SLIDELL. Will the Senator from Georgia excuse me? I should like him to point to that portion of the record from which any such inference is drawn.

MR. IVERSON. I cannot do that, because I have not got it here.

MR. SLIDELL. I have examined carefully, and I can find nothing of that sort.

MR. IVERSON. That is the report of Mr. Mallory. I take it for granted he would not make the statement unless it was so. I am not familiar with the facts, and take the statement more on what Mr. Mallory has reported than on my own knowledge of the case. I think that is justified by Mr. Paulding's deposition, because he states his deposition that if he had not gone out of the Navy Department, he would have taken means to reconsider the determination by which that hemp was, as he says, improperly rejected. Improperly—yet? Rejected, because the inspectors reported that it was not good. I think it is not proper to be any way by the testimony of the witness, and it was a better article than any that had been imported from abroad.

Now, sir, here is the case of an old man who was employed by the Government, at the instance of the Secretary of the Navy, to test the hemp on his own application—but employed to make an experiment which cost him six or seven years of labor, the best years of his life, and on it he expended a fortune of \$50,000, and by it he has been ruined. It is an experiment, too, which on all hands is admitted to have been a failure, and yet the Government, because now, instead of being dependent on a foreign supply, this very process,

which he demonstrated to be one capable of being pursued successfully, has enabled the Government to supply itself with a domestic article, and has stimulated the production of this article in all the western States. Under these circumstances, I think he comes with a powerful appeal to Congress, not only to be generous and liberal to him, but to do him an act of justice, and restore to him some portion of that fortune, at least, which he has expended in the service of the Government.

MR. HAYARD. I have known for many years a honorable Senator from Georgia—with whom I often have the misfortune to differ, perhaps from the difference in the structure of our minds—as to the weight of testimony. When he imputes to prejudice the readiness to act of the Senators, he does a great injustice. I certainly have no prejudice against Mr. Myerle. I think I do not know him personally. Perhaps I have seen him once. Indeed, I rather feel sympathy for the man; but I cannot suffer sympathy for the man to bias or govern my judgment in determining whether the bill ought to be passed, if there be no evidence to sustain it. I thought such action on my part here was judicial action, and that I was bound first to look to the proof of the facts on which the claim rested, and then see whether, taking the facts as they were, the action of the Government was bound justly—I use that term not technically, but justly—to pay.

Now, sir, I differ with the honorable Senator from Georgia as to what he calls the technicality on which he says the Court of Claims rejected the claim. I have lived long enough in foreign countries to know that when that objection of technicality is made, the word is almost always used for the purpose of creating the idea that it is strict law against right; but I consider it a principle here, which stands far beyond technicality, that as an officer of the Government—especially an officer having high powers—should not be permitted to make contracts without authority of law. When it is proposed that the Government shall recognize his debt where he abuses his authority or goes beyond his authority, it is not a technical objection, but a matter of principle, in my judgment, to reject any such contract which he has made. It is a principle that is necessary for the transaction of the business of the Government. You cannot get along without adopting that as a principle, and if adopted, it would not be understood that it is a principle.

Now, sir, what is the proof in this case? The report of the Committee of the House draws in what I consider an objection to this claim to support it. The Secretary of the Navy made an application for authority to make an advance to carry out this contract. The Senate passed it; but the House did not—the report says, as it is understood—the House did not pass it, from want of time to act on it. I do not know anything about the want of time. I know the law was not passed. I know the House did not consider that the claimant had a right to the money, and the law at the time. But, in the face of the refusal, for it amounts to a refusal by Congress to give the power, the Secretary chose to exercise it in an informal manner. The report also reads thus into consideration that the Secretary of the Navy had a right to do so, and that it was the intent of his powers. Did the Attorney General reply to him that he had power to make such a contract? I apprehend not. The committee do not say so. The opinion of the Court of Claims is not read here, but I think it is understood that I think you will find, if you read it, that the Court of Claims rejected this claim on the ground that an officer had gone beyond the extent of his authority; and they report all the facts to Congress, leaving it to Congress to say whether, under the circumstances, they should be allowed to stand, although the authority had been transgressed. I do not consider that as a mere technical question. I think it is of vastly higher importance that we should not sanction such a precedent, than that the individual should suffer in the particular case arising from it, and that we should not allow one who had no authority to make it with him.

I therefore, sir, without having the slightest prejudice against Mr. Myerle, cannot vote his bill, because I cannot sanction the precedent which it embodies. I may say further, that the bill is in every respect a bad one. It is admitted that this is necessarily arbitrary in its nature. My recollection is, that in a former bill which

was before the Senate, and which I think passed the Senate, the amount was greatly less; I think probably not more than three hundred dollars. I cannot recollect now. If I had time to examine, I would look; but I think, at that time, as it could not be ascertained with accuracy before the bill passed the Senate, those who were in favor of it found themselves obliged, as there was no evidence to sustain such a claim, to reduce to the amount shown; and my impression is, that in that shape it did pass the Senate, though it was resisted. By looking back to the Congressional Globe I can tell. It is within a period of some seven or eight years that that occurred. The case was before Congress some time before that. It was resisted, and resisted as a case of no merit, by the honorable Senator then representing the State of Missouri, as I mentioned. I know that gentleman was a man very often of strong prejudice; he may have been misinformed; but he entertained an opinion against the merits of the claim, and I am very sure he resisted it. There were other able and intelligent men in public life, nearer to the time of the transaction than we are, who were opposed to the allowance of this claim.

But I rest my case upon what I have stated—that I think the precedent too dangerous to be sanctioned by Congress; and as to Mr. Paulding's subsequent statement—that if he had remained in the Department he would have ordered the hemp that was rejected to be received—how could he tell either the Senate or the country the proper judge of hemp. He never examined the hemp. He took the statements of others after he was out of office; and it was natural. Able as Mr. Paulding was—and I do not deny it, man of undoubted integrity, as he was—and I do not deny it, I do not think he was a man whose integrity was in question; I do not think he was so estimated throughout the country. He was a man of a high order of ability; a great writer, in many respects; but I do not think the impression made on the country was that his particular forte was administrative talent. These opinions are but the opinion of a gentleman supporting a contract which he had made without authority of law. He had no competency to decide about this hemp. His opinion, therefore, introduced into the report of the House committee, is entitled to little weight. It is to the question of the propriety of the action of the honorable Senator from Louisiana. At the time to which I have referred, I examined the testimony which was before the Senate when this question was discussed before, and which had been before for years, and it can hardly be said to afford any possible reasonable ground for attacking the character of the inspectors on the ground of corruption, though there was the imputation that foreign inspectors in Boston had influenced them in their decision; but there was no proof of that whatever; nor was the position then examined. The testimony was all on one side, so it always was in Congress at that day. I into a strong conviction that, where a man seeks to do justice in a matter of this kind, he must not only hear both sides, but he ought to hear the evidence on both sides; and in so doing, leaving the character of those officers of the Government, I think they had a right to be heard, and not to be condemned by Mr. Paulding, after he was out of office, or by any other man, as guilty of corrupt practices, or under or without acts, without being heard, and without leaving the character of the grounds and reasons on which they acted. The Secretary of the Navy at that day did not choose to send it back; did not choose to make the allowance. Why could it not have been done? Why could not the party, if his hemp was improperly received, have carried the case to the court, who was then Secretary of the Navy, I believe, and have said to him, "Sir, send this back for re-examination by somebody else, because it has been unjustly rejected, under improper influences, by these inspectors in Boston?" Would not that have been the natural course, when the inquiry could be made at once; made while the hemp was still there, and could be the subject of examination by persons skilled in the examination? Yet did all that take place? No; not from any evidence that I recollect of, or from any other cause, but, in the whole, or, without the slightest prejudice against this party, or rather with a feeling of sympathy for him, because he had embarked in a losing undertaking—for that was my feeling—

I cannot reconcile my mind to vote in favor of an allowance by Congress of a sum to Mr. Myerle, because it involves the recognition by Congress of an undoubted assumption of authority beyond the extent of his powers by the Secretary of the Navy; and which, if recognized by Congress, will only lead to further assumptions by other officers under similar circumstances.

Mr. PRESIDENT. Mr. Myerle did not think the exact state of this case has been precisely presented yet by any Senator. Mr. Myerle was a gentleman whose attention had been turned towards the culture of hemp. He had his own ideas on the subject. He thought, no doubt, that while his efforts could be rendered to the country, he could profit himself by the introduction of such culture. He applied to the Secretary of the Navy, or, if gentlemen please, the Secretary of the Navy applied to him. He did not ask that a certain sum of money should be given to him for the purpose of stimulating this enterprise, but he said to the Secretary of the Navy, "if you will give me a contract"—"in the first instance, I believe, for three hundred tons of hemp, which was afterwards increased to five hundred"—"if you will give me a contract for the quantity of five hundred tons, I will undertake to make the experiment." That was the inducement held out to Mr. Myerle. The promise said to have been made was a subsequent one. Mr. Myerle went to work in good faith and attempted to deliver the hemp to the navy, but he could never have expected to make the quantity of five hundred tons by any single establishment in a new enterprise of that sort, and by labor supervised only by himself. I presume he intended to do so by sub-contracts. He did produce a certain quantity of hemp, but he delivered it in the city of Boston; and it was there inspected by the proper officers of the Government and rejected.

It has been confidently asserted by the Senator from Maine, that the testimony was conclusive that this hemp had been improperly rejected. Now I differ from him, and I think I can show him why. There is no such evidence. On the contrary, the evidence proves that the hemp was not equal to the sample for which the contract stipulated. The hemp was rejected. Mr. Myerle then applied to Mr. Paulding, Secretary of the Navy, and he said to him, "I will take the hemp, but I will not lose any money. Here the first question presents itself, whether mere vague conversations of an officer of the Government, however high, to induce a man to enter into an enterprise, impose any moral obligations on Congress, or give rise to any obligations. To what injurious consequences to the public Treasury, and the public morale too, might not such a system lead? Now I assert most positively that, in the first place, there is no proof that this hemp was improperly rejected. I assert most positively that the promise is complete that Mr. Myerle did not comply with the terms of his contract. He has not pretended that he complied with them. However, in the first instance, I am disposed to meet the assertion made by the Senator from Georgia. He states that it was the intention of the Government to reject the hemp in consequence of some collusion and corruption on the part of the officers.

Mr. IVERSON. No; but I said that was my conclusion.

Mr. SLIDELL. The Senator from Georgia referred to the report of Mr. Maxcy, the chairman of the Naval Committee; and I will here, by the way, state that my first impressions about this case were derived from a very careful examination of it when I was first a member of the Committee on Naval Affairs. I thought then the case was unfounded, and that majority of the committee thought differently, and a report was made on the subject to the Senate; the bill was discussed with a great deal of zeal and talent on both sides of the question; the matter was fully examined by the Senate, and the result of the deliberations of the Senate on that occasion was, not to pass a bill for the sum of \$45,000, but, if my recollection serves me—and I will appeal to the Senator from New Jersey [Mr. TOWNSEN] on that subject, for he took a very active interest in favor of the bill, and he spoke upon the subject in the Senate, and the Senator from Georgia, Mr. Myerle, \$10,000, and no more. Now, as to the charge of corruption, which is said to be sustained against the inspectors—

Mr. POLK. If the Senator will allow me, I think it is due to this claimant that I should make an explanation of what the case was, as it was first referred to by the Senator from Delaware, and now again by the Senator from Louisiana, that the bill, as it on one occasion passed the Senate, was for a less amount than it has been reported both by the committee of the House and Senate, and that the House and Senate were not the amount for the reason that, after the case went to the Court of Claims there was testimony taken in, as I understand, pretty extensively on both sides, and it showed that the amount originally claimed, and for which a bill formerly passed the Senate, was too small, and hence the committee became satisfied that the amount was not adequate to repair the damage that had been inflicted upon, or perhaps I ought to say that had been suffered by, Mr. Myerle. This is his explanation of it.

Mr. SLIDELL. To recite to what I was about stating as to the evidence which was so confidently asserted to exist, showing collusion and corruption on the part of officers in Boston, the whole foundation of this charge is a single paragraph of a letter of Mr. Paulding, the Secretary of the Navy.

It had been in the head of the Navy Department at the time this hemp was rejected, I would most assuredly have taken upon myself the responsibility of directing it to be received, and I would have been a commercial trader, not in quality, I believe, but in quantity, or something of that sort. I have always suspected that wrong was done by the persons who made the trial, in consequence of some secret influence exercised over them, and this suspicion was verified to me by the late Commodore Nicholson about this year. The Commodore was in the command of the yard at Boston, and assured me you had not justice done to the trial.

In another letter, he says that Commodore Nicholson assured him—

"That Commodore had been used to induce the inspectors to come to that conclusion."

What is this? It is the statement of a Secretary of the Navy, who really knew nothing about hemp. It is derived from conversation with an officer who was not in command at the time, and knew nothing of the transaction. It has been heard from officers there. No attempt was made before the Court of Claims, or no successful attempt, no evidence was produced before the Court of Claims to show that this contract had been violated by the United States, or that any damages resulted from the transaction. The claimant appeared endeavored to show by testimony that this hemp had been improperly rejected; but the court says:

"It is not contended by the claimant that these contracts were performed in Boston, or that he has any force or action against the United States arising out of any failure on their part to perform the stipulations in the contract. The claimant alleges that the liability of the United States depends on a verbal contract made between himself and the Secretary of the Navy [Mr. Paulding] in the year 1852."

I am not disposed to occupy the attention of the Senate in this matter; but I will send to the desk to be a portion of the report of the Court of Claims, that I think points out the danger that will result from legislation of the character contemplated by this bill in the strongest terms. I ask the clerk to read page 59.

The Secretary read, as follows:

"That no doubt that the Navy commissioners, under the direction of the Secretary, were constrained to make the contracts in question for the delivery of American water-reel hemp; but in questioning on that point need be made the price of it. The question presented is, whether the Secretary could bind the United States by his promise to indemnify the contractor in the event of his failure to deliver the hemp, or whether American water-reel hemp could be successfully introduced. Such a promise gives the claimant a right to make a contract, and to enter upon any time, and at any place within the United States. He is not limited, either as to the amount of capital he might invest, or as to the time or place of his operations, or the Government. It is to select the place of his operations, the agents to conduct the business, and the manner in which the enterprise should be conducted. It is a contract, in the point of view of an agent of the United States to exercise his own discretion, subject to no limitations, and personally responsible to the United States for the results of his conduct, and the profits of it belonged to him, while the losses were sustained by the Government. The Government's payments were successful, the benefit to the United States would be that we should depend upon American hemp for the supply of the Navy, and it would be a contract to make it from Russia."

Now, it is very clear that this is not a contract for the delivery of hemp to the United States, but a contract for the right to indemnify a citizen for an experiment which might or might not result in unusual benefits. We are just as sure that, if the bill of Congress, as it is, is passed, the Secretary is authorized to make a contract subject to no law

of the Government to contingencies of this character. The more exact that the Secretary might cause a contract to be made, the more the Government would be enabled to make the Government substantially a hemp grower. If the power had been reserved to the Secretary to limit the liability of the Government should exercise some superintendence over the contract, it would be a very different matter. It is not in his hands, as it is, nothing could be larger, lower, or more ill-limited. The power is not only not given to the Secretary, but it is not given to the Government. It must not be derived from, nor is it incident to, any authority specifically given by law. The act in force in 1859 was the act of 1854, which gave the Secretary the power to purchase, and provided that all purchases and contracts for supplies or services where art, or may, according to law, be made by the Secretary of War, or the Secretary of the Navy, shall be made either by cash purchase or by previously arranged contract. It is not in the least probable that the Government that, from this kind of an interference can be made that the Secretary could bind the Government by his promise to interfere with the Government in the purchase of supplies in relation to the supplies for which the Secretary might contract, and we are of opinion that the clause has no legal effect.

Mr. SLIDELL. In order not to make any mistake in the assertion of fact, I have sent for the Globe of 1854. However, the Senator from New Jersey is very confident in his recollection that the bill passed for \$10,000 that year; and I suggest to the friends of this bill now, that their best policy would be to move its reduction to that sum.

Mr. CRITTENDEN. Mr. President, I almost regret that it has fallen to my lot to know something about this case, and, therefore, to trouble the Senate with some remarks on the subject. I have not stated all the facts. This old gentleman may have some scintilla of right, and I would be willing to yield to him. But I think that the appeals which have been made in his behalf have not satisfied me or the Senate in regard to the legality and validity of his claim, they have appealed somewhat more successfully to my feelings on this subject; and if the gentleman will re-consider this demand to \$5,000, which I think about a duty, I will be satisfied. I think that I have said enough to show that I am not without some sense of right and claim for that sum—I shall have nothing further to say about it, and let the bill pass.

Now, sir, that is not needed to. I have further to say on this subject that no case that I have known affords such an illustration as to the manner in which ancient claims are brought up before the courts. I have said that the case is a case as presented by its friends. Nothing is admitted, as plausibilities, and exaggerations. This gentleman, for instance, we are told, was a man of enterprise; he was a man of property; he was a man of high standing in the community; it is told there is a region of country where hemp is raised, and where the people do not know how to prepare and handle it for use; he is brought in to go out there, and undertake to instruct them in the art, and he is told that he has secured services, and furthermore that he shall have a contract for the delivery of five hundred tons of water-proofed hemp, at a high price, if delivered in Boston. Now, sir, I would tell you that this gentleman agreed upon. Well, sir, he engaged, and he went to Kentucky. The great man from Georgia says he was in this employ five or six years. I do not know the exact period of his employ; I do not know how long he was in the employ; but he must have stayed five or six years, how long was he employed in this sort of instruction to the hemp raisers? What part of that time was employed in the attempt to fulfill his profitable contract as he supposed it was, and what part was lost in a case which a claim is made for \$44,000.

Let me remark, in the first place, that the recollection to my recollection—for I knew this claim when it was first presented to this body, and it is pretty nearly as old here as I am—it was, I think, for not quite half the amount that it now is. If any of the gentlemen of those committees who have reported upon it and examined it, recollect it, I should be very much obliged to them for the information. It has grown by time. Time has at least that profitable influence on your old cases, that depend not upon any precision, not upon any facts, but upon platitudes, upon plausibilities, upon the general opinion of things recollected after the lapse of twenty, thirty, or forty years. That is the case.

This gentleman, in the first place, is represented as abandoning for the sake of the country, and for this patriotic employment, large and profitable enterprises, and an estate which he had. Now, let me tell you sir, all this is a farce. Mr. Myerle had

no estate. Mr. Myerle, when he went there, ha-

executions against him returned "No property." Mr. Myerle may have had some enterprise, since he was a slaveholder, but he was not a man of anything to improve and advance his condition—a very praiseworthy object. He has a conversation with the Secretary of the Navy, and he goes to Kentucky. Now, can anything be imagined more utterly preposterous and absurd than that the Secretary of the Navy should be so deeply conversant with hemp growing, in all probability, should be sent to Kentucky to teach the most intelligent class of population, or as intelligent class of agriculturists he can be found anywhere in these United States, how to prepare for the market a stalk of hemp growing, in all probability, of their own productions? Can anything be more preposterous on the face of it? They were the wealthiest and most intelligent class of our agriculturists. This was their staple; and Mr. Myerle who never cultivated, for all I know, and probably never saw, a stalk of hemp growing, unless he said, in Kentucky.

Mr. FESSENDEN. Will the Senator allow me to call his attention to a little Kentucky testimony?

Mr. CRITTENDEN. Yes, sir.
Mr. FESSENDEN. Hon. Robert Wickliffe
of Kentucky in a letter addressed to Mr. Mycrls
dated Lexington, May 21, 1841, says:

"I trust that your patriotic exertions may not only be crowned with success, to the great prosperity and advantage of the nation, but that your own labors may be well rewarded in the end. One thing is certain—that is, both the State and nation will owe you gratitude for achieving what has failed heretofore."

That, I suppose, is one of the platitudes. Now we will take a little testimony. George W. Carter, in a letter dated Woodford county, Kentucky, says:

"I know of my own knowledge you had every difficulty to contend against that could be thought of, and you also know that the neighbors even went so far as to threaten about you and pull down your dams as fast as you would put them up, in consequence of these prejudices. Still, which effort it has been uniformly adopted, and the farms that have the suitable means for the business."

* * *

"Your efforts have proven entirely satisfactory as to the practicability of the business, and has given a new impetus to the culture and management of hemp, and has been of incalculable advantage to the State of Kentucky, and the hemp growing country generally."

Henry Wallace, in his testimony, says:

[illegible]

It was the dew-rotted hemp that they had been manufacturing before, according to the testimony

Mr. SLIDELL. If the Senator from Kentucky will permit me a moment, I wish to correct an error of statement. I find that when the bill passed the Senate, on the 30th of June, 1854, it was for \$15,000—not for \$10,000, as I stated before. The bill was originally passed for \$30,000, and was sent to the House; and a motion for reconsideration was entered, and the bill was brought back from the House of Representatives. It was the again fully discussed, and finally passed the Senate for \$15,000.

Mr. POLK. I know the fact that it passed for more than that at the last Congress; and I will ask the Senator if that is not the smallest amount for which it ever passed?

Mr. SLIDELL. I really do not know. This is the only occasion when I ever recollect this bill to have been fully discussed. As I said before I had occasion to examine it on the Naval Committee.

Mr. CRITTENDEN. I shall occupy very little of the time of the Senate. I have stated that, in place of the large fortune which this gentleman is alleged to have had in the active profitable enterprises in which he was engaged, he had nothing. He went to Kentucky without means, and he

came from there so. It is not true that he is entitled to anything on account of sacrifices antecedent to that. He abandoned nothing; he pursued a hope of benefiting his fortune by this enterprise. At that time, there were very respectable gentlemen who were interested in the project. Knowlton & Co. at that time they had grand hopes, no doubt, from Mr. Myerle's efforts; but I tell the Senator, upon my own knowledge, that there was very little water-rotted hemp new made in Kentucky. For a number of years, the Government has been the patronage of this Government, and to introduce it in place of Russian hemp, for all naval and maritime purposes. They failed in it. Mr. Myerle says his was rejected. There were several other rejections before we had any general determination to use the hemp of the plantations. To use their hemp by preparing it for water-rotting. The idea is set forth that Mr. Myerle carried to Kentucky this great secret of water-rotting hemp. I can tell gentlemen it is no such thing. He did not know, and he never did know, and he never knows, and every man conversant with that section of the country knows, that a large farmer of my own knowledge and acquaintance, who owned a large tract of land in the county of Woodford, was a great hemp raiser, was in the habit of water-rotting his hemp before Mr. Myerle came west of him. I know that.

We heard of Mr. Myer's patriotic efforts. Why, sir, it is the patriotic effort that has been made by everybody that has come here and tried to make a racket out of the hemp business. I made a mistake. We did get resolutions and tried authorizing the Secretary of the Navy to make contracts prospective for the delivery of hemp, and to pay for it the highest prices allowed for the best hemp. But, in the very act, I retract, the hemp is rejected; and I do not know how to do it without attributing corruption, at any rate, to those under whose inspection it had to pass previous to its reception by the Government. But there'll no doubt be a great deal of talk about it, and I am sure that which the gentleman from Missouri calls prejudice on the part of these hemp raisers of Kentucky, turns out to be nothing more than the best judgment that was to be formed on the subject. It is the judgment of practical men; the judgment of men who have been in the business, and who know that the hemp is not good, and that it is hot and most profitable use of their staple. There is but little water-rotted hemp in Kentucky now, and it is only one here and there, who may have been in the business, who are in a position to give it its true value.

Mr. FESSENDEN. The testimony in the report is, that it has almost displaced all other kinds of hemp.

Mr. CRITTENDEN. I am living testimony, and I say it is no such thing.

Mr. FESSENDEN. Then the report states what is not true.

Mr. CRITTENDEN. The report is mistaken, and every man from Kentucky will say so, I know better. But that is going from this subject. Mr. Myer made a contract with the Government for five hundred tons of hemp, to be delivered at a certain price. He was to receive \$100 a ton for it; for that, in comparison to what the dew-rotted hemp sold for in Kentucky, he hoped to make a large profit. He went there to get the people to water-rot hemp, in order that he might purchase their water-rotted hemp; and so far from his being able to get a profit, as going there to do, he sustained a great deal of loss. He lost there, he said, about a million, without means. When he had made this contract, the prospect of it seemed to be flattering. He was to get two hundred, or two hundred and twenty, or two hundred and thirty dollars a ton, or more—the price of raw hemp. He was to have \$100 a ton. The prospect of this profitable contract enabled him to procure means. He borrowed the means upon the credit of gentlemen and merchants in the city of Lexington—one by the name of Millhouse, I think; another by the name of Smith. They gave him a bill of exchange on London here for a claim, and it was heard of in Kentucky by these merchants, that he might probably obtain a large sum, they went on their claims to me, with a remonstrance and a request that if such an allowance was made to him long enough to send—and, the bill should provide that the money should be paid to his creditors, and not to him.

Mr. CRITTENDEN. I believe I made a motion to insert \$5,000.

The PRESIDING OFFICER. If there are several motions of amendment, stipulating different sums, the last must be first in order.

Mr. CRITTENDEN. I think the Senator from Kentucky is mistaken. He said if the friends of the bill would strike it down to \$5,000, he would vote for it. He did not make any motion about it.

Mr. CRITTENDEN. The gentleman is right. The PRESIDING OFFICER. Even if the motion were made, the large sum would be first in order, and must be first put. The question is on the amendment offered by the Senator from Georgia.

The question was put; and the amendment was declared to be agreed to.

Mr. SLIDELL. I prefer now to move to insert \$10,000, and take the yeas and nays on that. The PRESIDING OFFICER. It will not be in order to amend further in relation to the sum.

Mr. SLIDELL. Then I cannot understand how the proposition can be made at all, if the question must be first taken on the larger sum; and that be not susceptible of amendment now, and an amendment afterwards cannot be offered for a larger sum.

The PRESIDING OFFICER. Where there are different propositions in relation to the amount, the question first in order is on the largest sum named; and if that be voted down, then the next larger sum would be in order; but if the first, or second, or any other proposition be adopted, that is final and conclusive, until the question shall come before the Senate, when the bill is reported to the Senate from the Committee of the Whole.

Mr. SLIDELL. Then I will make the motion there.

Mr. HAMLIN. We may get at this in another way.

The PRESIDING OFFICER. The Chair has decided then, no division being called for on agreeing to the amendment to insert \$30,000.

Mr. HAMLIN. If the Chair will pardon me a moment before the question is decided affirmatively, I think the Chair is wrong in relation to the filling blanks, the question is first to be put on the longest time and the largest sum; but in striking out and inserting it is different. If I make a motion to strike out and insert a larger sum, my motion must be first put. The motion is to strike out \$44,400 and insert \$30,000. It is in order to amend that motion, before the question is put, by striking "thirty" out of that amendment, and inserting "ten." That is according to the rules of the Senate.

The PRESIDING OFFICER. The statement of the Senator from Maine is correct, and the Chair does not apprehend it is in collision at all with the decision already made. The proposition to strike out \$44,400 and insert \$5,000, the Chair does not understand to have been made, or any provision but that of the Senator from Georgia.

Mr. SLIDELL. I may say, have stated it in the proper form; and I confess, with great humility, my entire ignorance of the rules; and I would have been pleased if the Chair had suggested to me the proper mode of arriving at the end I intended. I now move to strike out the sum named in the bill, and insert \$5,000, if the Chair says it is in order now to do so.

The PRESIDING OFFICER. The Chair will treat the question as still before the Senate, although a division was not asked for, and the vote was announced on agreeing to the amendment. If the amendment be agreed to, it will not be open to further amendment until the bill shall be reported to the Senate. The question now before the Senate is on the amendment moved by the Senator from Georgia.

Mr. SLIDELL. I now desire, in some form or other, to make a substantive motion that the sum allowed to Mr. Myer be \$5,000, and I am not particular about the mode of reaching it. ["Say ten."] I will put it at \$10,000.

The PRESIDING OFFICER. The Chair will state the question it is now. The Senator from Georgia moves to strike out \$44,400, and insert in place thereof \$30,000. The Senator from Louisiana moves an amendment to that amendment, by striking out "\$30,000" and inserting "\$10,000." The question, then, is on the amendment to the amendment.

Mr. IVERSON. I think I can place it in a different position, to reach every object. The question is divisible, I think, first on striking out—

The PRESIDING OFFICER. It is not divisible. A motion to strike out and insert is an entire question, and not divisible. The question is on the amendment of the Senator from Louisiana to the amendment of the Senator from Georgia.

Mr. CLINGMAN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 15, nays 21, as follows:

YEAS—Noyes, Bayard, Benjamin, Blagden, Bragg, Clingman, Crittenden, Hamlin, Hiram, King, Lane, Nicholson, Powell, Rice, Satter, and Wigfall—15.
NAYS—Cass, Chase, Colburn, Cowan, Chandler, Clark, Colburn, Dixon, Durkee, Fremont, Fox, Gorin, Hale, Harlan, Hendricks, Iveson, Poik, Simmons, Ten Eyck, Wade, Wallen, and Wallis—21.
So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Georgia, which is to reduce the sum to \$30,000.

Mr. IVERSON. I presume there will be no objection to that.

The amendment was agreed to.

The bill was reported to the Senate as amended, and was then considered and read a third time. It was read the third time; and on the question, "Shall the bill pass?"

Mr. BAYARD called for the yeas and nays; and they were ordered.

Mr. FOOT. I have paired off on this question with the absent Senator from Alabama, [Mr. CLAY.]

The question being taken by yeas and nays, resulted—yeas 24, nays 17, as follows:

YEAS—Noyes, Anthony, Blight, Brown, Cameron, Chandler, Clark, Colburn, Dixon, Douglas, Durkee, Fessenden, Fitch, Green, Hale, Harlan, Hendricks, Iveson, Poik, Simmons, Ten Eyck, Thompson, Wade, Wilson, and Wallis—24.
NAYS—Simmons, Bayard, Benjamin, Blagden, Bragg, Clingman, Crittenden, Hamlin, Hammond, Hiram, John and Alexander, Kent, Lane, Mason, Nicholson, Powell, Slidell, and Wigfall—17.

So the bill was passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. HALE, it was Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. HAYES, Chief Clerk, announced that the House had passed the following bill and joint resolution, in which the concurrence of the Senate was requested:

A bill (No. 513) for the relief of Hockaday & Liggitt; and

A joint resolution (No. 34) for the relief of John T. Robertson, of Virginia.

JOHN PEEBLES.

The bill (S. No. 125) from the Court of Claims, for the relief of John Peebles, was announced to be next in order.

Mr. SLIDELL. At the request of a gentleman, who is interested on behalf of the claimant, I move that the bill be postponed until Friday next.

The motion was agreed to.

JOHN ERICSSON.

The next bill on the Calendar was the bill (S. No. 132) for the relief of John Ericsson.

Mr. HALE. That bill was postponed last Friday at my request, because I thought, from the reading of the report, as far as it went, that it ought not to pass. I have since examined the papers pretty thoroughly, and I am rather strengthened in my conviction that it ought not to pass; and I will state very briefly in a few minutes the reasons, and then the Senate may do as they please with it.

Mr. SLIDELL. I have been informed by Commodore Stockton, without any pretense of authority or instruction from the Navy Department, to do certain things; and subsequently he presented a claim to the Navy Department for about fifteen thousand dollars for making certain drawings. It was sent to the Secretary of the Navy, and by him referred to Commodore Stockton, and Commodore Stockton reported that he was surprised at it; he could not approve of it, and thereupon it was rejected by the Secretary of the Navy. Subsequently the man came to Congress, presented his claim again, and at that time it was referred to the Committee on Naval Affairs, of which the honorable

Senator from Florida, who now with such distinction and ability presides over the Committee on the Post Office and Post Roads, [Mr. YULEE], was then the head. He investigated the matter, and he made a report against it, and now it has come up again, and has, by some means or other, been got through the Court of Claims. I think the bill ought not to pass; but I have no particular interest in it. I know the Treasury is open, and people go in with pretty liberal hands, and help themselves, and that they perseverance and patience in besieging the Treasury pretty generally succeed; and, some way or other, they find out a way of getting in, and I suppose that, after fifteen years, Mr. Ericsson will get in, and get out those \$15,000 though at the time he pretended that the services rendered by the man who employed him said he was entitled to nothing. The Secretary of the Navy no decided, Congress so decided, and now, after fifteen years, he has come back, and I suppose will have his bill.

Mr. SLIDELL. The Senator from New Hampshire neglected to state what I think forms the chief objection to this claim of Mr. Ericsson. It has been before the Naval Committee since I have been a member of the Senate; but it now comes from the Court of Claims. Mr. Ericsson claimed to be the inventor of a certain style of propeller, and he was extremely anxious to have the opportunity of building a vessel on his own plan and superintending the drawings and work generally. He expressly declared that he expected no compensation whatever. That was the understanding upon which he was permitted to construct his drawings and superintend this work, and now he appears before Congress to claim the sum of \$15,000, though he was at the time perfectly satisfied to have an opportunity of testing the merits of his own invention at the expense of the Government. That is the real truth of the case in a few very words.

Mr. IVERSON. I am not very familiar with this case. It was once investigated by the Committee on Claims, and I think, reported on favorably by the Senator from Florida, now absent, [Mr. YULEE]. In the case, and as he is absent, I move to pass it over, if there be no objection.

Mr. HALE. I have no objection to that.

Mr. SIMMONS. I hope that will be done; but I beg to make one suggestion as to this idea of working on one's own plan, and not to be charged nothing for his patent, but I do not think he intended to do all this work for nothing.

The motion to postpone was agreed to.

NAHUM WARD.

The next bill on the Calendar was the bill (S. No. 137) from the Court of Claims for the relief of Nahum Ward.

Mr. IVERSON. At the last sitting on the Private Calendar the Senator from Ohio, who is not present to-day, [Mr. PERRY], said this man was one of his constituents, and he desired to be present when the case was considered. I move to pass it over.

The motion was agreed to.

ERNEST FIEDLER.

The next bill on the Calendar was the bill (S. No. 138) from the Court of Claims for the relief of Ernest Fiedler.

Mr. HUNTER. That is one of the cases that the Senator from Ohio had laid over last week in order that he might examine them. I hope it will be laid over until next Friday.

Mr. SLIDELL. And all similar cases.

Mr. BENJAMIN. I will agree that these cases shall lie over until next Friday; but I hope there will be no further delay.

Mr. SLIDELL. If they go over as unfinished business, they will then come up, of course. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The pending motion is to postpone the consideration of this bill.

Mr. SLIDELL. I thought that was done by common consent.

Mr. HUNTER. We can go into executive session, and then it will go over to next Friday. ["Agreed."]

EXECUTIVE SESSION.

Mr. SLIDELL. I renew the motion for an executive session.

\$150,000 appropriated for that purpose, and as though the application to that purpose of part of the money appropriated as aforesaid to "the improvement of the navigation" of said rivers had been lawful; provided that the credits allowed shall not exceed the total amount of said appropriations.

SPEAKER. Is there any objection to the consideration of the resolution?

Mr. HOUSTON. I am willing that the joint resolution shall be received; and I move that it be referred to a Committee of the Whole House on Private Calendar. I think it ought to be examined into, and that there ought to be a report accompanying it.

Mr. MALLORY. There is a report.

Mr. HOUSTON. I do not want to object to the resolution coming on; but I think there ought to be some examination of it.

Mr. JOHN COCHRANE. If the House will indulge me, I will say one word in regard to the knowledge which I possess of the contents of this bill. It was considered before the Committee on Commerce. The gentleman from Pennsylvania [Mr. MOOREHEAD] was instructed to report it, and to ask to have it put upon its passage. I am told that it is to provide for a remission in this respect: the items of accounts were misapplied, and money was attributed to one set of items while the appropriation was designed for another—all falling, however, within the general appropriation. A part of the appropriation was designed for the improvement of certain rivers, and another part for the improvement and repair of certain boats on these rivers. I was informed, and believe, that a great part of the appropriation was expended for the boats, and not for the rivers; and this bill is to correct that misapplication. The aggregate expenditures did not exceed the sum appropriated.

Mr. HOUSTON. I ask my friend from New York, who seems to have been put in possession of certain information in respect to this bill, whether his committee has applied to the Department to learn, and whether it has information from the Department showing, the true, real difficulty in the way of settling these accounts? What information is there from the Department, before the House or before the committee, on the subject of these contested items?

Mr. JOHN COCHRANE. The information submitted to us in the committee was to the effect that there was no objection in the Department to this resolution, and that it was requisite to a proper settlement of these accounts, that the error had been committed; that it can only be corrected in this way; and that that course would be without injury to the public interests.

Mr. HOUSTON. If there be any communication from the Department, I call for the reading of it.

Mr. FLORENCE. This will cost the Government nothing. The matter has been investigated by a committee.

Mr. HOUSTON. I have asked for the reading of it. Will the gentleman let it be read?

The following communications were read by the Clerk:

WAR DEPARTMENT, April 7, 1860.

Sir: In reply to your letter of the 14th inst., enclosing a joint resolution providing for the adjustment of the accounts of the western river improvements, I have the honor to transmit, herewith, respectfully, the report of the graphical engineer and Third Auditor, containing the information requisite for a full understanding of the subject. The joint resolution is herewith transmitted.

Very respectfully, your obedient servant,
JOHN B. FLOYD, Secretary of War.

HOUSE OF REPRESENTATIVES, Committee on Commerce, House of Representatives.

REPORT.

Sir: In reply to your letter of the 16th March, 1860, from Hon. J. K. MOOREHEAD, referred to this office for report, I have the honor to state:

On examination of the settled accounts of the agents of the Bureau of Topographical Engineering, for the improvement of the 20th August, 1853, "for the construction and repair of wing boats, dredges, boats, discharging sewers, and machinery, to be used on the Mississippi, Ohio, Missouri, Arkansas, and other western rivers," it was ascertained, it appears that the amount applied to that purpose was \$150,000.

The amount appropriated is \$150,000 00

And the amount expended beyond the amount appropriated is therefore \$60,874 33

Of this amount, there appears to have been applied to

appropriations for the improvement of the navigation of the Mississippi, below the rapids..... \$67,578 67
The Ohio, including the repairs of the dam at..... 64,879 95
The Mississippi of the mouth of the Ohio..... 4,320 83
The Arkansas..... 6,729 67

On settlement of the accounts of the agents referred to above, the accounting officers were of opinion that the expenditures necessary for the complete preparation of the plans and dredge boats, &c., for use in the improvement of the river designated, should be charged against the special appropriation for their construction, &c.; and that the expenditures for the cost of the construction of the appropriations for improvement of the navigation of the rivers in which they were designed to be used, was inadvisable, and could not be properly, properly be credited to the agents by whom the expenditures were made, without special authority from Congress.

There are no balances in the Treasury of any of the appropriations for the improvement of the rivers herein referred to, and if the credits contemplated by the joint resolution (S. R. No. 4, first session, Fifty-third Congress) introduced in Hon. Mr. MOOREHEAD's report are authorized, the salaries for which the disbursing agents will remain accountable will, if any, be inconceivable, as the only balances reported to be on hand by accounts rendered to the Treasury are for the year of 1859-60.

For the improvement of the Mississippi river, below the rapids..... \$273 47

For improvement of the Arkansas..... 267 86

The letter from Hon. Mr. MOOREHEAD, and the resolution followed with it, and the letter in your from the Topographical Bureau, dated 23rd March, 1860, which was referred to this office herewith, are respectfully returned.

Very respectfully, your obedient servant,
R. J. MINER, Auditor.

Hon. JOHN B. FLOYD, Secretary of War.

BUREAU OF TOPOGRAPHICAL ENGINEERS, Washington, March 28, 1860.

Sir: I have the honor to acknowledge your statement of report upon a letter from Hon. J. K. MOOREHEAD, of the Committee on Commerce of the House of Representatives, including a joint resolution to allow credits to certain disbursing officers for expenditures made by them on account of the improvement of the western rivers.

The appropriations of August 20, 1853, for the improvement of western rivers, specified the objects in which they were to be applied; but in making the report, your committee found necessary to take from the funds appropriated for one object the means necessary to carry out another.

The object of the resolution, to authorize the accounting officers to reimburse the accounting officers to settle and close the accounts of the disbursing officers as they have been required.

With regard to the amount expended for boats, &c., beyond the amount of appropriation for that purpose, and the amount expended by the other expenditures, your committee respectfully refer to the Third Auditor, in whose office the accounts have been audited.

Respectfully, sir, your obedient servant,
J. J. ALBERT, Colonel Corps Engineers.

Hon. JOHN B. FLOYD, Secretary of War.

Mr. HOUSTON. I shall not object to this bill, because, as far as I can understand these papers, and the statement made by the gentleman from New York, the bill does not contravene any additional appropriation. I may say, however, that I think such conduct on the part of disbursing officers is very censurable; and this House, and the country, have an opportunity, and where it can lay its hands on such officers, ought to express its sense of such conduct by withholding any additional appropriation where officers transgress or violate their duty and the law.

Mr. MALLORY. If the gentleman from Alabama can allow me, I can explain the extent at least, how this thing occurred. The superintendent of these wing-boats was authorized, by the general superintendent for the improvement of these rivers, to construct these boats. He had contracted for the construction of a certain number of boats. Under the word work of the boats was nearly completed, he ascertained that such a rise had taken place in the price of iron, that if he went on with the construction of these boats, and had the necessary machinery supplied, the boats would cost an amount largely in excess of that appropriated for this special purpose. Under these circumstances, he consulted Colonel Long and Colonel Albert as to the course he should pursue. They told him, without a moment's hesitation, to proceed with the construction of the boats; and they expressed an absolute certainty that he would be sustained and justified in pursuing that course. On the receipt of this advice, he pursued that course; and consequently, the cost of the boats, which it is reported was \$150,000, was in excess of the appropriation.

I concur with the gentleman from Alabama that these departures from the exact sums appropriated should not be allowed, as a general rule.

Mr. HOUSTON. This explanation simply divides the responsibility for improper conduct

between the disbursing officer on the ground and the heads of bureaus in this city.

Mr. MALLORY. Yes.
Mr. HOUSTON. I do not care to what point or to what person the blame should be applied. Such conduct ought to be censured whenever an opportunity presents itself.

I desire now, sir, after this bill shall be acted on, to ask for the regular order of business. I want the Chair to understand that this is the call which I make, and which I insist upon.

Mr. MORRIS, of Illinois. I inquire whether this bill has been received?
The SPEAKER. The bill has been received.
Mr. MALLORY. I move the previous question on its passage.

The SPEAKER. Does the gentleman from Alabama waive his motion to commit?

Mr. HOUSTON. Yes, sir.

The previous question was seconded, and the main question ordered; and under its operation, the joint resolution was read the third time, and passed.

Mr. FLORENCE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SOLDIERS OF 1812.

The SPEAKER laid before the House a communication from the War Department, transmitting a list of persons who served more than six months in the year of 1812; which was laid on the table, and ordered to be printed.

RICHARD D. JONES.

Mr. BRANCH. I ask permission of the House to withdraw from the files of the House the papers in the case of Richard D. Jones, for the purpose of having them referred to the Pension Office. It was so ordered.

J. ALEXIS PORT.

Mr. PHELPS. I ask leave to have withdrawn from the files of the House the papers in the case of J. Alexis Port, leaving copies thereof on file. It was so ordered.

REGISTERS AND RECEIVERS.

Mr. McCLERNAND, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into and report, by bill or otherwise, the expediency of making additional compensation to registers and receivers of public lands, where several land districts have been consolidated into one district.

REPORTS OF COMMITTEES.

The SPEAKER. The regular order of business being called for, the committee will be called for reports on private business.

WILLIAM EWING.

Mr. TAPPAN, from the Committee of Claims, reported a bill for the relief of William Ewing; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BULL & COZENS.

Mr. TAPPAN, from the same committee, reported a bill for the relief of Bull & Cozens, and John Nailor & Co.; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JANE SMITH AND OTHERS.

Mr. HUTCHINS. I am instructed by the Committee of Claims to report back the bill (C. C. No. 44) for the relief of Jane Smith, of the county of Claremont, State of Ohio, with a general joint resolution, which shall cover this and all similar cases. It is a joint resolution giving construction to the second section of the act of February 3, 1853, to continue half pay to certain widows and orphans. I ask that it may be referred to a Committee of the Whole House, and with the report of the committee, be printed.

Mr. HOUSTON. I move to reconsider the vote by which the bill was referred; and move to lay the motion to reconsider on the table.

Mr. DUELL. I hope that motion will not be agreed to.

The question was stated to the House, and the Speaker announced that it seemed to be decided in the negative.

Mr. BRANCH. I think the House does not understand the question. This is simply a motion to lay on the table the motion to reconsider. Mr. HUSTON, I suppose everybody will understand my purpose in making the motion. It is to provide for the bill remaining in committee, where it can be discussed. It involves a principle that ought to be examined into; and that is all I want. I do not want it brought back into the House by a motion to reconsider, and put through under the operation of the previous question, without the opportunity upon the part of any member to ask any question, or express any opinion upon the subject.

Mr. DAVIDSON. And everybody knows that if it goes to the Committee of the Whole, without the power to bring it back by a motion to reconsider, it can never be reached.

Mr. DUELL. The bill was before the last Congress, and passed this House, as I understand, almost unanimously. I presume every member is familiar with it.

Mr. BRANCH. I will say that the motion is simply to confirm the action of the House in referring the matter to the Committee of the Whole, on the motion of the gentleman who reported it to this House. I do not know what objection can be made to it.

The motion to lay the motion to reconsider on the table was agreed to.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled, an act (H. R. No. 31) for the relief of Charles Knapp; when the Speaker signed the same.

HALF PAY TO WIDOWS AND ORPHANS.

Mr. HUTCHINS. I will say that there are some thirty odd bills from the Committee of Claims, involving precisely the same principle as the which has just been passed, and covered by the joint resolution which we have reported. I report them back, and ask that they may be referred to a Committee of the Whole House, and ordered to be printed.

The following bills were accordingly referred, and ordered to be printed:

A bill (C. C. No. 52) for the relief of Margaret Taylor, of Putnam county, Tennessee;

A bill (C. C. No. 52) for the relief of Anna Parot, of Clinton county, Ohio;

A bill (C. C. No. 51) for the relief of Nancy Madison, of Fairfield county, Ohio;

A bill (C. C. No. 50) for the relief of Mary Armstrong, of Gloucester county, Rhode Island;

A bill (C. C. No. 48) for the relief of Esther Stevens, of Van Buren county, Michigan;

A bill (C. C. No. 49) for the relief of Mary Bart, of Scioto county, Ohio;

A bill (C. C. No. 47) for the relief of Ann Clark, of Madison county, Tennessee;

A bill (C. C. No. 46) for the relief of Hannah Weaver, of Wayne county, Pennsylvania;

A bill (C. C. No. 45) for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont;

A bill (C. C. No. 54) for the relief of Lavinia Tipton, of White county, Tennessee;

A bill (C. C. No. 55) for the relief of Lucretia Wilcox, of Wayne county, Michigan;

A bill (C. C. No. 56) for the relief of Mary Robins, of Westmoreland county, Virginia;

A bill (C. C. No. 57) for the relief of Tempy Connelly, of Johnson county, Kentucky;

A bill (C. C. No. 58) for the relief of Rosemond Robinson, of Belknap county, New Hampshire;

A bill (C. C. No. 59) for the relief of Jane Martin, of Harrison county, Virginia;

A bill (C. C. No. 60) for the relief of Melinda Durkee, of the State of Georgia;

A bill (C. C. No. 61) for the relief of Sarah Wood, of Albany county, State of New York;

A bill (C. C. No. 62) for the relief of Mary Pearce, of the county of Cortlandt, State of New York;

A bill (C. C. No. 63) for the relief of Ann B. Johnson, of the county of Henrico, State of Virginia;

A bill (C. C. No. 64) for the relief of Hannah Menzies, of the State of Kentucky;

A bill (C. C. No. 65) for the relief of Rebecca P. Nourse, of the State of Kentucky;

A bill (C. C. No. 67) for the relief of Anna Hild, of Monroe county, State of New York;

A bill (C. C. No. 68) for the relief of Polly Booth, of Madison county, State of New York;

A bill (C. C. No. 69) for the relief of Sarah Eaton, of Worcester county, State of Massachusetts;

A bill (C. C. No. 70) for the relief of Temperance Childers, of the State of Virginia;

A bill (C. C. No. 71) for the relief of Elizabeth King, of the State of Virginia;

A bill (C. C. No. 72) for the relief of Lydia Clapp, of Washington county, State of New York;

A bill (C. C. No. 73) for the relief of Elizabeth Morgan, of Rensselaer county, State of New York;

A bill (C. C. No. 74) for the relief of Phæbe Polly, of Oswego county, State of New York;

A bill (C. C. No. 75) for the relief of Nancy Ing, of Herkimer county, State of New York;

A bill (C. C. No. 76) for the relief of Mary Ann Hooper, of the State of Virginia;

A bill (C. C. No. 77) for the relief of Almira Reniff, of the State of Pennsylvania;

A bill (C. C. No. 78) for the relief of Sarah Loomis, of New London county, State of Connecticut;

A bill (C. C. No. 79) for the relief of Mary Grant, of the State of South Carolina.

Mr. BRANCH moved to reconsider the vote by which the bills were referred; and also moved to lay the bill motion to reconsider on the table.

The latter motion was agreed to.

AUGUSTUS H. EVANS.

Mr. McCLERNAND, from the Committee of Claims, reported back Senate bill No. 210, for the relief of Augustus H. Evans, with a recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

COMMANDER W. D. PORTER.

Mr. MOORE, of Alabama. I am directed by the Committee of Claims to report back to the House the petition of Commander W. D. Porter, of the United States Navy, for balance of pay, and to move that it be referred to the Committee on Naval Affairs.

It was so ordered.

BENJAMIN SAYRE.

Mr. HOARD, from the Committee of Claims, reported back House bill No. 99, for the relief of Benjamin Sayre, with a recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined, and found truly enrolled, bills of the following titles; when the Speaker signed the same:

An act (S. No. 306) to settle the titles to lands along the boundary line between the States of Georgia and Florida; and

An act (S. No. 78) for the relief of Francis Hattman.

CAPTAIN ALFRED V. FRASER.

Mr. ELY, from the Committee of Claims, reported a bill for the relief of Captain Alfred V. Fraser; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

STEPHEN F. WILLIS.

Mr. SMITH, of North Carolina, from the Committee on Commerce, reported a bill for the relief of Stephen F. Willis; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

RICHARD CHENERY.

Mr. SMITH, of North Carolina, from the same committee, also reported back Senate bill No. 77, for the relief of Richard Chenery, with a recommendation that it do pass, with certain amendments; which was referred to a Committee of the

Whole House, and, with the accompanying report, ordered to be printed.

ADJOURNMENT OVER.

Mr. WINSLOW. I rise to a privileged question. I move that when the House adjourns to-day, it be to meet on Monday next. It was the understanding last week that we should adjourn over this week.

The question was taken; and the motion was agreed to.

SIMON DE VISSER AND JOSÉ VILLARUBIA.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported back Senate bill No. 39, for the relief of Simon De Visser and José Villarubia, with a recommendation that it do pass, with an amendment; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM HIGGINS.

Mr. TRIMBLE. Mr. Speaker, I am directed by the Committee on Public Lands to report a bill for the relief of the widow and other heirs of William Higgins.

The bill was read a first and second time.

Mr. TRIMBLE. I hope that there will be no objection to the passage of the bill at this time. It is a just claim; which will be admitted, I think, when the bill is read. I ask that the bill be read.

The Clerk read the bill. It authorizes and directs the Secretary of the Interior to cancel homestead warrant No. 31474, issued on the 10th of July, 1856, to William Higginson, for service rendered as a seaman in the United States Navy during the war with Mexico, and to reissue the same to William Higgins, the real party for whom the land was intended.

Mr. TRIMBLE. It is a case of mistake of name, and the bill only provides the proper correction.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TRIMBLE moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOSHUA FOSTER AND OTHERS.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of Joshua Foster and others, respecting a metallic safe and mail-bags for marine purposes, which was laid upon the table, and ordered to be printed.

JAMES STOKER.

Mr. ALLEY, from the same committee, also made an adverse report on the petition of James Stoker, for relief; which was laid upon the table, and ordered to be printed.

HOCKADAY & LIGGITT.

Mr. ALLEY I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of House bill No. 513, for the relief of Hockaday & Liggitt, in order that it may now be put upon its passage.

Mr. BART. I must object to that.

Mr. SMITH, of Virginia. That motion is not in order at this time.

The SPEAKER. It can only be received by unanimous consent.

Mr. SMITH, of Virginia. I know nothing about this case, and I must object.

Mr. BURNETT. I hope that the gentleman from Virginia will consent that the bill shall come before the House; and then we can act upon the facts as developed by the report of the Committee on the Post Office and Post Roads.

Mr. SMITH, of Virginia. Every man must take his turn; and I cannot consent that one case of merit shall jump another case of merit.

Mr. FLORENCE. Does the objection of the gentleman from Virginia prevent the passage of the bill, if the gentleman reports it and brings it before the House?

The SPEAKER. The objection is a good one. Mr. BURNETT. I hope the gentleman from Virginia will withdraw his objection.

Mr. SMITH, of Virginia. I do not object to the bill being taken up.

The bill was read. It directs that the sum of \$59,576 be allowed to Hockaday & Liggett, in full payment for damages sustained by them in reduction of pay for carrying the mails on route No. 8911; and that amount be paid to William Liggett, for and on account of Hockaday & Liggett, and for their benefit.

It appears from the report that Hockaday entered into contract, on the 8th of April, 1856, with the Postmaster General, to carry the United States mail weekly from St. Joseph, in the State of Missouri, to Great Salt Lake City, in the Territory of Utah, for the sum of \$190,000 per annum; that soon after, William Liggett became a full partner with Hockaday in said contract. It appears in evidence that service was commenced, and ran on the 1st of May, 1856; that it was faithfully and satisfactorily performed according to the contract. On the 7th of April, 1859, the contractor was notified, by direction of the Postmaster General, that it had been decided to reduce the service from a weekly to a semi-monthly mail, and the compensation would be reduced to \$125,000 per annum. Against this action on the part of the Postmaster General the contractor remonstrated, stating in reply that such action was not contemplated, and provided for in the original contract. The contractor stated that a change of service from weekly to semi-monthly mails would not diminish, but would increase the expense of carrying them. This view of the case seems to be supported by the most ample testimony. The memorialists set forth the facts of the annual Post Office appropriation bill impaired their credit, and diminished their resources to such an extent as to subject them to great loss, but presenting in their case, however, no obstacle to the prosecution of the contract that was insurmountable; but when added to this a curtailment of the service and a reduction of the pay to the amount of \$65,000 per annum, without any diminution of the expense, it involved them in irretrievable ruin. Thus, at a single blow, the accumulations, of Mr. Liggett's case, of a long life of virtuous toil, were swept away, his family beggared, and his partner, Mr. Hockaday, discouraged and disheartened, retired to Salt Lake City, where he now remains in a state of mental and physical debility, which disqualifies him from benefiting any attention whatever to his business. The contract was transferred by Hockaday & Co. to the present contractors, who have performed the service, according to the original contract, in a manner entirely satisfactory to the Department, preferring to carry the mail weekly rather than semi-monthly at the same expense, alleging, in this case, that Hockaday & Co., that it is less expensive for them to carry the mail weekly than semi-monthly.

The memorialists ask Congress to indemnify them to the amount of \$65,000, as that is the sum which will be saved to the Treasury, by the action of the Post Office Department, up to the bill, but also declaring that this sum will not cover their loss by a very large amount.

THE SPEAKER. Is there any objection to the passage of the bill?

MR. BRANCH. How is this bill before the House?

THE SPEAKER. By unanimous consent. MR. BRANCH. Is it already before the House? THE SPEAKER. It is.

MR. BRANCH. I would like to ask the gentleman who has this bill in charge, whether there is any allegation that the Government failed to comply with its contract?

MR. NOELL. That is the very ground of the bill.

MR. BRANCH. I would like to hear from the gentleman having charge of the bill, if gentlemen will permit it, with a view to know whether there is any allegation in this case that the Government failed to comply with its contract with these individuals?

MR. ALLEY. Yes, sir. That is the chief point upon which the case rests. These individuals entered into contract with the Government to carry the mails from St. Joseph to Salt Lake City, weekly, for \$190,000 per annum. But the Government reduced the service from a weekly to a semi-monthly one, by reason of the non-appropriation by the last Congress of money to carry the mails. The consequence of that reduction of service, and of the non-appropriation of money, caused a failure of these parties. The reduction

of the service from a weekly to a semi-monthly one increased the cost to the parties of performing the service, instead of reducing it, while the Department, at the same time, reduced the pay from \$190,000 to \$125,000 per annum.

MR. BRANCH. Let me ask the gentleman from Massachusetts whether the Government did not, in the contract which these parties signed, reserve the right to reduce the service at its pleasure, and whether the parties did not agree to perform the reduced service at a pro rata compensation, or to throw up the contract?

MR. ALLEY. Such a stipulation was contained in the contract; and a similar provision is contained in the contract of every mail contractor with the Government, with the exception of the contractors for the Butterfield route. But that does not alter the equity of the case at all.

MR. CRAIG, of Missouri. Will the gentleman allow me to make a remark just here?

MR. ALLEY. Certainly. MR. CRAIG, of Missouri. These parties were, under their contract, carrying the mail weekly on one of the main routes, over the plains from St. Joseph, Missouri, to Salt Lake City, supplying, as you know, the mail to the Army, and the settlement along the route, at Fort Kearney and Laramie, and Pike's Peak. The service was reduced by the Department from a weekly to a semi-monthly one; and the testimony of many officers of the Army, of the postmasters along the route, and of many citizens, shows that this change, instead of increasing the cost to the parties, actually increased them, by reason of the accumulation of large amounts of mail matter for two weeks, which required the use of two four-horse coaches. This doubled the force employed, and required them to purchase double the number of horses, double the number of coaches, and double the number of men. The reduction to a semi-monthly service took off \$65,000 per annum of their pay, while it increased by thirty, forty, or fifty per cent. the expenses of the contractors. When the appropriation bill for the payment of mail contractors was passed, these parties were notified of this, but they applied to one of my colleagues, Mr. Woodson, and other gentlemen of property, and secured the assistance of their indorsement until this Congress could relieve them.

MR. BRANCH. The reduction of the Department reducing the service and the pay was shown to Colonel Woodson and those other gentlemen, and they were obliged to abandon these parties to their fate. Thus they were broken up, and driven from the field, at an immense sacrifice of their horses, under the circumstances. The private property of one of these parties is now in the hands of the sheriff, to satisfy debts created by reason of the action of the Post Office Department. The other party, discouraged and disheartened, has retired to Salt Lake City, out of health, and out of mind, and his family are in ruin.

We now propose, by this bill, to give them, not an original appropriation, but to give them just the money now in the United States Treasury which belongs to them by the original contract. The calculation was made by me for the committee, and shows that they have been compensated some fifty-nine thousand dollars. As we have proved that they were driven from their semi-monthly trips to weekly trips, we propose to pay them that amount.

MR. BRANCH. The gentleman speaks of withholding \$59,000 from these parties. Do I understand him to say that it is proposed by this bill to authorize the Postmaster General to pay over to them fines and forfeitures which he has withheld in consequence of their failure to comply with their contract?

MR. CRAIG, of Missouri. No, sir. By the reduction of the service and pay, they were kept out of some fifty-nine thousand dollars, which they would have received, if no change had been made. The Government stopped that amount of the original pay, which they would have received, if the Department had not reduced the service. The proof is that the service was, in fact, increased above what it would have been had they been permitted to go on and perform the service weekly in one-horse coaches. It is proved that they, in fact, performed the service, they were compelled to perform, and the committee recommend that Congress shall give them what belongs to them.

MR. BRANCH. It appears, then, that these

parties made a contract with the Government, in the usual form, to perform a stipulated service. The ordinary clause was contained in that contract, by which the Postmaster General reserved the privilege of reducing the service at his pleasure.

MR. CRAIG, of Missouri. I will say to the gentleman that neither the contract nor the law gives to the Postmaster General any such power. The Postmaster General has no power to reduce the service whenever the public interest may require it. But the excuse he gives in his orders to all these contractors, so far as I have read them—and I have read a great many of them—was not that the public interest required the reduction of the service, but that Congress had failed to appropriate money to pay the contractors, he was obliged to reduce the expenses of the Post Office Department to a revenue standard.

MR. BRANCH. I asked the gentleman from Massachusetts, [Mr. ALLEY], who reported the bill, at the outset, whether there was not reserved in the contract, the privilege of reducing the service at the pleasure of the Post Office Department? He replied in the affirmative; and I was very ready to believe he was correct, because I knew that such stipulations were contained in all the contracts which I know anything about. I understand, also, the gentleman from Massachusetts to say that such a reservation is contained in every contract, with the exception of the Butterfield contract. I therefore assumed, and still assume, that Congress reserved to the Postmaster General the privilege of reducing this service at his pleasure. The facts, as I understand them, are briefly these: these parties made a contract with the Government to carry a mail, the privilege being reserved to the Postmaster General to reduce or increase the service at his pleasure, upon allowing a pro rata compensation. They entered into this contract with a knowledge of all the liabilities which the contract imposed upon them with reference to an increase or reduction in the amount of service.

MR. CRAIG, of Missouri. Will the gentleman allow me to ask him a legal question right here?

MR. BRANCH. Certainly. MR. CRAIG, of Missouri. I ask the gentleman to look at the act of 1836—if he has not already done so—and he will agree with me that the Postmaster General has the legal right to reduce the service, because Congress failed to place money at his disposal.

MR. BRANCH. I ask the gentleman from Missouri, as a simple matter of fact, whether, under the contract signed by these parties and the Postmaster General, the privilege was reserved to reduce the service?

MR. CRAIG, of Missouri. I believe it was. MR. BRANCH. That settles the whole matter.

MR. CRAIG, of Missouri. No, sir; the reduction was in the face and eyes of an act of Congress.

MR. ALLEY. I believe I am entitled to the floor.

MR. BRANCH. I think not. MR. ALLEY. I only yielded to the gentleman from North Carolina.

MR. BRANCH. Then I beg the gentleman's pardon for occupying it so long.

MR. ALLEY. I should be glad to hear the gentleman from North Carolina.

MR. BRANCH. Gentlemen around me have consumed all my time, or I should have been through.

MR. ALLEY. I think there are clear and explicit answers to every question the gentleman has asked, and which will commend themselves to the good judgment and sense of justice of the House.

THE SPEAKER. The Chief understands that the gentleman from North Carolina is entitled to the floor.

MR. BRANCH. I understand so, and will get through in three minutes, if gentlemen will allow me to go on uninterruptedly.

Well, then, Mr. Speaker, it being admitted that the privilege was reserved by the Postmaster General of reducing the service at his pleasure, and that he, in fact, exercised his discretion, he reduced the service, and allowed to these parties a pro rata compensation under the contract which the party signed, if they did not choose to con-

time the service at the reduced rate of compensation they had the right to throw up the service, and the Government could have claimed no penalty from them; for the same clause which gives to the Postmaster General the right to reduce the service, gives to the contractors the right to give up the contract, if they do not choose to continue it at the reduced rate of compensation.

It seems, however, that after this service was reduced, the parties continued to perform it, in disregard of the order of the Postmaster General. In contempt of the exercise of his authority, they continued to perform the service in the manner stipulated in the original contract; and now they come forward, and ask that they shall be paid for the service as though it had never been reduced. I take these to be the simple facts of the case. While it is admitted that the Postmaster General had a right to reduce the service, while it is admitted that he did legally reduce the service, these parties refused to conform to his directions, and went on to perform the service—not authorized by their contract, not authorized by law; and now they come before Congress and demand pay for it. I would, at that point, ask whether the passage of this bill, like to know whether the Post Office Department recommend its passage; whether the Post Office Department has presented to the House or to the committee any reason why these parties should be put upon a different footing from all the other mail contractors of the country.

If it is attempted to justify this claim on the ground that the reduction was made in consequence of the refusal of Congress to make an appropriation, then I say there will be thousands of similar cases all over the country. I am told that there are many here already; and if we are to establish the principle that parties are to be allowed to go on and perform services in defiance of the orders of the Postmaster General, because these orders were given in consequence of the failure of Congress to make an appropriation, I think this matter ought to have more serious consideration than is likely to be given to this bill. I, myself, cannot, as at present advised, admit that this presents any ground for a claim upon this Government. I cannot consent that any case shall be made out of this matter, without admitting the principle that we are to be made responsible to parties, and that they are to be allowed to take the law into their own hands, and to go on and perform services not authorized by the Postmaster General, and then come here and claim compensation for the same. The Postmaster General would have no ordered the reduction if Congress had made an appropriation.

Mr. ALLEY. Mr. Speaker—
Mr. BURNETT. I ask the gentleman from Massachusetts to yield to me for a moment or two.

Mr. ALLEY. Certainly.
Mr. HOUSTON. I rise to a point of order. Has consent been given to bring this bill before the House?

Several Members. Of course it has.
Mr. HOUSTON. The bill makes an appropriation, and I desire to have it considered where, under the rules, the law requires it to be considered.

The SPEAKER. The Chair is of opinion that unanimous consent was given, and the House has gone on and discussed the question without objection. The Chair cannot, therefore, now take it from before the House.

Mr. BURNETT. With the consent of the gentleman from Massachusetts, [Mr. ALLEY], I desire to say, that I dislike very much to differ with my friend from North Carolina [Mr. BARNES] on any question. But this is one of the few claims that have been presented to Congress for relief which, in my judgment, demands all that has been asked. The objection urged by my friend from North Carolina is, that this bill ought not to pass, because there was a clause in the contract signed by the parties, authorizing the Postmaster General to reduce the service. That is the whole of his argument. Now the facts show this to be the case: that these parties made a contract to carry the mail from New York to San Francisco City, at a compensation of \$150,000. The ordinary clause for a reduction of the service was contained in the contract—that the Postmaster General had a right to reduce the service. These parties went on at any expense, and expended large sums of

money for the purpose of stocking the road, which involved a large expenditure. They went on and earned the mail in accordance with their contract literally, once a week, delivering the mail in accordance with the schedule and times fixed.

There is another fact, which gentlemen must bear in mind, that, by the action of the last Congress, the Postmaster General was authorized to let the mail contractors of the country for the services which they had performed. This applied to the parties who are now seeking relief from Congress. Congress failed to make an appropriation. These parties were authorized by the action of the failure of the Government to pay them the sum stipulated for carrying the mail. The first breach of the contract, therefore, was on the part of the Federal Government—they were the first violators of the bond. These contractors, notwithstanding that fact, went to outside service, as the proof exhibits, and through their friends secured means for the purpose of enabling them to carry on the mail in accordance with the contract. Then follows the order of the Post Office Department, which says that, instead of carrying the mail once a week, they must carry it twice a week. I want to call the attention of the gentleman from North Carolina to this fact, which is abundantly proved—for I have examined this case closely—every single postmaster on that road, from Salt Lake City back to St. Joseph, and the postmasters at the intermediate offices, all certify that they were obliged to carry the mail under the reduced service that it did to carry it once a week. That is the statement of the officials of the Post Office Department. They say, in letters, that these men were put to heavier and greater expense in carrying the mail twice a month, than in carrying it once a week. And why? It is shown, that under the original contract they could carry the mail in a four-horse wagon, or coach, by taking it once a week. But under the reduced service the mail was perished, and consumed at the office, and instead of their being able to carry it in one wagon, they were compelled to use two.

Mr. BRANCH. Will the gentleman from Kentucky allow me to ask a question here? I understand the gentleman from Kentucky to say that every contractor who carries the mail, certifies that it costs these parties more to carry the mail once every two weeks than once a week.

Mr. BURNETT. Yes, sir.
Mr. BRANCH. Now, will the gentleman from Kentucky explain to me—for it seems to me that every contractor who carries the mail certifies that it costs these parties more to carry the mail once every two weeks than once a week.
Mr. BURNETT. The reason of the increased cost is apparent when you recollect that, if they had carried it once a week, the same team would have answered; but by carrying it once every two weeks, the contractors required a double number of teams, and increased their expenses. They show that they were carrying it once a week. That is a matter of record.

Now, these parties come on here, and what do they ask? They show that the reduction to the semi-monthly mail, instead of reducing their expenditures, increased them. They show that they were carrying it once a week. That is a matter of record.

Now, these parties come on here, and what do they ask? They show that the reduction to the semi-monthly mail, instead of reducing their expenditures, increased them. They show that they were carrying it once a week. That is a matter of record.

Mr. SMITH, of Virginia. I see, from the report, that the proposition is, to give these contractors the amount which was saved in the Government by the reduction of the service up to July of this year. Now, sir, I ask if these gentlemen are now performing this service? I understand that they have sold out, and that other parties are now performing this semi-monthly mail service.

Mr. BURNETT. I have no individual knowledge upon this subject. Further, the proposition is not to give them the amount which was saved in the Government, but to give them the amount which was saved in the Government by the reduction of the service up to July of this year. Now, sir, I ask if these gentlemen are now performing this service? I understand that they have sold out, and that other parties are now performing this semi-monthly mail service.

Mr. SMITH, of Virginia. I think that is a mistake. I understand that they have sold out utterly.

Mr. CRAIG, of Missouri. If the gentleman will allow me, I will explain how that matter is. Mr. BURNETT. I will conclude what I have to say on this subject. I understand that they have sold out utterly. I understand the proposition to be simply that; the Government having failed to perform its obligations to these contractors, it is proposed to reimburse them for the loss which they have sustained in consequence of the action of the Government. It appears, that the second time, that when the Government reduced the service on this route, the effect, was not to reduce the expenditures of carrying the mail, but, on the contrary, instead of putting them in a better condition, they had to increase their expenditures, in order to comply with their obligations. Having done all that they were called on to do—having undertaken to perform all the services that they contracted to perform—I think they are justly entitled to the relief which they ask; and hence I shall vote for the bill.

Mr. CRAIG, of Missouri. Now, sir, I will not discuss the second question, but I will discuss the subject. I desire to answer very briefly the questions propounded by the gentleman from North Carolina, [Mr. BRANCH], and also those propounded by the gentleman from Virginia, [Mr. SMITH]. I have examined this subject very closely; and I am satisfied that the Government is not liable to answer their questions. The contract for the performance of this mail service is now in the hands of one of the original contractors. The evidence shows that the original partnership was dissolved, and the field is now open to the reduction made in the service, and made in consequence of the failure of Congress to pass one of the general appropriation bills, with a loss of more than one hundred thousand dollars upon their stock.

The gentleman from Virginia is mistaken in relation to the allowance which this bill makes. It does not make up the reduction to the 1st of July, as the gentleman states. Such an allowance would require an appropriation of \$65,000. This bill appropriates but \$59,000, and I believe, reduces the allowance.

Now, then, the gentleman from North Carolina misrepresents the law. He says that the contract and law both allowed the Postmaster General to reduce this service, and reduce the pay in *pro rata* proportion. I agree that the contract and the law both allowed the Postmaster General to reduce the pay in *pro rata* proportion. The gentleman to the law of 1836. That law provides that when the Postmaster General believes the public interest requires a reduction of any particular mail service, he may make the order for reducing it; but he can only do it for such a reason. In these cases, however, it is plain that the Postmaster General reduced the compensation to suit himself. In some instances he reduced it fifty per cent.; in some, forty per cent.; and in others thirty per cent. The Postmaster General, in answer to a letter addressed to him on this subject, says that he reduced the pay in *pro rata* proportion to the law by which he was governed; and that, in settling with these contractors, there was no particular proportion of reduction made.

Mr. BRANCH. If the gentleman from Missouri has any letter from the Postmaster General, I should be glad if he will have it read, for I would not willingly do these parties an injustice.

Mr. CRAIG, of Missouri. I have a letter from the Postmaster General, to which I will refer presently. I will first answer the other branch of the gentleman's question. The Postmaster General reduced this service, with that of many of the other routes, for want of money, in consequence of the failure of the last Congress to appropriate the necessary funds. He concedes in his letter that he was driven to this course. The gentleman wants to know what the Department thinks about the propriety of making this remuneration. I will say to him that the Department is in favor of making it. I have here a letter, written to one of the other contractors similarly situated, in July last, an extract from which I will read. The letter is addressed to Mr. W. H. Smith, by the Third Assistant Postmaster General. He says:

"The Department can but regret any losses you may sustain by the alteration of your contract; but as the contract was made by the Department, and not by Congress, that body will no doubt indemnify all who will have sustained damage through its action."

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-SIXTH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 17, 1860.

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That is the opinion of the Post Office Department about this matter. And now I will say to the gentleman from North Carolina that he may serve in Congress half a century and he will never find a more meritorious case. He will never find a stronger case than this, where the arm of the Government strikes down a worthy man who had a handsome fortune, made by hard work. He is no speculator. He was never a contractor under Government before, except on one occasion for a few months. He has carried out his contract faithfully and has been ruined by the failure of the last Congress to make the necessary appropriations. He is totally ruined, unless Congress does him this act of justice. He asks you to give him no gratuity. He asks simply that you will unlock the Treasury and pay him the amount which the Postmaster General withheld from him on account of your own action. The Postmaster General required him to reduce the service to a semi-monthly mail. He could not carry it in accordance with that order without a very large increased expense. He proposed to continue the weekly mail at the reduced rate, but the Postmaster General utterly refused, and directed the postmasters along the route not to deliver the mail to him, except semi-monthly; and it was only after having given a bond not to require any thing beyond the reduced compensation that he was allowed to carry the mail once a week. I trust there is no gentleman in this House who will vote against this bill.

Mr. BRANCH. I will tell the House but a single moment. The statement of the law made by the gentleman from Missouri is correct, that the Postmaster General had no right to reduce this service without letting it out to the lowest bidder; or, in other words, if the Postmaster General has acted in violation of law by reducing this service, it would certainly not be new fees upon the matter. I have been under the impression, having signed contracts of this description myself—not as a contractor, but as the president of a railroad company—that the Postmaster General had such a right. I never signed a contract of that description in my life that did not contain a provision allowing the Postmaster General to make any reduction he pleased; to make any change in the schedule, and, indeed, almost any change in respect to the contract that he might see fit, giving to the directors of the railroad company the privilege of throwing up the contract if they did not like to continue the service under the new arrangements. If the law be as stated by the gentleman from Missouri, and the Postmaster General has violated that law, that, I repeat, puts a new place upon the matter. I demand that the chairman of the Committee on the Post Office and Post Roads in reference to that point; but I do not see him in his seat.

Mr. ALLEY. The gentleman from Missouri, [Mr. Eads,] and the gentleman from Kentucky, [Mr. Branch,] have so ably renewed the objections of the gentleman from North Carolina, as to leave me but little to say in addition. Upon a single point, however, which the gentleman from North Carolina deems to be so material, and which has been raised before the House, I would make one remark, if I can have his attention for a moment.

It is true that that provision is inserted in the contract; a provision, as I have before stated, which is embraced in every contract with the mail contractors of this country, except the contract for the Butterfield route. It is made, I will not say in violation of law, but without any provision of law to cover the case. I will say further, that some of the best legal minds in the country are of the opinion that the provision inserted in mail contracts by the Postmaster General is not a valid one; and I hold in my hand the reply of Attorney General Black to inquiries submitted to him by the Postmaster General in reference to the Butterfield contract. In that contract this provision was omitted, and the Postmaster General observed that, inasmuch as it had been the custom of the Department to insert that provision, he had the

legal right to annul that contract. The reply of the Attorney General is worthy of a statesman and of the highest legal officer of this Government. It concludes in these words:

"I am not at liberty, nor do I think you are, to inquire whether it was well, or ill, for the Government to make this contract. The unfortunate condition in which the Government has unexpectedly found itself might make us wish to retract it, but it is not in our power to do so, as it is a contract which has been made in good faith, and the interests of the country are not the most important. It is a far deeper stake in doing justice and maintaining the laws."

That, sir, is the reply of the Attorney General to the Postmaster General on that point; but if there were that provision, if it were a legal provision, if it were as strong as any statute of the United States could make it, I for one, would resist it, as trying no foundation in justice or equity, as applied to this case.

These parties, Mr. Speaker, have performed every stipulation that they agreed to, and that provision in the contract, and which has been inserted in all other contracts, has been solely for the purpose of protecting the Government against extraordinary contingencies. It has always been so held; and for the Postmaster General to take advantage of that provision to strike down honest men, who have faithfully performed every condition of their contract, is in violation of the spirit, if not the letter, of the law. For one, I repudiate it. As I stated yesterday, my avocation is that of a merchant; and if a merchant of my city should do as the Postmaster General has done in this and in similar cases—violate his pledged faith in opposition to every sentiment of justice of every principle of right, and every feeling of humanity—he would, as he ought to, receive the condemnation and the execrations of the whole community; for I know of no rule of morals to be applied in the fulfillment of contracts to individuals that will not apply with equal force to the Government. It would be to be beneath the dignity of a high officer of this Government to take advantage, in dealing with honest creditors of the Government, of a legal quibble. It is an outrage upon their rights, and I would involve the whole power of the Government to interpose its colossus arm to shield these, and other parties similarly situated, from impending ruin.

These, sir, are my sentiments. In my judgment, never has there been a case submitted for the consideration of Congress which presented a stronger case of equity than this. It is a case of extreme hardship. It has ruined these individuals, who are honest and worthy men. They are no speculators; but they have performed every stipulation of their contract. As has been remarked by the gentleman from Missouri, [Mr. Cass,] the property of one of them is now under execution and in the hands of the sheriff, even to the very beds upon which his wife and children sleep; and the other partner is now in a distant Territory in a condition of mental inequity, rendering him incapable of the execution of his duties as the Post Office and Post Roads, looking to the hardships which have been endured by these parties because of the non-fulfillment of the conditions of the contract on the part of the Government, no exemption presented to the Government more to its justice and sympathy. There are other reasons, which I will not now enumerate, because I believe that facts enough have been presented to cause this House unanimously to pass the bill. I will close by calling for the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read a third time.

Mr. ALLEY. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. JONES. I demand the yeas and nays on the passage of the bill.

Mr. CRAWFORD. I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. BINGHAM and BRANCH were appointed.

The yeas and nays were ordered; the tellers having reported only twenty-one in the affirmative—less than one fifth of those present.

The bill was passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. MORRIS, of Illinois. I desire to call up a private bill. There is a pensioner in this city from my State, who is both deaf and blind.

Mr. FENTON. Let us first get through with the call of committees for reports.

Mr. MORRIS, of Illinois. At the suggestion of the chairman of the Committee on Invalid Pensions, I will not call up my motion at this time.

JOHN T. ROBERTSON.

Mr. BINGHAM. I am instructed by the Committee on the Judiciary to report a joint resolution for the relief of John T. Robertson, of Virginia, and to ask that it be laid upon its passage.

There is a report accompanying the bill, which I ask to have printed. As the report is not printed, I will move to put the bill upon its passage, and will state the facts in the case.

The joint resolution makes no appropriation, but simply releases the petitioner, John T. Robertson, of Virginia, from any further liability to the Government of the United States upon his bond as surety for his father, who was collector for the United States at the port of Newburg. I will state to the House further, that there were four co-sureties with Mr. Robertson upon that bond, two of whom, at the time of the defalcation of the father, proved to be totally insolvent. The other two were equally able, with the petitioner, to contribute to the payment of the defalcation, but upon being brought against them upon that bond, upon which they were jointly liable—if liable at all—both of these co-sureties were discharged from all liability by the judgment of the United States court for the eastern district of Virginia.

I state further, that this petitioner has already voluntarily, and without suit or coercion upon the part of the Government of the United States, contributed his full pro rata share, to the extent of his entire property, in discharge of his obligation to the Government of the United States; that there remains unpaid upon that bond which he voluntarily gave to the Secretary of the Treasury of the United States, the principal sum of only \$1,000; and this bill simply releases him from that obligation, with its accruing interest. With this statement, I move that further action be not put upon its passage, after the reading of it, so that the House may see that it conforms to what I have said.

The resolution, which was read, directs that John S. Robertson, of the State of Virginia, be released from any further or existing liability to the United States upon his bond executed to the United States on the 26th of July, 1850, in the sum of \$10,000, conditioned upon the payment of \$5,000 in several installments, as therein provided. The resolution was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BINGHAM. I now move that the report accompanying the bill be printed. I do so in order that the Senate may understand the case.

The motion was agreed to.

R. R. RICHARDS.

Mr. CARTER. I am instructed by the Committee for the District of Columbia to report back, with a recommendation that it do pass, a joint resolution for the relief of John T. Robertson.

Mr. SMITH, of Virginia. I have no objection to having the report made, but I must say that

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played, be dismissed. If we do that, then we will do what is valuable. Just as you raise wages here, we will raise elsewhere in the country for like services.

■ The States imitate exactly the example of the Federal Government. Four dollars a day do not pay a man's expenses, I am told. We hear it asserted that \$3,000 a year will not more than pay necessary expenses. I am credibly informed that some members expend \$6,000 and \$10,000 a year. They have the right to do that, for then they expend from their own private means. I will not intermeddle with the privaterights of individuals; but when the Government is taxed for the purpose of exalting certain men above their fellows, I say that I have a right to object. There is no man in this country who feels more right than I do to do in its legitimate advancement in wealth and prosperity; but, sir, I fear luxury and extravagance. I feel proud that I have lived to see a comparative wilderness, occupied by twenty-five thousand inhabitants, blossom into full-grown States with a population of nine million. May I never live to see them sunken into an Asiatic degeneracy!

No man with a more swelling heart contemplates the growth of this country. I am fearful, however, that our people are too fast; and that unless they change their course they must rapidly degenerate. We do a great many things for which it would be difficult to find a power in the Constitution. A, B, and C, are hunted up, and money is squandered upon them. Relics of distinguished men who have gone before us are overburdened with national veneration, and we hear and understand much about the Constitution; such, however, in the technicality of the rules of this House, that it is impossible for a man to say so, let the question be ever so objectionable. Consider it. If you will not change these things, then I call upon the people to bury every relic of the past in this House and put in those who will restore the better days of the Republic.

Mr. Chairman, we are often designated as the servants of the people. Is it not curious that the servants live much better than the masters? Yet we make the people the servants of the servants. We make them believe this and that, because they put confidence in us.

I confess that I am not accustomed to speaking in public. I know what I do. If I had the faculty of others, I would have long since told. I have said what I have, and I feel that I have endeavored to state plain and substantial truths. I do not believe, let me say, that this Government will not be crushed out. This Government will not now be disserved. No, sir, my fear is that we will wear out; that our people will degenerate and become overrated and misused as are the people of Asia, because of their debauchery and mode of living. There is no man acquainted with history who will not have the same fear. No Government that has preceded us ever had the same facilities of success. We have all the arts and sciences of former years, together with those unknown to the ancients. I must believe that we are unfortunately driving towards the brink of destruction. There is no hope but by retracing our steps, and again adopting the policy of our fathers. I do not know where the party, that will begin it? It must be begun if we are to be saved. Here is the place to begin it. Let us exhibit by our acts what we profess to be.

I will now, sir, say a few words to my particular friends. I am not ashamed of being a farmer and a laborer; I am proud that I have done my share of work. I despise the man who will declare that labor is disgraceful. It is dishonorable. God said that man should earn his bread by the sweat of his brow. If I have ever done anything valuable, it has been the actual manual labor I have performed in assisting to develop a new country. I am proud to say it. I ask whether we have not here too many talkers? They are not laborers nor farmers. There are men who want to do all of the talking; at least they want to lead in all the talking. What can deny that? It is lamentable truth. The evil has even extended to our boarding-houses. [Laughter.]

Why, sir, it would be impossible for a man, anywhere here in Washington, even among the poor, to get out half a day without being interrupted. [Laughter.] This may be laughable; but it is an true as the other statements I

have made. I ask these gentlemen who are so dispassionate and smart, to reflect that every man here, by the Constitution of his country—and we are all Constitution-loving men—has just as many rights as I have.

Abstractly, there is not a man upon earth who really believes that he has a right to property in another man's labor. But a question of expediency comes in; and while gentlemen will talk about this matter, I ask these lawyers—and I have seen eight or ten levels of them struggling for the floor at the same time—that they will reflect that others have an equal right to be heard, though they are crowded out by the severe struggle. It may be regarded as ridiculous to talk in this way; but I talk pretty much what I believe to be true; and if gentlemen will not say it is not true, I am willing to retract. I know it may be called indecent for a man of my age, and among these scientific gentlemen, to talk in this way, but I am impelled to it by facts which stare me in the face; and there is not a man in the House who will not agree that what I say is true. Why, I have heard ladies say, "Is it possible that you do not believe yourselves better?" [Laughter.]

We occupy in this House an exalted position; and just in proportion as our position is exalted, and we do not come up to what that position requires, we are degraded. We are degraded in politics in a very dangerous year [laughter] for this Government. I am not talking for Baucumbe—for I shall never consent to be a member of Congress again—but so far as I have any influence among my constituents, I shall talk to them just as I do to you, and if they do not believe me, it will be their fault, and not mine; for I know, and you all know, that I tell the truth. I do not believe there is a man here who will get up and say that I am not speaking the truth. I will now yield the floor to the gentleman from Texas. I call him my friend because I call every man in this House my friend so long as he conducts himself in a gentlemanly manner. [Laughter.]

Mr. REAGAN. I do not wish to occupy much time. I do not mean, perhaps, that I should say anything; but the observation I wished to submit in this: that the views of Jefferson and others of his day have been frequently presented in this House, to show that they were, in the abstract, opposed to slavery in their time. That proposition is true; but to give it the force of a standing of what seems to some gentlemen to be a change of conviction upon that subject, I desire to say, that some thirty or forty years ago, indeed within my recollection, very many of the people of the South believed that slavery was an evil; but that they had the institution among them and could not get rid of it without inflicting a greater evil upon the country. They were not able to send off their slaves, and it would not do to turn them loose among them.

Now, sir, I say, that regard, that it is probable, if a crusade had not been instituted against the slaveholders; if they had not been denounced as wicked and cruel men for indorsing what many of them at the time did not consider abstractly right, I have no doubt that slavery would have been perpetuated, and the new condition of the slaves would have been ameliorated, as, indeed, it has been to some extent; but the amelioration of their condition has been arrested, to a considerable extent, by the action of men who would have precipitated their liberation, and who denounced and reviled the owners of the slaves. The attack made upon the slave owners brought into question the morality of slaveholding, the philosophy of slaveholding, the justice and policy of holding slaves; and necessity forced upon people who owned slaves the race of men that they would have otherwise considered the whole subject in its political, social, and moral bearing; into the mental capacity and moral power of the African race; their condition when left to themselves, and their relative condition when in subordination to a more intelligent race of men. The result of a more liberal and thorough investigation, followed out in all its details, has within thirty years worked out a great revolution in the minds of men, particularly in the country where the institution existed, in reference to slavery; and the conviction has been firmly fixed in the mind of the people of the South, that there is not, abstractly, any sin in the

holding of slaves; that there is no moral wrong in holding slaves; that there is no social or domestic inconvenience in holding slaves, as there was supposed to be thirty years ago.

That the present settled conviction of the public mind, and the revolution in public opinion has grown out, as I have already said, of the attack made and so long and persistently kept up on the institution, and that disposition of the human mind to make sure that it is right in all its doings.

It may be said that men hunt for reasons to excuse what may not be right. But that statement would not overbear the arguments and facts which have influenced their minds, when the tests of history, of reason, and of philosophy, have been applied to the institution of slavery. The strength of the argument in favor of slavery depends upon a few facts easily comprehended.

But I will break the connection of my argument to say what I should have said in another connection. It is not to be denied that oppression is sometimes exercised by the owner of slaves, more than it could be denied that there is oppression by men who employ hired labor. There is oppression wherever power and wealth are brought to bear upon labor, and that exists in every civilized community on earth. It is not pretended that the Southern Confederacy was a criticism of the fact of slave owners, that cannot be said to exist in favor of those who control labor in any other form of society.

Mr. LANDRUM. I dislike to interrupt the gentleman, but I must do so. Mr. Chairman, I will not persist.

Mr. LANDRUM. Mr. Chairman, that we are now threatened with great and alarming evils, no one who will take a calm and unprejudiced view of the subject, and who is not blinded by momentary doubts. In the formation of this Government there existed a spirit of harmony and concession from the citizens of each State in this Union towards the citizens of every other State; and this spirit was so plainly exhibited in the formation of the Constitution that the Convention of the United States—it was so adjusted, so adapted to the wants of all the States entering into the Confederacy—that it received the almost unanimous support of the convention. Harmony and concord and good feeling reigned throughout the whole of the Convention, and the Convention of Carolina rejoiced in the prosperity and commended the virtues of the citizen of Massachusetts; and the citizen of Massachusetts responded to the feeling of the citizen of South Carolina. That was the feeling which pervaded the citizens of this common country when the Constitution was formed; and that was the spirit which pervaded it for the thirty years afterwards during which the Government was administered by the fathers of the Republic.

Now, Mr. Chairman, what state of things does this country exhibit? A people discordant; a great sectional party formed; and the whole history of the country massed in a search for subjects of denunciation on the part of citizens of one portion of the Confederacy against citizens of another.

In that convention which framed the Constitution, which is the basis of our Government, slave States were admitted without objection. Concessions were made to slave States on every point that they demanded, and which they deemed essential to the preservation and protection of their rights in this Union. Ay, it was not objected to a State then that she should come into the Union because she permitted slavery. So far from that, the Constitution abounds with express provisions for the protection of their property, and for the security of their rights. It was not objected to a free State that she should form a member of the Confederacy because she did not tolerate slavery. But the patriotic founders of the Republic looked to the interests of the whole country, and sacrificed prejudice and sectional considerations to the necessary order to form a more perfect union.

Contrast that state of feeling and that state of facts with the condition in which we now see the country. Mutual denunciation is the business even of the Representatives of the people on the floor of this Chamber. It is not deemed expedient the circulation of books calculated to sap and undermine the foundations on which the

have excluded Kentucky, was it not bad faith to exclude Missouri? because in the ordinance establishing the territorial government of Missouri, in 1812, there was no *Wilmot proviso*, no prohibition of slavery. But slavery was permitted, as we ask it shall be permitted now; it was protected in the courts, and no complaint was uttered within the Territory of Missouri, in regard to this question of slavery until she applied for admission into the Union. If your anti-slavery party, which I charge is the cause of all the evils with which this country is afflicted, was right then in excluding Missouri, because she did not abolish slavery, your forefathers were wrong in admitting Kentucky. Either they were wrong and you are right, or you are wrong and they were right. Between the two I have no hesitation in my choice. Regarded as patriots, regarded as legislators, Missouri was admitted into the Union, I consider as men who regarded their souls, I have no hesitation in saying I believe they were equally as honest as the Republican party of the present day.

In 1793 they gave us the fugitive slave law, these being only seven votes in opposition to it, and some of those were from the South, I think—a law, which if we attempt to enforce in the northern States we are met by mobs, and bloodshed frequently follows. No southern man dare go into some portions of the northern States and attempt to execute this law, except at the peril of his life.

Such was the action of the founders of the Republic, whose example we are constantly called upon to imitate. Tennessee was admitted in 1796, with slavery. The Territory of Mississippi was organized in 1798, and the application for admission of that Territory, and the restriction as to slavery removed. That was legislation under the Constitution. These are the precedents we are to follow; and we are not to go behind the constitution and follow the precedent of 1787, which the relations of the States was entirely different from what it is now.

Ah! but you say, Mr. Jefferson thought slavery was a great wrong. But the acquisition of Louisiana in 1804 was a great right. Mr. Jefferson was then the president of the Republic. He represented the people of the free States, and he represented the people of the slave States; and no matter what his private opinion might have been upon the question of slavery, or upon the question of religion, or upon any other question, we are constantly called upon to imitate him. Acting as he did, he had nothing to do with your private opinions upon the subject; but we have something to do with your legislative action; and I call upon you, acting under oath, as Jefferson did, to imitate his example. He acquired Louisiana through the instrumentality of Livingston and Monroe. Slavery existed in the Territory of Louisiana by the treaty by which she was acquired, and by that her inhabitants were guaranteed their rights of property.

Louisiana was admitted into the Union, in 1812, as a free State. I know that sections of the States are made in these cases. The objection has been made that in Tennessee, in Kentucky, and in Mississippi, slavery already existed; but acting upon the principle upon which gentlemen here propose to acquiesce, that whatever is wrong and evil can produce nothing but evil, and you must follow it to its results, no matter where it leads you—no question of policy can be entertained. Why did these eminent opponents of slavery, as they are called, and to whose opinions we are constantly referred, increase the slave power, and encourage slavery aggression, as you term it? The only aggression slaveholders have ever made upon the free States, is a demand that they should let this matter alone. Why do not members of Congress, assembled within these halls, initiate legislation which Great Britain assures you there was no such restrictive legislation in the Constitution, nor under the Constitution, up to 1820; for in 1813, under the Administration of Madison, I believe, slaves were recognized as property, and taxed by the Government; and in 1819, in the treaty with Great Britain, again expressly stipulated that all slaves and other private property—I use the very language of the treaty—in the possession of either of the belligerent parties, should be returned to the other.

And yet we are told that we are the cause of all these mischiefs, because we do not join with you

in the declaration that there can be no such thing as property in man; and that we have 'leaped' from the example of our forefathers in not joining in that declaration. Sir, I would not use an unparliamentary phrase; I would not say any word calculated to widen the breach which now exists between the different members of this Conference, for God knows no one deprecates it more than I do; but I do say that intelligent gentlemen who stand upon this floor and make that declaration, ignore the whole legislation of this Government, from the formation of the Constitution up to the Missouri difficulty, in 1820. I say, if they are familiar with the legislative acts of their forefathers, they must know they are uttering that which is not true, when they say their example teaches us that those men opposed slavery in a very shape and form in which we have legislative power. Missouri was admitted into the Union in 1817, and no objection was raised that she was a slave State. But it was in 1819-20 that the struggle began for which you propose to hold us responsible. Why, sir, after the Government had gone over to your side without question, having never asked, when a State applied for admission, whether she was free or whether she was slave; while the whole country was living in harmony and brotherly love and affection; while the southern States were proud of the property and happiness of the free States, and the people of the northern States rejoiced at the property of the people of the South, this hydra-headed monster of anti-slavery was then first produced; and from that day to this it has stood, "black as night, fierce as ten furies, terrible as hell," and has acted in the relations of the States from one end to the other.

What was the cause of the agitation of 1820? After you had encouraged the citizens of Virginia and Kentucky and other States to settle in Missouri, by protecting slave property in the courts of justice, you turned round and said to the people of the free States, "quit the territory, or we will be limited unless you relinquish the right thereafter to hold slaves; and you kept her out of the Union for one year. The South, with that compromising and generous spirit—I say so in no spirit of egotism, for I am describing the position of a representative of the people, and I go forward and executed that memorable relinquishment, agreeing that slavery should not go north of 36° 30' if you would permit Missouri to come into the Union. While we have voted for the admission of free State after free State, and we have admitted a question which we are ready to vote for the admission of Maine, you turned round and ungenerously—what your motives may have been God only knows; whether to promote your political power or not it is not for me to say—forced Missouri coming into the Union upon the relinquishment of the right to hold slaves.

Now, sir, who departed from the lessons of wisdom taught by the fathers of the Republic? Most of them then slept in their tombs, and a wiser and purer and holier race (in their own estimation) had supplanted them; and "his sin against his brethren" was a question which would be blotted from Missouri, or she could hold no place in the Union.

However, you made a good trade, and then the objection to the "sin against God and the crime against humanity" was waived for a consideration. You excluded the people of the free States from all the territory north of 36° 30', and then Missouri was admitted into the Union with slavery. [Here the hammer fell.]

Mr. LANDRUM. I would thank the committee to extend my time for ten minutes longer. General session was given.

Mr. LANDRUM. I shall have to pass over a number of points which I should have liked to touch on, and will only make this remark: that having all the time a majority in the House of Representatives, and a majority in an Illinois vote in the Senate, you passed the tariff bills of 1824 and 1828, in which the southern section, now securely in a minority, were to be made tributary to promote and pamper the industry of the North. Then came the opposition to the annexation of Texas, and we were again in a minority. It became the *Wilmot proviso* for Oregon, and for the territory acquired from Mexico. Then followed the struggle of 1856, when you boldly inscribed on your banner: "No more slave States to be admitted into the Union." At all events, you insisted on "prohibition to slavery in the Territories," and announced that our system of labor was a "twain relic of barbarism" with polygamy. Then followed the emancipation, in the platform of a great popular party, which struggled almost successfully for the government of the country, that the whole people of the South who owned slaves were living in that state of pollution and degradation which characterizes the polygamist.

Yet we are told that we are the cause of all the trouble, because we do not join in the *Wilmot proviso*. Now, sir, what is the state of parties? The greatest man, perhaps, of the Republican party—certainly the greatest in influence, and the one whose prospects are first for the Presidency—has declared that the three billions of property which we must do be destroyed, stating that "you and I own it," meaning that it must be done by the present generation. Then follows the resolution of the gentlemen from Ohio (Mr. BLAKE,) voted for by sixty members of the House, declaring that slavery ought to be abolished wherever the Government has the power to do it.

The gentleman from Connecticut (Mr. FENNER) will recollect his declaration that some of us may live to see fifty sovereignties of this Confederacy; and when that day comes, it will be their duty to change the Constitution and to abolish slavery. And yet gentlemen seem to wonder that the people of the South are talking about new guards for their safety. Sir, the gentleman who says Mr. Jefferson, that Governments should not be abolished for light or transient causes, is most true; but no less true is the maxim that a people are always disposed to endure evils so long as they are endured, rather than right themselves by abolishing the forms to which they are accustomed. So what may be the action of Louisiana, in any contingency that may arise, it is not for me to state.

I believe that the people of my State have too much at stake to attempt to change their present institutions, and to make any arrangement for light or transient causes. We have an immense wealth, a vast commerce, a city trading with all the States of the Union, whose forests of masts, with the flags of all nations floating in the harbor, denote that her commerce is coextensive with the globe. Sir, the people of Louisiana are literally trembles, in a frontage of nine miles, from the superabundant merchandise. Reluctantly, most reluctantly, would that people take any steps which by possibility could involve us in civil war and commotion; and great, indeed, must have been their apportionment when they adopted, in convention, March 15, 1860, the following resolution:

"That, in case of the election of a President on the avowed principles of the Black Republican party, we concur in the opinion that Louisiana should sever in council her sister slaveholding States, to consult as to the means of force protection."

I have no idea that I am mistaken, when I state that no action will be taken under that resolution, except on the most mature deliberation. But, sir, whenever the people of Louisiana are asked to take any action in defense of their property, and to liberate purpose of those who may get control of the Government to spread over them that dark and benighted pall which hangs like an incubus over the Central and South American Republics and the West Indian Islands, they will act. And whatever course the majority of her people may choose to take, her sons will sustain it with their lives, their fortunes, and their sacred honor.

Mr. VANDEVER next addressed the committee on the political questions of the day. [His speech will be published in the Appendix.]

Mr. MOORE, of Alabama, obtained the floor. Mr. FLORENCE. Will the gentleman yield to me for a motion that the committee rise? Mr. MOORE, of Alabama. I will, unless it be desired to continue the session.

Mr. VERREE. I would like to submit some remarks this evening. Mr. MOORE, of Alabama. I will yield for that purpose, provided it is the understanding that I shall have the floor the next time the House re-assembles. The Committee of the Whole on the state of the Union.

The CHAIRMAN. If there be no objection, that will be the understanding.

There was no objection. Mr. VERREE. Mr. Chairman, it is with no expectation of shedding any fresh light upon a

subject which has been so thoroughly discussed as the tariff, that I rise to address you.

But, sir, while I do not hope to add to the array of facts and arguments which have been urged on this side of the House, I cannot permit the question now before the committee to be finally disposed of, without expressing my earnest, cordial, and sincere desire that the bill, as reported, may prevail by such a majority as will leave no room in the mind of the people for the position which, in this Chamber at least, we occupy in regard to it.

On this subject of a tariff, Mr. Chairman, I feel that I have, if I may so say, a special mission to perform.

The whole of my active life has been passed in pursuits which have brought me in direct contact with its workings. I have been compelled to study its principles, because I have been largely interested in its effects. My own affairs have been so intimately associated with it that they could not be separated from it; and the consequences that have flowed from changes in the revenue policy of the country have been felt by me in the most sensitive part of every man's external relations—my finances. In what I have to say, therefore, my statements, though they may be regarded as the result of an experience which leaves on my own mind, at least, not the slightest doubt of their truth.

Mr. Chairman, in an extended Confederacy like ours, increasing every additional session, by the admission of new States, there should be a diversity of opinion in regard to the policy of legislation affecting the interests of the citizens of such States. Statesmen of eminence, representing the local interest of their particular section, have widely differed in regard to the policy of the revenue laws. At one time, whilst the master spirit of South Carolina was advocating and defending the protective policy with his accustomed zeal, he was opposed by the intellectual giant of New England with all his ability and experience. After the passage of these two distinguished statesmen were found transposed from the positions they then occupied; and Mr. Calhoun, whose candor and honesty no man can impugn, was threatening to nullify and dissolve the Union in 1853, because Congress had attempted to pursue the very policy he had, sixteen years before, so forcibly and eloquently sustained. Conceding to others that independence of judgment and action I claim for myself, let us examine, for one moment, the action and policy of the present Administration in reference to the different systems of collection.

The Jacksonian Democracy told us they were in favor of a "wise and judicious tariff for protection"; whilst the Buchanan Democracy of the present day assert they are in favor of a tariff for revenue, giving incidental protection; and the Cobb Democracy elaborately attempt to show the fallacy and unconstitutionality of the President's views, and advocate, with much zeal, an exclusive revenue tariff. The terms used to describe the degree of protection are relative ones—"wise and judicious and incidental"—meaning at least any reasonable man can expect to be desirous of having at all, depending upon the construction and locality of the man who utters them. A distinguished statesman has said that language was designed to conceal our thoughts and opinions; but we must not deceive ourselves in the belief that by the use of such language we are misleading intelligent, educated men, or practical mechanics. The subject is too well understood, and the tricks of political demagogues in the presidential election of 1844 are too well remembered.

The principles and effects of revenue and protective tariff are so different and antagonistic in their character, that the policy which best promotes the one almost inevitably destroys the other; and no so-called revenue tariff bill ever passed by Congress but excepts the most important articles of revenue. If the Administration desire to pass a revenue tariff, which they so ardently propose, why do they not propose a tax on tea and coffee? for, as neither of these articles has been successfully cultivated in this country, whatever revenue could be collected upon them which did not prevent their being sold at a dearer price for revenue. The consumption of these articles has become so common and universal with all classes, rich and poor, that such a tariff would be unpop-

ular; and therefore, political demagogues, who control the Democratic party, abandon the revenue policy, by admitting tea and coffee free of duty, and thus avoid incidental protection, but more properly speaking, political—protection to manufactured articles.

The able Secretary of the Treasury, Mr. Cobb, in his report of 1857-58, argues with much earnestness and apparent sincerity to prove the fallacy of the revenue and constitutional policy, which the President had recommended in his message of the same year; accusing him by implication, if not in direct terms, of recommending a violation of the Constitution. The Secretary contends that the revenue is the only principle upon which a tariff can be justified, or constitutional; yet, as I have previously stated, he does not recommend any duty upon tea and coffee, the two articles from which the greatest amount of revenue could be collected. This inconsistency and the difference between his arguments and recommendations should not occasion any surprise, because the principles of the great national Democratic party, as it is called, but more properly speaking, the sectional slave oligarchy, is controlled by the same logic. What is their interest is always their principle, and what they desire is their end, and a violation sufficient to justify them in threatening to "tear down the pillars of our temples and scatter the fragments to the winds." Disregarding all such flimsy and hypercritical objections to the protective policy, as inconsistent with the Constitution, and believing that this country possesses within its own borders all the crude material necessary to make us independent of any nation in the world, I believe it to be the duty of Congress to grant such a system of protection, that all persons possessing the art and experience necessary to pursue any business would be justified in investing their capital and talents in its pursuit.

Political economists tell us that labor is the source of all wealth; and that the man who makes one blade of grass grows where it must grow before the first inventor. Now I contend that when a man is willing to invest his entire fortune and credit in the manufacture of any necessity of life, where, as in thousands of cases, this country possesses all the natural advantages of soil, climate, and position, and, as I have said, it should be the policy, yes, it is the imperative duty of Congress, to afford all such persons sufficient legislative protection to enable them to manufacture such goods in competition with the foreign manufacturer. This cannot be done by a protective tariff, but by a protective law, affording incidental or accidental protection. It can only be secured by a protective tariff for the sake and for the purpose of protection.

The history of every protective tariff since the Government was established, without exception, proves the fact that, before five years—yes, before one—the home competition, a natural and healthy rivalry resulting from such protection, will reduce the market value of protected articles to a low and regular standard; much lower, indeed, than, previous to such a policy, had been the ruling prices of imported articles of the same quality.

It is useless to mention or particularize the numerous articles which sustain this position; but I will simply allude to the articles of glass and cut nails—the latter of which, under the tariff of 1842, were protected by a duty of three cents per pound, and which, according to the theory of distinguished advocates of free trade, would advance the price as much as the duty levied; when, in reality, the natural superiority of American iron to the English, and the scarcity of a home market to the manufacturers, induced such competition that a short period the price was reduced to three and a quarter cents per pound, only one quarter of a cent more than the duty, showing conclusively the fallacy of their arguments and predictions.

The advocates of southern policy, although professing to desire to develop the material greatness of our industrial interests, contend that the manufacturers of this country need no protection, and that their supposed necessities are caused by their extravagance and mismanagement. It is a common error with this class, to satisfy their minds that they know the cause of the manufacturer's troubles better than he does himself, and they condemn him for doing what, under the same

circumstances, they would have done themselves. Sir, among the many causes that produce the greatest amount of distress and permanent embarrassment with manufacturers, is the increased cost of their machinery over their calculations.

This contingency is the natural result of man's fallibility and sanguine character; and when, as in a majority of cases, a manufacturer has exhausted his means before his machinery is completed, and he is unable to pay for it, he is worthless, he is compelled to go forward or lose all, and is thus drawn into difficulties from which a lifetime only can extricate him. He finds, like all who have preceded him, that the cost of his goods is enhanced by the increased cost of his machinery, and that he cannot afford to sell as cheap as he anticipated when he commenced. He begins now to realize, for the first time, the fact that his fortune is invested in machinery that turns no interest, and is worthless unemployed. After this difficulty is overcome by investing down the amount of capital, he finds another of far greater embarrassment, for the reason that it cannot be remedied; and that is, the difference in the cost of capital and labor between this country and his European competitor.

It is, therefore, necessary to conduct successfully an establishment capable of finishing ten thousand tons of railroad iron per year from the ore would be at least three hundred thousand dollars, costing in Europe three per centum per annum; while in this country the legal rate is six per centum, and the cost of material alone is greater—in a majority of cases equal to ten or twelve per centum; thus making a difference, under the most favorable circumstances, of three to seven per centum per annum upon the entire amount of capital employed. The difference of fifty per centum in the cost of material alone, calculating at the rate of legal interest, is \$9,000 per year; and if the comparison is made upon the rate generally paid by manufacturers in this country, it will make a difference of over twenty thousand dollars per year in favor of the English or foreign manufacturer.

The next important item of cost in manufacturing is the price of labor; which, according to the best American and European authorities, is at least eighty per cent. of the value of the finished iron.

One of the largest iron manufacturers in this country says that English iron can be made cheaper than American; not because less labor is required, but because that labor "costs less than one third as much." Other manufacturers of equivalent capacity and cost of English labor "at least one half," but supposing it is one third less than the cost of the same labor in this country, and calculating it at eighty per cent., the proportion of labor to the value of a ton of iron, the difference in favor of the English maker would be more than thirteen dollars per ton; which amount, added to the extra cost of capital, would far exceed the amount reported by the Committee of Ways and Means in the bill now under consideration.

Mr. Chairman, having shown that the cost of manufacturing in this country is more than fifty per cent. greater than the foreign or cheap labor of Europe, how can the advocates of free trade expect that the manufacturers of this country can compete successfully with the foreign, unless the cost of labor and capital is reduced accordingly? In the language of the ministerial representative of the French Emperor:

"To preach free trade to a country which does not enjoy all these advantages, is nearly as equitable as to propose to a chess player to give up his king."

Sir, if the manufacturers of this country are compelled, under the influence of the southern free-trade policy of the present Democracy, to compete with English labor and capital, it is very clear that the laborer must take less wages. He must, like the English peasant, eat less meat, and use inferior food, and deprive his family of the comforts which would make his life happy. His wife must share his daily labor, and his children must be imprisoned in a cotton factory instead of going to school, and he and his must finally become as inebriated to the refinements of life as the slaves of the South. Sir, the system of free trade ignores the cause of the trouble. It proposes to reduce the wages of labor down to the low rates of old manufacturing cities. It assumes

that the working man must be poorly paid, and, of course, poorly fed and clothed, that their must, in fact, as was said by a distinguished Senator of South Carolina, be "the mauls and mills of society." Against such a degradation of labor I earnestly protest in the name of political economy, of common humanity, and that Divine precept of doing unto others as we would be done by.

Mr. Chairman, there is no gentleman on this floor whose constituency is more immediately and thoroughly interested in the measure now before this House than that I have the honor to represent. The people of my district are almost exclusively dependent upon their own industry for their support. Nowhere in my own State, nor, so far as I am informed, out of my own State, within the same geographical limits, can there be found so vast a variety of pursuits as within that portion of the city of Philadelphia in whose behalf I am addressing you to-day. Bounded on one side by the Delaware river, it offers especial facilities for ship-building; and in those periods when the policy of the General Government has permitted a free development of the resources of the country, there might easily be seen emerging from the ship-yards of Kensington and Camden stalwart workmen, light of step, and preening all the tokens of honest, manly independence. And, sir, although in the general blight which has fallen upon our industry, these laborly shipwrights have been compelled to pause, nevertheless, of them left, should happier times ever arrive, to make the air once more resonant with the mingled music of their adze and the cheering chorus with which they are accustomed to lighten their hours of labor.

Scattered along the shore, and also at frequent intervals in the more closely-settled portions of the district, are numerous establishments for the manufacture of iron in all its manifold forms, from the engines and boilers which furnish the motive power to the stateliest ship of the sea and the most fastidious of land travel, to the smallest implement which is used in the diversified employment of man. Sir, the rails manufactured in this district are to be found on the great iron highways of the most remote States of the Union. The machinery which is constructed within it is distributed in the tropics, the icy wastes of the ocean and the frigid regions of the eastern continent. Nor, sir, is there any description of textile fabric which is not here produced. Cotton and woolen and silk, the hair of the goat and the fibre, are wrought into infinite varieties of tissue by the rapid flight of the spindle or the cunning dexterity of the hand.

The cassimères that all of us wear, the shawls that wrap the graceful forms of our women, the coverings that cover the mattresses that compose our beds, the carpets that embellish our floors, the fringes that adorn our curtains, and the curtains themselves, all these, are the productions of our looms. And, sir, thousands of these looms are distributed by ones and twos and threes among individual owners, who, cooperating with the large establishments, in the production of goods, are careful to themselves satisfactory remuneration for their toil. Sir, in my district also are the great manufactories of the finest sort of leather—the calf skins, the kid, and the morocco—which supply the wants of the leading shoe-makers of the country; and which, at the same time, yield to the scrivener the parchments on which he inscribes records intended to be eternal.

There, too, are to be found establishments everywhere famous for the superior glass they produce, which, in solidity, smoothness, and circumference of shape, are unequalled in the world. But, sir, I will not go on with this specific enumeration. Suffice it to say, in brief, that in the third congressional district of Pennsylvania, labor, in multiplied forms, is the normal condition of the people; and even when they are not engaged in actual personal handicraft, their pursuits, for the most part, have direct relation to its necessities. The supply of the many thousands who earn their bread in the mills and the factories and the shipyards and the workshops of the "old Northern Liberties and Kensington," in the numerous dwellings, with food and with clothing, with the means of education and the opportunities of public worship, requires an amount of mechanical appliances, of commercial enterprise, of professional skill, which can hardly be estimated.

Mr. Chairman, from what I have said you will readily infer that my district is a perfect hive of industry—a hive in which all have their assigned parts, and one in which, when the sun of prosperity shines, there is ceaseless activity.

But, sir, it is also true that when from any cause the economy of this same hive is seriously disturbed, when its industrial occupations are interrupted, when the order and regularity of its motions are interfered with, there must necessarily follow confusion, disaster, and suffering. And, sir, that is precisely the condition of things there now.

So long as the tariff of 1842 was in operation, and its influence was continued to be felt, the people I represent were prosperous and happy; labor in all its departments found ample employment and remunerative wages; all branches of trade shared in the advantage which labor thus enjoyed; and the happy consequences were manifested in all directions. Go where you might, sir, you encountered only the manifestations of thrift and contentment. In all the older and more thickly-settled portions, every foot of available space was occupied for some useful purpose; wherever there were new buildings, in various stages of erection, stretched themselves on all sides. The carpenter and the bricklayer and the mason were in constant requisition for the increased growth of the population and the increased wealth of its individual members. Sir, I grieve to say all this has changed.

The repeal of the tariff of 1842—though, as has been already sufficiently explained in this debate, its mischievous results were, for a time, accidentally averted—fell like a blight on my district. The future of things was obscure and overshadowed. To a state of steady success for all legitimate enterprise succeeded a state of varying troubles. That which had been stable at once became unfixed. Money, which had flowed abundantly through all its proper channels, grew scarce and the laborer, who had formerly been secure in his returns of healthful business, found their profits had ceased, and that day by day their affairs became more and more uncertain, until at last all reliance upon them was gone.

When working man, the slave, operated with unshaking energy. Accustomed for years to the comforts and many of the luxuries of life, they found themselves constrained to forego not only these, but even some of the absolute necessities. Their employment, which had previously been constant and secure, became irregular, and in many cases finally ceased; and their wages fluctuated in a corresponding degree. In the revolution of 1857, as all remember, the country was involved in one of those terrible crises which the vacillating character of our revenue laws has so often produced.

This was the inevitable sequence of what had gone before. The drain of the precious metals sent abroad to pay for articles which ought to have been manufactured at home, had so disordered the finances of the country that monetary panic and commercial distress were the inevitable convulsions revealed the frightful hollowness of the system we had been pursuing. Crash succeeded crash, until general ruin was threatened.

Merchants and manufacturers laid down one after another in the storm that was then raging, and the whole fabric of our commerce and industry shook and shivered.

Mr. Chairman, in the material world violent hurricanes are frequently required to purge the atmosphere; and though their career is marked by havoc and desolation, they are followed by purer and clearer skies. So, too, in the political world; and if the panic of 1857, in its senseless fury, struck down many an honest and worthy man, its ultimate results are destined to be beneficial. Among its salutary consequences, not the least, has been the unanimity it has produced in my own State in regard to the question of protection.

Prior to that visitation, the Democratic party, even with us, had affected an indifference, and sometimes went so far as even to avow hostility to the principle. But, sir, they were forced to do so no longer. The workingmen, the laborers, the operatives of the good old Keystone State, stimulated by the sufferings which they endured, have investigated this subject, and they have determined on reform. It was upon this that the

election of 1858 mainly turned; and, as a consequence, the representatives of the People's party comprise a large majority of the Pennsylvania delegation. Sir, the People's party, which had its origin in Philadelphia in the spring of 1858, was based upon the principle of protection to American labor against the cheap labor of Europe. It was in that time that it invited the working classes to rally under its banner, and it was through their aid it triumphed. It was upon that principle that myself and my colleagues were elected in the ensuing fall; and it is upon that principle we expect to carry the presidential candidate who may be nominated at Chicago.

Mr. Chairman, it will be a monstrous wrong that great body of citizens whom I represent, if this session is permitted to pass without some efficient attempt for their relief. They are eminently deserving of that relief; no classes contribute more to the solid advancement of the country than they do. They produce far more than they consume, and thus accumulate a surplus for public good.

They are reasonable in their demands, asking only that you will so modify your tariff that the money which is now squandered abroad may be turned to the benefit of the citizen at home. They ask you, not for the opportunity of living in idleness, but for the means of obtaining work.

They ask you to frame your laws for the benefit of your own countrymen, instead of arranging them to promote the interest of people living on a foreign soil.

They ask you to remember that they have rights which ought to be regarded; feelings which ought to be respected; claims which ought to be considered. And, sir, while they mean no more than they tell you that, if their just demands are not complied with, if they are rejected with scorn when they apply only for what they know is their due, they will visit upon the men and the party which thus trifles with and provokes them the vengeance of the ballot-box.

Mr. ROBINSON, of Rhode Island. Mr. Chairman, much has been said, in the course of the debates in this House, of the purposes and designs of the Republican party. Bold and harsh accusations have been made against it. It has been specially charged with the avowed purpose of overthrowing the Constitution of the United States; and of intending to use the administrative powers of the General Government, if it should obtain it, to break down the rights of the southern States and eradicate some of their social and political institutions. The party is charged with ignorance, with avarice, with slavery, the true spirit and construction of the Constitution. It is alleged that its purposes and designs are treasonable, and that it aids and abets the invasion of the States. These charges are made with a seriousness and persistence that forbids us to distrust the sincerity of men; at least, of our southern friends who make them. Their reiteration by the prelates and politicians of the North, however, are perfectly understood to be for political effect alone, upon men who are supposed to be without any serious motive, and to deter them from a free expression of their opinions. Fortunately, however, for the party charged with these grave political offences, we are debating this matter before an intelligent and patriotic people. The schoolmaster and the press, the stern types of our modern civilization are abroad, and have been for years; and the people who have received their instructions will never believe that they have not improved their pupils and softened and refined the spirit of that barbarous age, when learning was cramped and confined; when men of power were despotic and timid, and were marked, not with the pen, but with the pommel of their swords.

We violate the Constitution! How! Because we contend that "freedom is national, and slavery sectional;" that "freedom is guarded and protected by the Constitution, which announces its preamble its object to be "to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and posterity."

And the provision of that Constitution were designed to carry out and perpetuate the formula of glorious purposes set forth in its preamble. It was framed for no other Government than a Government of freedom. Had, however, any one

unfamiliar with the designs of that instrument insisted to the arguments from the Democratic side of the House, they must have thought that the framers of the Constitution intended to protect, not freedom, but slavery; to promote, not the general welfare, but to pile up, if possible, the means to keep the country in a state of constant disturbance.

Chairman *Wells* strikes me as remarkably singular, if it were the design of the Constitution to promote and extend slavery, that the word should not have occurred in the instrument from its beginning to its end. It is equally strange that some of the soundest as well as most brilliant statesmen of the Revolution should have protested against the insertion of the word, that the instrument forming the basis of a glorious Confederacy of free States should nowhere, in any of its provisions, perpetuate the evidence that there existed, in the land where that fierce struggle for freedom was waged, no glaring a solemnity as that institution presents—a palpable contradiction of the political doctrines and rights set forth in the Declaration of Independence.

If it had been the purpose of the Constitution to extend slavery, why then, this institution itself were of no overwhelming importance that it could form the only nucleus about which the people of the original States could gather, is it not surprising, is it not a glaring impeachment of the intelligence, as well as the patriotism and honesty of its framers, that they left in the instrument this only disturbing element in our Government, almost wholly and entirely to implication, that its only recognition—by them was not as existing by the force of the Constitution, but exclusively by virtue of the State laws?

There was a time when our southern friends strenuously contended for the doctrine of strict construction. When we urged upon them the necessity of protection to domestic industry, and the policy of a system of internal improvements, they turned to us with an air of triumph, and asked us to point them to the authority granted in the Constitution to Congress to legislate upon those matters as we desire. Can they blame us, who earnestly believe that this policy does contribute to the general welfare—does form the basis of the States' future prosperity, rendering it permanent and strong, promoting intercourse among them, establishing the means of a common defense, furnishing employment for a cheerful, willing industry, as well as compensation for its toil—can they blame us, when they claim that the right to extend slavery is a right, that the Constitution, nay, superior to it, and walks with an elephant tread over all other purposes and designs of the Constitution, that we turn upon them with their favorite doctrine of strict construction, and ask them to point us to any recognition of such a purpose or design in any of the provisions of the Constitution?

We think the interrogatory a proper one, and should be answered by some more potent reply than denunciation. The Constitution itself, in that article which forms the basis of the fugitive slave law, expressly declares that it shall be enforced by our political opponents. That section provides that

"No person held to labor or service in one State—"

Under what? Under the Constitution of the United States? No—

Under the laws thereof, excepting those another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor shall be due.

This section, if it applies to fugitive slaves, recognizes the servitude as existing purely and simply by the laws of the State, and therefore wholly local and sectional in its character. If the framers of the Constitution had entertained the idea that the institution of slavery was a feature of the Government whose fundamental laws they were framing, would they have left it with no other support to the authority of the master over the person of his slave? Would they have made no provision for those cases where the exigencies of business or the allurements of pleasure would induce the master to take his slave into a State where the local law did not or might not recognize the right of one man to own the person of another? They were strangely negligent of the high and responsible duties imposed upon them,

if they designed to give to slavery no existence under the provisions of the Constitution. They recognized it, however, as a slave institution. The person is held to service, not under the Constitution, but under the laws of the State from which he escapes. When the master takes him beyond the limits of that local law that binds him to servitude, then, under the Constitution of the United States, the slave is at once free, and the master can assert its right, and the slave stand "disenthralled," by the "emancipating genius" of the Constitution.

But it is not only from this provision of the Constitution that we think we prove conclusively that the institution was regarded simply as an institution of a State, existing by force of its own local law, but by the contemporaneous construction given to that instrument by the framers of it. That ordinance, which forever debared the entrance of slavery into the glorious Northwest Territory, where the stout States are rejoicing in freedom, and busily engaged in a noble competition in agriculture, science and art—in all that dignifies and adorns our nature—and makes us reverence the institutions of freedom, is a lively recognition of the text and principle of the Constitution they framed and so grandly set in operation.

Its results there are the embodiment of all the purposes its sublime preamble contains; not mere glittering generalities, but the natural as well as the necessary elements of the political genius of the Government.

Did our revolutionary statesmen in that ordinance "exorcise the Constitution of its spirit?" or did they not display its vitality and power? And now, has that Constitution, having attained the years allotted to man, become wrinkled and decayed? Has it lost its manly proportions, its vigorous spirit and power, and become dwarfed and decrepit? If it has, its decay results, not from any inherent weakness or defect in its original formation, but from the experiments upon it, as it has been administered to it by politicians, which eat out its original fibers, and destroy its early manliness. Is it necessary to repeat, apart from this commentary of our political fathers, which this ordinance presents, the opinions they have expressed in the past, and the counsel which all candidates for political honor are commanded to worship, or be shut out from political promotion? Those opinions are a portion of our political history, and it is not in the power of party convulsions to falsify or obliterate them. The Constitution is a part of our political history, with untiring zeal the advocates of a noble and exalting freedom. This institution was regarded not as an element of power but of weakness, retarding our political progress, and retarding the development of the national power. Nor were those opinions confined to the age in which our fathers lived. Their descendants adopted their views upon this grave matter. A little more than a quarter of a century ago the same opinions were as freely expressed in the State that now prides itself as the home of Washington and Jefferson.

A new analysis of the Constitution has been made by the political experts of the day; and, to the surprise of all, it is announced that, instead of freedom, slavery is its inspiring genius, and constitutes its strength and preserving power. The stars of its flag no longer shine over the pathway of liberty, but twinkle dimly and darkly over the mists of human servitude. We, who follow the statements of the Revolution, the great apostles of human freedom; we, who struggle in our national institutions for the secure and permanent maintenance of 1787, the first-born of the Constitution are stigmatized as disorganizers and sectionalists. If the struggle of principle against power—a contest for a strict construction of the Constitution, where human freedom is involved—against an abridgment of the principles of the Revolution, of extending human servitude, makes us disorganizers and sectionalists, we must bear the charge. An appeal to history will fasten these epithets upon those who so freely apply them to us.

Why, Mr. Chairman, who threaten to disorganize the Government? Why, who threaten the reputation of the Union for relief for any political grievances they suffer, or imagine they suffer? Who would bring upon the American people the greatest of all political calamities, in the vain hope of

redressing some imaginary political injury? Have the Republican party made any such threat? In the wild and stormy day, when they provided the organization of this House, did that party proclaim on this floor their success in the coming presidential contest the condition upon which they would stay in the Union? Did they appeal to the first amendment of the American people to the Union, and resorting to the ballot-box—their only safety, for the purpose of frightening them into casting their votes for their presidential nominees? Did they declare, here or elsewhere, that they have any other remedy for any mal-administration of the Government than that of seceding from the Union, and resorting to the ballot-box—their only constitutional agency for reforming abuses and redressing any and all political evils? No declarations of violence have proceeded from the Republican party, or from any individuals acting or speaking by their authority. We know that fiery denunciations of the Union have been uttered upon the Democratic side of this House; not only uttered, but loudly and warmly applauded, and its dissolution solemnly argued as the sure means of redress for the political evils they allege they suffer.

With these denunciations the Republican party have no sympathy. They heard them with deep regret and unexpressed surprise. Their only response to them is that they consider such a measure fraught with absolute ruin and destruction to the Republic, and that they have no hope of freedom, and plunge the American people into a political chaos, alike hopeless and irredeemable. The Republican party now, and at all times, protest against such threats and such a measure. They can find no crime in the success of any party in trying to frighten the people into the hope of freedom, and plunge the American people into a political chaos, alike hopeless and irredeemable. The Republican party now, and at all times, protest against such threats and such a measure. They can find no crime in the success of any party in trying to frighten the people into the hope of freedom, and plunge the American people into a political chaos, alike hopeless and irredeemable. They cling to the Constitution and the Union, successful or defeated, and will regard as an outrage upon the purposes of our fathers an effort to pervert the first or dissolve the latter. They adhere to the principles of Washington, Jefferson, Madison, and Monroe. They regard the commentary upon the Constitution, and wish no higher panegyric upon their party than it bears aloft in the din of political controversy the same ennobling truths which have given to those distinguished statesmen their names and their fame.

The more closely we examine and criticize those provisions of the Constitution in which the subject of human slavery is so tenderly touched, the more convincing becomes the evidence that, like the opinions of its founders, it looked to its final extinction, and its abolition as a necessary part of the "migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." We find the power given for prohibiting the foreign traffic. Was this power of prohibition given for the purpose of extending or restricting the institution? This power to prohibit, the Congress did exercise as soon as it constitutionally could do so; and thus, if the modern theory be true, struck a blow, not only at slavery, but at the christianization of the miserable, barbarous and idolatrous African race. It was provided that the national legislators of 1808 regulate slave labor as specially protected by the Constitution, and as essentially necessary to the growth and development of the nation, and at the same time, employed their legislative authority to diminish the supply of this necessary labor! It would be impossible to entertain any respect for their intelligence or patriotism, and come to this conclusion. If they believed that the Constitution carried slavery with it, and necessarily extended to it its protection, they would not have so gratuitously made such an exercise of it would be so injurious to its spirit, and defeat its object. The exercise of the power thus conferred would be destructive of that fundamental principle which, according to modern commentators, they labored to establish. In fact, the exercise of this power would be a violation of the Constitution, and if it were so, the action would be correct, then they possess rightly who protest against the exercise of this power, and contend that the laws passed to prohibit the African slave trade are a gross invasion of the rights of the States, and as national legislators, sworn to support the Government? Congress? We cannot.

We contend, however, that the passage of these laws, as soon as, under the Constitution, they could be passed, is a complete, conclusive response to the argument so laboriously made to prove the

Constitution a pro-slavery Constitution, formed, among one of its purposes, for carrying slavery wherever it chooses to go. Our fathers had no such opinion; and the fault of the Republican party is in following their example. Their platform of principle is one embodied in the Constitution, and will stand or fall with it. It is vain to reply that our fathers themselves, though anti-slavery in sentiment, formed a pro-slavery Constitution—a political paradox, invented for the purpose of avoiding the argument drawn from their acts, and the contemporaneous construction given by them to the instrument they formed. This assertion is no impeachment either of their intelligence or their patriotism. Modern assumption has not gone so far as to distinctly announce they were either ignorant or unpatriotic. They certainly understood the language they used, and carefully avoided a direct and unqualified recognition of slavery itself. They shut out, by express declaration, that any service could be due under the provisions of the Constitution. Their devotion to freedom, through a stern and unequal conflict of years, proves both their honesty and patriotism. They could not have been otherwise. It is not a feature of hypocrisy to cheat itself; and their legislation, under the Constitution, plainly proves they did not intend to cheat their posterity. They left to them, in one of their earliest acts of legislation, a heritage of noble wisdom, the emphasis of which was love for freedom, and an earnest desire to inaugurate a system of legislation that should protect, and not subvert, the rights of man.

The historic fact remains, and no sophism can obliterate it, or convert delirium to reason, that the first announcement of the principles of the Republican party was made by the statesmen who founded the Government; to whom we all have looked with reverence and awe; whose statues we set up in the portals of the Capitol; and whose memories will be revered and revered while freedom and independence have a votary. If they erred, then we may be wrong; but it will require something more than denunciation of those who are the humble followers of the policy they announced, to convince either us, or the world at large, that they were charged with the error of which they were ignorant of the purposes they intended to accomplish, or established a system of government whose correct construction and sound administration, upon its original principles, would defeat its objects. The Republican party of today is the party which Thomas Jefferson, the leader, led. It has adopted no new scheme to accomplish purposes not originally contemplated in the formation of our political system. We stand by its founders; and if we must fall, we fall with them.

It is equally futile to contend that the change in the circumstances of the union are such as will authorize a change in the construction of the Constitution. We are dealing with the principles and purposes of the fathers, and not with the changes and vicissitudes of a nation's progress. We are not, when we contend that the Constitution requires a restriction upon slavery in the Territories, with violating rights guaranteed by the Constitution they framed. To refuse this charge, we point to their opinions and their legislation. Whether it would be expedient to grant to slavery the unlimited right to travel and acquire property in the Territories is another question. The Territories it plagues; whether the pecuniary advantage of our southern friends would be best promoted by the extension, are not the questions involved in this controversy. These may present strong reasons to the South, to be urged for a restriction on the provisions of the Constitution, but cannot control its construction, nor aid in establishing the accusations made against us. If the framers of the Constitution were anti-slavery in sentiment, it is fallacious to suppose they would have formed a Government to cherish and extend a system of labor which they believed morally wrong, un sound in policy, and which might imperil the general welfare and endanger the domestic tranquillity of the States where it existed.

How, then, ask, do we violate the Constitution in extending it to the Territories? by excluding, as its founders contended, for the exclusion of slavery from the Territories? We disclaim any right to interfere with it in the States. In this respect, we are powerless. We neither contend for nor recognize any such power in the Constitution; and our party organization, in enunciating its prin-

ciples, always have disclaimed any such power, and protest against any attempt to exercise it.

Further, those individuals in the North and East who are distinctly Abolitionists make this want of power in the Constitution the very ground of their quarrel with and opposition to it. With such a basis for the instrument, how can it be ever evil or dangerous around it are best understood by them, and with them alone are the remedies. We neither seek nor justify any interference from abroad.

If the institution be—as modern politicians, and slave States, no further lack than ten years frequently and earnestly declare—a social and political blemish, the practical development of a political philanthropy regarding and working out the best good and highest interest of both the white and black race, and solving the political problem of combining the welfare of both in one social system, we are willing and anxious that all the good educed from it shall be enjoyed and confined to the States where the system now exists. We ask not to be the recipients of the blessing it promotes, and assure those States that no act or effort of the Republican party will disturb them in the enjoyment of it.

We do, however, claim the right to determine, under the Constitution, whether the system shall be extended into Territories where no law exists to establish it; or, in other words, we protest in behalf of the free laborer, and the hardy laborer against being compelled to receive its dubious good. It is now said the true principle is, that the negro, a slave in the States, upon his introduction into the Territories continues a slave; that the Constitution, therefore, extends over him and continues in servitude a proposition at war with the earliest legislation adopted by the fathers of the Constitution, and suggestive of some very significant queries. The position assumes the absence both of territorial and congressional legislation, and claims not recognition by the common law. If it has any foundation whatever, it must be by virtue of some local law. Will the slaveholder in the Territory look to the law of the State from which he emigrated for the means to control and regulate his claim to this anomalous property? Will the Constitution transfer into the Territories as many slave claims as there are slave States from which owners of slaves may emigrate, and vindicate and protect the rights founded upon these various codes?

In one State the slave code carefully prohibits emigration, while it may be permitted in another. Will the person emigrating from the first be prohibited from giving freedom to the slave, while the slaveholder from the second will be at liberty to emancipate? Will the relation of master and slave, that exists, during the life of the responsibility, be affected as the legislation of the State may vary from which they emigrated?

Again, it is now deemed in many of the slave States a necessary safeguard of their institution to exclude the free negro, or to reduce him to slavery. Will the Constitution of the United States, of its self carry this protective legislation into the Territories as a general law, controlling all parties; or will the emigrant from a slave State, whose local law expels the free negro or reduces him to slavery in case of disobedience to the law, have power to put in force this local law in the Territories, free negro, or sell him into servitude, while the emigrant from a State having no such law will possess no such power?

All this political and legal chaos appears to be the legitimate result of the theory that the Constitution of the United States carries slavery into the Territories. If it carries it there, it should protect it; and to protect it without congressional legislation creates this confusion.

We are told that, if it had not been for the provision of the Constitution for the rendition of fugitives from justice, the States would have adopted it. If this be true, can we believe that the framers of the Constitution, who certainly understood its provisions; who so adroitly excluded the words "slave" and "slavery" from it, and who embraced the first opportunity to exclude slavery

from a large portion of the common territory, would have adopted it, if they had believed it susceptible of the construction which is now attempted to be put upon it?

Again, our forefathers discussed the subject of slavery with as much freedom as any other upon which they were called to deliberate. It was by them not a forbidden topic. If the Constitution carries slavery into the Territories, will the same freedom of discussion be permitted there? or will the immigration of the slaveholder, with his chattels, of itself restrain this freedom of debate? Will a person from a free or slave State, who may have some doubt of the policy of slavery, or who, leaving the mere question of policy, takes a higher stand, and denies its rightfulness, be debarred the freedom of speech or discussion; be prevented from expressing freely and fully his opinions? If a newspaper is established, will that be subject to censorship, and all articles it may contain, freely examining the social and political influences of the institution, be deemed incendiary, while the editor will be consigned to the prison, or hounded over to the "unfriendly legislation" of a mob? We know that, if such a discussion in some of the slave States is not allowed to those who debate this subject and express opinions hostile to the expediency or justice of slavery. To those whose social and political institutions are of so strong a texture that they will bear the closest examination, and whose minds are not so easily queried are important. Accustomed to think freely, and to express aloud their thoughts upon all matters in which they feel an interest; to examine with scrutiny their bearing upon their social and political prosperity; in fact, to discuss all subjects they choose to discuss with the fullest freedom, and to give to their opinions the freest expression, the citizens of the free States doubt the propriety of extending an institution which, in this age of progress, requires to be spoken of tenderly and carefully, and which has all the prejudices of birth, the strength of habit, and force of education, to sustain it.

Mr. Chairman, we have lately passed in our legislative duties to inaugurate the statue of Washington. His life was again passed in re-remembering the past, and the future, and his joyful as they recurred to his early toils and patriotic struggles. We challenged the world to produce his parallel. His triumphs in the field and his success in the Cabinet; his devotion to the cause of freedom, wherever called by duty to act, and his subject of exalted heroism, all the Republicans party, while they pay homage to his principles, will prove the sincerity of their respect by attempting to bring back the administration of the Government to the policy he so nobly sustained while living.

Mr. FLORENCE moved that the committee rise.

The motion was agreed to. So the committee rose; and Mr. FLORENCE having taken the chair as Speaker pro tempore, Mr. FLORENCE reported that the Committee of the Whole on the state of the Union had under consideration the Union general, and particularly House bill No. 338, to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes; and had come to no conclusion thereon.

And then, on motion of Mr. DUNN, (at ten minutes after four o'clock, p. m.) the House adjourned till Monday.

IN SENATE.

Monday, April 30, 1860.

Prayer by the Chaplain, Rev. Dr. GRAY. The Journal of Thursday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. GREEN presented the memorial of the Legislature of the Territory of Washington, relative to the war debt of the Territory of Washington and State of Oregon; which was ordered to lie on the table, a bill on the subject having been reported.

He also presented a petition of citizens of Scotland county, Missouri, praying the establishment of a mail route from Farmington, Iowa, to Macon, Missouri; which was referred to the Committee on the Post Office and Post Roads.

Mr. WADE presented the petition of G. C. Johnson, praying the payment of a balance of an amount which the Secretary of War was authorized to pay him out of the annuity of the Shawnee Indians; which was referred to the Committee on Indian Affairs.

Mr. KING presented the petition of Solomon Whipple, praying an extension of his patent for a machine for cutting files; which was referred to the Committee on Patents and the Patent Office.

He also presented an additional paper in relation to the claim of Sally Moor, widow of Elisha Moor, to a pension; which was referred to the Committee on Pensions.

Mr. HEMPHILL presented the petition of citizens of Texas, praying the erection of a lighthouse on or near the north breakers, at the entrance of the harbor of Galveston, and the restoration of the light-vessels lately removed from the entrance of that harbor; which was referred to the Committee on Commerce; and a motion to print the petition was referred to the Committee on Printing.

Mr. SEBASTIAN presented the memorial of Barrow, Porter & Greenleaf, contractors for building the mail route from San Francisco, to Stockton, California, praying indemnity for mules stolen by the Indians; which was referred to the Committee on Indian Affairs.

Mr. GWIN presented a resolution of the Legislature of California in favor of the passage of a law establishing a mail route connecting with the central overland mail from Carson City, in the Territory of Utah, to Nevada City, thence to the town of Auburn in the county of Placer, thence to Folsom, and from there to Sacramento City, passing over the Sierra Nevada through the Heunues pass, with final route, whoring therefrom; the first one leaving said route at Jackson's Ranch near the western end of Heunues Pass, to Downville, in the county of Sierra; and the second leaving at Lake City in the county of Nevada, via North San Juan to Marysville, Yuba county, in that State; which was referred to the Committee on the Post Office and Post Roads.

RECOMMENDATION OF A REPORT.

On motion of Mr. LATHAM, it was Resolved, That the petition of G. C. Barnard, assignee of the Hon. David C. Broderick, deceased, praying the enactment of a law authorizing the payment to him of the amount due Mr. Broderick for the services rendered by him at his decease, with the adverse report of the Committee on the Judiciary thereon, be recommended to the Committee on the Judiciary.

DEBT, VANTINE & CO.

Mr. LATHAM submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Court of Claims be requested to return to the Senate the papers in the case of Vantine & Co., which were referred thereon on the 2d instant.

REPORT OF A COMMITTEE.

Mr. CRITTENDEN. In the examination of the cases referred to the Committee on Revolutionary Claims, they find referred to them a petition of J. B. Williams, praying a grant to the heirs of Joseph Biggs, deceased, of the amount paid by him for boarding, nursing, and medical attendance on account of being wounded in an Indian war in 1788. I should like to know what sort of relation or connection that has with the Committee on Revolutionary Claims. It seems to me properly to belong to the Committee on Claims. At the instance of the Committee on Revolutionary Claims, I move that they be discharged from its further consideration, and that it be referred to the Committee on Claims.

The motion was agreed to.

WASHINGTON MARKET-HOUSE.

Mr. BROWN. Mr. Foot, of Vermont, was appointed on a committee of conference some eight or ten days ago. He has been absent since, and it is wholly uncertain when he will return. It is very desirable that the conference should be held; and I move to excuse him, and that the Vice President be authorized to fill the vacancy upon the committee of conference on the bill (S. No. 192) authorizing the corporation of Washington city to make a loan and issue stock for \$300,000, for building a market-house.

The motion was agreed to; and Mr. COLLAMER was appointed.

BILLS BECOME LAWS.

A message from the House of Representatives, by Mr. FEASER, its Clerk, announced that the President of the United States had approved and signed, on the 13th instant, an act (H. R. No. 31) for the relief of Charles Knap; and also that he had approved and signed, on the 19th instant, an act (H. R. No. 213) to incorporate the United States Agricultural Society.

PRINTING OF DOCUMENTS.

The message further announced that the House had ordered, on the 24th instant, the printing of the following documents:

Message of the President of the United States, transmitting a report of the Secretary of the Navy, showing the number of officers and men in the service of the United States belonging to the African squadron who have died in that service since the date of the Ashburton treaty to the present time.

Message of the President, in answer to a resolution of the House of Representatives, "that the President be requested to communicate to the House any information in relation to the existence of the Territory of Florida," &c.

Letter from the Secretary of the Treasury, in answer to a resolution of the House of Representatives, directing him to communicate the amount required to complete, furnish, &c., the St. Louis custom-house and post office.

The message further announced that the House ordered, on the 25th instant, the printing of the following documents:

Letter from the Acting Postmaster General, explanatory of the provisions of a bill (H. R. No. 681) relative to postage on newspapers in packages, &c.

Message from the President of the United States, transmitting, in compliance with resolutions of the House of Representatives, information relative to discriminations in Switzerland against citizens of the United States of the Hebrew persuasion, ordered at twelve o'clock and twelve minutes.

Letter from the Secretary of State, transmitting a report relative to the occupation of the Island of San Juan—ordered at twelve o'clock and thirteen minutes.

Memorial of the Legislature of Alabama, asking the allowance of interest on two and three per cent. funds, the payment of which was withheld by the Government—ordered at twelve o'clock and eleven minutes.

ANON DART.

Mr. DOOLITTLE. If there is no business to take up the time of the Senate, I desire to call up a bill on the Calendar (No. 220) which has passed the House of Representatives. I think it will not occupy the attention of the Senate very long.

Mr. LANE. What bill is that?
The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The title of the bill will be read for information.

● **RELIEF OF ANON DART.** A bill (H. R. No. 220) for

relief of Anon Dart. Mr. LANE. I very much desire that the Senate shall be full when that bill comes up. It provides for the payment of a large sum of money; and it involves a question that ought to be settled by the Senate when we can have a full vote. I trust, therefore, that it will not be hurried through the Senate to-day. The body is very thin. Whenever the Senate shall be full, I will go with the Senator (for he has much anxiety in relation to this matter) to bring it up, so that it may be discussed, and the principles contained in the bill decided. If the decision shall be in favor of the claimant, it is not a question which will stop with the decision of this bill. It is an important matter; for it would bring about legislation in other cases like this; and I trust the Senate will not attempt to bring it up when there is so thin a Senate, and we cannot have a full vote upon it. I think the Senate is too thin for business; and therefore I move that the Senate adjourn.

Mr. JOHNSON, of Arkansas. I hope the Senate will allow me to submit a matter before he submits that; that when we adjourn it be to meet on Wednesday next.

Mr. LANE. I withdraw my motion for that purpose.

Mr. JOHNSON, of Arkansas. I move that

when the Senate adjourn to-day, it be to meet on Wednesday next. We call know it is scarcely good faith to attempt to go on with legislation under these circumstances; and we certainly cannot legislate on contested matters here. Speeches, it is true, might be made on different sides of different questions; but speaking here will amount to nothing, so far as actual business is concerned, and I therefore move that when the Senate adjourn, it be to meet on Wednesday next.

Mr. LANE. I think we had better, perhaps, take the question on adjourning till to-morrow.

Mr. DOOLITTLE. I can hardly consent to allow the remarks of the Senator from Oregon in relation to the bill now pending before the Senate to pass without any reply. It is not my purpose to press it into the Senate this morning, if there is a disinclination to do any business; but I simply desire to say that the bill in question has, I understand, twice passed this body, has received the unanimous reports of committees of the House of Representatives for three sessions in succession, and it will appear on examination to have been decided—without any reference whatever to any opinions which I may entertain myself—by some of the ablest men in the Senate. I think, therefore, it is based on facts which, as I believe, when they are brought to the attention of the Senate, will show clearly that the bill ought to pass, and that there is nothing in this case which will establish a dangerous precedent in any other case. But I shall not press it, and I leave it to the Senate. I shall not take it up or to postpone it. As to the question of adjourning over from to-day until Wednesday, I hope the Senate will not agree to that proposition.

Mr. HAMLIN. I hope the Senate will not adjourn over; and it seems to me there are very good reasons why we should not do so. In the first place, I think to-morrow is assigned to the Senator from Mississippi, [Mr. DAVIS], and I suppose he desires then to be heard on certain resolutions which he has submitted to the Senate. If, however, it is perfectly agreeable to him to leave over to-morrow, then that would be out of the way.

Mr. DAVIS. Certainly. I have no wish on the subject.

Mr. HAMLIN. Then, if the Senator does not wish to occupy the floor to-morrow, we have a bill here—on appropriation bill.

Mr. COLLAMER. Would not the Senator from Mississippi lie off occupied to-morrow as some other day?

Mr. HAMLIN. I would say, as is suggested by my friend the Senator from Vermont, if the Senator from Mississippi would be willing to occupy the floor to-morrow, we should save a day by having him do it. If he does not desire it, however, he need not do so; but there is now pending before the Senate an appropriation bill. That is one measure which, I apprehend, we can take up and discuss without doing injustice to any absent Senator, or to anybody else; and I think there are a great variety of matters before the Senate which will lead to no very considerable debate, and which may not and need not be delayed in consequence of the absence of any one. I request, therefore, that we think we ought to take up those measures about which there will be no disagreement, and dispose of as many as possible. I would ask the Senator from Virginia, who has charge of the appropriation bill to which I refer, whether there is anything on that bill which necessarily requires us to delay action on it, when we have time now? If there is, I would not ask for action; but if there is no reason to the contrary, I hope we shall take up that bill and dispose of it, and all others of a like character.

Mr. HUNTER. I can only say, in regard to that bill, that we are through with the amendments of the Committee on Finance; and we have just commenced with those of the Committee on Indian Affairs. The Senator from Arkansas, the gentleman from Arkansas, can vote for me better than I can. There is an amendment pending, offered by one of the Senators from California, [Mr. LATHAM], which was a matter of interest to them. If the Senator from Arkansas is ready to go on, I am.

Mr. COLLAMER. I ask the gentleman from Virginia if there are not other appropriation bills.

Mr. HUNTER. That is the only one reported.

Mr. COLLAMER. The only one in the hands of the committee?

Mr. HUNTER. Not the only one in the hands of the committee; but the only one reported.

Mr. SEBASTIAN. In answer to the question propounded by the Senator from Virginia, I have to say, that the Committee on Indian Affairs, not anticipating that that bill would be brought up to-day, have not prepared all the amendments which they contemplated offering; but there are two amendments already offered to the bill, one of which is entirely willing shall be disposed of now. One was offered by the Senator from California, [Mr. LATHAM,] who is in his seat, and, no doubt, willing to go on with the discussion. I suggest, therefore, that we can make some progress at least with the amendments already offered to the bill. One is the amendment offered by the Senator from California, and the other is one which was submitted by myself. I am willing to proceed as far as we can with the bill to-day.

Mr. JOHNSON, of Arkansas. I submitted the motion that when we adjourn, we adjourn to meet on Wednesday next. I really do not believe that it is well that we should meet here and go on with business, particularly in regard to the case of Dart, that was mentioned just now, nor in regard to the Indian appropriation bill itself, for I know there are seriously contested matters there. It so happens that there are many Senators absent from their seats on both sides of the Chamber, and it is, I think, but good faith to those absentees that we should give them a reasonable time and opportunity to get back to their seats and be able to enter into the regular transaction of business. If it be the wish of the Senate to go on and disregard that state of facts, I have no objection to make, and should withdraw the motion; but I can see no use of coming here for an hour or two in the morning when the time might be otherwise more better spent by each member of the Senate, as it seems to me. It is plain that we cannot go on with business with the numbers that are here and that are likely to be here. I have no objection to going on with business myself, and if I could see it expedient that that was the sense of the Senate, I should withdraw my motion; but I do not think that is the candid sense of the Senate; and I think that a vote on the motion to adjourn until Wednesday, at which time we may have a full quorum of this body, will be the wisest course.

The PRESIDING OFFICER. The motion before the Senate is, that the Senate take up for consideration the bill (H. R. No. 220) for the relief of Anson Dart. The Senator from Arkansas moves that when the Senate adjourns, it adjourn to meet on Wednesday next. By consent, the Chair will entertain that motion. Is the Senate ready for the question on the motion of the Senator from Arkansas?

The motion was agreed to; there being, on a division—yeas 30, nays 14.

The PRESIDING OFFICER. The motion now before the Senate is, that the Senate take up the bill (H. R. No. 220) for the relief of Anson Dart.

Mr. LANE. I hope this bill will not be taken up to-day. We cannot, I think, do justice to it at this time. The Senate is too late. There are too many vacant seats here to allow a measure like this to pass; and I hope the Senate will not take it up. If, however, they are determined to take it up, I am ready to give the reasons why I oppose it.

Mr. DOOLITTLE. If the Senator from Oregon as far as he is concerned, will consent that the bill be taken up on Wednesday, in the morning hour, I will withdraw the motion to take it up now.

Mr. LANE. I have no objection, so far as I am concerned. I can make no objection to the Senate, though. It is a private bill, and I do not see why it should be taken up out of its order in preference to other private bills; but if it is the pleasure of the Senate to take it up on Wednesday morning, I shall make no objection.

STEWART MAGOWAN.

Mr. CRITTENDEN. I wish to bring to the attention of the Senate an error which has occurred in the spelling of a name in a bill we have passed. I do not know the name, but I have power to correct it; but if it be, I should be glad to have it corrected. A bill has passed both Houses granting a pension to Stewart Magowan. His name is spelled Magowan. By mistake they have spelled

it McGowan. I desire to know if there can be any correction of this mispelling. It sounds the same. I desire to inquire whether it has been signed by the President.

The PRESIDING OFFICER. The Chair is informed that it has been sent to the President. It is no longer in the possession of the Senate, and the Senate cannot take any order on it, it not being under the control.

Mr. CRITTENDEN. I inquire as a question of order whether the Chair supposes the spelling can be corrected. It is not of much consequence, I suppose, the sound being the same.

The PRESIDING OFFICER. The Chair would suggest, that probably a shorter mode of correcting the error would be the introduction of a new bill.

Mr. CRITTENDEN. Well, let it stand.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin, to take up the bill (H. R. No. 220).

SHAWNEE INDIANS.

Mr. GREEN. I move that the Senate adjourn, if the Senate has any business to present.

Mr. CLARK. I move that the Senate proceed to the consideration of the bill (H. R. No. 268) to pay the Shawnee Indians of Kansas Territory for certain depredations committed on them by white men. I think it will take but very little time, and may be disposed of in a few minutes.

Mr. DOOLITTLE. If it were the inclination of the Senate to adjourn, and not do any business to-day, and no objection were made by the Senator from Oregon, I was about to withdraw my motion to take up House bill No. 220; but the Senate has not decided to adjourn, and if any bills of this kind are to come up, I prefer that that bill should be taken up. I think we can soon dispose of it.

Mr. CLARK. Let this go.

Mr. DOOLITTLE. I withdraw my motion, but with the understanding that I shall renew it on Wednesday morning, and at the earliest opportunity, and press it until the bill is disposed of.

The PRESIDING OFFICER. The motion before the Senate is the motion of the Senator from New Hampshire to take up the House bill No. 268.

Mr. GREEN. I really think it improper to proceed with any of these bills in the absence of so many Senators, and I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, April 30, 1860.

The House met at twelve o'clock, m. Prayer by Rev. J. L. Elliott.

The Journal of Friday was read and approved.

Mr. HATTON. Mr. Speaker, I submit the motion that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union. I think at this time it is the proper motion.

Mr. CRAWFORD. Before the question is taken on that motion, I would ask gentlemen of the other side whether it is proposed to do business, or only that the House shall go into committee for the purpose of hearing speeches, as was the case last week. If it be the intention that we shall do business in the House when the committee rises, I want that we shall know it now, that we may take action accordingly.

Mr. HOUSTON. I presume that until absent members return, the same course will be pursued that was pursued during the last week.

Mr. HATTON. There is no disposition on this side of the House to take advantage of the Democratic members who are absent.

Mr. CRAWFORD. With that understanding, we are ready for the question.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BEFFINGTON in the chair), and resumed the consideration of the tariff bill, on which the gentleman from Alabama [Mr. MOORE] had the floor.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by JAMES BECHAN, his Private Secretary.

TERRITORIAL BUSINESS.

Mr. GROW. With the consent of the gentleman from Alabama, I will make one remark. I endeavored to get here before the House went into committee, but I have failed to do so. Wednesday and Thursday next have been set apart for the consideration of territorial business; but from appearances, and the facts which are known to the committee, the probability is, that the House will be as thin on Wednesday and Thursday as it is this morning. Of course, I do not desire that territorial business shall be called up when it cannot be considered and acted upon; and I have to suggest that two days of next week shall be fixed for this business, instead of the days set apart for it this week.

Mr. HOUSTON. I think that we had better take no steps in the matter until the days set apart for the business have arrived.

Mr. ASHMORE. I have no doubt that, at the proper time, the House will make no objection to taking the course indicated by the gentleman from Pennsylvania.

Mr. GROW. I have in part succeeded by bringing the matter to the attention of the committee.

Mr. MOORE, of Alabama, addressed the committee for the purpose of raising the question of the bill reported by Mr. MORRILL. [His speech will be published in the Appendix.]

PERSONAL EXPLANATION.

Mr. ALLEY obtained the floor.

Mr. HAMILTON. If the gentleman from Massachusetts will permit me, I propose to make a personal explanation. I will not consume more than a few minutes.

Mr. ALLEY. If there be no objection, I yield for that purpose.

There was no objection.

Mr. HAMILTON. I find in The Press, of Philadelphia, under date of the 14th instant, what purports to be the report of the special committee of this House, raised for the purpose of considering the property for a railroad connection between the Atlantic and Pacific States. If the chairman of the committee is present, I would like to know whether it is by his authority or that of the majority of the committee that this publication has been made. I find no name attached to that report, as if I had concurred in it. I find the names of other gentlemen attached to it, as if they had concurred in it, when they and myself were opposed to that majority report of the committee. If the chairman of the committee is present, I would like to state by what authority the report was published in The Press, and by what authority my name, and those of others opposed to it, were in it?

Mr. ELIOT. The gentleman from Iowa [Mr. CRAWFORD] is not in the Hall.

Mr. HAMILTON. I regret to hear that he is not present. At some future time I trust that he will set myself and others right on this question, inasmuch as we opposed the report at every stage, and upon the final vote.

Mr. ELIOT. I am in the same category with the gentleman from Texas. I appear, in the publication he refers to, as having given my assent to the majority report, when I am opposed to it in all of its aspects.

Subsequently Mr. CRAWFORD came in, and having obtained the floor, said, Mr. Chairman, I understand during my absence this morning that the honorable gentleman from Texas, [Mr. HAMILTON], and the honorable gentleman from Virginia, [Mr. SMITH], took occasion to revert to the fact that their names are attached to the publication of the majority report of the Pacific railroad committee, as though they subscribed to it. It is true that some of the press have published the report entire, and appended the names of all of the committee to it. It is just to say that that publication was entirely without the authority of the chairman of the select committee, or of other members of that committee. The fact is that only ten of the sixteen members of the committee signed the majority report of the committee, and some of the ten signed the report with explanatory notes attached to their signatures.

I am very sorry that the members of the committee did not sign it. I think it unfortunate that they did not sign it. If we have one Pacific railroad it will answer our national purposes. The one we have reported in favor of will have

two arms, intended to extend north and south, it seems to me that the members who refused to approve the report ought to have approved it. In justice, I must say, however, that Mr. PHILLIPS, Mr. HAMILTON, Mr. SMITH of Virginia, Mr. HINDMAN, Mr. TAYLOR, and Mr. ALDRICH, did not sign the report, although the report published in some of the papers shows that they did.

Mr. ALLEY. Mr. Chairman, in the remarks which I shall submit to the consideration of the committee at this time, I propose to discuss the principles and purposes of the Republican party, the causes which led to it, the necessity of its organization, the inevitable tendency of its doctrines, and the final result of its action.

"Slavery has been, to a greater or less extent, a disturbing element in our national politics ever since the organization of the Government; in fact, political differences were occasioned by it, and sectional prejudices grew out of it, at a period long anterior to the formation of the Federal compact. The establishment, encouragement, and perpetuity of the African slave trade, on the part of Great Britain, against the remonstrance of some of our colonies in 1786, was one of the first steps to the American Revolution. When the Constitution was framed and adopted, slavery existed in all the States save one, and to her great glory be it spoken—that State was Massachusetts. The manner in which slavery was abolished in Massachusetts in 1780, was the first step to the abolition of the institution. The Federal Constitution was framed, in an honorable to the historic fame of her judiciary as it was to the patriotism and sense of justice of her people. It was not abolished by legislative enactment, but simply by the decision of her supreme court, that slavery was incompatible with the principles of her constitution, and the declaration of sentiment in its preamble. Thus it was that slavery ceased forever within her borders. And Massachusetts, ever true to this doctrine of her constitution, sent forth to-day with no less honor her delegates in protest against the unfortunate African, except it may be in obedience to what is believed to be the higher law of the Constitution of the Union.

The almost universal sentiment of the North is, that slavery is a great moral and political evil; productive of no good, but much of evil to the master, as well as to the slave; and to hold him as a chattel is in violation of every precept of Christianity, of every axiom of liberty, of every sentiment of justice, of every feeling of humanity. While the bulk of the Southern States oppose its further extension, they do not regard themselves as politically responsible for its existence and perpetuity in the States. So long as many of the most enlightened and gifted men of the South, who were statesmen and patriots, regarded it as an evil, and deplored its existence, and agreed with the North that it ought not to be extended, and declared, also, that it could not be defended upon any other ground than that of uncontrollable necessity, the North were satisfied to be quiet and content. But when it was discovered that the determination of the South, in violation of all law and precedent, to force slavery everywhere, the people of the North became aroused, and now stand ready, with a unanimity proportioned to their conviction of the purposes and designs of the South, to declare "thus far, but no further"—no other inch of slave territory.

Upon this question of the extension of slavery, the South has been gradually growing desperate, until now it openly announces its treasonable purpose to dissolve the Union, if not permitted to use the whole force of this Government to extend and protect slavery in all the national Territories. Many far-seeing and sagacious people at the North have predicted for a long time this design of the South, but were unable to make the mass of the people believe it. But when the South, in its frenzy, they first make mad." The South have proclaimed it in unmistakable language; and the anti-slavery sentiment of the country will now take possession of the national Government. It cannot be averted. The South may rave and howl as much as it pleases, but it must be done. It is now to the South, these chosen Republican leaders will so administer the Government that every interest will be protected; that exact and equal justice will be done to the North as well as to the South, to the East, and to the West. I am sorry

to see, on the part of some, a disposition to apologize for the position and action of the Republican party, and claiming that the organization is a purely defensive one. It is well enough to state, what is the fact, that had it not been for the madness of the South upon this question, the Republican party would never have existed in its present proportions. But this party needs no apology. It asks for nothing that is not clearly and constitutionally right; and apology for its action is as much out of place as an apology for the views and actions of Washington, Henry, Jefferson, Madison, Monroe, Webster, and Clay; upon the question of slavery and its extension. It stands where they stood, condemning slavery and opposed to its further extension; and, like them, disclaiming any purpose or authority to interfere with its existence in the States. Its fault, if any, in what seems war, in being too conservative to satisfy the anti-slavery sentiment of the country.

General Washington wrote to Robert Morris, as follows:

"I can only say that there is not a man living who without some fault, does not have a plan adopted for the abolition of it; but there is only one proper and efficient mode by which it can be accomplished, and that is, by legislative authority. And this, as far as my suffrage will go, shall be my voting."

Should not this testimony of the immortal "Father of his Country," in favor of our principles, to satisfy our position to the country and the world?

Mr. Jefferson declared it to be the sincere wish of his heart to see slavery abolished; for, said he, "I tremble for my country when I reflect that God is just, and his justice cannot sleep forever." And, alluding to the violence to which he declared:

"The Almighty has no attribute which can take side with us in such a contest."

Patrick Henry declared: "That he honored the noble effort to abolish slavery."

Mr. Madison said that slavery found no justification in any laws of justice and right, and its extension should be resisted.

Mr. Monroe was equally emphatic in his denunciation of slavery; and in his speech in the Virginia convention, he said:

"We have found that this evil has preyed upon the very conscience and has been prejudicial to all the States in which it has existed."

Mr. Webster declared "that his right arm should be severed from its socket sooner than it should cast a vote favoring the extension of slavery."

Mr. Clay declared "slavery to be a great moral, social, and political" evil; and he advocated, with great earnestness and power, at every period of his life, the gradual emancipation of the blacks.

These illustrious characters and eminent statesmen, North and South, and men of high standing upon the enduring records of the nation's history, could not receive the smallest commission for public service at the hands of this national Administration—an Administration which will remain in its coming time as a standing accusation of corruption and crime.

The Republican party reflects every shade of opinion upon the question of slavery. The organization contains within its limits the most ultra conservative men, and the most zealous anti-slavery men, differing only upon one subject, namely, the determination to prevent the further extension of slavery.

The Democratic party contains within its folds the rankest secessionists or disunionists and the mildest conservatives, but all equally bent, at least so far as the organization is concerned, upon extending and perpetuating human slavery. But neither of the extremes of these two wings is destined to be immediately successful in obtaining possession of the national Government. The disunionists of the South could no more succeed in their desperate and suicidal scheme of secession, seated in the Presidential chair, than the Abolitionists of the North can elect one of their number to that high position. But the anti-slavery sentiment of the North is thoroughly aroused; and, acting in conjunction with the conservatism of the whole country, it will place in the Presidential chair, on the 4th of March, 1861, a Republican President of conservative tendencies but firm convictions; and whether he be the distinguished Senator of New York or any one else, he will be sustained by the whole people of the North and the patriotic men of the South.

You may as well make up your mind to it; you must submit to it.

These threats of dissolution of the Union are as the idle wind. The great body of the people at the South are not so deficient in understanding and intelligence as not to know that they could not live a moment, and that for a single day, without the assistance of the Union, in hostility to the North. I have no fear of any serious movement for dissolution on the part of the South.

"Barking dogs never bite." I confess I have some fears of the North, although I know they are a magnanimous and forgiving people, yet multitudes are beginning to feel that there is a point beyond which "forbearance ceases to be a virtue." When they consider that their commercial, their manufacturing, and all their political interests, are neglected and sacrificed, and everything made subservient to the interests of slavery, as they have been for years past; I say, when all this is fully realized, as it soon must be, it is impossible to predict what the consequences will be. Certain it is, that, first of all, they will rise in their might and demand their rights under the Constitution. But let us suppose that the people of the South, this Union will never be dissolved by them; it will take a mightier arm than theirs to overthrow this Government. If dissolved at all, it will be by the relentless will of the North.

Gentlemen talk about the white people of the South as being the oppressed. But let us look to God's providence; and they taunt the white laborers of the North with being slaves to the capitalists of the North. I heard a southern Senator declaim the other day upon the floor of the Senate, and stigmatize the free States as servile States. Yes, sir, he repeated it—servile States. I have heard Representatives upon this floor talk about the white slaves of the North. Let me say to those gentlemen that there are multitudes of laboring men in the district I have the honor to represent, as there are all over the North, who are as equals in all things to moral culture, general intelligence, and in all the attributes that constitute a true manhood, of a large majority of the southern Representatives upon this floor. Why, sir, there are several mechanics who belong to a literary society, and who are as well educated as the dependent upon their daily labor for support, that for learning and eloquence, are hardly surpassed by the distinguished Senator from Virginia whom I heard make the remark. Labor at the North is respected; and it is only the idle and vicious that are degraded and despised. In the South, however, there labor is despised because of slavery; and the average condition of the great body of the non-slaveholders of the South—and they constitute four fifths of the whole—will not begin to compare favorably in education, general intelligence, moral worth, and many feelings, with the average of the native negro population of my own State; and when I say this I say what I know from personal observation and knowledge; for I have traveled extensively in the South, and know much of its institutions and people. The North have no desire to oppress the people of the South, and they do not need their sympathy and pity more than they deserve our censure; and their arrogance and braggadocio cannot but excite derision and contempt.

A distinguished foreigner remarked to me, some time ago, that he had been traveling in the South, and noticed among his people more than the exhibition of superiority over the North which many of the southern people assumed. "Why," said he, "as a whole, they bear no better comparison with the North than a last year's almanac does with the finest edition of Washington Irving's works."

The South has been prolific in great men, and nearly all her eminent statesmen in the past have borne their testimony against slavery, and opposed its extension; but the lesser lights of the South, and the masses of the people, are in error. Their men of to-day pronounce slavery a blessing, both to the master and the slave, to be nourished, extended, and protected, notwithstanding they see all around them the evidences of blight, desolation, and decay, which every one can see in the bare Southern States, and which are attributable to the withering, blighting effects of slavery." Take Virginia, for example. Less than seventy years ago this State contained twice as many inhabitants as New York, and her political power in Congress and the electoral colleges was

nearly double that of the Empire State. How is it to-day? The population of New York is nearly three times as great as that of Virginia, and her political power in Congress and the electoral colleges is nearly three times as much as that of "the Mother of Presidents." How is it with their material resources? Seventy years ago New York exported about three millions, and Virginia about four millions; to-day, the former State exports annually over one hundred million, and the latter less than the did seventy years ago.

The production and importations of the two States at that time and the present show a much greater disparity in favor of the great northern State. The imports of this State amount to near two hundred million per annum; while those of the other amount to less than one million per year. The annual products of the Empire State amount to more than two hundred and fifty million, while those of the great southern State amount to only about forty million per year. When the Constitution was adopted, only seventy years ago, New York was behind Virginia, both in products and importations. But a short time previous to that, this latter State was the first commercial State in the Union—her commerce exceeded that of all New England, and was three times as great as that of New York. Now, New York city alone is worth more than twice as much as the whole of Virginia, and contains more than half as many inhabitants. I do not speak of these two States as exceptional cases; there is even more difference with some of the others than with these. I might take each and every one of the slave States, and compare them in details with the free States, in prosperity and progress, with less favorable results for some of the slave States than the comparison between New York and Virginia.

Taken also, for instance, Pennsylvania and South Carolina. The imports of foreign goods into South Carolina at a century ago were worth about ten dollars. At present they are but little more than half that amount; whereas, in Philadelphia alone, they are more than twelve times as much, against a very trifling amount one hundred years ago. The products of the manufacturing, mining, and mercantile States of Pennsylvania amount to about two hundred million dollars per annum, while in South Carolina they amount to less than ten million dollars per year. Before the Revolution, the "Palmetto State" was the second commercial power on the continent.

Look at Kentucky and Ohio. Kentucky was admitted into the Union ten years before Ohio; with a finer climate, more productive soil, and greater natural advantages, yet Ohio has outstripped her in population, wealth, and enterprise, to such an extent that it requires no comparison between them, in almost anything, absurd. No one, whose judgment is not completely blinded, can fail to see that all this is a race between freedom and slavery. A system of forced labor on the one side and voluntary industry on the other. When we look at these inconceivable results, and ask ourselves, "On the contrary, but the South had abolished slavery in the early days of our history, her territory would have been covered, in the language of another, "with cities and villages and railroads; and the country, instead of this, would have had fifty million people, who would have hailed the rising morn, exulting in republican liberty."

Virginia is much larger, territorially, than New York; with a finer climate, greater natural advantages of every kind. In fact, let her abolish slavery, and she would be in a position to rival this Union in wealth and importance; but if she will cherish and perpetuate this curse within her borders, she must remain imbecile and poverty-stricken, distinguished only for her slave-breeding—living upon reminiscences of the past, with glory in the present, and without hope in the future.

But in these comparisons I have not alluded to my own State of Massachusetts, so often reviled and so frequently calumniated upon this floor—a State which stands incomparably above all others, not only in historic grandeur, but in present greatness and unrivaled achievement.

She needs no eulogy from any of her sons. "Her works praise her," and slaveholding arrogance may disparage her merits, but she stands forth to-day, in the estimation of all enlightened men, as the model State of this Union. Her achievements in science, literature, in arts, in industrial pursuits, and in works of benevolence, and her intellectual and moral standard, are altogether unparalleled by any section of equal territorial extent upon this continent. Equally prominent is her historic greatness; and so pre-eminently is this by the general judgment of all mankind, that no one whose opinion is worth quoting dares to deny her historic supremacy.

But we of the North are not only threatened with a dissolution of the Union, in the event of a contingency, which I think is sure to happen—namely, the election of a Republican President—but we are told that non-intercourse is to be established immediately with the North, and the South will purchase no more of her products. This is, indeed, alarming; but let us inquire how this is to be effected. Everything that the South has to sell her poverty compels her to sell for cash only, while everything we dispose of to the South we give her a liberal credit upon. The South to-day cannot, in my opinion, pay debts; and it has not property enough, in my judgment—not what she calls property, but the property of her very five cents on the dollar of what it owes. And shall they talk of non-intercourse? Why, if you except the last few years, in which the South has been remarkably prosperous, owing to the high price of her products—a state of things which it is impossible should last—and the North has lost more money at the South, a great deal, than she has ever made by the trade of the South, and there is scarcely a northern merchant who has not been obliged to depend upon his profits from custom received from the middle and western States, to meet his liabilities in trade at the South. I do not wonder that in the great commercial revolution that swept over this country like a tornado in 1857, every northern merchant that I knew in all the northern cities that dealt exclusively with the South failed and ruined. The same thing again occurred in 1849—the year in which the United States bankrupt law was passed, which wiped out untold millions of southern indebtedness; more, in fact, than the profits of the whole trade of the South would then amount to for half a century. The only persons who were saved from those two storms were those which had kept clear of trading with the South. Some years ago I was published in several of the southern cities as one who was hostile to slavery—a merchant whose store should be avoided and shunned, because I was Free-Soiler; but I never discovered it made any difference. I will only say that if non-intercourse with me had always been the practice on the part of the South, I should have more money to-day than I have now. Taking into view the poverty and dependent condition of the South, her refusal to interfere with the slavery trade, and losses—as much as it would be for our wives and children, who are so dependent upon us they could not live a week without us, to threaten us with dissolution and abandonment.

But these threats, about withdrawing from the North the trade of the South, are of no value in their futility and impotency, have a moral significance not unworthy of comment. Such an appeal to the cupidity and avarice of the North—to stifle their honest convictions and suppress the holiest impulses of their nature at the call of material gain, is an insult to our people; which not a few northern merchants, I regret to know, are equally with the South responsible for. But, thanks to the integrity and moral heroism of the North, such an appeal will have but little effect. I need only mention in this connection what I have said of the dependent condition of the South upon the North, that notwithstanding the intensity of feeling on the part of the South, the violent threats and vehement declarations about non-intercourse since the commencement of this session, I do not think that the merchants of the South, and I am acquainted with, who has been in the habit of trading with the South—and I know of hosts of such in the Republican ranks—whose trade has diminished. On the contrary, I know of many, and some of them intense Republicans, whose trade has increased in the last year. I am sure of experience know that trade will seek the best mar-

kets, either by buying or selling, in spite of popular clamor.

We have heard a great deal said about the Helper book, and some of our timid friends on this side of the country have felt quite alarmed at the denunciations and abuse that have been heaped upon those who recommended it. Mr. Chairman, I am not ashamed to confess that I read that book, and recommended it, and contributed money to procure its publication for gratuitous circulation. And I think of the country, have felt quite alarmed at I thought there was, I should regret its publication, and would trample it under foot; for as much as I desire the overthrow of slavery, I do not wish to see it removed by insurrection and bloodshed. There are in it many extravagant declarations and foolish suggestions, which I do not approve of; but I never saw any book that was written by an enthusiast that did not contain more or less extravagances. There is in it a great deal of useful statistical information which will do any one good to read; and if the South would read it carefully and properly, I think it would do them no harm, and might do them much good.

But we must remember that Helper is a southern man; therefore we should make allowance for his enthusiasm and extravagance, for extravagance, both in his statements and in his language, is a southern soil. Well, indeed, the South shrink from the exposure of its imbecility in that book. The statistics which it presents, well authenticated as they are, show but too conclusively how rapidly the South is deteriorating; while it is shown that the North, on the contrary, is progressing in intelligence, population, and wealth, with a rapidity unparalleled in the history of the world. He says:

"Less than three quarters of a century ago, say in 1793— for that was the time of the abolition of the trade in slaves in the northern States—the South, with advantages in soil, climate, rivers, harbors, minerals, forests, and, indeed, in every thing that could be considered as a natural resource, was in the rear of the North in all the important pursuits of life; and now, in the brief period of scarce three-score years and ten, we find the South in the van of the North, in population and disbandment, slave owners and slave drivers are the sole authors of her degradation; and as they have shown, so let them receive their punishment."

He shows by unmistakable data that the value of all the property in all the slave States of the Union, exclusive of negroes, is not as much as that of one of the northern States. He shows, also, from the undisputed record of their views, that the great majority of the southern States, since the Revolution, and in the early history of the Republic, whose memories they cherish with the deepest reverence, were nearly all in favor of freedom and against slavery. No wonder it is distasteful to them this to be reminded by one of their own fellow-citizens of their mental degeneracy and material decay.

As I have said before, this slavery question has been a disturbing element in our national politics every since the organization of the General Government; and it will continue to be, until it is finally settled within the limits of the States, when the Federal Government will cease to have any responsibility for its existence; for all are agreed, the South unanimously, and nineteen twentieths of the North, that we have nothing to do with it in States, and no responsibility for its political arena. I have watched the progress of the anti-slavery sentiment with great interest from the day that the South, in its first act of madness, refused to receive and refer appropriately, petitions praying Congress to inquire into the expediency of abolishing slavery in the District of Columbia. I have seen the patriot and statesman, John Quincy Adams, whose large experience, eminent service, matchless ability, and unquestioned patriotism, entitled his opinion to more consideration than those of any other man in Congress, raised his warning voice of admonition to the States, and the Federal Government, when he was opposed to granting the prayer of the petitioners; that he thought good reasons could be given for his opinion, and if the petitions were received, appropriately referred and reported upon, the whole question would be consigned to the dust of oblivion. But he thought it better that they trampled upon this great constitutional

right—the sacred right of the humblest citizen in the land—they would raise such a storm of just and holy indignation at the North, that no power on earth could suppress it. Who is there now so blind as not to see the verification of that prediction? From that day to this the anti-slavery sentiment of the country has been gradually strengthening as one after another of the demands of the South has been put forth, until it has become in opposition to the further extension of slavery as resistless as the waves of the ocean.

Mr. Calhoun said at that time that the South must prevent the entering wedge, by refusing to resort to abolition petitions; and, said he, if you permit this sentiment of abolition to obtain a foothold, by the abolition of slavery in the District of Columbia, although they do not pretend to have any constitutional right to meddle with it in the States, yet the moral influence of such action will procure its overthrow in the States. For, said he, Europe is now opposed to the institution of slavery; and if the North are against us, the whole world would be against us, and the South could not resist the moral influence of such combined opposition.

How false that delusion, and how false the attempt to stile the deep-rooted, conscientious, and religious convictions of a great people, by the passage of a few resolutions, concocted by aspiring politicians. As the "old man eloquent" told them, they were only adding fuel to the flame. So it was with the present legislation. It has no act; a measure of no practical benefit to the South, which can never be executed in many of the States of the North; a law which I believe to be, with a vast majority of the people of my own State, one of the most wicked, unconstitutional, and barbarous laws that was ever conceived by the human mind. I remember that at the time of its passage I was traveling with a very intelligent gentleman, a slaveholder of South Carolina, an old friend of mine, and he told me that he regarded it as the worst law for the interests of the South that ever was enacted. He said it was better and right enough in itself, but it could be of no practical service to the South, and would only serve to arouse, what he called, the prejudice and religious fanaticism of the North, in opposition to the peace of the interests of the South. And, said he, I know enough of the people of the North to know that this sentiment of hostility to slavery is founded upon a mistaken, but nevertheless, conscientious religious conviction of its sinfulness and wrong; therefore it is useless to talk about constitutional rights against religious prejudice for any day, or set of men, who believe themselves armed by the panoply of heaven, are ready to maintain a warfare against the world.

The South again exhibited its madness and folly in the repeal of the Missouri compromise act—a measure which has been productive of nothing but disaster and ruin to the interests of the South; and they are now determined to force upon an unwilling people another act, of more supreme folly—to characterize it by no harsher term—than either of the others, namely, the enactment of a congressional slave code. Such an act will be the last nail in their coffin, if they should be permitted to drive it.

The necessity of the Republic for the present is to be found in the occasion which has arisen to resist the usurpations and aggressions of the slave power, so vastly multiplied of late, culminating at last in the corruption of the supreme judiciary of the land—in the Dred Scott decision; although in law, I think, that part of it which is of any value to the South may justly be considered, in legal parlance, extra-judicial, and of no binding force; but it is the strong indication of the inauguration of a policy which, if persisted in, must make the legislative department of the Government entirely subservient to the judiciary, which will finally result, if not checked, in the overthrow of the liberties of the American people. It is an innovation and usurpation, which cannot be resisted at all hazards; and to me the result of the coming presidential election has more significance and greater importance from its probable connection with the organization of that court than from any other cause.

It may seem to some who have great reverence for the judiciary, as somewhat harsh to characterize the recent action of the Supreme Court as corrupt. But when we consider that this court

has always carefully abstained from giving any decision upon any question of law or of fact, except when it was actually obliged to do so, and never either, except upon those points in particular, that it was imperative upon them to adjudicate—now for the court to go out of its way to give opinions, which under the circumstances it had no moral right to give, upon questions purely of a political character, in such a manner as to bring, No act of the executive, legislative, or judicial department of the Government from its foundation, so shocked the public mind—both for its meanness and atrocity—as did the Dred Scott decision. The court, in order to maintain its decision in that case, that colored men, descendants of Africans who had been imported as slaves, whether bond or free, were not citizens, within the meaning of the Constitution, was compelled to falsify history and ignore every principle of justice and right. The court declares that at the time of the Declaration of Independence, the whole civilized world universally regarded them as "having no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit." This is a statement in the face of the most undeniable facts, that England's highest courts had decided, several years before our separation from Great Britain, that the negroes had the same natural rights as the white man. And many of her noblest and best citizens had declared the enslavement of the negro to be a sin and a crime, and a crime of the greatest magnitude. In our own country at that time, the greatest statesmen, patriots, and heroes, who guided our councils, led our armies, and conducted our diplomacy, during the revolutionary struggle, our Washington, Franklin, Adamses, Jeffersons, Sheridans, Madisons, and a host of others, declared negro slavery to be irreconcilable with the precepts of the Gospel, or the rights of man; and the framers of the Constitution would not permit the word slave to pollute its pages.

But the present history of our Government has the Supreme Court stepped aside, without the shadow of a pretext to justify it, and undertaken to interfere with the legitimate functions of Congress, by virtually pronouncing its own unconstitutional in controversy between the two great political parties of the country, and interference—no dangerous in its character, so monstrous in its action, and so terrible in its consequences—ought to be visited with indignation and scorn by the American people. Has it come to this, that the Supreme Court, which has been as beset by Jay, an Ellsworth, a Rutledge, a Cushing, and a Marshall, with their illustrious associates—has constituted its high functions and pre-eminence authority to such base purposes, with its venerable chief and his associates descending to political partisanship? The fears of Mr. Jefferson, in relation to that court, have at last been realized—fears which he so often expressed, that it would usurp authority and power, which the framers of the Government never intended it should possess; and while that illustrious statesman and patriot, who was never without a matter of constant jealousy and watchfulness.

Establish the Republican party in power, and it will place upon the bench of the Supreme Court, an opportunity presents, those who will interpret the Constitution and laws, not political parties, but as upright judges, holding the scales of justice even, whether they favor one side or the other. With this party in power, and not until then, our commercial, manufacturing, and agricultural interests will be properly cared for.

But upon whom do the South rely for support in this? Upon the Supreme Court, which is supported in the language of Mr. Calhoun, "by the cohesive power of public plunder?" What a support! and where is always found, when the national Treasury is in other hands? Passing ultra anti-slavery resolutions, and striving with each other to make anti-slavery professions, to secure the offices and emoluments of the State governments. So it has always been in our State, and so it will ever be, so long as Democrats are willing to sell themselves for a mess of pottage. No abolition convention could have any strategy, unless slavery was made stronger anti-slavery professions, than the Democrats of Massachusetts have done when the Democracy have been out of power in the national Government. Their ablest leader—that states-

man of national renown—Caleb Cushing, while he was looking to Massachusetts for approbation and support, not every day a slavery demand was made with an alacrity that would have been truly commendable if it had only been sincere. No man ever uttered on the floor of Congress nobler sentiments for freedom than he. No man ever denounced the aggressions of the South stronger than he did; and that is the only respect in which his great abilities, no man of Massachusetts ever debased himself so much to obtain favor with the South as Caleb Cushing.

Many have listened with amazement to the discussion speeches upon the other side of the House; at their cool, effrontery and apparent sincerity, and any apparent sincerity, for they do appear to be in earnest, and although I have as little regard for the judgment and good sense of mere talkers and rhetoricians as any one, and appreciate, I think, most fully their lawlessness of either of these qualities, yet I am hardly prepared to believe in their sincerity at the expense of such a draft upon the soundness of their judgment.

In fact, we have heard it intimated upon this floor, by the advocates of disunion, that these men, in their own case before matters, with no purpose to execute them; but now they say they are terribly in earnest. If gentlemen will consult the record of debates upon this floor, they will find that twenty years ago the South was as denunciatory in tone, as belligerent in attitude, as brave in declaration, and more so in action, than they are now. Eloquent gentlemen told us then that the danger was imminent, the crisis was at hand, and unless this agitation of the slavery question ceased, the Union must be dissolved. About that time, a very quiet gentleman in my own country, with a few associates, believing that it was the duty of the North to absolve itself from all responsibility for the existence of slavery, proposed to let the South take care of itself; and therefore petitioned Congress to effect a peaceful dissolution of the Union.

This petition was presented by the venerable Mr. Adams, and such exhibition of courtesy, reason, rage, and confusion, on the part of southern members, has seldom been witnessed on this floor. Mr. Adams barely escaped a vote of censure for presenting the petition. Never since that experience on this country had cause to believe that the South could be in earnest in its threats of dissolution.

I remember that Mr. Webster and Mr. Choate, of my own State, were once engaged as opposing counsel in a patent case, and Mr. Choate's client was endeavoring to prove that a certain machine was his cause—that two sections of a machine that looked exactly alike were in reality entirely different. Mr. Choate addressed the jury with all that learning, eloquence, and zeal that characterized that gifted man, and such was his earnestness and power that the parties in interest on the other side began to tremble, and feel that, after all, there might be a difference. Mr. Webster arose, and said quietly to the jury, "All this learning and eloquence is very pleasant to listen to, but so far as this case is concerned, it is all poetry; it is all humbug; and I hold you responsible to him, as I do to you, to see if you can find a difference? Of course not; there is none. You see it—you know it." These few words dispelled all of the effect of Mr. Choate's gorgeous eloquence. Such is the power of truth.

So, here we have the Constitution and the Union. Look at them, look at them, among the greatest monuments of human genius the world has ever witnessed; look at the blood and treasure they have cost; look at the mighty interests involved in their perpetuity; and then tell me if any party is so foolish as to be permitted to demolish them! Never! never! never!

Mr. WADE addressed the committee for one hour on the slavery question. [His speech will be published in the Appendix.]

Mr. ENGLISH obtained the floor, but yielded to Mr. FLORENCE, who moved that the committee rise.

The motion was agreed to. So the committee rose; and Mr. EVERETT, having been called by the Speaker, rose, and Mr. BERRYMAN reported that the Committee of the Whole on the state of the Union had under consideration the Union generally, and particularly House bill No. 336, to provide for the



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